



**CENTRAL BEDFORDSHIRE COUNCIL COMMENTS ON DEADLINE 3  
SUBMISSIONS**

**LONDON LUTON AIRPORT EXPANSION DEVELOPMENT CONSENT ORDER**

**Version - Final**

## Introduction

This document sets out the response of CBC to various documents submitted at Deadline 3.

### 1. REP3-049 Applicant’s Post Hearing Submission – ISH1

| Document Reference | Topic   | Matters Raised  | Host Authorities Comment   |
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| Section 4.5        | Article 44 (interaction with LLAOL planning permission) | The Applicant commits to pursuing a combined response with the Host Authorities at Deadline 5 in relation to the aspects of the existing planning permissions and section 106 obligations would be carried forward into the consent for the Proposed Development. | This commitment from the Applicant is welcomed.  |
| Section 5.1        | Definitions of “begin” and “commence”                   | The Applicant outlines that the terms are defined and used differently so as to address the issue arising in the <i>Tidal Lagoon (Swansea Bay)</i> case.  | It should be noted that the practical effect of this approach is that very modest “ <i>material operations</i> ” could be carried out by the undertaker without necessarily complying with pre-commencement requirements (where the modest material operations are included in the list of works carved out from the definition of “commence”), in order to implement the development consent. |
| Section 6.7        | Exceedance of a Limit                                   | The two year period for exceedances of a Limit to be rectified.   | While it is noted that the Applicant states that the two year period in which the Proposed Development could be operating in exceedances of a Limit “ <i>could</i> ” be addressed by way of the ESG refusing to  |

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|  |  |  | <p>approve a Mitigation Plan that did not contain a satisfactory programme to address issues more promptly, the Host Authorities note that the standard of effort required by the definition of “Mitigation Plan” contained in requirement 18 is “proposed mitigations and actions which are designed to avoid or prevent exceedances <u>as soon as reasonably practicable</u>.” In the context of these provisions, it is the Host Authorities view that this standard is inadequate and would put the ESG in a weak position (were the undertaker to appeal to the Secretary of State) were it to require a more vigorous Mitigation Plan that sought to remedy exceedances of Limit in a shorter time period. Please see the Host Authorities’ response to ExA questions DCO.1.14 for further commentary on this provision.</p> |
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## 2. REP3-0049 Applicant’s Post Hearing Submission – ISH2

Several of the points raised below have been covered in Document CSACL-003, CSACL’s response to TR020001-001683-8.43 (Response to Chris Smith Aviation Consultancy Limited - Initial Review of DCO Need Case for the Host Authorities) [REP2-042]. Consequently, some of the comments simply refer to CSACL-003. This document is in tabular format, and the reference given is to the numbered Row in CSACL-003.

| Document Reference | Topic | Matters Raised  | Host Authorities Comment  |
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| Para 3.1.14        | Need  | Government policy on MBU. Applicant suggestion that serving demand locally was also Government policy | This was commented upon in TR020001-001882 (ISH2-Post-hearing submissions of Various Host Authorities) [ REP3-093], where it was (a) noted that the Applicant’s Need Case (AS-125) did not refer to this element of the MBU, (b) requested that a specific Policy document reference be provided, and (c) commented that ‘Making Best Use’ was not necessarily consistent with ‘Serving Demand Locally’ as identified during the Hearing by the ExA. It is unclear why the Applicant should raise the issue of serving demand locally, as its own analyses appear to suggest that growth in demand is predicted to be slowest in the areas closest to Luton, with growth rates higher in more distant areas. This is illustrated for example in Figure 6.6 (Page 119) of the Need Case (AS-125). While growth at Luton would include handling more passengers from the areas close to the airport, the proportion of these passengers would reduce given the faster growth predicted from more distant areas. |
| Para 3.1.19        | Need  | Applicant’s suggestion that London airport system is not a single market                              | In 2019, some 36% of terminating passengers at the London area airports were foreign residents (Civil Aviation Authority Passenger Survey 2019). While more frequent visitors to the UK may have a preferred airport, many of these passengers with a central London destination will be ‘airport neutral’ and be simply ‘flying to London’. Of total terminating passengers (i.e. including foreign residents) in 2019, some 29% were from outside the South East of England, with the balance   |

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|                        |      |                                      | <p>having an origin or destination within the region. This last group will select the airport they use for a wide and complex range of reasons, with geographic proximity/ease of access being just one. Destination, flight days and times, price and reputation of both airport and airlines will be other important considerations.</p> <p>The airports themselves offer different types of services, with Heathrow being important for long haul flights, Gatwick noted for short/medium haul holiday destinations, and Luton and Stansted offering more flights to Eastern Europe. There is through a core range of European destinations on offer from most of these airports, and passenger choice then focuses on price, timing of flights, seat availability and perhaps airline service reputation. It is likely that most travellers have used different London airports at different times, no matter where in the South East region they live.</p> <p>This is a complex picture within which looking to minimise airport access costs for passengers is just one component, alongside airline objectives of minimising costs and maximising profits.</p> |
| Para 3.1.20 and 3.1.21 | Need | Balancing Government policies        | It must first be demonstrated that Serving Demand Locally is indeed government policy. It is not clear that the Applicant's response addresses the ExA's question.  |
| Para 3.3.11 and 3.3.12 | Need | ExA's questioning of GDP assumptions | This is considered in CSACL-003 Row 7.  |
| Para 3.4.1             | Need | Capacity and Coordination            | It is not clear that this has been considered within previous agenda items as stated in this paragraph.   |
| Para 3.5.1             | Need | Other Airport Capacity               | <p>It is not clear that this has been considered within previous agenda items as stated in this paragraph.</p> <p>In addition to being discussed in CSACL's report to the HAs [REP2-057] (Para 3.44 <i>et seq.</i>), this is also covered in CSACL-003, Row 12, and has a material bearing on the timing of the environmental and economic impacts that would be generated by the proposed expansion.</p>   |

### 3. REP3-050 Applicant's Post Hearing Submission – ISH3

3.1.1 This response is on the Applicant's Post Hearing Submission for ISH3, where specific points are not covered within the ISH3 Post Hearing Submission (REP3-094).

3.1.2 The two main issues addressed here are the Applicant's use of 2019 baseline use and the noise mitigation toolbox.

### 3.2 2019 BASELINE

#### USE WITHIN ASSESSMENTS

3.2.1 The relevant Section of the Applicant's Post Hearing Submission, Issue Specific Hearing 3 **[REP3-050]** is Section 6.2 Use of Actuals and Consented baseline. Paragraphs 6.2.4 and 6.2.5 state:

*“The first method to identify adverse likely significant effects in Environmental Impact Assessment terms (EIA) due to noise change as a result of the Proposed Development. This method identifies noise change by comparing the situation with the Proposed Development (the Do-Something scenario) to the situation without the Proposed Development (the Do-Minimum scenario) in each future assessment year. The future air noise baseline (the Do-Minimum) is compliant with the airport's current consented long term noise Limits in each assessment year and therefore demonstrates a scenario where the airport is operating within its currently consented noise Limits. The 2019 baseline does not factor into this assessment.*

*“The second method is to identify significant effects on health and quality of life in Government noise policy terms. These are identified when noise exposure with the Proposed Development exceeds the SOAEL Threshold. Again, the identification of significant effects on health and quality of life is with reference to the noise exposure from the Proposed Development in a given assessment year and is not affected by the 2019 baseline.”*

3.2.2 It is accepted that the first method referenced is not affected by any historic baseline, so long as the future baseline is correct, which is also accepted. The second method referenced is however in direct contradiction to the information within Environmental Statement Chapter 16: Noise and Vibration **[REP1-003]**.

3.2.3 Within Environmental Statement Chapter 16: Noise and Vibration **[REP1-003]**, under the heading, “Avoid significant adverse effects on health and quality of life from noise”, Section 16.9.8 states:

“For air noise, the 2019 Actuals baseline determines the number of properties last experiencing significant adverse effects on health and quality of life when the airport was operating under pre-covid circumstances. In this assessment, future DS air noise predictions for each assessment phase are compared to the 2019 Actuals baseline to demonstrate that there will be a reduction in

properties experiencing significant adverse effects on health and quality of life. ...”

- 3.2.4 Sections 16.9.89 and 16.9.90 of the same document then state:  
*“Table 16.36 demonstrates that there is a reduction in the total population exposed between the LOAEL and SOAEL and between the SOAEL and UAEL in DS 2027 compared to the 2019 Actuals Baseline. This reduction in total population exposed is due to a reduction in contour areas as a result of new generation aircraft entering the fleet. There are no receptors in the study area exposed to noise levels above the UAEL in any assessment scenario. “Significant adverse effects on health and quality of life in noise policy terms are determined by noise exposure above the SOAEL as defined in Table 16.13. During the daytime and night-time, the population exposed to noise levels above the SOAEL in the DS scenario are also exposed to noise levels above the SOAEL in the 2019 Actuals Baseline. Therefore, there are no new significant adverse effects on health of quality life during the daytime and night-time in assessment Phase 1.”*
- 3.2.5 The same statements are included for other assessment phases in Sections 16.9.114-115 and 16.9.138-139.
- 3.2.6 The 2019 Actuals baseline can therefore clearly be seen within the Environmental Statement Chapter 16: Noise and Vibration **[REP1-003]** to be used to identify significant effects, which have been underplayed by the use of an inflated baseline. Given that the baseline quantifies conditions during a breach of planning condition, the assessment cannot be taken as correct.
- 3.2.7 The Applicant states in Section 6.2.8 that a sensitivity test has been undertaken using the 2019 Consented baseline, which does not change the *“conclusions drawn from this comparison in terms of EIA likely significant effects and residual significant effects on health and quality of life are unchanged”*.
- 3.2.8 This statement directly contradicts the information set out in the second part of Section 6.2.4 of the Applicant’s Post Hearing Submission – Issue Specific Hearing 3 (ISH3) **[REP3-050]**, as the 2019 Actual baseline is clearly being used to draw conclusions on likely significant effects, contrasting the statements from the Applicant where they previously stated the baseline as not affecting the assessment.
- 3.2.9 While the assessment of likely significant effects may not materially differ when using Consented against Actual 2019 as the baseline, the population counts would be incorrect, and thus any decision would be based on incorrect information. A compliant baseline must be used.
- 3.2.10 It is also imperative to note that these likely significant effects are based on the Core Planning Case, instead of the Faster Growth sensitivity case which are used to set the future noise contour Limits. There is not enough evidence within the Environmental Statement Chapter 16: Noise and Vibration **[REP1-**

**003]** to identify which populations will be affected if using 2019 Actual baseline and the Faster Growth sensitivity case in the same assessment.

3.2.11 There are also multiple references to future noise contours “reducing” within Environmental Statement Chapter 16: Noise and Vibration **[REP1-003]** that do not stand true should 2019 Actuals be replaced with 2019 Consented. This amounts to an unfair and unreasonable bias when reading the Noise Chapter.

### **APPLICANT’S REASONING**

3.2.12 Applicant’s Post Hearing Submission – Issue Specific Hearing 3 (ISH3)

**[REP3-050]**, Section 6.2.7 goes on to state:

*“Where the 2019 baseline does come into play is when comparisons are made to the ‘current baseline’. This has been done in the first instance using the 2019 Actuals baseline to provide context so that people can understand how noise levels will change with the Proposed Development by comparison to what was actually flown and was actually experienced by communities in the baseline year. This is in line with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (which refers to the baseline scenario as “a description of the relevant aspects of the current state of the environment” in Schedule 4, Paragraph 3) (Ref 10).”*

3.2.13 The use of 2019 Actual baseline clearly goes beyond providing context within the ES and has been used to determine significant adverse effects, as can be seen in the Sections from the ES quoted above.

3.2.14 If the baseline is used solely to provide context for local communities, then it would be materially more beneficial to use 2022, 2021 or 2020, rather than a summer which occurred 4 years prior.

3.2.15 Using the same reference to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (‘EIA Regulations’) as Section 6.2.7 above, “current” cannot be read as 2019 using the Applicant’s definition. Ignoring intervening years because of the pandemic as atypical would also allow for the omitting of 2019 as atypical since it reflects a breach of planning condition.

3.2.16 There can be a strict reading of EIA Regulations, when it is clearly not restrictive in what “current” refers to, nor does it clearly allow for use of a year where the baseline was in breach of condition.

3.2.17 Further guidance is provided in an IEMA issued document entitled ‘Guidelines for Environmental Noise Impact Assessment’, published in 2014.

3.2.18 Section 3.11 of this IEMA document, under the heading of ‘Characterising the existing noise environment’, states:

*“It is necessary to have a clear understanding of the existing situation. Usually this will require the measurement of baseline noise levels at times of the day, night, week, season or year when the project is likely to have an impact. In some*



*instances where detailed baseline data are available, e.g., traffic flow data, it may be appropriate to define the baseline noise environment by prediction. Further guidance on how to determine the baseline conditions is provided in Chapter 5.”*

3.2.19 Section 5 is titled ‘Establishing the baseline’ and offers useful guidance for determining the relevant baseline for EIA. Sections 5.5 to 5.6 state:  
“5.5 *Baseline noise levels may be required for different years. In many cases the year in which the study is carried out will be relevant, and these baseline noise levels may be referred to as existing (or current). However, there may be occasions when baseline data are required for other years (see Paragraphs 5.7 and 5.8).*

5.6 *Baseline noise levels can serve several purposes in the assessment process:*

- *They provide context for the noise levels predicted to arise from the proposed development against which they may be appraised.*
- *They may be required as a formal part of the noise assessment process.*
- *They may demonstrate that the noise environment is already unsatisfactory.”*

3.2.20 The third and fourth sentences of Section 5.8 states:

“Although it is possible to measure noise levels at the time an assessment is conducted, this may not be the relevant time for which the baseline noise levels are required. Baseline noise levels may be determined by direct measurement, by prediction, or by a combination of these methods.”

### **3.3 CONCLUSION**

3.3.1 The Host Authorities consider Luton Rising’s approach to be in conflict with the IEMA guidance, which states that predicted noise levels can be used (rather than actual), and / or multiple years (i.e., years where Luton Airport was not in breach of its planning conditions). Both these examples show that “current” does not have to be taken as the 2019 Actuals baseline.

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3.3.3 In conclusion, as has been requested in Statement of Common Ground (SoCG) meetings, in the Noise Envelope Design Group meetings, and in multiple written submissions to the DCO Examination, the Applicant needs to revise their assessment to comply with UK aviation noise policy, by basing future contour area Limits from the core assessment case and by committing to an equal share of noise reduction benefits between the local community and the airport, based on a compliant baseline.

### **3.4 NOISE MITIGATION TOOLBOX**

3.4.1 Action 22 of Applicant’s Post Hearing Submission – Issue Specific Hearing 3 (ISH3) [REP3-050], within Section 6.3.8 onwards, states that noise mitigation measures have been set out within the updated Green Controlled Growth (GCG) Explanatory Note [REP3-015].

3.4.2 The main mitigation measure relied on is the release of slot capacity. Other mitigation measures are set out in Section 3.2.16 of the Green Controlled Growth (GCG) Explanatory Note **[REP3-015]**:

- a. working with airlines to implement noise abatement operational procedures such as Continuous Descent Approaches (CDA), delayed landing gear deployment and adherence to noise preferential routes; and*
- b. methods of incentivisation for the adoption of quieter aircraft such as differential landing charges and Departure Noise Limits.*

3.4.3 Taking information from within the 2021, 2020 and 2019 Annual Monitoring reports<sup>1</sup> for Luton Airport and Delayed Landing Gear Deployment Trial 2017 report<sup>2</sup>, the following can be identified:

- Continuous Descent Approaches are already in use, being used by 91%, 88% and 89% of all aircraft arrivals within 2019, 2020 and 2021, respectively.
- Delayed landing gear deployment is already in use at Luton and does not have an effect on noise levels within any contour areas (only applying beyond 5 nautical miles).
- Adherence to noise preferential routings is well controlled at Luton, with only 53, 11 and 23 instances of aircraft deviating from preferential routings occurring within 2019, 2020 and 2021, respectively. These are from a total number of aircraft movements of 61,560, 63,593 and 141,481 in each respective year, so clearly represent an inconsequential minority of flights.
- Differential landing charges and Departure Noise Limits have both been in effect at Luton Airport for some time and did not prevent, or assist in preventing, previous breaches of planning noise conditions. Therefore, they cannot be taken as a viable mitigation measure. For reference, there were 0, 2, and 6 Departure Noise Limit violations in 2019, 2020 and 2021, respectively.

3.4.4 The only mitigation strategy remaining is therefore slot allocation. The Applicant has committed to responding to “*Action 28: Confirm whether there is any mechanism to remove a slot once it has been allocated, has accrued grandparent rights and is operating in accordance with the slot rules.*” at Deadline 4.

3.4.5 The Host Authorities await this information.

**4. REP3-051 Applicant’s Post Hearing Submission – ISH4**

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| <p><b>Applicant Post Hearing Submission – ISH1</b></p> | <p><b>Agenda Item 4:</b> The further responses with regards to Requirements 20 – 24(9)(a) and the additional clarification provided with regards to the allocation of Slots highlights the degree to which the ESG is expected to be responsible for regulating and controlling the GCG process. Whilst the appointment of Technical Expert/s is noted, concerns remain with regards to the capacity of the Local Authority representation on these boards to carry out the full functions expected.</p> <p>The response with regards to slot allocation and ‘grandfather rights’ calls into question how robust the slot allocation process is as the ultimate sanction for the GCG process. As such CBC will await the further response proposed for Deadline 4 and reserves the right to comment further in due course.</p> <p><b>Agenda Item 7:</b> At present there is a significant amount of work necessary to allow for the S106 to be agreed and signed by Deadline 9, including mechanisms for securing off-site highways works falling outside of the DCO redline boundary. There is therefore a related and remaining concern that alternate mechanisms for securing elements of work may need to be considered, to cover the eventuality that the S106 is not agreed and signed by Deadline 9.</p> |
| <p><b>Applicant Post Hearing Submission – ISH4</b></p> | <p><b>Agenda Item 3:</b> The applicant’s proposals to provide additional with and without development flow plots are welcomed and CBC will await the additional information proposed for submission at Deadline 4. It is requested that comparable information is provided for the updated (accounting for COVID-19) modelling.</p> <p><b>Agenda Item 5:</b> It is noted that no reference is made to the commitment given during the hearings to engage with CBC with regards to the issue of Fly-Parking,</p>   |

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|  | <p>other than a general update being provided by Deadline 5. As stated in the Hearings, CBC would encourage and welcome active engagement on this matter.</p> <p>CBC are also awaiting clarity on how off-site parking has been allowed for in terms of the modelling and assessment work. This is considered of particular relevance as it feeds directly into the Agenda Item 6: Monitoring and the TRIMMA process (which at present is understood to be based purely upon parking growth within the Airport Estate in terms of monitoring and triggering of mitigation).</p> <p>CBC will comment further upon the TRIMMA, ATF, and ATF Steering Group upon the submission of the documents at the relevant Deadline.</p> <p>With regards to the updated work on Transport Modelling CBC can confirm that meetings have taken place as outlined within the applicant’s response to Question 1 and note the references made to the initial risk assessment indicating risks to be low, due to slightly overall reduced traffic levels (particularly on the local rather than strategic network). However, it is not presently clear whether this changes routing within the forecast modelling (due to additional baseline capacity on the local road network). CBC have requested additional information from the applicant team to clarify the above, and as such reserve the right to comment further upon receipt of the additional information requested. CBC will comment further upon the submission of TN1 and TN2.</p> |
| <p>Interim response on the interim findings of the COVID 19 modelling update</p> | <p>The overall trend data is noted, as is the split between the level of traffic ‘recovery’ on the Strategic compared to the Local Road Network. At present CBC have not formed a view on the applicant’s query over the need for Task 16: ‘Produce adjusted FY road and rail forecasts’ and have asked for additional information to understand what the revised traffic levels would mean for development traffic routing. CBC sent a number of queries on this matter to the applicant team (dated 13<sup>th</sup> October 2013) and will comment further upon the</p>  |

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|  | <p>receipt of responses to those queries, in addition to any information included within TN1 and TN2.</p>  |
| <p><b>Applicant response to Deadline 2 submissions</b></p> | <p><b>ID3:</b> Whilst it is appreciated that detailed design may not be provided at this stage, it is reasonable to expect a sufficient level of design to confirm whether departures or relaxations from standards are required, and for a Stage 1 Safety Audit to be undertaken. At present CBC are awaiting the findings of the Safety Audit process and expect to comment further upon receipt. Notwithstanding the above, CBC would also be seeking confirmation from the applicant team in terms of departures or relaxations from standards prior to the determination of the DCO.</p> <p><b>ID4:</b> The comments made with regards to engagement are noted, however should the appropriate mechanism be a legal side agreement, as requested within REP3-108 'Issue Specific Hearing 1 post hearing submission', then CBC would be looking to the applicant to engage on this matter as soon as possible, being mindful that this should be concluded and signed in advance of the conclusion of the DCO.</p> <p><b>ID5:</b> CBC will liaise further with the applicant team as suggested.</p> <p><b>ID6:</b> CBC will liaise further with the applicant team on this matter. However, at present, concerns remain with regards to the adequacy of the eight-week period prescribed for the discharge of requirements.</p> <p><b>ID7:</b> It is considered that the proposed S106 may provide a mechanism for delivering works outside the DCO redline boundary. However, at present discussions have yet to progress on this matter, and CBC are mindful of the risks associated with delaying such agreements to the end of the DCO determination period. As such CBC would encourage and welcome further and immediate engagement on this matter.</p> <p><b>ID8:</b> Noted – however queries remain over the realism of the inclusion of the M1–A6 link road in the forecast modelling, but with the exclusion of the related Land North of Luton development allocation. It is noted that a number of changes, including the removal of the Smart Motorways scheme, will be considered within the updated work to account for COVID-19 in modelling work.</p> |

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|  | <p>However, based upon the submitted REP3-077, it is unclear whether the intention is now to update the forecast modelling work (with the implication that the forecasting would continue to be based upon a scenario including Smart Motorways if a Future Year update is not considered necessary).</p> <p><b>ID9:</b> CBC will continue to liaise with the applicant team on this matter.</p> <p><b>ID10:</b> CBC will continue to liaise with the applicant team on this matter.</p> <p><b>ID11:</b> CBC have requested additional information from the applicant team (email dated 13<sup>th</sup> October 2023) with regards to the routing of traffic in the updated modelling (accounting for COVID 19), including difference plots. Following receipt of the additional information requested then CBC would be in a position to comment more fully upon this matter.</p> <p><b>ID12:</b> Noted – it would be helpful if the data referred to (or associated reference / link) could be shared, including confirmation as to whether this is main mode or final mode of travel.</p> <p><b>ID13:</b> Noted – CBC will consider the proposals for the Sustainable Transport Fund as they develop.</p> <p><b>ID14:</b> Noted – CBC will consider the proposals for the Sustainable Transport Fund as they develop.</p> <p><b>ID15:</b> Noted – However, it is not clear why there is a difference between the scheme description in Table 3.3 and that in Table 3.4, with Table 3.3 appearing to suggest that the funded scheme within the latest infrastructure delivery plan is not the same as the scheme in Table 3.4 assumed within the DCO.</p> <p><b>ID16:</b> Noted – CBC will continue to liaise with the applicant team and Luton BC to reach a confirmed understanding.</p> <p><b>ID17:</b> Noted – CBC will review in light of the updated modelling accounting for COVID 19.</p> <p><b>ID18:</b> CBC can confirm active engagement with the applicant team on this matter, with discussions related to several off site locations ongoing.</p> <p><b>ID19:</b> Noted</p> <p><b>ID20:</b> Noted, with the locations detailed being two of those currently under discussion.</p> |
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|  | <p><b>ID21:</b> Noted, however as detailed re. ID3, CBC are looking for confirmation of any departures and / or relaxations from standards for any works to be delivered within the CBC highway network, as well as Stage 1 RSAs. Whilst it is noted that the findings of the RSAs will be shared before the close of the Examination, CBC would request that these are provided as early as possible to allow sufficient time for any arising findings and related Designers Responses to be fully considered.</p> <p><b>ID22:</b> Whilst CBC will await the details of any such approach, assumed to be included within the TRIMMA proposals to be submitted at Deadline 4, it is of significant concern that the LHAs are being assumed as delivering the mitigation in question, as this appears to transfer major risk elements to the LHAs without associated protections being secured through the DCO. As detailed previously, the level of scheme detail is not sufficient for CBC as Local Highway Authority to determine the deliverability of the schemes in question, nor is there any detail with regards to costs (including standard cost allowances such as the diversion of Statutory Undertakers apparatus).</p> <p>It is also noted that the response states that <i>'in circumstances where the Applicant delivers highway mitigation measures, the final design of each junction will be agreed with the relevant Highway Authority'</i>, which would suggest that the same may not apply where there is an expectation of LHA scheme delivery. At present it is highly unlikely that CBC would wish to be the body responsible for delivering highway mitigation works (where they fall within the DCO redline boundary).</p> <p><b>ID23:</b> Noted – CBC will continue to liaise with the applicant team on this matter, in particular following the submission of the updated Outline TRIMMA at Deadline 4.</p> <p><b>ID24:</b> It is not considered appropriate that parking management measures to address Fly Parking should fall within the TRIMMA, with this being a discreet area of concern where specific and pro-active (rather than purely reactive) measures are required, including the provision of firm commitments to delivery. As per the discussions held during the ISH4 Hearing Sessions, CBC are seeking active engagement on the matter, comparable to that undertaken within Luton.</p> |
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|                               | <p><b>ID25:</b> Comments as per ID24.</p> <p><b>ID26:</b> Whilst the mode share allowance for off-site parking is noted, it is unclear how this has been accounted for within the modelling work underpinning the Transport Assessment and further clarity is requested.</p> <p><b>ID27:</b> Noted – CBC will consider the proposals for the Sustainable Transport Fund as they develop.</p> <p><b>ID28:</b> Noted – CBC will consider the proposals for the Sustainable Transport Fund as they develop.</p> <p><b>ID29:</b> Noted – CBC will consider the proposals for the Sustainable Transport Fund as they develop.</p> <p><b>ID30:</b> Noted – However it remains the view of CBC that there should be consistency between the GCG targets, the FTP targets, and the modelling assumptions applied in terms of modal share.</p> <p><b>ID31:</b> Noted – However it remains the view of CBC that a single metric, which is unlikely to provide granular information in terms of the times of travel (and therefore relationship to peak congestion periods), would benefit from supplemental and more detailed data.</p> <p><b>ID31 (second ref – which may be an error?):</b> Noted – the additional wording clarifying examples is helpful.</p> <p><b>ID32:</b> Noted – CBC will continue to Liaise with the applicant on this matter.</p> <p><b>ID33:</b> Noted – However at present it is unclear as to the linkage between the Slot Allocation process and the expected impact of these controls upon addressing breaches related to Surface Access (aside from being considered a generalised disincentive).</p> |
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| <p>ExAs written questions</p> | <p><b>CA 1.4</b> – Entering into a Section 278 agreement, secured via the DCO or a separate side legal agreement would provide an alternative option to CA or TP for works within the public highway.</p> <p><b>DCO 1.24</b> – Dependant upon the final form of the Outline TRIMMA, there may be a need for additional requirements related to the timing and delivery of highways mitigation works, however this cannot be confirmed at this stage.</p>  |



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|  | <p><b>GCG 1.13</b> – To retain appropriate levels of scrutiny and oversight it is not considered that the change proposed would be acceptable.</p> <p><b>GCG 1.15</b> – As above.</p> |
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### 5. REP03-003 Draft Development Consent Order

| Document Reference                   | Topic   | Matters Raised  | Host Authorities Comment  |
|--------------------------------------|---|---|---|
| General                              | Local Impact Report                           | General   | The Host Authorities raised a number of issues of concern in relation to the provisions of the draft DCO in their joint Local Impact Report [REP3-092] in relation to which they sought further engagement from the Applicant. While the updated draft DCO addresses some of these concerns (as noted in this table below) the majority remain outstanding. |
| Article 43                           | Disapplication of legislative provisions      | Protective provisions   | The lead local flood authority re-iterates that it will not grant its consent under section 150 of the Planning Act 2008 to the disapplication of its consenting until it is satisfied that appropriate protective provisions are included in the draft DCO to ensure that it can properly carry out its statutory functions.                               |
| Requirements 26, 27 & 28             | Operational controls                          | Substitution of the phrase “airport comprised within the authorised development” with “airport” | The Host Authorities welcome the consistent use in these operational requirements of the phrase “airport” which avoids the potential ambiguities arising from the original drafting.  |
| Requirement 23(3) & 24(2)            | Drafting clarity                              | Use of the terms “paragraph” and “sub-paragraph”  | Requirements 23(3) and 24(2) use the phrase “This <u>paragraph</u> applies...”. whereas the corresponding provisions in requirement 23(1) and 24(1) refer to circumstances unless “ <u>sub-paragraph</u> ” (3) or (2) applies. The Applicant is requested to review to ensure clarity and consistency of drafting.  |
| Requirements 5(2), 8(1), 9(2), 13(2) | Standard of conformity with secured documents | Use of “in accordance with”   | The Host Authorities welcome the amendments to these provisions that make the standard of compliance “accordance” with the relevant secured documents certified under the draft Order.  |

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| <p>Requirements<br/>                 8(2), 10(2), 14(2),<br/>                 16(2), 17(2),<br/>                 29(2), 30(2),<br/>                 31(2), 32(2),<br/>                 33(2)</p> | <p>Standard of<br/>                 conformity with<br/>                 secured documents</p> | <p>Use of “substantially in<br/>                 accordance with” and “reflect”</p> | <p>The Host Authorities note that there remains a significant number of provisions that require submissions of detailed documents to be “substantially in accordance with” the outline documents certified under the draft Order. The Host Authorities note the explanation in Table 1.1 to the Applicant’s Post Hearing Submission from ISH1 [REP3-048] that “in accordance” is used where compliance is required with a final or approved document and “substantial accordance” is used in relation to outline documents. The Host Authorities consider that greater certainty would be provided by ensuring a consistent standard of conformity (i.e. “in accordance with”). Furthermore, the Host Authorities are not clear on the justification for the use of “reflect” in requirement 16(2).</p> |
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