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8.76 Applicant's response to Written Questions - Historic Environment

Infrastructure Planning (Examination Procedure) Rules 2010

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The Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

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

**8.76 APPLICANT'S RESPONSE TO WRITTEN QUESTIONS –
HISTORIC ENVIRONMENT**

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Contents

	Page
1 Response to Examining Authority written questions (Historic Environment)	1

1 RESPONSE TO EXAMINING AUTHORITY WRITTEN QUESTIONS (HISTORIC ENVIRONMENT)

Table 1.1: Responses to the Examining Authority's Written Questions (Historic Environment)

PINS ID	Question / Response
PED.1.8	<p>Question: Methodology</p> <p>In assessing Archaeological Potential, Appendix 10.1 of the ES [APP-072, paragraph 3.5.4] states the potential for an area to contain archaeological remains is rated 'high', 'medium', 'low', 'negligible', or 'unknown'. Section 5.4 provides an assessment of the archaeological potential of the Order Land relating to periods where the findings for 'Late Prehistoric', 'Anglo-Saxon / Early medieval' and 'Medieval' suggest a potential for findings of 'medium to high', 'low to medium' and 'medium to high' respectively for these periods.</p> <p>Explain how these assessments have been arrived at against the methodology set out in paragraph 3.5.4.</p> <p>Response:</p> <p>The archaeological potential for all periods has been assessed based on baseline information and evaluation surveys undertaken at the time of submission. Section 10.10 of Chapter 10 Cultural Heritage of the Environmental Statement [AS-077] acknowledges the requirement for additional trial trenching (the scope of which is set out in the Cultural Heritage Management Plan (CHMP) in Appendix 10.6 of the Environmental Statement [APP-077], the information from which would further define the potential for previously unrecorded archaeological remains.</p> <p>The CHMP (Appendix 10.6 of the ES [APP-077]) has been updated following comments from the Joint Host Authorities and Historic England (refer to PED 1.15).</p>
PED.1.9	<p>Question: Assessment of heritage assets</p> <p>Chapter 10 of the ES [AS-077, table 10.1] identifies the Planning (Listed Buildings and Conservation Areas) Act 1990 as relevant legislation. Given that the application is for National Infrastructure, should the application also be considered against Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010?</p> <p>Response:</p> <p>As set out in the Planning Statement [AS-122 paragraph 6.1.5] the application is considered against the prescribed matters referred to in section 105(2)(b) of the Planning Act 2008 which includes Regulation 3 – "Having regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses where the development would affect these". It is noted this was not explicitly tied back to in the assessment in Section 8.13 Cultural Heritage of the Planning Statement [AS-122], however, the key thrust of the regulation is aligned with the planning policy and should not change any outcomes.</p>
PED.1.10	<p>Question: Designated Assets</p> <p>RR-0698 states that Appendix 10.2 - Cultural Heritage Gazetteer [APP-073] fails to list Historic England entry 1102442.</p> <p>Please confirm whether this asset has been omitted. If so, it is requested that the Cultural Heritage Gazetteer [APP-073] and Figure 10.2 in the Cultural Heritage Figures [APP-150] is updated along with any assessment of effects in the ES.</p> <p>Response:</p> <p>Keepers Cottage is a grade II listed building. Its omission was due to a technical error within the Historic England dataset and Historic England has notified its Digital Team to this error. The Appendix 10.2: Cultural Heritage Gazetteer [TR020001/APP/5.02] has been updated so it now includes this asset, along with a summary impact assessment. There would be no change to the asset's setting that would impact its heritage significance, and there would also be no harm to its heritage significance. The updated gazetteer has been submitted at Deadline 4.</p>

PINS ID	Question / Response
PED.1.11	<p>[The Applicant notes that this question is directed to Joint Host Authorities, however the Applicant considers that a response from the Applicant will help provide further clarification]</p> <p>Question: Heritage Assets scoped out of the ES Comments have been raised in submissions raising concerns that designated heritage assets have been scoped out of the assessment that should have been included. Based on the content of Section 10.7 of ES Chapter 10, can you advise what assets should be included in the assessments that appear to have been scoped out and why?</p> <p>Response: The Applicant has agreed to update Appendix 10.2: Cultural Heritage Gazetteer [TR020001/APP/5.02] to include a summary of impact for each asset, and clearly set out the reasoning on why assets were scoped in or out of the impact assessment process. The updated gazetteer has been submitted at Deadline 4.</p>
PED.1.12	<p>Question: Impact Assessment for St. Paul's Walden Bury Grade I listed Registered Park and Garden (RPG)</p> <p>Chapter 10 of the ES [AS-077, paragraph 10.9.88] states that the noise change contours for assessment Phase 2a and assessment Phase 2b operation [APP-150, Figures 10.7 and Figure 10.8] show an increase from the future baseline of between 1dB and 1.9dB above 51dBLAeq,16h but below 63dBLAeq,16h where this would be a negligible change to the park's noise environment. Looking at Figure 10.8, at Phase 2b it appears that parts of the park would represent a change of between 2dB and 2.99dB.</p> <p>Please confirm if this is correct and if so, provide any updates to the assessment in Chapter 10 of the ES.</p> <p>Response: Chapter 10 of the ES [AS-077, paragraph 10.9.88] states that the noise change contours for assessment Phase 2a and assessment Phase 2b operation would increase from the future baseline between 1dB and 1.9dB resulting in a negligible change to the park's noise environment. This reflects the situation across the majority of the asset The Applicant acknowledges that the change in predicted noise levels does vary within the St Paul's Walden Bury Registered Park and Garden with some areas experiencing a change of between 2dB and 2.99dB during Phase 2b [APP-150, Figure 10.8].</p> <p>The change in noise identified during Phase 2b will affect the southern section of the park. As noted in Chapter 10 of the ES [AS-077] paragraph 10.9.86, the baseline noise environment changes in the southern part of the park where the farm buildings are part of a working farm. Aviation noise from overhead aircraft approaching the airport is part of the asset's noise environment but the noise does not intrude to such an extent as to detract from the asset's rural character.</p> <p>The noise increase during assessment Phase 2b would arise from the increased frequency of flights. The noise environment within the park is not a quiet experience and does not rely solely on quietness for an appreciation of its heritage interests. The noise change contours for assessment Phase 2a and assessment Phase 2b operation (Figure 10.7 and Figure 10.8 of the ES [APP-150]) show an increase from the future baseline of between 2dB and 2.99dB above 51dBLAeq,16h but below 63dBLAeq,16h. This would be a negligible change to the park's noise environment and would not affect its setting or impact its heritage value. This is therefore assessed as no impact and no effect. Despite the increase in noise levels, the effect on the asset remains the same as reported in Chapter 10 of the ES [AS-077].</p>
PED.1.13	<p>[The Applicant notes that this question is directed to Historic England, however the Applicant considers that a response from the Applicant will help provide further clarification]</p> <p>Question: Mitigation at Luton Hoo</p> <p>Your Written Representation [REP1-070, paragraph 2.19] seeks mitigation in the form of financial contributions towards the conservation management of Luton Hoo Estate to be secured through a s106 agreement as this is the asset that you consider would be most affected in respect of noise.</p>

PINS ID	Question / Response
	<p>Please explain what conservation management measures any contribution would be put towards, an indicative costing for the suggested measures, the extent that they would mitigate the harm caused and the policy justification for requesting them.</p> <p>Response: The Applicant notes that this question is directed to Historic England, and does not consider it necessary to provide a response in this instance.</p>
PED.1.14	<p>Question: Assessment Findings in Planning Statement</p> <p>The Planning Statement [AS-122, paragraph 8.13.14] states that for the majority of heritage assets presented in Chapter 10 of the ES, where effects have been assessed as not significant, it is concluded that the harm caused to these assets falls within the less than substantial category and at the lower level of the spectrum.</p> <p>Explain what is meant by 'lower level of the spectrum', particularly against the requirement in both the NPPF (paragraph 199) and ANPS (paragraph 5.200) for great weight to be given to an asset's conservation, irrespective of level of harm.</p> <p>Response:</p> <p>Both the NPPF (paragraph 199) and the ANPS (paragraph 5.200) identify the need to give great weight to the conservation of heritage assets. While the emphasis is placed on the conservation of a heritage asset, it is acknowledged that the significance of a heritage asset can be harmed by development. This harm should be weighed against the public benefits of the Scheme (NPPF paragraph 200; ANPS paragraph 5.201). There is a requirement within both documents to categorise this harm as 'substantial' or 'less than substantial'.</p> <p>As noted within the Planning Policy Guidance (paragraph 018) substantial harm (which includes total loss) is a high test; therefore, the category of less than substantial harm encompasses a broad range of impacts. While the NPPF and ANPS only break impacts down into substantial harm and less than substantial harm, with the planning balance applied accordingly, these categories do not reflect the levels of effect assessed under the EIA Regulations.</p> <p>In order to align the two, a professional judgement has been made regarding the scale of that harm within the 'less than substantial category' to enable an appropriate balance against public benefit. There is currently no set guidance on how 'less than substantial harm' should be subdivided.</p> <p>Given that the effects identified within the ES are categorised as negligible and minor, the Applicant believes that a reasonable conclusion has been made that the harm lies at the lower level of the category.</p>
PED.1.15	<p>[The Applicant notes that this question is directed not only to the Applicant but also to Historic England, however the Applicant considers that a response from the Applicant will help provide further clarification]</p> <p>Question: Cultural Heritage Management Plan (CHMP)</p> <p>Applicant: The CHMP [APP-077, paragraph 10.1.3] states that if the local planning authority determines in writing that the archaeological remains require further investigation, no construction operations are to take place within 10m of the remains until provision has been made for further investigation and recording in accordance with details set out in a Site Specific Written Scheme of Investigation (SSWSI) which will be submitted to, and approved in writing by, the relevant local planning authority in consultation with Historic England, as applicable.</p>

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	<p>The wording 'which will be submitted to, and approved in writing by, the relevant local planning authority' implies that the relevant local planning authority are automatically bound to approve a SSWSI. Please reword this paragraph.</p> <p>Joint Host Authorities: Section 2.1 of the CHMP states that the Applicant would appoint an Archaeological Clerk of Works (ACoW) who would manage the programme of archaeological investigation and ensure compliance with the CHMP and each SSWSI.</p> <p>Are the councils content that the appointment process of the ACoW, who would ultimately have responsibility amongst other matters for ensuring compliance with the DCO, rests solely with the Applicant? If not, should provision be made for the local authorities to approve the appointment of the ACoW?</p> <p>Joint Host Authorities: Except for Section 9 in respect of air quality monitoring at Someries Castle, which is subject to further review, are you otherwise in agreement with the measures in the CHMP?</p> <p>Response:</p> <p>The CHMP (Appendix 10.6 of the ES [TR020001/APP/5.02]) has been updated following comments from the Joint Host Authorities and Historic England and has been submitted at Deadline 4.. Paragraph 11.1.3 (formerly 10.1.3) has been updated to amend the wording of this section, and sets out that the SSWSI will be submitted for review and/or comment, and the final version will be approved in writing.</p> <p>The CHMP (Appendix 10.6 of the ES [TR020001/APP/5.02APP-077], Section 2.3) has also been updated to include the responsibilities of the Local Planning Authority. It confirms that it is their responsibility to ensure that the requirements of the DCO are met, in accordance with any conditions relating to cultural heritage.</p>