

November 2023

# London Luton Airport Expansion

Planning Inspectorate Scheme Ref: TR020001

Volume 8 Additional Submissions (Examination)

## **8.70 Applicant's response to Written Questions - Compulsory Acquisition and Temporary Possession of Land and Rights**

Infrastructure Planning (Examination Procedure) Rules 2010

Application Document Ref: TR020001/APP/8.70

**The Planning Act 2008**

**The Infrastructure Planning (Examination Procedure) Rules 2010**

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

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**8.70 APPLICANT'S RESPONSE TO WRITTEN QUESTIONS -  
COMPULSORY ACQUISITION AND TEMPORARY POSSESSION OF  
LAND AND RIGHTS**

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# 1 RESPONSE TO EXAMINING AUTHORITY WRITTEN QUESTIONS (COMPULSORY ACQUISITION AND TEMPORARY POSSESSION OF LAND AND RIGHTS)

Table 1.1: Responses to the Examining Authority's Written Questions (Compulsory Acquisition and Temporary Possession of land and rights)

PINS ID	Question / Response
CA.1.1	<p><b>Question:</b></p> <p>Compliance with Department for Communities and Local Government (DCLG) Guidance Please advise whether the Book of Reference (BoR) [APP-011] is fully compliant with DCLG Guidance<sup>1</sup>. If it isn't please amend as necessary.</p> <p><b>Response:</b> The Applicant confirms that the <b>Book of Reference [APP-011]</b> is fully compliant with the DCLG Guidance. Appendix C to the <b>Statement of Reasons Revision 2 [AS-071]</b> contains the Land Referencing Methodology which sets out in detail the steps taken by the Applicant to comply its obligations.</p>
CA.1.2	<p><b>Question:</b></p> <p><b>Known inaccuracies</b> Are any Affected Persons or Interested Parties aware of any inaccuracies in the BoR [APP-011], Statement of Reasons [AS-071] or Land Plans [AS-011] and [AS-024]? If so, please set out what these are and provide the correct details.</p> <p><b>Response:</b> The Applicant notes that this question is directed to Affected Persons and Interested Parties and does not consider it necessary to provide a response.</p>
CA.1.3	<p><b>Question:</b></p> <p><b>Diligent enquiry into land interests</b> Could you summarise where you have not yet been able to identify any persons having an interest in the land, including any rights over unregistered land? What further steps will you be taking to identify any unknown rights during the Examination?</p> <p><b>Response:</b> The Applicant has complied with its duty of diligent inquiry as per the Land Referencing Methodology set out in Appendix C of the <b>Statement of Reasons Revision 2 [AS-071]</b>, which includes the steps taken to identify persons with an interest in land, including rights over unregistered land. Where, despite having completed this diligent inquiry process, an interest or right in land has been identified but the holder of that interest remains unknown, the Applicant has included an "unknown" entry in its <b>Book of Reference [APP-011]</b>.</p> <p>"Unknown" interests have been identified in the following plots, as indicated in the <b>Book of Reference [APP-011]</b> and the <b>Land Plans Revision 1 [AS-011]</b> where they are also shown:</p> <ul style="list-style-type: none"> <li>• [Unknown Category 1 interests]: 1-03, 1-05, 1-08, 1-11, 1-21, 1-26, 1-29, 1-32, 1-36, 1-39, 1-40, 1-41, 1-45, 1-53, 1-65, 1-67, 1-70, 1-77, 1-77a, 1-79, 1-81, 2-65, 2-70, 2-73, 2-76, 2-78, 2-80, 2-81, 2-83, 2-86, 2-87, 2-90, 2-96, 2-96a, 2-104, 2-120, 2-121, 2-126, 2-127, 2-128, 2-134, 2-144, 2-146, 2-148, 3-05, 3-11, 3-14, 3-17, 3-19, 3-20, 3-38, 4-01, 5-01, 5-26, 6-03, 6-05, 7-02, 7-09, 7-12, 7-13, 7-16, 7-17, 7-29, 7-31, 7-32, 7-33, 7-36, 7-38, 7-39, 7-42, 8-06, 8-19, 8-27, 9-03, 9-08, 9-10, 9-11, 9-19, 10-01, 10-07, 10-09 <ul style="list-style-type: none"> <li>○ A number of these plots refer to public or private roads in which the Applicant has included the adjacent freeholds in accordance with the ad medium filum rule.</li> </ul> </li> <li>• [Unknown Category 1 Interests (Mines and Minerals Ownership)]: 8-01, 8-04, 8-05, 8-07, 8-11 <ul style="list-style-type: none"> <li>○ These interests refer to historic rights found beneath the Motorway which is subject to temporary possession as per Book of Reference [APP-011] Land Plans Revision 1 [AS-011], identifying the successor to those rights has been difficult owing to their historical nature.</li> </ul> </li> <li>• [Unknown Category 2 Interests]: 1-34, 1-42, 1-47, 1-59, 1-74, 1-74a, 1-86, 1-88, 2-89, 2-95, 2-107, 2-111, 2-114, 2-122, 2-125, 3-25, 3-26, 4-02, 6-07, 9-09, 9-17</li> </ul>

PINS ID	Question / Response
	<p>The Applicant erected hearing Notices in September for the relevant hearings and monitored these periodically, while also replacing any that had been removed or damaged. This process will be repeated for the upcoming November hearings, giving those with unknown interests, further opportunity to identify themselves and participate within the examination.</p> <p>The Applicant will also be undertaking a review of the Land Registry records to identify any updates, in accordance with its ongoing duty of diligent inquiry. Where new information emerges that may help in the identification of unknown interests, or bring in any additional interests in the <b>Book of Reference [APP-011]</b>, these will be updated.</p>
CA.1.4	<p><b>Question:</b></p> <p><b>Reasonable alternatives/ necessity</b> In your roles as the Local Planning Authority and the Highway Authority are you aware of: 1. Any reasonable alternatives to Compulsory Acquisition (CA) or Temporary Possession (TP) for land sought by the Applicant? 2. Any areas of land or rights that the Applicant is seeking the powers to acquire that you consider would not be needed? Please identify which plots these are and explain why you consider they would not need to be acquired.</p> <p><b>Response:</b> The Applicant notes that this question is directed to Affected Persons and Interested Parties and does not consider it necessary to provide a response.</p>
CA.1.5	<p><b>Question:</b></p> <p><b>Affected Persons' issues and concerns</b> Do any Affected Persons have concerns that they have not yet raised about the legitimacy, proportionality or necessity of the CA or TP powers sought by the Applicant that would affect land that they own or have an interest in?</p> <p><b>Response:</b> The Applicant notes that this question is directed to Affected Persons and Interested Parties and does not consider it necessary to provide a response.</p>
CA.1.6	<p><b>Question:</b></p> <p><b>The Equalities Act 2010 Could you</b> 1. Clarify how you have had regard to the Equalities Act 2010 in relation to the powers sought for CA and TP? 2. Have any Affected Persons been identified as having protected characteristics? If so, what regard has been given to them?</p> <p><b>Response:</b> The Applicant has had due regard to the Equalities Act 2010, which is highlighted within section 13.3 of the <b>Statement of Reasons Revision 2 [AS-071]</b>. This is supported by the <b>Equality Impact Assessment Revision 1 (Clean) (EqIA) [AS-129]</b>, which seeks to ensure that should the Order be granted, it would not discriminate against those falling within protected characteristics. The EqIA includes a screening assessment to identify people in the area who could potentially be affected by the Authorised Development. Regard was given to those with protected characteristics by ensuring that no residential properties affecting them, were subject to acquisition.</p> <p>Additionally, the exercise of the compulsory acquisition powers sought by the Applicant is not anticipated to disadvantage persons of protected characteristics given that:</p> <ol style="list-style-type: none"> <li>The Application does not seek compulsory acquisition of land and does not require the outright acquisition of any residential dwellinghouses.</li> <li>The Applicant has not been notified that any Affected Persons, with whom land discussions are taking place, share protected characteristics.</li> <li>There is no basis on which to suggest that those persons with protected characteristics would be impacted differently from others because of the compulsory acquisition powers sought in the Application.</li> </ol>

PINS ID	Question / Response
CA.1.7	<p><b>Question:</b></p> <p><b>Acquisition of other land or rights</b> Are any land or rights acquisitions required in addition to those sought through the draft DCO before the Proposed Development could become operational?</p> <p><b>Response:</b> No, aside from the Crown land interests that are identified within <b>Crown Land Plans [REF AS-024]</b>. The Applicant has included all land and rights in land required to deliver the Proposed Development in the Draft DCO limits.</p>
CA.1.8	<p><b>Question:</b></p> <p><b>Updates on discussions regarding voluntary agreements with parties who did not attend the Compulsory Acquisition Hearing (CAH1)</b> Applicant: Provide an update regarding the status of negotiations with the following individuals or organisations regarding the proposed CA or TP of land which they own or have an interest in and indicate whether these will be concluded before the close of the Examination. Where indicated, answer the questions posed which would have been asked by the ExA if the party had attended CAH1.</p> <p>Bartholomew Pleydell-Bouverie [REP1-036] Mr Pleydell-Bouviere: Your representation refers to concerns in relation to plots 6-05 and 6-06. Can you confirm that this is correct or whether you object to the CA/ TP of the other plots in your ownership?</p> <p>Network Rail [REP1-113] Network Rail: At the start of your representation [REP1-113] you list nine plots in two tables, one where you own the land and one where you own the rights. However, in paragraph 4.1 you then mention another seven plots of land you have an interest in. Please confirm the number of plots you have an interest in and amend your documentation accordingly.</p> <p>Offley Chase Estates Ltd (represented by Roebuck Land and Planning Ltd) [RR-1288] Offley Chase: According to your Relevant Representation (RR) you have an interest in plots 3-40, 3-42, 7-32, 7-40, 7-44 and 7-46. However, the BoR [APP-011] and the CA Schedule [REP3-041] only list you as having an interest in plots 3-42, 7-43 and 7-46. Can you please confirm which plots you do have an interest in?</p> <p>The trustees of Paul Tompkins Will Trust [RR-1517] Applicant: The CA Schedule [REP3-041] refers to "the executors of Paul Tompkins". Can you confirm if the trustees of 'Paul Tompkins Will Trust' is the same entity?</p> <p>Jaison Property Ltd [RR-0603]/ John Andrew and Jana Ninot Jason [RR-0691]/ Follet Property Holdings Ltd (represented by Keith Murray Consultants) [RR-0461] Confirm whether all three of these RRs relate to the CA/ TP of the same plots. The CA Schedule shows that you have engaged with Jaison Property Development Ltd. If 'John Andrew and Jana Ninot Jason' and 'Follett Property Holdings Ltd' are not the same as Jaison Property Ltd provide an update with regards to the progress of negotiations with these individuals and organisation. Please include in future versions of the CA Schedule. Confirm whether it is Jane (as cited in BoR) or Jana (as on the RR) and amend as necessary.</p> <p>ATO Holdings Ltd [REP1-051] In your representation you reference plots 7-18, 7-20 and 7-44 but the BoR [APP-011] mentions 12 other plots. Can you confirm if you are objecting to the CA/ TP of all the plots or just those mentioned in your representation?</p> <p>Cella UK Property Unit Trust (represented by Knight frank) [RR-0209] and [REP1-167] Cella UK Property Unit Trust are not listed in the BoR but appear in the CA Schedule. The plots listed in the CA Schedule appear to tally with those where KW Industrial B Ltd have an interest. Please confirm the relationship or explain which plots Cella have an interest in.</p>

PINS ID	Question / Response
	<p><b>Response:</b> Bartholemew Pleydell-Bouverie – The Applicant's Agent has continued the dialogue with the Interested Party's agent and a solution to the concerns raised which has long been identified, is now emerging. This has required engagement and agreement of a neighbouring landowner, which will need to be documented before agreement with the Interested Party can be concluded. The Applicant aims to agree this before the close of the examination.</p> <p>Network Rail – The Applicant's Agent and legal representative are continuing negotiations with the Interested Party and will be providing information for Deadline 5 which will help respond to one of the current points that has been raised. The Applicant has identified all plots in which it believes Network Rail have an interest in, at Appendix D (Table of Statutory Undertakers) of the <b>Statement of Reasons Revision 2 [AS-071]</b> The Applicant aims to agree this before the close of the examination.</p> <p>Offley Chase Estates Ltd – The Interested Party has optioned their land to Bloor Homes. The requirements of Bloor Homes and the Interested Party need to be aligned so that the Applicant can conclude an agreement that will remove the need for implementing the powers sought in the draft DCO. The Applicant's Agent is working with both parties to this end and aims to agree this before the close of the examination. Based on the information held by the Applicant, this party holds an interest in plots 3-42, 7-43 and 7-46 and this will be reflected in the next iteration of the Book of Reference.</p> <p>The Trustees of Paul Tomkins Will Trust - (The Trustees and Executors are one and the same entity) The Interested Party has optioned their land to Bloor Homes. The requirements of Bloor Homes and the Interested Party need to be aligned so that the Applicant can conclude an agreement that will remove the need for implementing the powers sought in the draft DCO. The Applicant's Agent is working with both parties to this end and aims to agree this before the close of the examination.</p> <p>Jaison Property Ltd <b>[RR-0603]</b> / John Andrew and Jana Ninot Jason <b>[RR-0691]</b> / Follet Property Holdings Ltd – The three interests are all held in the same family, however, each interest holds a different property interest included in the draft DCO. The CA Schedule will be updated accordingly. The Applicant's Agent is in active negotiations with the agent acting for the three Interested Parties and there is now increased confidence that agreement will be in place prior to the close of the examination.</p> <p>ATO Holdings – The Applicant's Agent has continued the dialogue with the Interested Party's agent and negotiations will continue in an attempt to conclude an agreement prior to the close of the examination.</p> <p>Cella UK Property Trust – This is the changed name for KW Industrial B Ltd (Kennedy Wilson). The Interested Party's agent has now confirmed the terms on which the Interested Party would prefer to transact with the Applicant which will be an outright acquisition of the property interest rather than part, as is identified in the draft DCO. Negotiations are continuing in an attempt to conclude an agreement prior to the close of the examination.</p>
CA.1.9	<p><b>Question:</b></p> <p><b>Prospect House Day Nursery s106</b> Provide an update on progress made with the proposed section (s)106 agreement to secure an alternative site for Prospect House Day Nursery from Phase 2a. Will this be completed before the close of the Examination and, if not, what are the implications of this? You may wish to link the answer to this question with the answer to question HAC.1.1.</p> <p><b>Response:</b> The Applicant has included a provision in the section 106 agreement for the relocation of Prospect House Day Nursery. At an appropriate time, an assessment will be carried out to demonstrate that there is still a need for nursery places and then depending on the outcome of the assessment the nursery will be relocated. Engagement with the nursery has been ongoing since July 2022. Following exchanges, a number of assurances have been provided, which identify relocation premises controlled by the Applicant and arrangements that are intended to provide sufficient time for the business to move before their current premises are required for the Proposed Development. The implications of not re-providing this facility are considered in the answer to question HAC.1.1.</p>
CA.1.10	<p><b>Question:</b></p> <p><b>Ace Sandwich Bar</b></p>

PINS ID	Question / Response
	<p>Confirm progress towards agreement of alternative premises for the Ace Sandwich Bar and how funds to secure these arrangements would be secured. Will these negotiations be completed before the close of the Examination and, if not, what are the implications of this? You may wish to link the answer to this question with the answer to question HAC.1.2.</p> <p><b>Response:</b> The Applicant is currently in legal proceedings with the Interested Party. The date for the court hearing has yet to be set. There is a backlog of court hearings. Most terms of a new lease have been agreed, with some minor clauses still outstanding. A surrender premium has also been discussed, however, no agreement has been made to date. The new lease, if agreed, would be a protected tenancy subject to payment of arrears of rent, service charge and utility charges.</p> <p>There is no provision in the draft DCO to replace this facility which is currently operating under a temporary planning consent, however, if it does remain under a new protected lease, relocation at the appropriate time is considered to be achievable under the provisions of the compensation code and business support scheme as provided in the <b>Draft Compensation Policies, Measures and Community First [TR020001/APP/7.10]</b>.</p> <p>The implications of not re-providing this facility are considered in the answer to question HAC.1.2.</p>
CA.1.11	<p><b>Question:</b></p> <p><b>Replacement land</b> The compulsorily acquired replacement land would result in an overall offering of at least 10% more open space than currently, increasing the size of Wigmore Valley Park to nearly 50 hectares (ha) compared to a current footprint of about 40 ha [AS-071].</p> <p>Explain how such a large additional take of land would be justified under s131 of the Planning Act 2008 (PA2008) and how this would meet the test that “no more land is being taken than is reasonably necessary for that purpose” (DCLG Guidance, September 2013).</p> <p><b>Response:</b> Whilst Wigmore Valley Park (WVP) will increase in size to nearly 50 hectares (ha), this is not because of large additional land take. A large proportion of the existing WVP will remain as open space (approximately 11ha) and the replacement area for WVP (approximately 36ha) is already owned by the Applicant.</p> <p>Plots 5-13 and 6-20 (i.e. the Replacement Land) are included within the scope of compulsory powers as, should an agreement with the owner of the open space land (Luton Borough Council), not be obtained, the Applicant would need to designate the Replacement Land as open space land in the Council's name. This vesting of the land in the prospective seller (i.e. the Council) is required under s131(4)(b) of the Planning Act 2008. The Applicant has explained this as part of the <b>Statement of Reasons [AS-071]</b> at paragraph 12.1.20.</p> <p>The Applicant is currently in discussions with the owner of the open space land and anticipates that an agreement can be reached before the end of examination. Were an agreement to be reached, there would be no need to compulsorily acquire any of the land within Part 5 of the <b>Book of Reference [APP-011]</b>, other than to deal with residual interests, if any, as noted in the <b>Book of Reference [APP-011]</b>. The Applicant will update the Examining Authority on progress on this agreement as further progress is made.</p> <p>For the avoidance of doubt, all land subject to compulsory acquisition is necessary and has a clear purpose (as set out in Appendix A to the <b>Statement of Reasons [AS-071]</b>). The Applicant's approach is proportionate, justified and in line with other schemes of a similar scale. The Examining Authority will note that Appendix A to the <b>Statement of Reasons [AS-071]</b> sets out the purpose (Work No.) for each plot of land subject to compulsory powers in the Order limits.</p>
CA.1.12	<p><b>Question:</b></p> <p><b>Accessibility of replacement land</b> In relation to the replacement for Wigmore Valley Park, your Written Representation [REP1-099] states that “Many, particularly older people who have grown up with the park, would be unable to access it”. Please explain what is meant by ‘unable to access’ the replacement park?</p> <p><b>Response:</b> The Applicant notes that this question is directed to Luton Friends of the Earth and does not consider it necessary to provide a response. The Applicant has, however, provided a further assessment of the experience of park users in the <b>Applicant's Response to Compulsory Acquisition Hearing 1 Actions 14-17 Wigmore Valley Park [TR020001/APP/8.85]</b>.</p>