

# London Luton Airport Expansion

## Buckinghamshire Council Response to Examining Authority request for further information and written comments on the Secretaries of State for Levelling Up, Housing & Communities and Transport joint decision in October 2023 on the application by London Luton Airport Operations Ltd. to vary conditions 8, 10, 22, 24 and 28 of 15/00950/VARCON

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## 1 Introduction

### 1.1. Terms of Reference

1.1.1. Buckinghamshire Council (the Council), is a neighbouring authority for the London Luton Airport Expansion Development Consent Order (DCO) referred to as 'the Scheme'. For the purposes of this document, the Council is also considered an 'Interested Party' (IP).

1.1.2. In October 2023, the Secretaries of State for Levelling Up, Housing & Communities and Transport issued a joint decision to grant planning permission subject to several conditions on the Town and County Planning Act 1990 (Section 77) application made by London Luton Airport Operations Ltd (21/00031/VARCON) on 8 January 2021. The application was to vary five conditions – 8 (passenger cap), 10 (noise contours), 22 (car parking management), 24 (Travel Plan) and 28 (approved plans and documents) – attached to the previous planning permission (15/00950/VARCON) dated 13 October 2017. It is referred to in this document as 'the Consented Development'.

1.1.3. The scope of the Consented Development relates to the following:

- Dualling of Airport Way/ Airport Approach Road and associated junction improvements.
- Extensions and alterations to the terminal buildings.
- Erection of new departures/arrivals pier and walkway.
- Erection of a pedestrian link building from the short-stay car park to the terminal.
- Extensions and alterations to the mid-term and long-term car parks.
- Construction of a new parallel taxiway.
- Extension to the existing taxiway parallel to the runway.
- Extensions to existing aircraft parking aprons.
- Improvements to ancillary infrastructure including access and drainage.
- Demolition of existing structures and enabling works.
- Outline planning application for the construction of a multi-storey car park and pedestrian link building (all matters reserved).
- 12/01400/FUL – variation of condition 11(i) – noise violation limits.

- 1.1.4. This document provides the Council's response to a request made on 13 October 2023 by the Examining Authority (ExA) for the Applicant and IPs to review and comment on the implications of the decision referenced at above at para.1.1.2 of this document in relation to the application for Development Consent for the London Luton Airport Expansion (TR020001), which is referred to as the DCO.
- 1.1.5. The Council has undertaken this review principally with reference to the letter (DL) from the Secretaries of State dated 13 October 2023 Ref: APP/B0230/V/22/3296455. This letter cross-references the report of the Panel who held the public inquiry between September and November 2022, using the acronym IR – the IR is appended to the decision letter, dated 23 May 2023.

## 2 Comments on the Consented Development

### 2.1. Definition of National Aviation Policy

2.1.1. This is a matter that was raised at ISH2, with the ExA questioning the Applicant regarding the use of the term 'policy' in relation to certain strategy documents. The Council notes that cross-reference is made by the Secretaries of State in DL para. 10 to the 'national aviation policy as described in IR 6.4-6.9', which cite the following:

- Aviation Policy Framework (APF).
- Airports National Policy Statement: new runway capacity and infrastructure at airports in the South East of England (ANPS).
- Beyond the horizon – the future of UK aviation – making best use of existing runways (MBU).
- Flightpath to the Future (FTTF).
- Jet Zero Strategy (JZS).

2.1.2. The Council expects that this will be taken into consideration by the ExA as relevant precedent for the definition of aviation policy in relation to the DCO.

### 2.2. Relevant policy documents

2.2.1. The Council notes that the IR references a number of other policy documents as being of relevance for the application. This includes, at IR 6.10, the aims of the 'Noise Policy Statement for England' (NPSE) as including avoiding significant adverse impacts and to mitigate and minimise adverse effects on health and quality of life. The Council views the connection highlighted in the IR (6.10) between the impacts of airport expansion on the noise climate, specifically in the context of needing to recognise its role as a determinant of human health and quality of life and to ensure suitable mitigation of adverse effects, as being of relevance to the decision making for the DCO.

### 2.3. Modernisation forecasts

2.3.1. IR 15.15 presents the conclusions in relation to the way fleet mix forecasts may need to be responded to in planning conditions, presented by the Inspectors as a recommendation to the Secretaries of State. The Council notes that a noise contour condition is presented in the IR (15.15) as capable of application, providing a mechanism to halt growth in passenger numbers until predicted numbers of quieter aircraft had been introduced. DL Annex B Condition 9 adopts this IR recommendation, setting out clear parameters for noise contours and annual reporting on actual and forecast aircraft movements. The Council considers

that this approach is relevant to the DCO – the principle is transferable. Furthermore, in addition to offering controls on noise levels, the Council notes that adopting this approach for the DCO would also mean that the fleet mix itself would be monitored annually. This would be beneficial in the context of understanding and managing climate change impacts from the DCO.

## 2.4. Noise

2.4.1. The Council notes that DL para. 16 relates to the impacts of aircraft noise increases above the lowest observed adverse effect level (LOAEL) on parts of the Chilterns AONB. At DL para. 18 the conclusion is that the limited increases of noise in the Chilterns AONB would not conflict with relevant local plan and NPPF policies. From this, the Council infers that more substantial increases may not result in the same conclusion. This is considered relevant to the DCO – the Applicant has accepted that the Proposed Development will have significant adverse effects on parts of the AONB, which is considered by the Council to reflect the differing order of magnitude of the expansion proposed within the DCO. Consequently, the Council considers that there will be a greater risk of conflict with local policies and the NPPF – material considerations for the determination of the DCO – and that this is a relevant consideration for the ExA.

2.4.2. At DL para. 19 the Secretaries of State express the view that increased noise levels, albeit for a temporary period, lead to further disturbance and annoyance. This leads to a conclusion that the noise generated by the Consented Development would cause moderate harm to the quality of life of people in the area around London Luton Airport. It is stated that if fleet modernisation were not to proceed as expected, then it would be necessary to consider reducing the number of flights in order to achieve compliance with proposed variations to noise contours. This is addressed in DL Condition 9, supported by a rationale of safeguarding living conditions and character, both of which the Council consider relevant to health. DL para. 46 confirms that the Secretaries of State consider the noise impacts to carry moderate weight against the Consented Development. This is noted as particularly relevant by the Council, who would expect the ExA to reflect this approach of assigning at least moderate weight to noise impacts in its own evaluation of the planning balance for the DCO, at an appropriately increased scale.

## 2.5. Climate Change

2.5.1. The Council welcomes DL Annex B Condition 19, which requires the creation of and approval by the Local Planning Authority of a Carbon Management Strategy when passenger throughput exceeds 18 million passengers over a 12-month period. The requirement for the Strategy to be reviewed by third-party organisations on a regular basis is also welcomed. The Council considers that this is relevant as an approach to also be applied to the DCO, in the interests of providing a means of monitoring and responding to changes in carbon as the airport continues to expand, linked to defined passenger throughput triggers.

2.5.2. DL para. 26 states the conclusions drawn in relation to the correlation between passenger numbers and climate change impacts, due to emissions. The Secretaries of State conclude that higher-level emissions would be a negative aspect to be considered as carrying limited weight against the proposals in the planning balance. Given the considerably larger magnitude of emissions that would be associated with the increase in passengers to 32mmpa, the Council considers this relevant to the DCO. In following the precedent, the Council would expect the ExA to consider this aspect of the DCO to be negative, relevant to the consideration of the planning balance and to carry substantially greater weight, commensurate with the larger order of magnitude of the DCO relative to the Consented Development.

## 2.6. Transport

2.6.1. The Council welcomes the reference in DL para. 27 to the appropriateness of the applicant for the consented development continuing to encourage increased use of public transport for passengers and staff and active travel options for staff, underpinned by IR 15.141 and 15.147. The point made by the Inspector at IR 15.127 that rail and bus operators must also be involved and cooperation secured is also considered relevant insofar as it is an approach that should be adopted by the Applicant for the DCO. Furthermore, given that the DCO envisages growth levels that far exceed those within the Consented Development, the Council considers that the DCO should incorporate specific measures not just to 'encourage' increased use of public transport for passengers and staff, but to secure their delivery and continued provision as a core element of the sustainable transport measures within the DCO.

2.6.2. The Council notes a number of references to the delivery of sustainable transport measures for the Consented Development that are considered to have relevance to the DCO:

- IR 15.120 relates to the need to set targets for modal share that are realistic, but stretching.
- IR 15.143 stresses the importance of establishing clear procedures for regular short-term monitoring, providing data driven reporting that facilitates early remedial action when significant under-performance is noted.
- IR 15.144 cites a need for accountability for achieving targets since they are necessary to make the Consented Development acceptable; supported by a clear mechanism for securing additional resources to deliver alternative measures to achieve targets.
- DL para. 30 states that an updated Travel Plan is considered a necessary provision to make the Consented Development acceptable; and that it must be approved prior to passenger throughput exceeding 18 mppa.

2.6.3. The Council considers that the importance afforded by the Secretaries of State to the Travel Plan as a necessary provision pre-expansion sets a precedent for the level of weight that should be afforded to delivering sustainable transport measures within the DCO. Furthermore, the Council considers this approach of setting targets with accountability for delivery, securing regular short-term monitoring and reporting and connection to defined mechanisms for delivering alternative measures where the data shows targets are missed, is relevant to the DCO as a scalable and transferable approach that should be evident within the Applicant's proposals. Set against this context, the Council reinforces its assertion that the DCO Applicants have a greater ability to provide or influence the provision of services or mode choices than they are currently presenting and this should be afforded weight accordingly. Suggested increased review periods for travel planning are referenced in the Council's Written Representation (REP1-042), concerns regarding the scope of the Travel Plan are raised in the Council's Updated PADSS (REP3-084), comments provided at Deadline 4 relate to the DCO Applicant's Sustainable Transport Fund and all of these matters are being discussed in the context of the SoCG between the Council and the Applicant.

## 2.7. Air Quality

2.7.1. The Council welcomes the acknowledgement by the Secretaries of State that, when compared to a without proposal scenario, the Consented Development 'would increase pollutants, albeit marginally, thereby slowing the trajectory of improvement in air quality, at odds with the NPPF's aim that development, where possible, should help to improve local environmental conditions such as air quality' (DL para. 34). The conclusion drawn is also welcomed by the Council in terms of its transferability and scalability in the context of the DCO – namely '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 (IR15.164)' (DL para. 35).

2.7.2. The Council considers that this identification of weight against the Consented Development supports the points that have been made in the Council's Written Representation (REP1-042) and Local Impact Report (REP1A-001), reinforced within the Updated Principal Areas of Disagreement Summary Statement (REP2-045), comments previously supplied on Deadline 2 and 2A documents (REP3-082) and the Council's Deadline 3 submissions (REP3-079, REP3-080, REP3-081, REP3-083 and REP3-084), that even small changes in air quality arising from alterations to surface access arrangements can result in impacts on health determinants and that these should be taken into consideration when assessing the planning balance. In the context of the DCO, such changes are anticipated to be greater in real terms and geographic spread, including along the access routes identified within the Trip Distribution Plans (REP1-019). The Council would encourage the ExA to reflect this principle, and the weight afforded to it as a material consideration in this much smaller proposed capacity increase (IR 15.164), within



consideration of the implications of longer distance transport impacts from the DCO for air quality, including as a determinant of health.

## 2.8. Socio-economic effects

- 2.8.1. The Council welcomes the acknowledgement by the Secretaries of State that local and national policy, in supporting airport expansion, assumes that development proposals will have economic benefits that are felt both locally and further afield (DL para. 36). The conclusions in DL para. 39 are noted with interest - 'given the levels of unemployment and deprivation locally, even relatively modest jobs growth would have a particularly important positive economic impact' and that 'socio-economic effects carry considerable weight in favour of the proposals (IR 15.200)'. Considered in the context of the DCO, the Council considers that this identification of weight in favour of the Consented Development supports the points that have been made in the Council's Written Representation (REP1-042) and Local Impact Report (REP1A-001), that there is a need for the Applicant to broaden out its ambition with regard to the wider economic benefits of the proposed scheme and to include local authorities outside of the host authorities as beneficiaries.

## 2.9. Conditions – DL Annex B

- 2.9.1. The Council has reviewed the conditions set out at Annex B of the DL, which the Secretaries of State have endorsed as forming part of the decision.
- 2.9.2. When considering DL Annex B Conditions 7, 8 and 9 the Council notes the reasoning for their inclusion as being to "safeguard the living conditions of occupiers of residential properties and the amenities of the surrounding area." The Council interprets this as an indication that health impacts are afforded far greater weight as part of the SoS's decision than is evident in the Applicant's approach to health impacts within the DCO application to date. As the SoS decision relates to a passenger increase of 1 million passengers per annum, the scalability of effects associated with a further 13 million passengers per annum raises the question as to the necessary controls and mitigation that would be required to alleviate any health impacts associated with the DCO scheme.
- 2.9.3. DL Annex B Condition 19 sets out clear requirements in relation to the production and cyclical review of a Carbon Reduction Strategy, noting that this will become an umbrella plan that applies to the whole site. This is considered relevant to the DCO insofar as this updated Carbon Reduction Strategy will need to be reflected by the Applicant as an amended Business as Usual position in the context of the Outline Carbon Management Plan produced as part of the DCO (and the resulting the Carbon Reduction Strategy).