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Your Ref: TR020001

Dear Jo Dowling

London Luton Airport Expansion Project

Response to Deadline 5 of the Examination

1. Submissions made at Deadline 5

Please see Appendix A (Tables 2 and 3) for a list of new and updated documents in clean and tracked change versions submitted by Luton Rising (the Applicant) for Deadline 5 of the Examination of the London Luton Airport Expansion Project.

2. Action Points arising from the Compulsory Acquisition Hearing and Issue Specific Hearings

The Applicant has provided the below table which sets out the Applicant's response to the hearing actions. Table 1 provides a list of the Examining Authority's (ExA) Action Points for Deadline 5 from Compulsory Acquisition Hearing 1 (CAH1) and Issue Specific Hearings 1 (ISH1), 3 (ISH3), 4 (ISH4) and 6 (ISH6) and where these have been responded to by the Applicant in the documents submitted at this deadline.

Table 1: Actions Points addressed by the Applicant for Deadline 5

Action Point	Hearing Action	Document addressed in
CAH1		
23	Update the funding statement to provide further detail as to how the Proposed Development would be funded including how the cost of compulsory acquisition would be covered	Funding Statement [TR020001/APP/3.03] Please see below summary of changes made in response to the ExA's comments at CAH1

Action Point	Hearing Action	Document addressed in
ISH1		
8	Applicant to consider whether existing Section 106 planning obligations need to be disapplied when drafting the proposed Section 106 planning obligations as part of the Proposed Development.	Applicant's Response to Issue Specific Hearing 1 Actions 8 and 11: Note on existing/previous planning conditions and s106 obligations [TR020001/APP/8.112]
11	Applicant to produce a combined submission with the Host Authorities on the previous planning conditions and planning obligations that are to carry forward to the Proposed Development.	As above
ISH3		
24	To model noise contours without the two large hangers on the northern boundary of the airport in Phase 2b.	Applicant's Response to Issue Specific Hearing 3 Action 24: Additional Ground Noise Modelling Information [TR020001/APP/8.113]
ISH4		
7	Provide on-going updates regarding progress of the road safety audits, including for the strategic road network (SRN) and in particular whether they would require additional land to be compulsory acquired.	Applicant's Response to Issue Specific Hearing 4, Action 7 - Updates on Road Safety Audits [TR020001/APP/8.118]
14	Confirm looking at the issue of flyparking and how this is going to be addressed.	This action was addressed at Deadline 3 in the Applicant's Post Hearing Submission – Issue Specific Hearing 4 [REP3-051] . As such, the Applicant does not consider that a detailed response is required at D5 but has provided an update below.
26	Provide an update on sustainable transport fund including indicative costs and how it would be secured.	Applicant's Response to Issue Specific Hearing 4 Action 26 - Sustainable Transport Fund [TR020001/APP/8.119]
ISH6		
33	Demonstrate further how the principles of good design have been met through the proposals, including how aspects of the proposal have addressed design policies, such as Luton Borough Council Policy LLP6 part F(ii) in respect of height and design of buildings and justification for the landform and how it relates to landscape character.	Applicant's Response to Issue Specific Hearing 6, Action 33: Principles of Good Design [TR020001/APP/8.111]

Update on ISH3 Action 6

The Applicant continues to engage with the Host Authorities regarding the vibration thresholds in the **Code of Construction Practice (CoCP) [REP4-011]**. The Applicant expects to reach agreement on the approach to vibration thresholds with the Host Authorities and will reconfirm the position to the ExA as soon as possible.

Update on ISH3 Action 17

The Applicant is considering the commitment to monitoring and mitigation in addition to that described in the **OTRIMMA [TR020001/APP/8.97]** and is continuing to engage with relevant local highway authorities on this matter. Detail on any such updated and agreed commitments will be provided in due course.

Update on ISH4 Action 13 and 14

A mechanism for the monitoring and mitigation of airport-related fly-parking is described in the **OTRIMMA [TR020001/APP/8.97]**. Engagement on this matter with relevant local highway authorities is ongoing.

3. P19 Application

Following discussion at the Issue Specific Hearings in September 2023, further discussions have taken place with the Host Authorities in relation to the decision to approve the P19 application. The Applicant is intending to make further updates to the noise controls secured in the DCO at Deadline 6. Further details are included in a revision of **Comparison of consented and proposed operational noise controls [TR020001/APP/5.12]** submitted at Deadline 5. This updates the comparison between the currently consented and DCO proposed noise controls and identifies those P19 controls that will be “carried forward” into the DCO controls. The mechanism for securing these controls will be confirmed at Deadline 6.

Further information is also included in the **Applicant's Response to Issue Specific Hearing 1 Actions 8 and 11: Note on existing/previous planning conditions and s106 obligations [TR020001/APP/8.112]**.

4. Funding Statement

As requested by the ExA at Action Point 23 from CAH1, the Applicant has submitted an updated **Funding Statement [TR020001/APP/3.03]** at Deadline 5. The amendments to the Funding Statement are substantive. Therefore, the Applicant does not consider it would be of help to the Examining Authority or Interested Parties to provide a tracked change version, please see Table 2, which in the left-hand column has extracted from the CAH1 transcript the ExA's guiding comments on the Funding Statement. The right-hand column then explains how the Applicant has responded to those comments, including where associated amendments have been made to the updated Funding Statement.

Table 2: Response to ExA comments on Funding Statement at CAH1

No.	ExA comments on Funding Statement at CAH1	Luton Rising response
1	<p><i>“The Examining Authority can only consider whether it’s a reasonable prospect that the funds needed to cover the scheme can be secured, and that this would include the amount of money needed to cover the cost of acquiring the land.... in our opinion the Funding Statement, as submitted does not deliver this”.</i></p>	<p>The Funding Statement (FS) has been substantially revised to address the ExA’s CAH1 comments – this table signposts how, and where, this has been achieved. The FS structure has been adjusted such that:</p> <ul style="list-style-type: none"> - section 2 addresses land acquisition costs and funding, to address the test that there is a “reasonable prospect” of the requisite funds for acquisition becoming available (in accordance with DCLG Guidance on Compulsory Acquisition, paragraph 9); and - sections 3 and 4 give as much information as is currently possible about the resource implications of implementing the Proposed Development (in accordance with DCLG Guidance on Compulsory Acquisition, paragraph 17).
2	<p><i>“It is an exceptionally high-level document and provides no detail as to how the funding was calculated or how it would be acquired. So for example, paragraph 3.1 point two states that the current cost of the proposed scheme would be in the region...£2.7 billion at 2022 2023 prices. However, there is no breakdown of how this figure has been arrived at”.</i></p>	<p>Whilst the application version of the FS was benchmarked against other FSs in terms of the level of content it contained, in response to the ExA’s comments the content in the FS has been substantially expanded. For example, a breakdown of costs is now provided for both land acquisition costs (section 2.2) and wider project construction costs (section 3). Funding for land acquisition is addressed in section 2.2, and financing and funding for wider project construction costs is provided in section 4, along with additional information about airport revenues and the financial model.</p>
3	<p><i>“Whilst [the FS] indicated that phase 2A and 2B would cost £2.35 billion, that is at 2022/23 prices and no indication of what the expected costs will be in either 2037 or 2043, or [how] phase 2A and 2B are proposed to be delivered, and how this would affect the overall calculation of cost”.</i></p>	<p>Year-by-year forecast expenditure, in both current and outturn prices, is now provided in the FS for land costs (table 2) and for wider project construction costs (table 4).</p>
4	<p><i>“Paragraph 3.1 point four indicates the estimated project cost plan purchase compensation and blight would be</i></p>	<p>A breakdown of costs is now provided for land acquisition at table 1 of the FS, with a forecast spend profile at table</p>

No.	ExA comments on Funding Statement at CAH1	Luton Rising response
	<p><i>approximately 110 million broken down to 10 million in phase one and 100 million for phase two A into B. Whilst I note later on in the funding statement, the document that CBRE have looked at land acquisition, again there is no breakdown as to how this figure has been arrived at. I note at paragraph that the reason for not providing the breakdown of the land cost elements is due to the commercial sensitivity of land negotiations. However, whilst I note this, I do not consider that there is anything to stop the applicant providing a high-level breakdown, or even a more detailed breakdown in a confidential report”.</i></p>	<p>2. Note that the £108 million forecast (current prices) includes a 20% allowance for risk.</p>
5	<p><i>“In terms of how the £2.7 billion will be funded the statement advocates at paragraph 4.1 point one, that in the long term the cost of the proposed development will be funded by the net revenues from the airport operation but recognizes that until passengers grow finance will need to be raised, which will be repayable over time....London Luton Airport Operations Limited will continue to operate the airport and oversee delivery of phase one alongside Luton Rising. Phase 2 will be delivered through a similar approach with delivery through a new long-term concession or other commercial arrangement. The reason given for the reasonable prospect that the funding would be obtained and the scheme would proceed is that Luton Borough Council who [is] sole shareholder of Luton Rising have already made significant investment in the application in terms of the DART and Bartlett Square, and that they are invested in delivery as it is key to the delivery of their vision, Luton 2040 and securing economic growth. However, this isn't a reassurance that there is a reasonable prospect that the funds would be secured. It simply indicates that Luton BC is applying for the funding, not that there is a reasonable prospect that the funds could be secured. So I'd like to ask the Applicant, what reassurances for the benefit of compulsory acquisition, can</i></p>	<p>The FS has been restructured and expanded to address these matters. On land acquisition costs, paragraphs 2.2.6-2.2.8 explain the concession fee income received by the Applicant which would allow it to meet land acquisition costs estimates for phase 1, particularly when the annual spend profile (tables 1 and 2) is considered. Section 4 of the FS explains how, in phase 2, finance could be raised to support the delivery of phase 2.</p> <p>For other project costs, the Applicant notes that these are not subject to the “reasonable prospect” test.</p> <p>Nevertheless, the Applicant has provided substantially enhanced information on funding and financing for the non-land costs, and (compliant with guidance) as much information as possible at this stage has been set out in the FS.</p> <p>The FS now contains a letter of support from London Luton Airport Operations Limited.</p>

No.	ExA comments on Funding Statement at CAH1	Luton Rising response
	<p><i>you provide to me that the funding for the scheme would be available, and that the funding for the right amount, the cost the scheme would be available”.</i></p>	
6	<p><i>“I suggest that you potentially have a look at the funding statement provided by North Somerset District Council for the Portishead project. Because it’s a similar situation where it was a local authority that was applying for the development consent order. It is fairly recent and it’s the only one that I can think of with regards to an NI project where the local council were funding the scheme”.</i></p>	<p>The Applicant has reviewed the Portishead project FS, as well as a number of other FSs for NSIPs on this scale, to inform the updates that it has made. The Applicant considers that the revised FS benchmarks well against these in terms of content and compliance.</p> <p>Noting the ExA’s comments, it is important to emphasise that this is <i>not</i> an NSIP where a local authority is funding the scheme. Whilst London Luton Airport is publicly owned, it is operated as a private enterprise and the funding for expansion will be derived from the revenues generated by the airport, which are being invested in its growth. Those revenues also provide the basis for securing financing for the expansion.</p> <p>Luton Borough Council is not funding nor financing the expansion.</p>
7	<p><i>“But you do need to bear in mind and just to put it in context – yours is a nine-page funding statement. [Portishead] was a 51 page funding statement and the Secretary of State still found that short when they were in reporting. So if you want to have any chance of this application being successful in terms of us being reassured that the funding would be available to fund the scheme and obviously fund the CA then I think there’s a bit of work to be done to provide that evidence to us”.</i></p>	<p>The Applicant’s revised FS is now 14 pages in length, excluding appendices. The Applicant has reviewed the Portishead project FS dated August 2022. It is noted this is 157 pages in length including appendices, but absent appendices it is 13 pages long. The appendices to the Portishead FS includes:</p> <ul style="list-style-type: none"> - a “minded to approve” letter from the Secretary of State – which is clearly not available at this stage of this project; and - a series of Council reports and papers relating to funding, reflecting that it is a project reliant on public funding from a variety of public sector partners – as noted above, the Applicant considers that this is distinguishable from this project, which is funded by the revenue generated from the expansion of a commercial airport.

5. Additional submissions accepted at the discretion of the ExA following Deadline 3

Following the ExA's decision to accept the additional submissions from Michael Reddington [REP3-123] and Network Rail after Deadline 3, the Applicant has considered these responses and has provided a response to Michael Reddington's comments at Deadline 5 [TR020001/APP/8.117]. The Applicant has determined that the comments from Network Rail do not require a response at this time but notes that Network Rail will be reviewing the note on rail capacity and are intending to provide a response at Deadline 6.

6. Rule 9 request to make a change - Acoustic barrier

In accordance with Advice Note Sixteen: How to Request a Change Which May Be Material (version 3) ('Advice Note Sixteen'), the Applicant submitted a **Change Notification [REP3-047]** at Deadline 3 on 5 October 2023 to notify the ExA of a change to the Proposed Development. The change comprises the addition of an acoustic barrier along the proposed new Airport Access Road, in order to include in the Proposed Development a previous commitment made by the Applicant under an approved planning permission for the New Century Park Access Road (Luton Borough Council Reference: 17/02300/EIA).

Subsequently, the ExA issued a Rule 9 Procedural Decision in its letter of 6 November 2023 [PD-014] which confirmed that the change does not materially alter the conclusions of the Environmental Statement and can be accepted into the Examination. The Applicant considers the ExA's letter to constitute Step 5 of Figure 1 in Advice Note Sixteen, and thus has not submitted a Change Application at this deadline. However, the following information has been provided by the Applicant as requested by the ExA to facilitate the acceptance of the change into the Examination:

- **Airport Access Road Indicative Highway Cross Sections (Sheet 1/4) [TR020001/APP/4.09]** – these have been updated at Deadline 5 to show the proposed acoustic barrier.
- **Airport Access Road and Luton DART Long Section Plans [TR020001/APP/4.11]** - these have been updated at Deadline 5 to show the proposed acoustic barrier.
- **Chapter 4 The Proposed Development [TR020001/APP/5.01]** of the ES has been updated to reflect the addition of the acoustic barrier.
- The Applicant confirms that the environmental effects resulting from the proposed change have been cumulatively assessed with other chapters in the ES and further information can be found at **Chapter 21 In-Combination and Cumulative Effects [AS-032]** of the ES, the conclusions of which have not been altered following the addition of the proposed change.

7. Rule 17 request for further information

The ExA confirmed in its Rule 17 letter on 6 November 2023 [PD-014] that Action Point 15 from ISH4 [EV9-007] requires the Applicant to provide a response to Mr North's comments [REP3-118] received at Deadline 3. The Applicant has now provided this response at Deadline 5 [TR020001/APP/8.123].

The ExA also requested that the Applicant further review the base layers of the trip distribution plans [EV9-007] submitted at Deadline 4. The Applicant has reviewed the base layer used on these documents and has resubmitted at Deadline 5 [TR020001/APP/8.30]. The previous base layer was considered by the ExA to not clearly show the names of individual roads. The latest iteration of the plans have been amended to remedy this and ensure that each road is clearly labelled and identifiable.

Please do not hesitate to get in touch should you have any further comments or questions.

Yours sincerely,



Antony Aldridge
Head of DCO Programme

APPENDIX A – DEADLINE 5 LUTON RISING DOCUMENTS SUBMITTED

Table 3: List of new documents submitted by the Applicant for Deadline 5

Document Title	Document Number
Applicant's Response to Hearing Actions	
Applicant's Response to Issue Specific Hearing 1 Actions 8 and 11: Note on existing/previous planning conditions and s106 obligations	TR020001/APP/8.112
Applicant's Response to Issue Specific Hearing 3 Action 24: Additional Ground Noise Modelling Information	TR020001/APP/8.113
Applicant's Response to Issue Specific Hearing 4 Action 7: Updates on Road Safety Audits	TR020001/APP/8.118
Applicant's Response to Issue Specific Hearing 4 Action 26: Sustainable Transport Fund	TR020001/APP/8.119
Applicant's Response to Issue Specific Hearing 6 Action 33: Principles of Good Design	TR020001/APP/8.111
Applicant's Response to Deadline 4 Submissions	
Applicant's Response to Deadline 4 Submissions	TR020001/APP/8.114
Applicant's Response to Deadline 4 Submissions - Appendix A - Luton Borough Council (Response to D3 Documents) [REP4-191]	TR020001/APP/8.114
Applicant's Response to Deadline 4 Submissions - Appendix B - Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council (Response to D3 Documents) [REP4-163]	TR020001/APP/8.114
Applicant's Response to Deadline 4 Submissions - Appendix C - Central Bedfordshire Council (Comments on Deadline 3 Submissions) [REP4-124]	TR020001/APP/8.114
Applicant's Response to Deadline 4 Submissions - Appendix D - Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council (CSACL Response) [REP4-162]	TR020001/APP/8.114
Applicant's Response to Deadline 4 Submissions - Appendix E - The Harpenden Society [REP4-217]	TR020001/APP/8.114
Applicant's Comments on Responses to Written Questions	
Applicant's Comments on Responses to Written Questions by Interested Parties	TR020001/APP/8.115
Applicant's Comments on Submissions by Interested Parties on the P19 Approval	
Applicant's Comments on Submissions by Interested Parties on the P19 Approval	TR020001/APP/8.116
Applicant's Response to Deadline 3 Submissions	

Document Title	Document Number
Applicant's Response to the Deadline 3 Submission by Michael P Reddington [REP3-123]	TR020001/APP/8.117
Applicant's Response to Deadline 3 Comments from Holiday Extras Limited [REP3-118]	TR020001/APP/8.123
Additional Documents	
Rail Impacts Summary	TR020001/APP/8.121
Bus and Coach Study	TR020001/APP/8.122
Schedule of changes to the Book of Reference	TR020001/APP/8.124

Table 4: Updated list of documents submitted by the Applicant for Deadline 5

Document Title	Document Number
Volume 1	
Application Document Tracker	TR020001/APP/1.06
Volume 2 and 8	
Draft Development Consent Order Draft Development Consent Order (Tracked Change Version)	TR020001/APP/2.01
Explanatory Memorandum Explanatory Memorandum (Tracked Change Version)	TR020001/APP/2.02
Summary of Changes to the Draft Development Consent Order	TR020001/APP/8.54
Volume 3	
Funding Statement Please note that a tracked change version has not been provided given that substantial changes have been made to this document.	TR020001/APP/3.03
Book of Reference Book of Reference (Tracked Change Version)	TR020001/APP/3.02
Volume 4	
General Arrangement Drawings (Part 3 of 3)	TR020001/APP/4.09
Crown Land Plans	TR020001/APP/4.14
Volume 5	
Environmental Statement - Chapter 4 The Proposed Development Environmental Statement - Chapter 4 The Proposed Development (Tracked Change Version)	TR020001/APP/5.01
Environmental Statement - Comparison of consented and proposed operational noise controls	TR020001/APP/5.12

Document Title	Document Number
Environmental Statement - Comparison of consented and proposed operational noise controls (Tracked Change Version)	
Volume 7	
Planning Statement Planning Statement (Tracked Change Version)	TR020001/APP/7.01
Planning Statement Appendix E - Policy Compliance Tables Planning Statement Appendix E - Policy Compliance Tables (Tracked Change Version)	TR020001/APP/7.01
Green Controlled Growth Explanatory Note Green Controlled Growth Explanatory Note (Tracked Change Version)	TR020001/APP/7.07
Green Controlled Growth Framework Green Controlled Growth Framework (Tracked Change Version)	TR020001/APP/7.08
Green Controlled Growth Framework Appendix A - Draft ESG Terms of Reference Green Controlled Growth Framework Appendix A - Draft ESG Terms of Reference (Tracked Change Version)	TR020001/APP/7.08
Green Controlled Growth Framework Appendix B – Draft Technical Panels Terms of Reference Green Controlled Growth Framework Appendix B – Draft Technical Panels Terms of Reference (Tracked Change Version)	TR020001/APP/7.08
Green Controlled Growth Framework Appendix C - Aircraft Noise Monitoring Plan Green Controlled Growth Framework Appendix C - Aircraft Noise Monitoring Plan (Tracked Change Version)	TR020001/APP/7.08
Green Controlled Growth Framework Appendix D - Air Quality Monitoring Plan Green Controlled Growth Framework Appendix D - Air Quality Monitoring Plan (Tracked Change Version)	TR020001/APP/7.08
Green Controlled Growth Framework Appendix F - Surface Access Monitoring Plan Green Controlled Growth Framework Appendix F - Surface Access Monitoring Plan (Tracked Change Version)	TR020001/APP/7.08
Design Principles Design Principles (Tracked Change Version)	TR020001/APP/7.09
Volume 8	
Trip Distribution Plans Please note these have been updated as per the Rule 17 request from the ExA dated 6 November.	TR020001/APP/8.30

Document Title	Document Number
<p>Outline Transport Related Impacts Monitoring and Mitigation Approach (TRIMMA)</p> <p>Outline Transport Related Impacts Monitoring and Mitigation Approach (TRIMMA) (Tracked Change Version)</p> <p>Please note this is a correction to referencing within the document submitted at Deadline 4.</p>	TR020001/APP/8.97
<p>Applicant's response to Written Questions - Biodiversity</p> <p>The Applicant erroneously omitted an "Orchid Location Plan" from the document submitted at Deadline 4. This has now been included as Appendix A. The previous Appendix A is now Appendix B.</p>	TR020001/APP/8.68
Errata Report	TR020001/APP/8.26