



Responses to Deadline 4 Applicant's comments WQ1

Application by Luton Rising to extend London
Luton Airport

Author: Luton Borough Council (the local planning authority [LPA])

Contact: David Gurtler

SoS Ref: TR020001

HA Ref: 20040643

Date: 14 November 2023



Contents

1	Introduction	1
2	Applicant’s Response to Written Questions – Draft DCO (REP4-057)	2
3	Applicant’s Response to Written Questions – GCG (REP4-058)	4
4	Applicant’s Response to Written Questions – Need Case (REP4-059)	6
5	Applicant’s Response to Written Questions – Noise (REP4-060)	7
6	Applicant’s Response to Written Questions – Landscape & Visual Impacts (REP4-063)	9
7	Applicant’s Response to Written Questions – Socio-economic Effects (REP4-067)	9
8	Applicant’s Response to Written Questions – Health and Community (REP4-068)	10



1 Introduction

- 1.1 This report provides the response of Luton Borough Council (LBC) as local planning authority (LPA) to various documents that were submitted at Deadline 4.
- 1.2 The five Host Authorities have jointly commissioned consultants in respect of noise (Suono), employment/economics (Genecon), need/forecasting (CSACL) and draft DCO/legal (Pinsent Masons), consequently, some comments within this document will be common to all five host authorities.
- 1.3 This response addresses matters arising from the Applicant's response to the Examining Authority's (ExA) written questions (PD-010). The response is set out in tabular form to address points raised by the Applicant in specific documents. The tables only address particular issues in those documents where LBC, or its consultants, have considered that a further comment is necessary.

2 Applicant's Response to Written Questions – Draft DCO (REP4-057)

Question	Subject	Comment
DCO.1.3	Article 24 – compulsory acquisition of land	LBC provided its answer to this question at Deadline 4 [REP4-187] and has no further comments on the Applicant's response.
DCO.1.6	Article 35 – special category land	<p>LBC is aware that the Hertfordshire Authorities outlined in their joint Local Impact Report [REP1A-003] some concerns with the drafting of article 35 ('special category land') particularly around the mechanism for securing the timely replacement of open space that would be lost to the Applicant's scheme should development consent be granted in the terms sought.</p> <p>In relation to the drafting, while it is acknowledged that a form of this article has appeared in numerous DCOs it is understood that the Hertfordshire Authorities are concerned that the trigger for article 35(1) is a combination of the vesting of the land and the certification of the 'receipt' by the relevant planning authority of the scheme for the provision of the replacement land. The Hertfordshire Authorities point out that the drafting makes no provision for the relevant planning authority to exercise a judgement as to the adequacy of such a scheme, however, it is worth noting that the layout of the proposed replacement open space has been long agreed with the relevant landscape officers of LBC and North Hertfordshire District Council, and LBC anticipates that there will be a requirement for the land to be laid out to the satisfaction of the local planning authority in accordance with the agreed plans.</p> <p>A further issue that the Hertfordshire Authorities raise relates to the timing of the implementation of the scheme for the provision of replacement land and the release of the special category land from the rights and interests to which it is subject. In discussions with the Host Authorities, the Applicant has always been clear that development in the existing Wigmore Valley Park cannot begin until the replacement land has been opened for use by the people who would have had use of the land taken.</p> <p>Whilst the Hertfordshire Authorities have concerns that there could be an indeterminate period between the existing special category land</p>

		<p>being taken out of use and the replacement open space being available for the public, this is a matter that has been raised in discussions and the Applicant has indicated that there is no risk of there being a lag, and every likelihood that there will be an overlap of time where both areas are available for use.</p> <p>Broader issues, such as the fact that article 35 does not deal with the long term maintenance/management of the open space, are being discussed between the Host Authorities and the Applicant. LBC anticipates that matters relating to the management by the proposed Community Trust, and the associated funding, will be addressed through the on-going s106 agreement discussions.</p>
DCO.1.8	Article 37 – apparatus and rights of statutory undertakers in stopped up streets	The Host Authorities provided their answer to this question at Deadline 4 and have no further comments on the Applicant’s response.
DCO.1.11	Article 52 – arbitration	The Host Authorities provided their answer to this question at Deadline 4 and have no further comments on the Applicant’s response.
DCO.1.13	Requirement 10 – landscape and biodiversity management plan	<p>The Host Authorities welcome the additions to paragraphs 34 and 35 of Schedule 2 to the draft DCO.</p> <p>Further comments are provided in Section 2 of the accompanying LBC document ‘Responses to Any Further Information at Deadline 4’.</p>
DCO.1.14	Requirement 18 – interpretation	The Host Authorities provided their answer to this question at Deadline 4 and have no further comments on the Applicant’s response.
DCO.1.15	Requirement 20 – ESG	The Host Authorities provided their answer to this question at Deadline 4 and have no further comments on the Applicant’s response.
DCO.1.16	Requirement 23 – exceedance of Level 2 threshold	The Host Authorities provided their answer to this question at Deadline 4 and have no further comments on the Applicant’s response.
DCO.1.17	Requirement 28 – fixed plan noise management plan	The Host Authorities provided their answer to this question at Deadline 4 and have no further comments on the Applicant’s response.
DCO.1.19	Requirement 39 – application of Part 8 of the Planning Act 2008	The Host Authorities provided their answer to this question at Deadline 4 and have no further comments on the Applicant’s response.
DCO.1.20	Phasing	The Host Authorities provided their answer to this question at Deadline 4. The Host Authorities

		welcome the Applicant's additions to requirements 5 and 35. Further comments are provided in Section 2 of the accompanying LBC document 'Responses to Any Further Information at Deadline 4'.
DCO.1.21	Decommissioning	The Host Authorities provided their answer to this question at Deadline 4 and have no further comments on the Applicant's response.
DCO.1.22	Register of requirements	The Host Authorities provided their answer to this question at Deadline 4. The Host Authorities welcome the Applicant's addition of Requirement 37 and are content with the form of words proposed by the Applicant.
DCO.1.23	Operational ground noise	The Host Authorities' comments on this document are set out in Sections 2, 5 and 6 of the accompanying LBC document 'Responses to Any Further Information at Deadline 4'.

3 Applicant's Response to Written Questions – GCG (REP4-058)

Question	Subject	Comment
GCG.1.1	GCG – ESG/GCG process	It would appear most sensible for the ESG and Technical Panels to be set up as soon as is reasonably practicable, as is mooted by the Applicant. The Host Authorities support every effort being made to have these forums in place at the earliest opportunity, or at least efforts made to contact likely required parties to make them aware of possible commitments and / or for the Applicant / Airport Operator to have received fee proposals from likely relevant parties.
GCG.1.2	GCG – Fixed noise monitoring	The Applicant states in its response to this question that the principal criteria are to meet the minimum standards as set out in CAP2091. The modelling requirements of CAP2091 are based on total population counts around an airport within certain day and night contours, except for designated airports which have stricter requirements. Luton Airport currently falls into Category C and would need an increase of over 100,000 people into the LOAEL before even being above the recommended minimum threshold for Category B, as can be seen in Table 4.1 below, taken from CAP2091. The same magnitude of increase would be true for the night-time as well. It is only within Category B and above that noise monitoring is strictly required. The commitment to review and, if necessary, improve the noise monitoring stations by the Applicant therefore appears to be immaterial.

Table 4.1: Thresholds for noise modelling Categories, average summer day, population exposed to 51 dB LAeq,16h or above.

Category	Lower threshold	Recommended minimum threshold	Mandated minimum threshold	Maximum threshold
A	0	400,000	500,000	none
B	0	160,000	200,000	500,000
C	0	20,000	25,000	200,000
D	0	1,600	2,000	25,000
E	0	0	0	2,000

GCG.1.3

GCG – controls on early/late flights

Noise

Early / late running flights are not dispensable under the Government’s dispensation guidelines. This is clearly stated within the consultation outcome of the Night Flight Restrictions (link below), updated on 27 March 2023, and in any event only apply to the movement limits and Quota Counts (QC) of the three designated airports. Luton Airport is not designated, nor is the Applicant proposing either of the relevant controls. Dispensation of early and late running flights is therefore clearly not an option available to the Applicant.

The same consultation response also states in its ‘Summary of Findings’ section, “There was a trend observed at all 3 airports of dispensations being applied for airspace capacity related delays which did not have an underpinning causation that clearly met the government’s dispensation criteria. The government wrote to each designated airport in 2018 to state that airspace capacity related delays, without an underlying cause that is exceptional and falls within a specified circumstance, are not dispensable. **In response, airports and airlines have taken steps to reduce the risk of unscheduled capacity related night movements occurring, and therefore reversing this trend.**” [our emphasis]. Rather than the Applicant simply stating that late running flights are difficult to control, efforts should be made to investigate how Heathrow, Gatwick and Stansted have been reducing early and late running movements and seek to implement positive change.

<https://www.gov.uk/government/consultations/night-flight-restrictions-at-heathrow-gatwick-and-stansted-airports-between-2022-and-2024-plus-future-night-flight-policy/night-flight-restrictions#revising-our-night-flight-dispensation-guidance-1>

GCG.1.4	GCG - Appendix C	The Host Authorities provided their answer to this question at Deadline 4 and the Applicant's response is noted.
GCG.1.5	Quota Counts	Noise The Host Authorities responded to this Written Question at Deadline 4, as set out in Responses to the ExA's Written Questions [REP4-126] (joint Herts response), Responses to the ExA's Written Questions [REP4-187] (LBC) and Responses to the ExA's Written Questions [REP4-116] (CBC). The responses are the same across all three documents.
GCG.1.7	Noise Action Plan	The Host Authorities await the Applicant's Deadline 5 submission with details of proposed updated monitoring and reporting requirements, and will scrutinise these once provided by the Applicant.
GCG.1.12	GCG Appendix A – ESG threshold	The Host Authorities provided their answer to this question at Deadline 4 and the Applicant's response is noted and further discussion awaited with regard to the threshold for the ESG to be quorate.
GCG.1.13	GCG Appendix B – technical panel threshold	The Host Authorities provided their answer to this question at Deadline 4 and the Applicant's response is noted and further discussion awaited with regard to the threshold for the Technical Panels to be quorate.
GCG.1.15	GCG Appendix B – technical panel terms of reference	The Host Authorities provided their answer to this question at Deadline 4 and have no further comments on the Applicant's response.

4 Applicant's Response to Written Questions – Need Case (REP4-059)

Question	Subject	Comment
NE.1.4	Airport capacity in the South East	The Applicant's response states that increases in passenger load factor account for a substantial proportion of the growth in passengers per movement at Heathrow and Gatwick. Analysis of CAA Airline Statistics for 2009 and 2019 indicates that for UK aircraft operators, just under half of the growth in this key parameter resulted from higher seat load factors (increasing by 9.0% over the period from 75.5% to 82.3%) and just over half came from increases in the average number of seats per flight (increasing by 9.8%

		<p>from 145.8 to 160.1). UK registered airlines carry about half of the passengers at UK airports.</p> <p>While the increase in passenger load factors cannot continue indefinitely, a similar limit on average seats per flight is much further away. Gatwick Airport is clearly of the view that there is considerable scope to further increase its average passengers per movement as set out in the Host Authorities ISH2 post-hearing submission at Deadline 3 [REP3-093].</p> <p>It should be noted that the ExA question refers to an Air Traffic Movement (ATM) cap at Gatwick of 283,000 movements – there is no ATM cap, and the CAA records show that prior to the pandemic Gatwick was operating with more movements than the figure that the ExA reference (2017 – 285,912 ATMs, 2018 – 283,919 ATMs and 2019 – 284,987 ATMs).</p>
NE.1.11	Impacts on forecasting assumptions	The Host Authorities provided their answer to this question at Deadline 4 and have no further comments on the Applicant's response.

5 Applicant's Response to Written Questions – Noise (REP4-060)

Question	Subject	Comment
NO.1.8	2013 baseline comparison	<p>The Applicant has not answered the question, which clearly asks how the Proposed Development meets the policy requirement of ensuring the impact of aircraft noise is limited and, where possible, reduced compared to a historic baseline.</p> <p>The Applicant instead draws reference to the OANPS and does not acknowledge that this is not the only aviation noise policy in effect, as it does not annul or supersede Aviation Policy Framework 2013 (APF), UK Airspace Policy 2017 consultation (UKAP) nor the Airport National Policy Statement 2018 (ANPS).</p> <p>The Applicant sets out in their response that there is a reduction offered in the daytime, but no reduction in the night-time. While the ANPS does reference the reduction applying to the 54 dB LAeq,16hour contour (daytime), ANPS is also clear that a 6.5-hour night-time flight ban is also expected (section 5.62, ANPS).</p> <p>The Applicant is not proposing a comparable night-time mitigation measure, and therefore it is important that noise reduction in the night-time is also considered. As recognised in APF in section 3.34, noise from night flights has a higher cost on local communities.</p>

		<p>The policy requirement of APF to “<i>limit and where possible reduce the number of people in the UK significantly affected by aircraft noise</i>” is also still in effect, from which the wording of the ANPS follows.</p> <p>As can be seen in the table provided within the Applicant’s response, where policy requires that “<i>The noise mitigation measures should ensure the impact of aircraft noise is limited and, where possible, reduced compared to the 2013 baseline assessed by the Airports Commission</i>” cannot be considered to be met, due to the night-time increases (when using an appropriate historic baseline, rather than necessarily the 2013 baseline). The Host Authorities wish to emphasise that the 2019 actual baseline used by the Applicant is not considered appropriate as it reflects a level of operations that breached an extant noise condition.</p>
NO.1.9	2019 actuals baseline	<p>The Applicant states that the 2016 baseline is similar to the 2019 consented baseline, which is not disputed, nor surprising. The step that the Applicant does not take is to compare the 2016 baseline to the 2019 actuals, which would show a smaller reduction in noise levels over time in the daytime, and no noise reduction over time at night-time, as per NO.1.8.</p> <p>While the assessment of significant effects would largely remain unchanged, claims of noise reduction as set out in Chapter 16 would be different and as stated in NO.1.8, not be considered compliant with aviation noise policy.</p>
NO.1.13	Future fleetmix assumptions – next generation	<p>The Applicant’s assumption that aircraft noise levels are no quieter in the future does not bring about sufficient constraint in the future, should new aircraft actually be quieter than existing.</p> <p>Should quieter aircraft enter the market, there may not be sufficient incentivisation for airlines to operate these aircraft from Luton, as there is no reduction in the size of the noise contour limit in future years. In this situation, there could therefore be noise benefits that are not being shared with the local community, as the constraints placed on the Airport are insufficient. This response links in with those concerning GCG in Table 3 above.</p>
NO.1.22	Airline orders	<p>The first two sentences of the last paragraph (starting ‘The Applicant believes’ and ending ‘through Green Controlled Growth’) are ultimately the same argument that was made for the 2012 application (LBC ref: 12/01400/FUL), and that scenario resulted in noise breaches occurring.</p> <p>See response in accompanying LBC document ‘Responses to Any Further Information at Deadline 4’,</p>

		in Section 7 addressing Issue Specific Hearing 1 Actions 20, 21, 24 and 26 and Issue Specific Hearing 3 Action 28: Green Controlled Growth - Transition Period and Slot Allocation Process [REP4-072].
--	--	--

6 Applicant's Response to Written Questions – Landscape & Visual Impacts (REP4-063)

Question	Subject	Comment
PED.1.19	Assessment of significant effects	LBC indicated in REP4-187 that we awaited the Applicant's response to this question. The Applicant has clarified the position with regard to the impact upon visitors to Wigmore Valley Park, noting that the moderate adverse effect is significant. LBC is satisfied with this assessment.
PED.1.22	Chilterns AONB	LBC attended a meeting with the Applicant, Natural England, Chilterns Conservation Board and the other Host Authorities on 30 October 2023 to discuss the draft Chilterns AONB Special Qualities Assessment.

7 Applicant's Response to Written Questions – Socio-economic Effects (REP4-067)

Question	Subject	Comment																								
SE.1.4	Employment and training strategies	<p>In LBC's response to this question (REP4-187), the table of employment numbers at Luton Airport in Appendix 2 was missing the data for 2015, which was not contained within the main body of the Annual Monitoring report for that year. The Council has that information, and so for completeness the data is provided below:</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: right;">AMR 2015</th> </tr> </thead> <tbody> <tr> <td colspan="2">Standard Industrial Classification 2007, Section Names</td> </tr> <tr> <td>Accommodation and Food Service Activities</td> <td style="text-align: right;">400</td> </tr> <tr> <td>Administrative and Support Service Activities</td> <td style="text-align: right;">1,800</td> </tr> <tr> <td>Financial and Insurance Activities</td> <td style="text-align: right;"><100</td> </tr> <tr> <td>Manufacturing</td> <td style="text-align: right;">1,300</td> </tr> <tr> <td>Professional, Scientific and Technical Activities</td> <td style="text-align: right;"><100</td> </tr> <tr> <td>Public Administration & Defence; Compulsory Social Security</td> <td style="text-align: right;"><100</td> </tr> <tr> <td>Real Estate Activities</td> <td style="text-align: right;"><100</td> </tr> <tr> <td>Transportation and Storage</td> <td style="text-align: right;">5,300</td> </tr> <tr> <td>Wholesale and Retail Trade; Repair of Motor Vehicles and Motorcycles</td> <td style="text-align: right;">400</td> </tr> <tr> <td style="text-align: right;">Grand Total</td> <td style="text-align: right;">9,500</td> </tr> </tbody> </table>		AMR 2015	Standard Industrial Classification 2007, Section Names		Accommodation and Food Service Activities	400	Administrative and Support Service Activities	1,800	Financial and Insurance Activities	<100	Manufacturing	1,300	Professional, Scientific and Technical Activities	<100	Public Administration & Defence; Compulsory Social Security	<100	Real Estate Activities	<100	Transportation and Storage	5,300	Wholesale and Retail Trade; Repair of Motor Vehicles and Motorcycles	400	Grand Total	9,500
	AMR 2015																									
Standard Industrial Classification 2007, Section Names																										
Accommodation and Food Service Activities	400																									
Administrative and Support Service Activities	1,800																									
Financial and Insurance Activities	<100																									
Manufacturing	1,300																									
Professional, Scientific and Technical Activities	<100																									
Public Administration & Defence; Compulsory Social Security	<100																									
Real Estate Activities	<100																									
Transportation and Storage	5,300																									
Wholesale and Retail Trade; Repair of Motor Vehicles and Motorcycles	400																									
Grand Total	9,500																									

8 Applicant's Response to Written Questions – Health and Community (REP4-068)

Question	Subject	Comment
HAC.1.3	Joint Strategic Needs Assessment	<p>LBC met with the Applicant on 13 November 2023 to discuss the datasets informing the Joint Strategic Needs Assessment documents.</p> <p>LBC has very detailed datasets at ward level that the Applicant has called upon and LBC is satisfied that the assessment undertaken by the Applicant was robust and that the Health and Community Chapter to the Environmental Statement [AS-078] does not need to be updated.</p>
HAC.1.9	Assessment Receptors	<p>LBC provided its answer to this question at Deadline 4 [REP4-187], and since then has met with the Applicant on 13 November 2023 to discuss the issues of housing further.</p> <p>The Applicant presented details of the numbers of construction workers that would be associated with the various phases of development, noting that with 48% of the workforce assumed to be local, this would mean that during the busiest period of construction, Phase 2a in 2039, circa 700 construction workers would require housing, with the assumption being that these would be in rented accommodation or bed and breakfast. The concerns of LBC's housing team were noted, though it was recognised that due to the timespan of the project, circumstances could differ substantially in 15 years' time compared to now.</p> <p>LBC's housing team notes that the best mitigation against housing pressure during Phase 2a construction is a long term engagement between the Council, the Applicant and key employers to anticipate and plan for the housing demand and transport needs of those workers.</p>