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1st November 2023 (before 23:59)

London Luton Airport Way Luton – Deadline 4 Action Points issued to the applicant by the EXa, as may affect the Chilterns Conservation Board (CCB).

By portal upload only to the Planning Inspectorate

My Ref.: F: Planning\Development Management\Luton.

EXa Refs: Relevant Representation - 57771, PADSS – AS-055, Deadline 3 – REP3-143

Application by London Luton Airport Limited for an Order Granting Development Consent for the London Luton Airport Expansion project. Notification of decision to accept an application for Examination for an Order Granting Development Consent.

For ease of reference, each discrete section is denoted by underlined text.

Following the Issue Specific Hearing (6) on 29th September 2023, the CCB noted two action points for the applicants.

Action 25. Liaise with the Chilterns Conservation Board and councils on the content of further assessment being undertaken on the Chilterns Area of Outstanding Natural Beauty (AONB).

Action 26. Confirm how achievable it is for the proposed increase in flights to avoid the AONB.

The CCB can confirm that the applicant has been in contact with us, inviting comments on a draft Chilterns AONB Special Qualities Assessment. We anticipate that this may be agreed upon and submitted to the EXa after deadline 4. In essence, the CCB's comments to the applicant addressed the need for greater detail in the assessment of tranquillity. We refer to the existing assessment of AONB tranquillity in the Environmental Statement chapter 14 (examination document AS079 at 14.9.22), which states that at 32 MPPA the noticeable increase in aircraft movements was judged to permanently deteriorate the sense of tranquillity perceived by those recreating within the AONB. This was deemed a '*moderate adverse, likely significant effect*' resulting from the increase in aircraft movements, which the ES deemed to be permanent and lasting. In our current engagement with the applicant, the CCB is promoting a more detailed menu of criteria that impact tranquillity so that any submitted methodology can be both long-lasting and potentially transferable, should any AONB boundary expansion come into play.

CCB is grateful for this engagement and will continue to engage with the applicant.

Secretary of State's Called in Decision 13th October 2023 (issued 13th October 2023), PINS APP/B0230/V/22/3296455

Action. *As this decision was issued after the Examining Authority (ExA) had issued its written questions [PD-010] the ExA did not include any questions on this matter. Therefore, the ExA is requesting that the Applicant and all Interested Parties review the decision and submit any comments on the implications for this application for Development Consent at Deadline 4, Wednesday 1 November 2023 in addition to their responses to the ExA's written questions.*

In summary, the CCB does not consider that this decision has broader implications for the current DCO examination. We say that because the 18 MPPA to 19 MPPA decision would only impact a small part of the AONB but of most significant material relevance, would involve a minimal increase in air traffic movements. Whilst the decision-making environment is the same when comparing the Luton Rising examination with the Secretaries of State's decision, i.e., the AONB Management Plan, CROW Act and Development Plan policies, the environmental merits are very different. The Luton Rising proposal involves far greater air traffic movements and surface access travel in the examination proposal.

In support of this opinion, we rely on two extracts from the decision.

Paragraph 18 (Secretaries of State) *They further agree that the limited increases in noise and air traffic movements would not cause material harm to the character of the Chilterns AONB. As such, there would be no conflict with Policy LLP29 of the Local Plan or paragraphs 176 and 185(b) of the NPPF.*

Paragraph 15.44 (Panel of Inspectors). *Comparison of the contour maps and the Chilterns AONB boundary indicate that an increase in noise above LOAEL, the point at which an adverse effect becomes evident, would only occur in a small part of the AONB. Moreover, this would be limited and temporary.*

EXQ1 Examination Questions (10th October 2023). Reference TR020001. Actions.

PED.1.22

Natural England *Chilterns Area of Outstanding Natural Beauty (AONB) Please provide an update on the review of the Applicant's methodology for the assessment of the effects on the special qualities of the Chilterns AONB.*

PED.1.23

Applicant, All Local Authorities, Natural England, The Chiltern Society and Chilterns Conservation Board *Chilterns AONB Sensitivity Test [APP-107] Applicant: Paragraph 2.4.2 states that extension to the boundary of the Chilterns AONB would neither change the judgements of magnitude of impact resulting from the Proposed Development nor those on the sensitivity of a visual receptor. This is because judgements on sensitivity are a product of the activity one is performing when experiencing a view, which would not be altered by the future designation of this land. Please explain further the rationale for this statement, given that introducing a statutory landscape designation would likely increase the value of the receptor and its susceptibility to change. All Local Authorities, Natural England, The Chiltern Society and Chilterns Conservation Board: Are parties in agreement with the findings in the Sensitivity Assessment? If not, why not?*

PED.1.24

Applicant *Countryside and Rights of Way Act 2000 The Chiltern Society [RR-0226] states that the Applicant, as a statutory undertaker, has a duty to have regard to the purpose of conserving and enhancing the natural beauty of the AONB under Section 85 of the Countryside and Rights of Way Act 2000. Can you confirm the accuracy of this statement and what implications it would have for the assessment*

CCBs Comments, as below.

PED. 1.22 This is an action for Natural England. The CCB can confirm we are engaged with this methodology, and, in very brief terms, we have sought (a) greater synergy with the findings of the ES, to establish tranquillity baseline formation, and (b) a more fulsome tranquillity methodology, to which we have supplied suggested content. The CCB is more than happy to report back on this, at any subsequent and appropriate deadline.

PED.1.23

The CCB does not agree with this finding in the sensitivity assessment. It must be common ground between all parties to the examination and a long-held principle that an AONB is a valued landscape. It is, therefore, by definition, deemed to be of a higher value in the assessment process than land not so designated. The Landscape Institute (GLVIA 3rd edition) deem an AONB to be a '*nationally valued landscape*'. (see GLVIA 3rd edition para 5.21, page 82).

Landscape sensitivity is determined by combining value and susceptibility to change. That value is itself determined by a range of factors, including sensory factors. AONB status requires an assessment of a range of factors. With that AONB status assured, then the value is increased. Several 'knock-on' effects follow, as sensitivity, susceptibility to change and significance would have to be recalibrated in any Landscape and Visual Impact Assessment, should land to the east of the airport become statutory AONB in the future.

PED.1.24

The CCB concurs with the Chiltern Society. Section 85 of the CROW Act (the 'duty of regard') is a duty that must be discharged by all public bodies. The duty establishes that, '*In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty*'.

The '*so as to affect*' component captures the setting of the AONB or any other matter that impacts the conservation and enhancement of natural beauty. Thus, this duty applies to aircraft overflying the AONB, where this is deemed '*so as to affect*' the conservation and enhancement of the AONB.

To assist the EXa the section 85 CROW duty was applied recently in the Bristol Airport decision when determining the impacts upon the Mendip Hills AONB (please see paragraph 480 of that decision, PINS 3259234, dated 2nd Feb 2022).

At the time of writing, the Levelling Up and Regeneration Act 2023 has just received Royal Assent (26th October 2023). Amendments introduced by the House of Lords proposed a further tightening of the section 85 CROW duty. We are willing to further assist the EXa on this point when we can access the new legislation.

The Chilterns Conservation Board, The Lodge, Station Road, Chinnor, Oxfordshire, OX39 4HA.

1st November 2023