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**Glossary**

19mppa application	Application 21/00031/VARCON on the Luton Borough Council Planning Portal to increase capacity and noise contours at Luton Airport
19mppa decision	Decision on behalf of Secretaries of State (ref APP/B0230/V/22/3296455) relating to the called-in decision by LBC to grant the 19mppa application
Applicant	Luton Rising (London Luton Airport Ltd), whose Board until recently comprised solely of Members and Officers of LBC
Application	This application TR020001 for a Development Consent Order
Inspectors	The Inspectors who conducted the Inquiry into the 19mppa application
LBC	Luton Borough Council, owner of and Local Planning Authority for LLA
LLA	London Luton Airport
LLAOL	London Luton Airport Operations Ltd, the operator of LLA under a concession agreement with the Applicant
mppa	Million passengers per annum – a measure of throughput at an airport
noise contour	An outline on a map enclosing an area in which the 8-hour or 16-hour logarithmic average of aircraft noise for an average day in a defined 92-day summer period equals or exceeds a given value
Project Curium	The development application 12/01400/VARCON to increase capacity at Luton Airport to 18 mppa over a 15-year period to 2028

## 1. Implications of the 19mppa decision

### 1.1 Current permission status

The 19mppa decision provides LLAOL with an option to operate the Airport under a different planning permission. However, until LLAOL serves notice of intent to implement, the current planning conditions and obligations pertain. The 19mppa Section 106 Agreement states:

#### *"4. IMPLEMENTATION OF THE SECTION 73 PLANNING PERMISSION*

*4.1 The Operator covenants to serve a notice on the Council of its intention to Implement the Section 73 Planning Permission (the "Notice of Implementation") at the point when it wishes to Implement the Section 73 Permission.*

*4.2 The Notice of Implementation shall be sent by email to the Monitoring Officer to [developmentcontrol@luton.gov.uk](mailto:developmentcontrol@luton.gov.uk) and the said notice shall include the reference number "S.106/21/00031/VARCON".*

It appears that the ExA should continue to assess the Application in the context of the conditions and obligations of Project Curium unless LLAOL serves Notice of Implementation (NoI) before the Examination has concluded, at which point new conditions and obligations would apply to the operation of the Airport.

### 1.2 Requirements prior to 19mppa permission being Implemented

LLAOL has not to our knowledge served NoI and therefore, now that the 19mppa application has been determined, there is no reason for LLAOL to delay any longer the production of the still outstanding Long Term Noise Reduction Strategy update which Project Curium condition 10 requires and which LLAOL undertook to produce to LBC early in 2021 [REP1-095 Appendix 1 paragraphs 59-60].

This Strategy is material to the weight which can be placed by the ExA on noise control in the Transition Period, and we urge the ExA to request early sight of it.

### 1.3 Requirements once 19mppa permission is Implemented

If NoI is served during this Examination, the planning conditions and obligations as set out in the letter from the Secretaries of State would apply. These include requirements for further documents to be produced by LLAOL and approved in writing by LBC before the capacity of the Airport would be permitted to exceed 18 mppa. These documents include:

- *Sections 5, 6, 7 & 8 of the London Luton Airport 2022 Noise Management Plan Technical Document or the equivalent provisions in any successor document [Condition 8];*
- *A strategy which defines the methods to be used by LLAOL or any successor or airport operator to reduce the area of the noise contours by 2028 for daytime noise to 15.5km<sup>2</sup> for the area exposed to 57dB LAeq(16hr) (0700- 2300 hrs) and above and for night-time noise to 35.5km<sup>2</sup> for the area exposed to 48dB LAeq8hr (2300-0700) and above [Condition 9];*

- *A verification report demonstrating for Phase 3 i) completion of works set out in the approved remediation strategy and ii) the effectiveness of the remediation for the phase, including results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a "long-term monitoring and maintenance plan" (the Plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan [Condition 13];*
- *An updated Travel Plan to encourage modal shift away from private cars to improve levels of use of sustainable and low carbon modes of transport for all users of the airport and to reduce congestion on the Highway [Condition 18];*
- *A Carbon Reduction Strategy informed by the carbon mitigation targets and measures in the London Luton Airport 19 mppa: Outline Carbon Reduction Plan, Wood Group UK Limited - May 2021. The approved Carbon Reduction Strategy is to be reviewed in accordance with the specified provisions and all approved measures to be implemented and complied with, to ensure that levels of CO<sub>2</sub> and other greenhouse gases emitted by the Airport and associated activities are reduced in line with challenging targets to maximise low and zero carbon activities, to mitigate the effects of climate change and drive a radical reduction in carbon emissions overall [Condition 19].*

It would be reasonable for the ExA to request sight of these documents if LLAOL serves Nol during the current Examination, since they go to the level of confidence regarding whether the Airport would be operable within its Conditions and in accordance with its Obligations.

## 2. Concerns relevant to DCO Examination

### 2.1 Enforcement

The Inspectors acknowledge the loss of trust felt as a result of the incentivised accelerated growth in the first 5 years of delivery of Project Curium. Paragraph numbers below refer to the 19mppa decision document unless otherwise stated:

*"15.49 Although both the LPA and the Applicant [LLAOL] maintained that there had been an appropriate response to breaches of the contours condition, it is clear that that view is not shared within the local community. Aircraft noise is a matter about which local residents and organisations feel strongly, and the Panel understands LADACAN's view that the communities which it represents have lost trust in the Applicant and the LPA. We return to this matter in considering the approach to mitigation (below, para 15.57)."*

*"15.57 However, as the LPA pointed out, should planning permission be granted for the proposal, and it become necessary to contemplate enforcement action in respect of the NMP [Noise Management Plan], a breach of condition notice would offer a more direct means of seeking compliance than injunctive action in respect of the obligation.*

*Given the extent of concerns in the community about noise and the need to be able to control it effectively, we are of the view that in this case, should planning permission be granted, there would be a role for a condition concerning the NMP to sit alongside the obligation.”*

Due to LLAOL’s failure to manage growth within noise limits in the past, we request the ExA ensures that enforcement provisions within the dDCO are at least as adequate as those imposed by the 19mppa Inspector Panel regardless of whether Nol is served during the Examination or not.

## **2.2 Noise assessment**

The Inspectors specifically noted *“In view of the proximity of housing north of Eaton Green Road to the airport, there is the potential for residents in this part of Luton to be affected by noise other than from aircraft in flight, and these grants are important parts of the scheme.”* [para 15.51]

The question of assessing the impacts of all noise sources particularly in this part of Luton is therefore emphasised, and the ExA is aware of concerns regarding the need for a cumulative impact to be quantified.

## **2.3 Noise control**

The Inspectors also drew attention to the need for a noise control scheme to *“continue to maintain a quota count system, restricting the extent to which the airport could be used by aircraft with a higher noise classification.”* [para 15.52]

In para 15.54 the Inspectors also state *“Although the insulation schemes would be an improvement on the extant arrangements, they would only offer mitigation within buildings. The effect of increased noise outside, notably in private amenity space, would only be modified by the controls on the noise climate imposed by the quota count system, the ground noise control scheme, and the noise and track violations system.”*

This adds further weight to calls for the noise controls in the Noise Envelope Design to be restored to those agreed by the NEDG rather than the single contour control proposed by the Applicant, and for all the existing protections to be preserved without compromise.

In para 15.62 the Inspectors go on to say *“If fleet modernisation were not to proceed as expected, in order to achieve compliance with the proposed variation to the noise contours condition it would be necessary for consideration to be given to reducing the number of flights.”*

The Secretaries of State confirm this view:

*“19. However, like the Panel, the Secretaries of State consider that noise levels would increase, albeit for a temporary period, leading to further disturbance and annoyance, with some additional dwellings being brought up to the significant observed adverse effect level (SOAEL) threshold. Taking all of these considerations into account, the Secretaries of State conclude that noise generated by the proposal would cause moderate harm to the quality of life of people in the area around London Luton Airport. They attach moderate weight to this*

*harm. For the reasons given in IR15.62, the Secretaries of State agree with the Panel that if fleet modernisation were not to proceed as expected, in order to achieve compliance with the proposed variation to the noise contours condition it would be necessary for consideration to be given to reducing the number of flights.”*

This confirms the need to utilise all the available options of the ICAO Balanced Approach to noise management [REP3-121, p13], and weighs heavily against the Applicant’s proposition that its “noise mitigation hierarchy” (gradual fleet modernisation, and compensation by insulation) is not a sufficient provision to protect quality of life.

It also confirms that increased noise impact causes harm, and weighs against the expansion of capacity at Luton Airport in the planning balance.

## **2.4 Climate change**

The Inspectors make clear the seriousness of climate change and emphasise that the PPG guidance that addressing climate change is core to NPPF decision-taking:

*“15.63 As the Government’s Net Zero Strategy makes clear, human activity is changing our climate and this will have a devastating impact on human lives, the economy, and the natural world so urgent action is needed to reduce emissions globally to limit further global warming. Given the existential nature of the threat, action will be required internationally, nationally and locally. A radical reduction in the release of GHG emissions and mitigation of the harmful effects of climate change is therefore a priority. The PPG points out that addressing climate change is one of the core land use planning principles which the NPPF expects to underpin decision-taking.”*

*“15.64 The proposal would result in additional flights. These, and the associated increase in activity at LLA and journeys by staff and passengers to and from the airport, would consequently have the potential to increase GHG emissions.”*

The Secretaries of State agree that increased emissions count against the proposal to expand capacity at Luton Airport, even though of limited weight in the 19mppa case:

*“26 ... For the reasons given in IR15.95-15.97, the Secretaries of State agree with the Panel that higher-level emissions would be a negative aspect of the proposal to be considered in the planning balance, that they would be less than significant and short-term, and are a matter that carries limited weight against the proposal.”*

Clearly the carbon emission increase proposed in the current Application would weigh more heavily against it since substantially more flights and passenger journeys would arise.

## **2.5 Climate emergency declaration**

The Inspectors express concern regarding the lack of specific local targets in the LBC Climate Emergency response, although specific actions are identified:

*“15.75 LBC have declared a Climate Emergency, as have many neighbouring authorities<sup>285</sup>. The proposed action by LBC includes an expectation that LLAL will work with LLAOL to decarbonise operations but also notes that international aviation emissions are not*

*considered as UK sources. Beyond setting a net zero carbon target of 2040, the declaration does not provide any specific targets. The Climate Action Plan to achieve this does however provide a detailed series of actions which aim to prioritise alternatives to private vehicle use by encouraging the use of public and active transport options. Nevertheless, the LPA have recognised that it would be ‘extremely challenging’ to meet all the local and national targets for aviation, ground operation and surface access emissions.”*

Whilst acknowledging the increase in private vehicle usage from the 19mppa permission is small, the Inspectors have remaining concerns which again would be magnified in respect of an additional 14mppa rather than just 1mppa:

*“15.76 Against this background the proposal would not run counter to this declaration and there is no substantive evidence that it would be contrary to other local authorities’ declarations either. Nevertheless, the potential remains that private vehicle use by staff and passengers associated with the proposed capacity increase could adversely affect achieving the 2040 target, particularly in that initiatives focusing on surface access have the potential to take effect early in the Action Plan’s lifespan.”*

## **2.6 Surface access emissions**

The Inspectors express significant concerns about the ability to meet aspirations to reduce surface access emissions:

*“15.83 ESA4 [the fourth version of the Environmental Statement for 19mppa] shows surface access emissions arising from the proposal remaining stubbornly high and being relatively slow to reduce compared to the ‘without proposal’ scenario. Although it predicts a much less sharp difference by 2050, up until 2028, and even until 2032, surface access emissions stand out as a significant proportion of overall emissions. Unlike aviation emissions, the airport can in principle exert greater influence over these through how it prompts, incentivises and prioritises low and zero carbon transport to and from the airport.”*

The Inspectors then evidence their concerns and stress that the Transport Plan (TP), Carbon Reduction Strategy (CRS) and Car Park Management Plan (CPMP) must be sufficiently robust, ambitious and comprehensive:

*“15.84 Furthermore, the programmes and targets for reducing aviation emissions generally relate to the longer term, particularly those which rely on emerging and uncommercialised technologies, for example in JZS. This makes it all the more important that reductions capable of achievement in the short term are realised. However, the proposal, as submitted, relies very heavily on national measures in respect of decarbonising surface access, such as roll out of EVs and stricter vehicle emissions controls, rather than the more fundamental modal shift advocated in the Action Plan.15.85 The requirement to ensure that private car use is minimised and use by sustainable transport modes is maximised is set out in LLP Policy LLP6 B. viii. This means that the ASAS, in supporting the TP and CRS, needs to be ambitious and robust.”*

*“15.125 The revised TP included a target of achieving 47% of passengers accessing the airport by sustainable modes of travel by 2024 and maintaining that in 2028. This would*

*appear to be an ambitious objective. In 2019, 7.74m passengers (43%) used such modes; but this dropped to 3.1m in 2021 when throughput was still well below pre-pandemic levels. A 47% share of 18mppa passengers would mean 8.46m using sustainable modes in 2024; with 19mppa this would increase to 8.93m. This would represent an increase of 1.19m passengers using sustainable transport overall.”*

*“15.137 In closing submissions, the Applicant suggested that the CPMP would be part of an updated TP; this proposition is supported by the Panel. However, to do so effectively it would need to be more wide-ranging, including estimating additional parking demand arising from the proposal and considering how this could be managed either on-site or elsewhere. Alongside setting parking charges, appropriate incentives would be required to encourage passengers to choose rail or bus, without increasing the risk of additional traffic from drop-offs and/or vehicles being parked in residential areas, to the detriment of local amenity. There is an opportunity to address these matters in a comprehensive CPMP that is fully incorporated within an updated TP.”*

Again, a potential increase by 14mppa rather than 1mppa emphasises the criticality of these components and the heavy negative weight which inadequacy would otherwise represent.

## **2.7 Air quality**

The Secretaries of State confirm that whilst a 1mppa increase is small, the NPPF has an objective of improving air quality where possible and applications which fail to achieve that carry negative weight:

*“35. The Secretaries of State therefore conclude that notwithstanding compliance with the Development Plan, the proposal would cause very limited harm and would not fully accord with the objectives of the NPPF to improve air quality where possible, and that this carries limited weight against the scheme.”*

This again acts as a guide to the weighting against the current Application, which inevitably will lead to a far more significant deterioration in air quality due to significantly increased numbers of flights and passenger journeys by surface transport.