

November 2023

London Luton Airport Expansion

Planning Inspectorate Scheme Ref: TR020001

Volume 8 Additional Submissions (Examination)

8.114 Applicant's Response to Deadline 4 Submissions

Infrastructure Planning (Examination Procedure) Rules 2010

Application Document Ref: TR020001/APP/8.114

The Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

**London Luton Airport Expansion Development Consent
Order 202x**

**8.114 APPLICANT'S RESPONSE TO DEADLINE 4
SUBMISSIONS**

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Contents

	Page
1 Introduction	1
1.1 Purpose of this document	1
1.2 Structure of document	2
2 Applicant's Response to Deadline 4 Submissions	4
Table 2.1 Applicant's Response to Deadline 4 Submissions	4

1 INTRODUCTION

1.1 Purpose of this document

- 1.1.1 This document has been prepared by Luton Rising (a trading name of London Luton Airport Limited) ('the Applicant') for submission to the Examining Authority (ExA). It provides the Applicant's response to Deadline 3 submissions by Interested Parties (IPs). To avoid unnecessary repetition of information, the Applicant has only provided responses to new matters raised in submissions, i.e., the Applicant has not responded to matters that it considers have already been addressed in previous submissions.
- 1.1.2 This document does not include responses to matters that the Applicant considers will be addressed as part of the ongoing development of Statements of Common Ground (SoCG). Responses to such matters will be reflected in updated SoCG documents. Whilst this document includes responses to some submissions made by parties that have an SoCG with the Applicant, these responses are confined to matters that the Applicant considers may benefit from a response before the issue of an updated SoCG at Deadline 6.
- 1.1.3 In instances where the Applicant considers that no matter has been raised or the point raised has been dealt with previously and the Applicant has not responded to a matter, this should not be read as the Applicant's acceptance of, or agreement with, the matter raised.
- 1.1.4 The following IPs have not been responded to as the Applicant believes that the issues raised have been addressed in the Applicant's Responses to Relevant Representations at Deadline 1 and the Applicant's Response to Written Representations at Deadline 2:
- a. John Farrow [REP4-179]
 - b. London Luton Limited [REP4-186]
 - c. David Manning [REP4-164]
 - d. Stop Luton Airport Expansion [REP4-208 to REP4-211]
 - e. Luton Borough Council [REP4-190, REP4-192]
 - f. Luton Friends of the Earth [REP4-193]
 - g. HarpendenSky [REP4-172]
 - h. Lanos (Luton) Limited [REP4-185]
 - i. Environment Agency [REP4-168]
 - j. Central Bedfordshire Council [REP4-123]
 - k. Margaret Breheny [REP4-194]
 - l. Teresa Bunyan [REP4-212]
 - m. Buckinghamshire Council [REP4-111]

- 1.1.5 The comments raised in the Deadline 4 submissions by Paul Mantle [REP4-201] and Cavan McDonald [REP4-115] are not regarding the Proposed Development and therefore the Applicant has not provided a response.
- 1.1.6 The Applicant notes that the independent review of the Applicant's Economic Impact Assessment work commissioned by Luton Borough Council, Hertfordshire County Council, Dacorum Council, North Hertfordshire Council, Central Bedfordshire Council [REP4-189] is supportive of the Applicant's analysis and position and further response has not been provided in this document at this stage.

1.2 Structure of document

- 1.2.1 Where possible, the Applicant has responded to Deadline 4 submissions in Table 2.1. This includes responses to the following submissions:
- a. Tim North & Associates Limited on behalf of Holiday Extras Limited [REP4-176]
 - b. LADACAN [REP4-183]
 - c. LADACAN (LADACAN comments on 8.29 Roles and Responsibilities of Luton Borough Council (REP1-018)) [REP4-184]
 - d. Hertfordshire Host Authorities' Responses to Action Points from Issue Specific Hearings [REP4-161]
 - e. The Harpenden Society ("The Society") [REP4-216]
 - f. Michael P Reddington [REP4-196]
 - g. Roland Hyde [REP4-204]
 - h. Buckinghamshire Council [REP4-111]
 - i. Friends of Wigmore Park [REP4-170]
 - j. Peter White [REP4-202]
 - k. Ron Taylor [REP4-205]
 - l. Elspeth Gass [REP4-165]
 - m. Network Rail Infrastructure Limited [REP4-200]
 - n. Buckinghamshire Council (Comments on further Deadline 3 Submissions) [REP4-114]
 - o. Janet Ingham [REP4-178]
 - p. National Highways [REP4-197]
 - q. Friends of Wigmore Park [REP4-171] and Janet Ingham [REP4-177]
- 1.2.2 Where the Applicant considers that submissions require detailed responses, the Applicant has included these responses in Appendices, as follows:
- a. Appendix A: Luton Borough Council (Response to Deadline 3 Documents) [REP4-191]

- b. Appendix B: Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council (Response to Deadline 3 Documents) [REP4-163]
- c. Appendix C: Central Bedfordshire Council [REP4-124]
- d. Appendix D Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council (CSACL Response) [REP4-162]
- e. Appendix E: The Harpenden Society [REP4-217]

2 APPLICANT'S RESPONSE TO DEADLINE 4 SUBMISSIONS

Table 2.1 Applicant's Response to Deadline 4 Submissions

I.D.	Topic	Deadline 4 submission (Verbatim)	Luton Rising's Response
Tim North & Associates Limited on behalf of Holiday Extras Limited [REP4-176]			
1	Surface Access	<p>My clients, Holiday Extras Ltd, understand that the Terminal 2 Multi Storey Car Park accommodating 1,975 car parking spaces will have to be rebuilt, with this unfortunate event resulting in a 53% reduction in the on-airport short stay car parking provision, or a 20% reduction in the overall number of existing on-airport passenger car parking spaces.</p> <p>It would be helpful to know what contingency plans have been put in place by the Applicant to accommodate this loss of car parking spaces, and whether at the present time any indication has been given as to when the Terminal 2 Multi Storey Car Park is anticipated to be rebuilt. These are factors which concern all companies involved in providing airport related passenger car parking. In this regard, Holiday Extras Limited are willing to assist the Applicant, wherever possible, should they be called upon.</p> <p>The destruction of the Terminal 2 Multi Storey Car Park has implications with respect to the DCO application, not least in terms of a loss in the number of car parking spaces to be provided on-airport, and measures needed to ensure future supply is commensurate with recent on-airport passenger car parking provision. It will have an impact on expected modal share considerations in the short term, including the ability to which public transport access to LLA will be able to recover in the aftermath of the Covid 19 pandemic. It is likely to have adverse consequences in terms of fly-parking, along with the extent to which initiatives seen in terms of improved public transport services will be able to rely on support through the Sustainable Transport Fund set up by Luton Rising.</p>	<p>The Airport Operator (working with the Applicant) is considering the best approach to rebuild the car park and is in the early stages of planning. No updates are available at this point on rebuild date.</p>
LADACAN [REP4-183]			
2	Design / Funding Statement	<p>The recent unfortunate fire in, and partial collapse of, the Airport's Terminal Carpark 2 has changed the site landscape since this was the main drop-off area and a convenient on-airfield carpark.</p> <p>We understand that the car park was commissioned and funded by the Applicant, with the works overseen by the Airport Operator, and constructed by a Bedford company which may no longer be trading. Numerous cars owned by members of the public may have to be written off, and what is now a hazardous structure will need to be cleared and presumably rebuilt, perhaps to a more rigorous standard to avoid risk of similar catastrophic collapse, or risk of fire spreading to the nearby DART terminal.</p> <p>We respectfully ask the Examination Authority to request that further information be provided by the Applicant in its updated funding statement – and where necessary in design documents – after having taken account of the implications of this change in the site landscape on the development funding, logistics and timeframe of implementing the Proposed Development, and</p>	<p>The Applicant does not consider that the recent fire within the Airports Terminal Car park 2 will affect the Proposed Development as this is based on Work Plans and parameters. The detailed design will be in accordance with the design principles as set out in Design Principles [APP-225] which include: DQ.01 (f) which states, <i>“The detailed design of the Proposed Development will be compliant with all relevant safety, fire and security standards.”</i></p>

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		<p>whether the no doubt urgent review of the risks and effects of the fire will necessitate a review of the design of that and any similar structures (given the possibility raised by Action 19 of EV5- 007 that a multi-storey carpark may be considered as an alternative to taking so much of Wigmore Valley Park).</p>	
<p>LADACAN (LADACAN comments on 8.29 Roles and Responsibilities of Luton Borough Council (REP1-018)) [REP4-184]</p>			
3	Planning	<p>The uniqueness and historic lack of governance of this clearly conflicted relationship has attracted numerous objections, complaints and freedom of information requests by and on behalf of community members and neighbouring local authorities ever since the application by LLAOL to LBC for Project Curium.</p> <p>We have seen little change, except very recently some window-dressing in preparation for this Examination, but fundamentally the unresolved conflict of interest remains. This is an increasing cause of concern because of the large sums of public money which are at stake, as well as the possibility of an ultimately unsuccessful commercial venture having destroyed Wigmore Park. We therefore urge the ExA to keep governance very much in scope as the Examination progresses.</p>	<p>As a general point, the Applicant strongly disagrees with the points made by LADACAN. There is no conflict of interest, unresolved or otherwise and Applicant refers back to it's submission at deadline 1 on this subject [REP1-018]. The only claim made in respect of ownership is a matter of fact: that it is not uncommon for airports in the UK to be wholly or partly in public ownership.</p> <p>Whilst LADACAN refers to an "historic lack of governance" it presents no evidence to support that assertion.</p>
4	Planning	<p>1) It is impossible to see how a subsidiary whose board has (until very recently) comprised of Members and Officers of LBC can be overseen on an arm's length basis when Board Members frequently change and take part in other Committees with various durations of overlap between those roles.</p> <p>2) Councils do not make or influence decisions, people do, and that is where probity in demarcation is key. Until recently Cllr Andy Malcolm was simultaneously Finance Portfolio Holder and Council Executive Member as well as being Chair of Luton Rising; and Robin Porter was simultaneously Chief Executive of both the Council and of Luton Rising.</p> <p>3) With the same Council Leader, Chief Executive and Chief Planning Officer in place throughout the period from Project Curium to the present day, opportunity for a fresh approach and robust oversight is limited.</p> <p>4) The current LBC Monitoring Officer Mark Turner is also Company Secretary and Governance Officer of Luton Rising.</p> <p>The ExA can have no confidence that the recently implemented governance and demarcation controls are anything but window-dressing, and not arm's length.</p> <p>The CSPL Paper (see Glossary for reference) gives clear guidance on arm's length operations:</p> <p>Under "Leadership and Culture" on page 13 it states: "Local authorities should welcome and foster opportunities for scrutiny, and see it as a way to improve decision making. They should not rely unduly on commercial confidentiality provisions, or circumvent open decision making processes"</p>	<p>There are errors of fact in these statements.</p> <p>The Chief Executive and Chief Planning Officer of the Council have not been in place throughout the period from Project Curium to the present day.</p> <p>Board members do not frequently change.</p> <p>The participation of members of the Board in other bodies is not of relevance provided that disclosures of interest are made as and when required.</p> <p>The governance and demarcation controls set out in REP-018 Appendix 1 are not of recent origin.</p>

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		<p>In "Best Practice item 14" on page 19 it states: "Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place."</p> <p>In Chapter 7 on page 90 it states: "However, in general, we suggest that local authorities consider councillors or officers having observer, rather than director, status on a relevant board so as to minimise potential conflicts of interest."</p> <p>It is clear that Luton Rising is not in any way a genuinely arm's length entity but is deeply embedded in LBC. The CSPL Paper is not just stating best practice guidance because it is a good thing in itself, but because it is the best defence against corporate failures such as those we have seen in numerous local authorities recently.</p>	
5	Planning	<p>LADACAN has consistently represented that whilst the Airports Act requires separation of the management of an airport from the ownership unless the owners are qualified to operate an airport (which they are not in this case), the Applicant and LBC did directly influence the operation of the Airport through the financial Growth Incentivisation Scheme to which LBC, LLAL and LLAOL were all parties.</p> <p>We note an apparent denial of LBC's involvement: LBC's Monitoring Officer responded on 21 Oct 2019 to a letter from LADACAN raising concerns about this Scheme by stating:</p> <p>"Firstly to clarify your comment 'In particular, I draw attention to the growth incentive scheme put in place between LLAL, LBC and LLAOL.....' Luton Council is not party to the Growth Incentive Scheme. Growth in the air travel sector, with new operators emerging at that time, contributed to the growth in passenger numbers." [our underlining. The full text of the letter is in Appendix 1]</p> <p>Yet the Deed of Variation 2015 to the concession agreement including the Incentivisation Scheme is indeed between LBC, LLAL, LLAOL as well as London Luton Airport Group Ltd</p>	<p>The Applicant cannot comment on a letter sent by Luton Borough Council's Monitoring Officer but it does acknowledge that the Council was a party to the Deed of Variation but only in so far as it was a party to the Concession Agreement that the Deed varied and took no part in the development of the Growth Incentive Scheme which was negotiated between the Applicant and the Airport Operator.</p> <p>For the avoidance of any doubt, the Applicant notes that the letter was from the then Monitoring Officer of Luton Borough Council, not the Council's current Monitoring Officer who is noted elsewhere by LADACAN to also have a role within the Applicant's organisation.</p>
6	Planning	<p>There is a very significant imbalance in the commercial relationship between LBC/Luton Rising, and LLAOL.</p> <p>It is clear from the cited paragraph that LLAOL's owners Aena and Infrabridge are substantial global organisations which will have commercial / legal capability to match.</p> <p>The declared occupations for directors of the Applicant who have held office since 2010 include: Teacher, Legal: Risk & Compliance Professional, Business Support Manager, Transportation, Property Manager, Chief Executive, Councillor, Lecturer, Barrister, Manager, Logistics, Local</p>	<p>The Applicant makes extensive use of expert advice to ensure that the Board of Directors is always appropriately advised where the relevant expertise or experience is not available within the company's own resources.</p> <p>In respect of membership of the Environmental Scrutiny Group the Applicant notes that it is specifically proposed that members are not elected councillors but are appropriately qualified professionals.</p>

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		<p>Government Officer, Project Manager, Travel Agent, Civil Servant, Social Worker, Chartered Accountant, Self Employed, Driver, Scientist.</p> <p>The same imbalance would apply to the local authority members of the Environmental Scrutiny Group and the council members of Technical Panels: local councillors do not and cannot reasonably be expected to have the detailed knowledge or the commercial bargaining skills necessary to challenge the Airport Operator over its failure to adhere to Limits or its proposed Level 2 Plans or Mitigation Plans under Green Controlled Growth arrangements (see REP3-019 and REP3-021).</p> <p>We invite the ExA to conclude that these are simply not adequate scrutiny and enforcement mechanisms in the context, nor are they likely to be sufficiently resourced.</p>	
7	Planning	<p>The commercial bargaining position of the Luton Rising board is fundamentally weakened because of its and LBC's well-publicised and heavy economic dependency on the airport for the well-being of Luton.</p> <p>Because of LBC's failure to diversify the local economy, and the Applicant's determination to grow the Airport, LBC is apparently locked into a spiral of increasing debt and increasing risk: more spending on the Airport in turn increases its dependency on Airport revenues.</p> <p>This is in direct conflict with instructions given by DLUHC as a condition of emergency funding in 2021 to reduce financial exposure to the Airport (REP1-095 para 78).</p> <p>Indication of this commercial vulnerability is provided by the very large force majeure settlement of £45 million extracted from LBC/Luton Rising by the Airport Operator as compensation for lost business during COVID, at a time when the Council's financial position was perilous.</p> <p>Furthermore, Luton Rising as a public airport-owning company should not be funding services: that role falls to LBC, since service provision within the Borough should be open to democratic safeguards and accountability.</p> <p>We invite the ExA to conclude that the roles and responsibilities between LBC and the Applicant would need substantial revision to ensure safeguarding of public money and proper democratic accountability.</p>	<p>Far from demonstrating commercial vulnerability, the Special Force Majeure claim arose from a contractual provision in the Concession Agreement. Expert legal, financial and other advice on the claim was obtained and the claim was successfully settled in the best interests of the Applicant. The references to "commercial vulnerability" and the settlement having been "extracted" (intimating coercion) "from LBC/Luton Rising by the Airport Operator" are entirely inappropriate.</p> <p>It is inaccurate to suggest that Luton Rising funds services. The Council receives payments from Luton Rising and itself decides how that income should be spent. Those decisions are subject to normal democratic safeguards and accountability.</p> <p>The Council has removed any reliance on dividends from its revenue budget in accordance with the recommendations of the CIPFA report prepared for DLUHC.</p>
8	Planning	<p>The CSPL Paper states in its Executive Summary on page 12: "The Monitoring Officer is the lynchpin of the current standards arrangements. The role is challenging and broad, with a number of practical tensions and the potential for conflicts of interest. Local authorities should put in place arrangements to manage any potential conflicts."</p> <p>Mark Turner, the Monitoring Officer for LBC was the author of the papers in 2014-16 reporting Luton Rising's performance against growth targets set by</p>	<p>Mr Turner was not the Council's Monitoring Officer in the period 2014-16.</p> <p>When performing his duties as Monitoring Officer for Luton Borough Council, Mr Turner recuses himself from any matters considered by the Council that might be a conflict of interest with his role for the Applicant; these matters are dealt with by the Council's Deputy Monitoring Officer.</p>

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		<p>LBC, which went beyond levels that could be achieved within the noise conditions (REP1-095 Appendix 1 paras 68-78). He is also Secretary and Governance officer of Luton Rising. It is impossible to see how these conflicting roles could be conducted on an arm's length basis by one individual.</p> <p>In the next paragraph under "Councils' Corporate Arrangements" the CSPL Paper states "Local authorities setting up separate bodies risk a governance 'illusion', and should take steps to prevent and manage potential conflicts of interest, particularly if councillors sit on these bodies. They should also ensure that these bodies are transparent and accountable to the council and to the public. Our analysis of a number of high-profile cases of corporate failure in local government shows that standards risks, where they are not addressed, can become risks of corporate failure. This underlines the importance of establishing and maintaining an ethical culture."</p> <p>There is no opportunity for such accountability by Luton Rising either to the public or to the Council.</p> <p>LADACAN raised a formal complaint to LBC in July 2019 about the way Luton Rising had acted to incentivise growth. The second stage response, after escalation to LBC's Head of Development Management, said:</p> <p>"Firstly, I should point out that I can only investigate those matters that are relevant to the Council. I cannot investigate matters relating to LLAL, which although the Council are a majority shareholder, is a public limited company and a separate legal entity and therefore not covered by the Council's formal complaints procedure. Instead, complaints about them should be directed to them separately. Similarly, for the same reasons, I cannot investigate as part of this response any complaints about London Luton Airport Operations Limited (LLAOL). Therefore, I am unable to respond to the issues you have raised in relation to LLAL and how it operates and how it promoted its incentivisation scheme." (complaint ref MACCOC130284778 B12544)</p> <p>There is similarly no transparency as advocated by CSPL: Luton Rising operates under the veil of corporate secrecy and its board minutes are not published.</p> <p>We invite the ExA to conclude that failing to implement clear CSPL guidance increases commercial risk to LBC.</p>	<p>The Council has established a Luton Shareholder Group that has responsibility for oversight of its several wholly-owned companies, including Luton Rising.</p> <p>With regard to the complaint raised in 2019, no such complaint was raised with Luton Rising at the time. However, the Applicant notes that LADACAN was given full responses to enquires made to it in relation to the same matter.</p> <p>The Applicant notes that commercial risk to Luton Borough Council, whether perceived or otherwise, is not a matter consideration by the Examining Authority in relation to this application for development consent.</p>
Hertfordshire Host Authorities' Responses to Action Points from Issue Specific Hearings [REP4-161]			
9	Air Quality	<p>The Institute of Air Quality Management Guidance on Monitoring in the Vicinity of Demolition and Construction sites recommends the following Site Action Levels for different types of monitoring:</p> <ul style="list-style-type: none"> • PM10 concentrations: 190 µg/m³ averaged over a 1-hour period. • Dust deposition using Frisbee-type Deposition Gauges: 200 mg/m² /day, averaged over a 4-week period. • Dust deposition using glass slide deposit gauges: 25 soiling units (su) per week, measured as a running 4-week average. 	<p>Appendix 4.2: Code of Construction Practice (CoCP) [REP4-011] states in section 8 that monitoring of dust and particulate matter will be undertaken following best practice guidance, specifying that this is currently Institute of Air Quality Management (IAQM) guidance on 'Monitoring in the Vicinity of Demolition and Construction Sites' (IAQM2018). Furthermore, it states that Site Action Levels will be determined as appropriate from the current best practice guidance.</p>

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		<ul style="list-style-type: none"> Dust deposition using sticky pads: 5% effective area coverage (EAC) / day, measured over a 1-week period. Dust flux using sticky pads where both EAC and absolute area coverage (AAC) are measured over a 1-week period, where the that a Site Action Level is "High" or above. <p>It is recommended that these Site Action Levels should be adopted by the Applicant in principle and be reviewed in the future as additional information becomes available.</p>	<p>The Applicant considers that the Site Action Levels referenced have implicitly been adopted in principle. The CoCP also states that the local authorities will be consulted on the monitoring procedures to be implemented.</p> <p>There is an opportunity for local authorities to review the Site Action Levels.</p>
10	Air Quality	<p>Complaints received on morning of 30/09/2020: "We have received reports this morning of a suspected aircraft fuel dumping incident that affected the following neighbourhoods around 19.30 hrs last evening (Tuesday 29/09/2020)":</p> <ul style="list-style-type: none"> Millard Road Estate. Rosehill Estate. Purwell Estate. Highover Estate. <p>The following text was recorded when the complaint was registered: "Customer wanted to speak to an officer regarding air pollution. He advised that last night, himself and the whole road noticed that air pollution was coming from somewhere or somewhat. The air pollution was very strong like there has been a spillage. He spoke to the Police who were unaware. All the neighbours were very concerned and shut their windows. He phoned the emergency env. health number who advised they couldn't help so he went back to the Police on 101 who advised to call 999."</p> <p>Further complaints received by North Herts Council on Thursday 01/10/20: "We have received 3 further complaints of a similar nature, the earliest time reported as being noticeable was 6pm." 2.3.5.</p> <p>On 30/09/2020, Mr Pitman (North Herts Council) reported the details above to the Civil Aviation Authority (CAA) with further details supplied on 01/10/2020. 2.3.6.</p> <p>On 12/10/2020 the CAA provided a response with a reference: "In this particular instance, the Safety Intelligence team have referred your submission to us in the Airspace Related Environmental Enquiries (AREE) team for our consideration and comment. Your email has been transposed onto our system and has been given reference 798320 dated 05/10/2020. If you wish to pursue this matter we respectfully suggest that you should contact Luton Airport to see if they had any reports of fuel dumping and also ask the airport to confirm the same with Terminal Control at NATS Swanwick."</p> <p>North Herts Council would be glad to know:</p> <ul style="list-style-type: none"> If this incident was ever recorded by the Airport Operator. If it was an incident that was planned. 	<p>The Applicant has consulted the Airport Operator. The Airport Operator confirmed that the incident was recorded and investigated:</p> <ul style="list-style-type: none"> Aircraft passing at the time and location were investigated and found no unusual activity to suggest an emergency; No emergencies were recorded from any aircraft that day. <p>The Airport Operator have advised that Air Traffic Control would not instruct aircraft to dump fuel over a residential area without reporting to the Civil Aviation Authority. Therefore, it was concluded that the incident was not as a result of Luton related aircraft dumping fuel.</p> <p>The Applicant response to Action 15 of Issue Specific Hearing 5 [REP3-052] also addresses fuel dumping. The Applicant has consulted the National Air Traffic Services (NATS) and were advised that data specific to fuel jettisoning is not recorded by them and were directed to the Civil Aviation Authority. The Applicant will seek clarification on this with CAA and the Applicant will provide a response to the ExA once received.</p>

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		<ul style="list-style-type: none"> • If it was an unplanned incident. • If London Luton Airport and the airline concerned were aware that impact was likely on an urban residential area. • Whether London Luton Airport had agreed to the fuel dump. • What was the quantity of fuel dumped, from what height, and what location. • What was the flight that dumped the fuel, and what was its flight trajectory at the time of the dump. 	
11	Landscape and Visual	<p>The existing Accurate Visual Representations (AVR) are based on simplistic massing models which are useful in terms of providing an indication of the scale of Proposed Development. However, AVRs which provided a clearer indication of the design intentions relating to building form, finishes and detailing particularly in relation to the eastern elevation as it is perceived from the wider landscape to the east would be beneficial. Therefore, the position of the Host Authorities is that some fully rendered images of the Proposed Development would aid understanding. The Host Authorities would welcome the opportunity to agree requirements and specific viewpoints which would be most appropriate to illustrate in this manner with the Applicant.</p>	<p>The AVRs submitted with the application for development consent are parameter based as is normal and appropriate at the planning consent stage of any infrastructure project. They provide the information required to understand the likely significant effects of the Proposed Development and a complete, robust assessment of landscape and visual effects as reported in [AS-079] and any other relevant assessment reported in the Environmental Statement.</p> <p>Detailed design would not be developed until after consent is granted, and Design Principles regarding surfaces, finishes and elevations and the visual impacts of building are included in the Design Principles document [APP-225] (for example T.02, T.12, T.19, ASF.02 and 03) secured by Requirement 5 of the draft DCO [REP4-003] regarding detailed design.</p> <p>The Applicant believes that the AVRs provided as part of the application are appropriate and further design detail and rendering of buildings is not required or justified at this stage.</p>
12	Planning	<p>The Host Authorities consider that it might be helpful to the parties and the ExA if a comparator assessment of a small number of other DCOs of similar representative type and/or scale were undertaken to provide comfort regarding the consistency and robustness of approach, scope and detail.</p>	<p>The Applicant is confident that its application documents and approach are robust and of appropriate scale and detail. The Applicant is also confident that the ExA understands the requirements for a robust application for development consent.</p>
The Harpenden Society ("The Society") [REP4-216]			
13	Draft DCO	<p><u>The draft DCO Clause 8(4)(b)</u></p> <p>1 Our concern that clause 8(4)(b) would enable LR (or any third party) to operate the airport without the Secretary of State's consent was not addressed adequately by LR in its response at REP2-037 page 5, it merely said that removal of the Secretary of State's approval is justified by the fact that such consent is sought through this application and interested parties, the ExA and the Secretary of State can examine whether such consent is appropriate through the DCO process.</p> <p>2 We cannot examine the appropriateness or otherwise of this clause through the DCO process as we don't know who any substitute airport operator would be and whether they would be suitably qualified to operate the airport as required under section 17 (1) or by virtue of the Secretary of State's disapplication of section 17(1) as a result of powers granted to the Secretary of State in section 17(2).</p> <p>3 We recognise, as Ms Dowling explained at the beginning of the DCO Issue Specific Hearing ("ISH"), that it is normal to allow the consent to transfer the benefit of a planning permission to third parties. However, we believe that the</p>	<p>The Applicant wishes to clarify that LLAOL and not the Applicant, Luton Rising, is wholly responsible for the safe operation and management of London Luton airport under the terms of a concession agreement between LLAOL and the Applicant.</p> <p>LLAOL has operated London Luton Airport since 1998 and is qualified to do so under the terms of the Airports Act 1986 (the 1986 Act). If the development consent order is made by the Secretary of State then it will be necessary to have this provision to transfer the benefits of the Order to LLAOL so it can continue to safely operate the airport.</p> <p>If the application for the development consent order is made by the Secretary of State then it would be illogical for the Applicant to have to then seek the consent of the same Secretary of State to transfer the benefit of the development consent order to the incumbent airport operator to enable it exercise the necessary benefits and powers of the order made by that Secretary of State.</p> <p>With regards to transferring the benefit of the order to any future airport operator should that situation arise it is important to make clear that the Applicant is</p>

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		<p>principles set out in section 17(1) of the Airports Act 1986, that the directors must be suitably qualified to run an airport must be retained in the DCO to protect consumers and communities around the airport from an unqualified operator who fails to adhere to the safety or security standards that the current operator and every other airport operator adheres to in the UK – standards that make the UK a safe and secure place to fly into and out of.</p> <p>4 We are particularly concerned that the oversight of the Secretary of State is required here as the directors of LR, who have said they might operate the airport, have extremely limited airport management experience and any third party's experience won't be subject to proper scrutiny because the self-same LR directors will make the appointment. We believe that the transfer of benefits should only be allowed if the current protections afforded by section 17(1) and section 17(2) of the Airports Act 1986 are retained.</p> <p>5 We note, in this context, that the Gatwick Airport draft DCO does include a requirement for the Secretary of State's consent to a transfer in the following circumstances:</p> <p>(4) The consent of the Secretary of State is required for a transfer or grant under this article, except where the transfer or grant of any or all of the benefits of the provisions and such related statutory rights as may be agreed is made to the following bodies—</p> <p>(a) in relation to a transfer or a grant of any works within a highway, the relevant highway authority; or</p> <p>(b) in relation to a transfer or a grant relating to any part of Work Nos. 10(g), 11(d) (office areas), 16 (new hangar), 26, 27, 28 or 29 (hotels), any registered company.</p> <p>i.e. any transfer that isn't related to highway or (essentially) building works.</p>	<p>seeking, through this article, the ability to be able to transfer the benefit of the Order without first having to obtain the prior consent of the Secretary of State to such a transfer.</p> <p>This article does not do away with the requirements of the 1986 Act and any subsequent operator of the airport that may be appointed by the Applicant must still be suitably qualified as required under section 17 (1) of the 1986 Act or by virtue of the Secretary of State's disapplication of section 17(1) as a result of powers granted to the Secretary of State in section 17(2) of the 1986 Act.</p>
14	Draft DCO	<p><u>The draft DCO clause 26(1)</u></p> <p>6 At Compulsory Acquisition Hearing 1 ("CAH1") the Applicant's lawyer said in support of the compelling need for the development that "there is an urgent and vital need for the proposed development...[which] derives from national, regional, and Southern and sub regional, economic and other policies that are focused on building economic growth in those areas" and "that need is also driven by future demand forecasts which show that additional capacity is urgently needed to keep pace with that demand" (the emphasis is ours). These statements are consistent with LR's unconstrained demand forecast (Figure 6.3 AS-125 Page 113) which show demand reaching 32 million passengers per annum between 2027 and 2029.</p> <p>7 Yet the Applicant is leaving a full five years (from 2028 to 2032) between the completion of Phase 1 and the commencement of Phase 2a.</p> <p>8 Accordingly, we do not believe that the compelling need for compulsory purchase are met and certainly there is no justification for the time limits for the exercise of authority to acquire land compulsorily to be more than the normal period of five years following the grant of a DCO. Granting LR a longer timeframe for exercising compulsory purchase rights would leave statutory undertakers, businesses and communities with an unnecessarily long period of uncertainty which will affect their own decision making.</p>	<p>The increased period to exercise compulsory acquisition powers within the dDCO from 5 years to 10 years is justified and proportionate due to the scale and complexity of the Proposed Development, which is also allowed under sections 154(3) and 154 (4) of the Planning Act 2008. The Applicant has detailed why this increase is justified in the Volume 3 Compulsory Acquisition Information, Statement of Reasons [AS-071] which in summary explains:</p> <p>Incremental approach: The programme for the Proposed Development is based on the forecast growth demand; the periods predicted between construction phases (for example the 5 years between Phase 1 and Phase 2a) is based on this. For example, the land required for improvement and widening works to M1 Junction 10 (plot 8-01 and 8-02, within Dacorum Borough Council's area) is not anticipated to be required until the later phases of the development. To reduce the impact of the Proposed Development, the Applicant would not want to take possession of this (or any other area) early before any physical works were required.</p> <p>Physical works: The construction programme includes a significant period of necessary earthworks, which subsequently require a much longer implementation period of time to allow time for the earthworks to settle. This adds to the increase in time required to carry out the works resultant of the incremental approach adopted.</p>

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			<p>Scale: The Proposed Development is complex and large in scale, and the 10 year period is required to fully realise the Proposed Development's potential in a considerate and controlled way meaning longer compulsory acquisition powers are required. The considerable scale of the works, asset out on the Works Plans [AS-012] and described in Schedule 1 to the draft DCO [REP4-003],</p> <p>Flexibility: The flexibility as a result of an increased period for a project of this kind is considered the most appropriate approach to avoid a) having to compulsorily acquire land at the early stage of the Proposed Development that might later change or b) delaying a nationally significant infrastructure project.</p> <p>It should also be noted an increase from the 5 year period is precededented in other complex and large scale projects, such as the Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 and the National Grid (Hinkley Point C Connection Project) Order 2016.</p>
15	Noise and Vibration	<p><u>The draft DCO Schedule 2 Requirements Part 4 clause 27</u></p> <p>9 We note that the current airport operator started to refer in the 1st Quarter 2023 noise report1 to “Dispensations” (paragraph 1.4.4) where “LLA started to dispense movements in line with the Section 106 agreement. LLA submitted a Dispensation Policy to the Local Planning Authority to dispense (remove) movements from the night time movement limit, night time QC limit and early morning movement limit.” The report refers to 143 dispensations in March 2023, which if repeated over the year would amount to 1,716 effectively increasing the night-time limit by 18%. The vast bulk of these dispensations were attributed to “Passenger Hardship” without any explanation being given for what this means in practice.</p> <p>10 To ensure that dispensations are only given for valid reasons and not as a result of operational failures on the part of low cost airlines squeezing in too many rotations into their schedules or other operational mismanagement, the existing policy should be scrapped and replaced by a policy that only allows dispensations in very limited unforeseen circumstances such as emergencies, weather and other reasons permitted at the discretion of the ESG, acting reasonably. Specifically airline timetabling bottlenecks should not be treated as a dispensation.</p>	<p>The Applicant notes that this comment is about current operations and not the Proposed Development.</p> <p>For the Proposed Development it is considered appropriate that dispensed aircraft are not included in the compliance process as they are not within the airport operator's control. This approach to disregarding certain types of aircraft movements from counting towards the limit values was agreed as appropriate by the Noise Envelope Design Group in their Interim Report. No changes to this agreement were noted in their Final Report. See the Noise Envelope Design Group Final Report and Section 4.5 of the Interim Report in Annex A of Appendix 16.2 of the Environmental Statement [REP4-023]. Hardship is caused as a result of delays due to Disruption leading to Serious Hardship and Congestion at the Airfield of Terminal. These are primarily due to events that are either outside of the control of the airport or the operator.</p>
Michael P Reddington [REP4-196]			
16	Climate change	<p>ID(38): The point being made is that there are huge risks within the lifetime of the project associated with the JZS and related items such as SAF. The Applicant does not seem to acknowledge or assess these risks and how they may affect the project's aims.</p>	<p>It is reasonable for the Applicant to assume that the aviation mitigation measures, including SAFs described within the Jet Zero Strategy will be implemented in full, and therefore that these policies can reasonably be taken into account within the GHG assessment presented in Chapter 12 Greenhouse Gases of the ES [REP3-007].</p>
Roland Hyde [REP4-204]			

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17	Surface Access	<p>2) Increase in the level of traffic on the A1081 which could make getting in and out of Slip End even more difficult during peak working travel times.</p> <p>3) Increased use of shuttle buses through the village going to and from airport car parks situated in the village.</p>	<p>A comprehensive approach to modelling the impact of the Proposed Development has been carried out and this shows that it would not have a significant adverse impact on the operation of the highway network including the A1081, as described in Chapter 10 of the Transport Assessment [APP-205].</p> <p>The Applicant is not pursuing off-site third-party parking options or extending existing off-site parking locations as part of the DCO. Any third-party off-site parking operators that wish to provide additional or extended off-site parking facilities in the future, would need to apply for planning permission separate to the DCO.</p>
18	Compensation	<p>4) Possibly might reflect on the value of my property.</p>	<p>The Applicant included in its application a document titled Draft Compensation Policies, Measures and Community First which is now updated as a revised submission under reference [REP4-042]. This also lists where Interested Parties may be entitled to statutory compensation for loss or damage arising during construction or operation of the Proposed Development.</p>
Buckinghamshire Council [REP4-111]			
19	ETS	<p>Issue Specific Hearing (ISH) Action Points</p> <p>Buckinghamshire Council was requested to respond to Action Point 8 from ISH2 at this Deadline. Confirmation was sought from the ExA as to whether Buckinghamshire Council is included in current Education and Training Strategies associated with London Luton Airport. To the best of our knowledge, Buckinghamshire Council is not currently included in such strategies.</p>	<p>The Applicant notes that Buckinghamshire Council is not currently included in existing employment and training strategies.</p> <p>However, the proposed Employment Training Strategy (ETS) [APP-215] does include Buckinghamshire Council within its study area and the Applicant will continue to engage with the Council in the implementation of the proposed ETS.</p>
Friends of Wigmore Park [REP4-170]			
20	Planning	<p>Further to our previous comments, we have recently discovered that the applicant seeks all land within the DCO boundary to be declared Airport Operational Land. This means the land would be subject to permitted development rights not only in the Borough of Luton, including Wigmore Park but also extending into green field sites in Hertfordshire that are owned by Luton Rising up to the former Fox Public House at Darley Heights.</p> <p>Our understanding is that if granted, this land could be developed without a planning application being submitted with only consultations taking place. This could have major future consequences to issues that have not been considered by the inspectors and that local planning authorities could not block.</p> <p>We would request that the inspectors reject this proposal and instead ask the applicant to define a new Airport Operational Land Boundary if they approve the DCO. This should exclude Wigmore Park, New Horizons Business Park and all green field and brown field sites that have not been directly identified as being required for airport expansion.</p>	<p>It is not correct to say that the Applicant is seeking to have all of the land within the DCO boundary declared as operational land which would therefore have the benefit of permitted development rights under the Town and Country Planning (General Permitted Development Order) 2015.</p> <p>The area that is currently operational land is land that is part of the existing airport boundary and has been included in the Order limits so that it is subject to, and continues to benefit from its status as part of the operational airport, and the increased capacity in passenger numbers authorised by the DCO, i.e. these areas align with the land currently subject to the 18 mppa planning consent.</p> <p>This land remains within the Order limits as the entire airport needs to receive the benefit of development consent to construct, operate and maintain the authorised development.</p> <p>The area of the Proposed Development that is designated as operational land is shown on the Airport Boundary Plan [AS-022].</p>
Peter White [REP4-202]			
21	Funding & Planning	<p>I have grave concerns as to the financing of the acquisition of the land required for this DCO, in particular Wigmore Valley Park (WVP). Currently the applicant, Luton Rising (LR) only licenses this land from the owner Luton</p>	<p>Subject to gaining development consent, the Applicant will seek either a very long leasehold or freehold interest in Wigmore Valley Park from Luton Borough Council, that land transaction would be funded in the same way as all other land</p>

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		<p>Borough Council. How will LR finance the actual change of arrangement from licence to ownership of WVP?</p> <p>When LR purchased the agricultural land to the East of WVP, for their planned new park, it did so from airport concession fee income collected for 2014/15. This purchase resulted in LR only paying a dividend that year of £1.25 million for LBC public services. This was of course all done with LBC approval.</p> <p>Is LR planning to take the same funding route for the licensing/ownership of WVP?</p> <p>This could mean another drastic reduction in dividends paid for a single year/over a number of years, therefore increasing pressure LBC to maintain funding for essential services?</p> <p>As WVP is currently only licenced to LR, is it permissible under English and Welsh Planning Law, to permit construction on the site, without it actually being purchased outright?</p> <p>I believe that it is a requirement of LBC Planning Regulations that any licenced land should be returned to its original state at the end of that licence? How can WVP be returned to parkland with an airport on it?</p> <p>The disposal by sale, or licence, of WVP should be advertised so other interested parties can bid. What those other bidders are prepared to offer, and the offer from LR, will not be made public, as LBC will class it as commercially sensitive.</p> <p>How will the public be advised of the licence/sale price of WVP, before the deal is secured?</p> <p>Will all potential external bidders for WVP be afforded the same licensing option as the applicant LR?</p> <p>I attended my quarterly local "Let's Meet" Ward meeting for East Luton held on the 19th October 2023, where the CEO of LR spoke on the DCO. In reply to a question of how Phase 1 will be financed, he stated the preferred option would be to go to LBC to seek loans through them from the Public Works Loans Board, as they are at much less interest rates than the commercial markets, and then to go to those commercial markets as Option 2, if LBC refuse that request.</p> <p>LBC also prefer this option as it adds a premium interest rate to loans, and therefore can spin the notion that such a deal is therefore the best option for local service budgets.</p> <p>This implies to me that the finance options listed in the DCO have been altered. The preferred option in the DCO was that the airport operator would fund it. The original Concession Agreement from 1998 clearly states that the</p>	<p>and property transactions required to deliver the Proposed Development, as set out in the Funding Statement submitted at deadline 5.</p> <p>The land acquired by the Applicant east of the airport and east of Wigmore Valley Park was funded through a loan for that purpose and had no effect on dividends paid to Luton Borough Council in that year or any other year.</p> <p>At the relevant time, the Applicant will seek to acquire land by agreement, including the acquisition of an interest in Wigmore Valley Park. As part of that process Luton Borough Council will follow well established practice for disposal of this land at its market value in accordance with all relevant laws and regulations, including appropriate publication of the proposed disposal, and including matters relevant to the land's status as an Asset of Community Value.</p> <p>Notwithstanding any of the above the Applicant is seeking powers of compulsory acquisition of the land to provide the required certainty that the land will be available to the Applicant to deliver the Proposed Development should consent be granted, regardless of other interests in the land at the time.</p>

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		<p>operator would fund all developments, to protect LBC/LR from the financial risks.</p> <p>The second option in the DCO is for a joint venture between that operator and LR, the third solely for LR to fund the development.</p> <p>With these options in mind, I would therefore hope to find full disclosure as to why the first two options have been scoped out, in the updated financial responses requested of LR by the ExA?</p> <p>As borrowing via LBC appears to now be the preferred option, it shows to me that any licence/sale of WVP will be for the lowest possible peppercorn amount, to protect LR reserves?</p> <p>Any other bidders for the licence of WVP will have to make a market valuation. LR will have an advantage however, as the Councillors who sit on their Board, will now what external offers have been made, and can then bid accordingly.</p> <p>How can that be judged a fair bidding contest?</p> <p>It is the duty of any Local Authority to get best price for any public land it disposes of, I have doubts that this will be achieved in this instance?</p> <p>I would also question whether allowing LBC to sell public land to its own company could open up a worrying precedent going forward in English and Welsh Planning Law?</p> <p>Most Local Authorities have house building arms, could passing this application lead to those Authorities being able to sell public open space to themselves at far less than market value?</p> <p>When a Local Authority uses the powers in Section 123(1) of the Local Government Act 1972 to dispose of land, Section 123(2A) requires the authority to advertise the intended disposal in the local press, and to consider any objections that are made before taking a decision to proceed. The Authority should give genuine consideration to all objections and be able to demonstrate that it has considered those objections with an open mind to avoid the possibility of a legal challenge.</p> <p>How can LBC consider objections to the sale of WVP with an open mind, when their only policy is to develop that site, as the only one suitable for airport expansion?</p> <p>As you are well aware, the Board of LR are all serving Councillors, predominantly from the controlling Labour Group. Whilst they could not vote in Full Council on the sale of WVP, that fact is irrelevant as their votes would not be required to pass the vote, and Party Policy will prevail?</p>	

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		<p>I bring these points to the ExA, as I believe that it shows that the the finance required to deliver this DCO, and the way it is intended to be achieved, severely outbalance any potential future financial gains to the town of Luton. The outlay will be cold hard cash, which will need to be repaid, whilst the financial benefits are purely speculative. They are based on forecast demands actually arising, and the interest repayment rates on the loans required staying within the current levels, and construction costs being stable, none of which is guaranteed.</p> <p>If a commercial entity undertook such developments, they would include definitive trigger points to see if the rewards continue to outweigh the risks?</p>	
22	LLAOL & AQ Monitoring	<p>Airport operator's attitude to air quality monitoring.</p> <p>I appreciate that the airport operator, London Luton Airport Operations Ltd, is not the applicant, but they potentially will be if the DCO is granted, and they undertake Green Controlled Growth.</p> <p>In October 2023 they replaced the 1970's lamp posts along Percival Way. This post is opposite Hanger 61, the building in the background is Halcyon House. This post held an air quality monitor, which was approximately eight foot from the ground. As you can see from this picture, it is now considerably further up the post.</p> <p>I bring this to the ExA's attention, to show that despite all the assurances on air quality monitoring within the GCG aspects of the DCO, the simplest of tasks in checking that current monitors are in the required positions, seems to have been ignored?</p>	<p>2023 monitoring results have no implication on the air quality assessment included in the Chapter 7 of the ES [AS-076].</p> <p>The air quality monitoring undertaken as part of the GCG framework would be reviewed by the Environmental Scrutiny Group (ESG), an independent body tasked with overseeing the GCG framework, which would assure that monitoring will be undertaken follow appropriate guidance and methods. Also, should any changes or revisions be required to the monitoring, this would need to be agreed with the ESG.</p>
Ron Taylor [REP4-205]			
23	Surface Access	<p>The recent car park fire and partial building collapse (Oct 11) and subsequent surface traffic chaos demonstrates the traveller inconvenience and stress endured, plus the overall inadequate plans for further expansion of London Luton Airport. The single road access from the A1081 to and from Terminal 1 with no alternative option to reroute traffic highlights the problem at current passenger levels, never mind the proposed increase to 19mppa. Similarly the DART link has been closed due to its location within the car park complex, making the Thameslink rail connection depended on bussing which has to use the same single road access to and from Terminal 1. The most obvious way to visualise these problems is to visit the site now OR view the attached 3 pages of maps and photographs. The road maps taken from the Airport documentation show clearly the lack of space in what is a small footprint of land for such a major expansion.</p>	<p>Access routes to support the growth of the Airport have been considered as part of the Transport Assessment [APP-203, AS-123, APP-205 to APP-206] which includes proposals for the Airport Access Road (AAR) to improve access to the airport terminal facilities. The AAR provides substantial additional infrastructure and in conjunction with the wider off-site highway mitigation measures provides the capacity to meet both the needs of a larger Airport address existing constraints. Section 10 of the Transport Assessment [APP-203, AS-123, APP-205 to APP-206] shows how capacity and operation of the highway network in conjunction with the Proposed Development.</p>
Network Rail Infrastructure Limited [REP4-200]			
24	Surface Access	<p>1.5 The proposals may also indirectly impact Network Rail infrastructure, such as bridges, level crossings and drainage. In addition, the DCO if granted will provide consent to increase the capacity of the airport to 32 million passengers per annum. This is a considerable increase, especially if Luton</p>	<p>With regards to rail capacity please see the Applicants response to OFH Action 20 – Rail Capacity Report [TR020001/APP/8.121] to be submitted at Deadline 5.</p>

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		<p>Rising's assumption that 45% of the journeys to the airport will be made by public transport by 2039¹ is correct.</p> <p>The proposals are therefore likely to also impact the capacity at Luton Airport Parkway station (the extent yet to be determined).</p>	
25	Land and Compulsory Acquisition	<p>1.7 Network Rail objects to any compulsory acquisition of rights over operational railway land and its assets or extinguishment of the rights held by Network Rail over operation railway land or any of its assets.</p> <p>Network Rail also objects to the seeking of powers to carry out works in the vicinity of the operational railway without first securing appropriate protections for Network Rail's statutory undertaking.</p>	<p>The position of the Interested Party is understood and the Applicant is working to reach agreement that addresses the particular requirements of Network Rail, as a statutory undertaker which will enable the Applicant to deliver the Proposed Development.</p> <p>Negotiations are continuing with the aim of having an agreement in place prior to the close of the Examination.</p>
26	Protective Provision	<p>1.9 Luton Rising Limited are yet to provide their comments on Network Rail's protective provision or include Network Rail's protective provisions on the face of the order. To ensure the safe and efficient operation of the railway network, it is essential that the development proceeds in consultation and agreement with Network Rail and that the form of the protective provisions annexed to these written representations is included in the final form of the Order, with any amendments to the protective provisions set out in a framework agreement which is to be agreed between the Luton Rising and Network Rail.</p>	<p>The Applicant confirms that it is in receipt of Network Rail's standard form of protective provisions, which the Applicant received on Tuesday 7 November 2023. The Applicant has subsequently been reviewing the protective provisions but as these were received after Examination Deadline 4 the Applicant could not have provided comments on these prior to this deadline. The Applicant has carried out a plot analysis of Network Rail's interests and has provided Network Rail with these comments. The Applicant has been engaging with Network Rail and is awaiting Network Rail's confirmation for a meeting to review the plot analysis and discuss the proposed protective provisions.</p>
27	Draft DCO	<p>4. Powers sought by Luton Rising and the impact on Network Rail</p> <p>4.1 The draft Order seeks powers (as defined in the Book of Reference) to:</p> <ul style="list-style-type: none"> a) acquire temporary possession of plots 1-15,1-21 and 1-26 for offsite highway works; b) acquire temporary possession of plots 1-27, 1-31,1-32,1-33,1-34 for Airport support facilities including the construction of a multi storey car park and surface car park; c) acquire permanently plots 1-22, 1-25, 1-25a, 1-36,1-38, 1-42, 1-44,1-47; d) acquire permanent rights over plot 1-41 to maintain the private road beneath the railway bridge; and e) extinguish any existing rights belonging to Network Rail. <p>4.2 Network Rail does not consider that the scope of those rights is acceptable. The precise impact of the works on railway line and assets is being assessed and the carrying out of any works is subject to the clearance process as explained above. Even if the impact of the physical works is considered acceptable, the rights sought are very wide-ranging and exercisable over the entirety of several plots.</p> <p>4.3 Network Rail considers that the Secretary of State, in applying section 127 of the Planning Act 2008, cannot conclude that the use of compulsory powers sought under the DOC would not cause serious detriment to the carrying on of Network Rail's undertaking, nor can any detriment to the carrying on of the undertaking, in consequence of the acquisition of the land, rights or use of</p>	<p>The Applicant has carried out a plot analysis of Network Rail's interests (as defined in the Book of Reference) and have provided Network Rail with these comments. As communicated to Network Rail, at this stage the Applicant deems the impact of the Proposed Development on Network Rail's operational land to be minimal. The Applicant is, however, keen to discuss and resolve matters with Network Rail. The Applicant has been engaging with Network Rail and is awaiting Network Rail's confirmation for a meeting to review the plot analysis and discuss the proposed protective provisions.</p>


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		land, be made good by the use of other land belonging to, or available for acquisition by, Network Rail.	
28	Protective Provisions	<p>5. Protective Provisions</p> <p>5.1 Network Rail engaged with Luton Rising Limited prior to submission of the Order regarding Network Rail's required form of protective provisions. In order to properly protect its undertaking Network Rail requires the form of protective provisions at Annex A to this document to be included in the final form of the Order.</p>	The Applicant confirms that it is in receipt of Network Rail's standard form of protective provisions which the Applicant received on Tuesday 7 November 2023. The Applicant has subsequently been reviewing the protective provisions. The Applicant has carried out a plot analysis of Network Rail's interests and has provided Network Rail with these comments. The Applicant has been engaging with Network Rail and is awaiting Network Rail's confirmation for a meeting to review the plot analysis and discuss the proposed protective provisions
Agnieszka Streciwilk [REP4-109]			
29	Air Quality	Adding to that the windows are covered with the " air pollution " coming from airplanes mostly. I have not even mentioned about the car pollution which is going to be even worse. Most recently we all were affected just because there was a fire on one of the storage car park at the London Luton Airport. Horrible air pollution. Who knows what else might happens in the future. Me and my family future health and well being is my priority. This is why my question is what kind of compensation are you expected to provide to individuals? This is long lasting project and it will have huge impact on me and my family health and well being. I am waiting for a sensible response.	With regards to emissions from aircraft and road vehicles, these have been accounted for in the air quality assessment in Chapter 7 of the ES [AS-076] , which the applicant considers to be a robust assessment, which has been undertaken in line with methodology and appropriate national legislation, in agreement with local planning authorities and technical working groups. No significant impacts are predicted to occur and no impact to compliance is predicted. The Green Controlled Growth framework also places controls on air quality. Therefore, there is no compensation proposed for air quality.
Buckinghamshire Council (Comments on further Deadline 3 Submissions) [REP4-114]			
30	Green Controlled Growth / Noise	<p>REP3-015/REP3-016: 7.07 Green Controlled Growth Explanatory Note (clean and Tracked Change versions)</p> <p>This submission has been reviewed. The Council sets out a number of comments, cross-referenced to the paragraphs within REP3-016.</p> <p>Paragraph 3.2.6 and 3.2.10: The Council supports the concept of linking the Noise Action Plan (NAP) with Green Controlled Growth (GCG) but only on the basis that hard targets become part of GCG. However, it is suggested that the five-year review cycle is overly long to correct any emerging deviation from GCG thresholds and levels. The Council would prefer to see an annual review of thresholds and levels.</p> <p>Paragraph 3.2.14: The Applicant should not confuse the purpose of a Noise Action Plan (NAP) and Noise Envelope (NE). The former is aspirational whilst the latter is intended to be regulatory. Whilst convenient for the Applicant to synchronise the process of GCG review cycles with the 5-year NAP cycle, the Council asserts there is no necessity to do so.</p> <p>Paragraph 3.2.29: Given the five-year cycle (above) the Council is not clear how the International Civil Aviation Organization (ICAO) publishing a new 'noise chapter' or the approval of an Airspace Change Proposal would become part of such a ridged and slow review process. The Applicant should clarify this.</p> <p>Paragraph 3.2.3: In a meeting with the Council, the Applicant stated that "the noise envelope design group had clarified regarding NEDG that the group was instigated to develop the noise envelope for the DCO which it has done. The work of the NEDG in terms of this application is complete. Regarding future airspace change, if the noise envelope needs to be reviewed then the NEDG may reconvene, but it shouldn't be presumed that membership of the NEDG</p>	<p>Paragraph 3.2.6 and 3.2.10 of Green Controlled Growth Explanatory Note [REP4-023] - The Limits and Thresholds in Green Controlled Growth are 'hard targets'.</p> <p>The Applicant considers that the issue raised regarding the review cycle was answered within Applicant's response to Deadline 3 Submissions - Appendix I Buckinghamshire Council [REP4-104], page 5.</p> <p>The Applicant understands the difference between the Noise Envelope and the Noise Action Plan. The benefit and reasoning for aligning the timelines between the two processes is outlined in the quoted paragraphs.</p> <p>Paragraph 3.2.29 states "<i>the airport operator will also update forecasts when there is a change in circumstances that could affect the aircraft noise experienced by the communities around the airport.</i>" This means the forecast updates and subsequent Noise Limit Review would happen at the time of the change in circumstance, rather than at the end of the five-year cycle. It is therefore not agreed that it is a rigid and slow process.</p> <p>The Applicant considers that the issue raised regarding the completed role of the Noise Envelope Design Group was answered within Applicant's Comments on Local Impact Reports (Buckinghamshire Council) [REP2A-004], page 28-29.</p>

I.D.	Topic	Deadline 4 submission (Verbatim)	Luton Rising's Response
		will necessarily be the same going forward." The Council is of the opinion that the Applicant should not present the NEDG as if it still existed.	
31	Green Controlled Growth	<p>REP3-017/REP3-018: 7.08 Green Controlled Growth Framework (clean and Tracked Changes versions)</p> <p>This submission has been reviewed. The Council sets out three principal comments, cross-referenced to the paragraphs within REP3-018.</p> <p>Para 2.3.1: This should explicitly also refer to the NE. 2.13.3.</p> <p>Para 3.1.1: Although recognising the similarities, the Council would like to see the NE as a discrete part of GCG. 2.13.4.</p> <p>Para 3.3.2 and 3.3.5: Although the Council welcomes the triggering of a review in the event of Airspace Change or a new ICAO aircraft chapter, the Council asks that the noise limit review be annual.</p>	<p>Paragraph 2.3.1 of Green Controlled Growth Framework [REP3-018] – this paragraph refers to the entire Green Controlled Growth Framework within which the Noise Envelope is embedded. It is therefore not necessary to explicitly refer to the Noise Envelope.</p> <p>Paragraph 3.1.1 – the reasoning for including the Noise Envelope as a discrete part of Green Controlled Growth is set out in Annex B of Appendix 16.2 of the Environmental Statement [REP4-023].</p> <p>Paragraph 3.3.2 and 3.35 – see responses above relating to similar points raised under paragraph 3.2.6, 3.2.10 and 3.2.29 of Green Controlled Growth Explanatory Note [REP4-023].</p>
32	Green Controlled Growth	<p>REP3-019/REP3-020: 7.08 Green Controlled Growth Framework Appendix A – Draft ESG Terms of Reference (clean and Tracked Change version)</p> <p>The Council welcomes the introduction of an airline slot expert to the ESG. There is likely to be a tension between increased daytime slot allocation, which under GCG can grow relatively freely in the early phases, and night slot allocation which is more tightly controlled by a movement cap. The number of late running aircraft is likely to increase if the transition between night and day does not have sufficient contingency. The expert should ease this tension. The change does not fulfil the Council's request to be part of the ESG and Noise Technical Panel in particular.</p>	<p>The support for an airline slot expert as part of the ESG is noted.</p> <p>The Applicant considers that the issue raised regarding membership of the ESG and Technical Panels was answered within the Applicant's Response to Relevant Representations Part 2A [REP1-021] pages 298-300, in response to RR-0166.</p> <p>Notwithstanding, the Applicant acknowledges the concerns raised by Buckinghamshire Council regarding their inclusion in the Noise Technical Panel in the response to potential changes to the shape of the noise contours in future years.</p> <p>As such the Applicant has made amendments to the Green Controlled Growth Framework Appendix B - Draft Technical Panels Terms of Reference [TR020001/APP/7.08]. Section B4.10 has been amended to include a review process of the membership of the Noise Technical Panel aligned with the periodic review of noise forecasts every five years, to reflect the potential for changes to the shape of noise contours in future years, for example in response to future airspace change proposals.</p> <p>The criteria for determining the appropriate membership of the Technical Panel would remain the same as part of any review.</p>
33	Green Controlled Growth	<p>REP3-023/REP3-024: 7.08 Green Controlled Growth Framework Appendix C – Aircraft Noise Monitoring Plan (Clean Version and Tracked Change Version)</p> <p>This submission has been reviewed. The Council sets out a number of comments, cross-referenced to the paragraphs within REP3-024.</p> <p>Paragraph C2.1.2: The Council finds this paragraph confusing. As above (REP3-016) the Applicant should not conflate the NAP and NE, although there are overlaps.</p> <p>Paragraph C3.1.1: The Council understands the reason for the introduction of quota counts into the Aircraft Noise Monitoring Plan but would resist them becoming the default measurement. This is because nighttime air traffic</p>	<p>Paragraph C2.1.2 of the Aircraft Noise Monitoring Plan [TR020001/APP/7.08] – see response above at ID 30.</p> <p>Paragraph C3.1.1 – Quota Counts are not the default measurement and are an additional indicator used for forward planning of airport operations. The compliance with the Noise Envelope Limits and Thresholds is determined based on noise contour areas as explained in Section C4.1.</p> <p>C4.1.3 – the Aircraft Noise Monitoring Plan [TR020001/APP/7.08] has been updated at Deadline 5 to include a comprehensive list of monitoring requirements, securing the continuation of the airport operator's historic</p>

I.D.	Topic	Deadline 4 submission (Verbatim)	Luton Rising's Response
		<p>movements can be removed from the quota count as outside of the airport's control, but contours based on actual flights flown are not as flexible.</p> <p>Paragraph C4.1.3: For the purposes of monitoring, not necessarily enforcement, the Council would like dispensed movements left in the contour calculations. Two versions could be provided, to illustrate the difference when dispensed movements are taken into account. This would provide the ESG with the means to check dispensed movement trends. 2.16.5.</p> <p>Paragraph C4.2.3: The Council asks for a permanent noise monitor in the Ivinghoe area. This is justified on the grounds that it would provide good data for monitoring the edge of the Applicant's LOAEL contours where they are close to Buckinghamshire.</p> <p>Paragraph C5.1.1 a.: This commitment suggests that the Applicant will produce both annual and five-year forward plans. On this basis it is suggested that thresholds and levels be reviewed annually and the five year forward plan updated on a rolling annual program and presented to the ESG. It is the Applicant's stated intent to share the benefits of quieter aircraft with the community. A more frequent review of performance and reduction of thresholds and levels, as far as reasonably practicable, is key to achieving this shared benefit. The five-year cycle masks changes, both adverse and beneficial – an annual review would provide the means to address this matter.</p>	<p>reporting of detailed aircraft movement and noise information in quarterly and annual monitoring reports, as well as extending the reporting requirements to cover additional reporting as recommended by the Noise Envelope Design Group. The Applicant considers the list of reporting requirements to be comprehensive and provide sufficient information for the Noise Technical Panel and Environmental Scrutiny Group to fulfil their roles.</p> <p>C4.2.3 – the process for identifying locations of new permanent noise monitors has been clarified in an update to the Aircraft Noise Monitoring Plan [TR020001/APP/7.08].</p> <p>C5.1.1a - see responses above relating to similar points raised under paragraph 3.2.6, 3.2.10 and 3.2.29 of Green Controlled Growth Explanatory Note [REP4-023] at ID 30.</p>
34	Health And Community	<p>REP3-039/REP3-040: 8.22 Statement of Commonality for Statements of Common Ground (clean version and Tracked Change version)</p> <p>This document has been reviewed. The Council notes that the Applicant references an updated SoCG submitted at Deadline 3 to reflect further engagement with the Interested Party (the Council), with engagement to continue ahead of Deadline 6 (page 4). The Council agrees with this as an accurate statement.</p> <p>The Council is not in agreement with the Applicant's expression of areas of commonality between the two parties. Specifically, the Council's concerns regarding health and community matters; and cumulative effects, should be reflected in the document, including through an amendment to Table 3.1.</p>	<p>The Statement of Commonality [REP3-039] submitted at Deadline 3 reflected the topics included in the SoCG at this time, which did not include health and community or cumulative effects. Buckinghamshire Council (BC) reviewed and approved the Deadline 3 iteration of the SoCG.</p> <p>Since Deadline 3, the SoCG has been updated to reflect BC's latest position, which includes matters related to health and community and cumulative effects. An updated Statement of Commonality and SoCG will be submitted at Deadline 6 which will reflect the additional matters added to the BC SoCG.</p>
35	Surface Access	<p>REP3-048: 8.47 Applicant's Post Hearing Submission – Issue Specific Hearing 1 (ISH1)</p> <p>This submission has been reviewed. The Council notes the Applicant's statement in relation to the membership of the ESG, however, this does not satisfy the Council's concerns raised in its previous submissions.</p> <p>The Council maintains its stance that given the uncertainty surrounding the validation of the traffic modelling in the Buckinghamshire Council area and the likelihood for airspace change, as a result of the increase in passenger numbers, the Applicant cannot rule out the scale of environmental impacts experienced by the Council increasing. On this basis the Council would reiterate its request that it be included in the ESG membership moving forward.</p>	<p>The Applicant considers that the issue raised regarding membership of the ESG and Technical Panels was answered within the Applicant's Response to Relevant Representations Part 2A [REP1-021] pages 298-300, in response to RR-0166.</p>
36	Employment, Training and Skills	<p>REP3-049: 8.48 Applicant's Post Hearing Submission – Issue Specific Hearing 2 (ISH2)</p> <p>The Council recognises the importance of the scrutiny of Employment and Training Strategies pertaining to earlier planning permissions. The Council agrees that the impact of previous strategies on the quantity and quality of job</p>	<p>The Employment and Training Strategy [APP-215] outlines the existing baseline context of the study area outlined within the proposed ETS, this includes wider socio-economic context relating to wage levels and sets out initiatives to ensure that jobs delivered through airport will provide good wages (Goal 4).</p>

I.D.	Topic	Deadline 4 submission (Verbatim)	Luton Rising's Response
		<p>opportunities as well as the impact on wage levels and deprivation should be considered when shaping the detail of the new Employment and Training Strategy (ETS) (APP-215).</p> <p>The involvement of the Council in earlier Employment and Training Strategies developed in relation to London Luton Airport was questioned. Any previous involvement would appear to be limited. As Buckinghamshire is one of the areas covered by the proposed new ETS (APP-215), the Council would emphasise the importance of its involvement moving forward. The Council's input is considered essential to ensure that potential employment benefits are realised, in accordance with the embedded aims of the ETS in terms of supporting communities within the study area.</p> <p>With reference to point 3.4.5, the Council sought assurance on the methods by which the ETS (APP-215) and the Local Economic Development Working Group (LEDWG) referenced with this, would be secured. The Council maintains the view that the ETS, and the Council's involvement in the Local Economic Development Working Group, are key to efforts to maximise the local economic benefits.</p> <p>With reference to points 4.3.17 and 4.3.18 (REP3-049) and the Community First Fund, the Council welcomes the consideration to be given to the inclusion of four additional wards in Buckinghamshire. Further information on the wards and extent of deprivation have been provided to the Applicant subsequent to Issue Specific Hearing 1.</p>	<p>The Applicant acknowledges the ambition to provide good quality jobs and will endeavour to support employment generation in the local area, however it cannot solely solve the overall deprivation and wage levels within the study area as these are influenced by wider macro-economic factors which are outside of the control of the Airport Operations.</p> <p>Buckinghamshire County Council has been part of the engagement process to date and will continue to be engaged with through the Local Economic Development Working Group whilst the proposed Employment Training Strategy [APP-215] is being implemented to ensure inputs from the council continue to be considered.</p> <p>The proposed Employment Training Strategy [APP-215] is proposed to be secured through a S106 agreement and will ensure that initiatives outlined in the ETS are delivered. The ETS is being secured through a section 106 agreement rather than by a DCO requirement to enable greater flexibility for the terms of the ETS to be amended at a later date. The process for making an amendment to an obligation secured by section 106 is quicker than the process for amending a DCO requirement. The Applicant is keen to retain this flexibility.</p>
37	Surface Access	<p>REP3-051: 8.50 Applicant's Post Hearing Submission – Issue Specific Hearing 4 (ISH4)</p> <p>The Council remains concerned that the Applicant refers to engagement with relevant authorities with respect to the transport modelling, (para 4.1.2) however engagement with Buckinghamshire has been limited. The Council considers that it is a relevant authority, as it is shown that development traffic shall use its network for western approaches. The Council remains committed to working with the Applicant with regards to the strategic modelling and determination of its suitability for use within the Buckinghamshire area.</p> <p>It is brought to the attention of the ExA that the Applicant has not approached Buckinghamshire Council for additional data for the purposes of updating the strategic modelling.</p> <p>The Council notes that the Applicant states that it is working collaboratively regarding the Applicant's response to Written Representations – Part 2 (REP2035). However, the Council brings to the attention of the ExA that the Applicant has not sought to engage with the Council since the Issue Specific Hearing – this raises a concern that progress is slowing, and that the ability to resolve the issues raised by the Council may be subsequently reduced.</p> <p>The Council currently maintains its position that the traffic model used by the Applicant has not been adequately validated within the Buckinghamshire area. The Council therefore holds a contrary position to the Applicant, and this is reflected within the SoCG progression between the Applicant and the Council.</p> <p>The Council considers the provision of the updated trip distribution diagrams to be critical to its ability to progress the position regarding the direct and indirect traffic impacts within Buckinghamshire. It is noted that the diagrams</p>	<p>The engagement with local highway authorities is based on the trip distribution of airport traffic, which mainly impacts the networks of Central Bedfordshire, Hertfordshire and Luton, hence engaging with these authorities, plus National Highways.</p> <p>The base year strategic transport model is not being updated.</p> <p>The future year strategic transport model runs have, however, been updated to take account of latest land use development and transport infrastructure uncertainty log assumptions, as well as the DfT's latest traffic growth projections contained in the National Trip End Model version 8 and National Road Traffic Projections 2022. As part of the update and the Rule 9 'accounting for Covid-19 in transport modelling' work, a new run has been undertaken for the year 2023 to compare the model forecasts with 2023 traffic counts. Traffic count data has been collated from local highway authorities within the areas mainly impacted by the proposed airport expansion, and the Applicant has therefore not approached Buckinghamshire Council in this regard.</p> <p>The Applicant has arranged to meet with Buckinghamshire Council on 15 November 2023.</p> <p>The Applicant maintains the view that the development of the strategic transport model and its base year validation is suitable for assessing the proposed expansion of the airport, based on the trip distribution of airport trips.</p> <p>The Strategic Modelling Forecasting Report (7.02 Transport Assessment Appendices – Part 2 of 3, Appendix F Strategic Modelling Forecasting)</p>

I.D.	Topic	Deadline 4 submission (Verbatim)	Luton Rising's Response
		<p>produced to date are not 24 hour profiles and do not demonstrate the development peak traffic. The Council therefore continues to seek greater detail from these plots in showing the numbers of trips on the network, as well as greater clarity over the times of day when these trips are being made.</p> <p>It is noted that the Council has now been invited to become members of the ATF – this is welcome and the Council has proposed suitable officers to represent the Council on that body.</p> <p>The Council remains concerned that Applicant has not, as yet, addressed the 'funding lag' apparent for the Sustainable Transport Fund (STF). The Council requires additional detail from the Applicant, to demonstrate that the value of the STF will be sufficient to provide the services required.</p> <p>The Council will respond to comments to be submitted regarding bus route 61 once the Applicant has submitted its update.</p>	<p>Report [APP-201] provides significant detail of the forecast impacts of the airport expansion. The report provides detail of daily and peak hour traffic across the modelled network. For the updated modelling, please refer to TN2 Risk Assessment (8.109 Applicant's Response to Issue Specific Hearing 4 Action 2: Covid 19 Additional Modelling Technical Note 2 Risk Assessment [REP4-106]).</p> <p>An update on the STF is submitted at Deadline 5, see Applicant's Response to Issue Specific Hearing 4, Action 26 - Sustainable Transport Fund [TR020001/APP/8.119].</p>
38	Surface Access	<p>REP3-074: 8.59 Applicant's Response to Supplementary Agenda Additional Questions – Issue Specific Hearing 4 (ISH4)</p> <p>This submission has been reviewed – Buckinghamshire Council is concerned that the Applicant's response to ISH4.SA.03. relies on type 2 mitigation within the TRIMMA. This provides no certainty of ability to deliver mitigation and places the burden of proof upon the local authorities once the development has been consented to prove that there is an unmitigated impact. The Council has raised concerns within the ISH 4 session that the level of funding and provisions within the TRIMMA are not sufficient to be able to address the impacts of the development, particularly if there are numerous locations where impacts are identified by multiple authorities. It should not be the case that multiple authorities compete for a limited funding provision to mitigate impacts from a development. The development should fully identify and mitigate its impacts - if this is to be done through the TRIMMA process, the funding should be secured to ensure that this will be achieved.</p>	<p>The Applicant's response to ISH4.SA.03 relates to the potential delivery of traffic calming schemes in Hertfordshire. The Applicant maintains that the proposed delivery mechanism (Mitigation Type 2, as defined in the OTRIMMA) is appropriate because such mitigation has not yet been identified as necessary by either the Applicant or the relevant highway authority.</p> <p>The proposed delivery mechanism will allow for the mitigation to be delivered if it is deemed necessary, subject to the terms of reference which will govern the usage of the TRIMMA's Residual Impacts Fund. These terms of reference will be agreed by the ATF Steering Group governing this fund, of which Buckinghamshire County Council will be a member.</p>
39	Surface Access	<p>REP3-077: 8.64 ISH4 Action 2 Interim Response – Presentation of the Interim Findings of the Covid-19 Modelling Update</p> <p>The modelling hours are between 08:00 and 18:00 with AM and PM peaks, and the inter peak period. It is noted that the peak hours for flights are prior to the peak hour traffic, commencing at 07:00. The modelling analysis therefore covers the network peak hours, but does not cover the development peak traffic generation, which the Council would anticipate manifesting on the Buckinghamshire road network c. 2 – 3 hours prior to the flight peak. Given that this will be in the early hours of the morning when baseline noise levels are much lower, absence of trip information to allow suitable analysis of the traffic impacts at this time is a concern to the Council.</p> <p>The trends shown present lower vehicle movements on the local authority networks considered. It is noted that the Buckinghamshire network has not been considered, and the longer distance routing away from the Strategic Road Network has not been reviewed.</p> <p>The Council therefore has concerns that any reduction in the growth used will under-estimate the impact of the development across the long-distance commuting routes and consequently the impact on the Buckinghamshire network.</p>	<p>The modelled hours are when the combined airport and background traffic (non-airport) is greatest on the highway network, hence modelling the 08:00-09:00 AM peak and 17:00-18:00 PM peak hours, plus an average interpeak hour covering the 10:00-16:00 period. Traffic flows during the early hours of the morning have not been modelled, as the combined effect is much lower.</p> <p>For the updated modelling, please refer to TN2 Risk Assessment (8.109 Applicant's Response to Issue Specific Hearing 4 Action 2: Covid 19 Additional Modelling Technical Note 2 Risk Assessment [REP4-106]).</p>

I.D.	Topic	Deadline 4 submission (Verbatim)	Luton Rising's Response
Janet Ingham [REP4-178]			
40	Ecology	<p>Further additional evidence regarding submission made on 20.09.2023 - Orchids Updated map of orchids in Wigmore Valley Park provided by Richard and Geraldine Hogg, Official Recorders for the Bedfordshire Natural History Society and authors of the book Wild Orchids of Wigmore Park, Luton, Hogg 2018</p> 	<p>This is noted. This map shows orchid distribution over an 11-year period. The Applicant has provided the ExA with a further drawing that shows distribution of orchids recorded during fieldwork for the project [LLADCO-3C-ARP-00-00-DR-YE-0262, within Deadline 5 Submission – 8.68 Applicant's response to Written Questions – Biodiversity (Revision 1).</p>
National Highways [REP4-197]			
41	Surface Access	<p>National Highways remains concerned about a lack of SRN capacity and, in particular, the operation of the south-facing slip roads at M1 Junction 10, which are forecast to experience severe residual congestion following implementation of the Applicant's proposed mitigation works. Constructive discussions with the Applicant are ongoing and we are seeking to find pragmatic solutions involving appropriate conditions and a more rigorous monitoring regime so that where additional capacity is required it is secured for the benefit of the SRN. We are continuing to collaborate with the Applicant to resolve these issues and will provide a substantive update for Deadline 5, in advance of the planned Hearings at the end of November.</p>	<p>The Applicant continues to engage constructively with NH with respect to the impacts of the Proposed Development on the SRN.</p> <p>Whilst discussions are on-going, consideration should be given to the outcomes of the Rule 9 modelling which will take account of the updated assumptions with regard to:</p> <ul style="list-style-type: none"> • no capacity upgrade on the M1 mainline; • growth assumptions; and • application of growth in the VISSIM modelling taken from the strategic modelling. <p>Given that the work to date on the Rule 9 modelling has shown a reduction in the forecast demand, any consideration for the need for any further measures or</p>

I.D.	Topic	Deadline 4 submission (Verbatim)	Luton Rising's Response
			commitments beyond those already proposed should be cognisant of these updates.
42	Draft DCO	<p>1. <i>[Luton drafting]</i> Article 11(4) If a street authority which receives an application for consent under paragraph (3) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.</p> <p>Proposed NH Amendment: Delete Article 11(4)</p> <p><i>[NH Explanation]</i> This provision has not been widely used since 2016 and in recent Orders has not been included at all (The Sizewell C (Nuclear Generating Station) Order 2022). In Orders where it has been included since 2016, the timescale has been substantially more than 28 days. We request that the provision be deleted in its entirety, as the deeming of consent in such circumstances represents a significant risk to highway safety. Any works to streets must be subject to the approval of the Relevant Highway Authority once proper consideration has been given to the technical specification of works. This should not be rushed and there should not be an assumption because a deadline is missed that safety-critical works are satisfactory.</p>	<p>As a point of generality, the Applicant disagrees with NH's comment that a provision akin to article 11(4) has "not been widely used since 2016 and in recent Orders has not been included at all". See, for instance, the following made Orders which were indeed promoted by NH itself and contain a 28-day deemed consent provision:</p> <ul style="list-style-type: none"> - article 14(4) of the A428 Black Cat to Caxton Gibbet Development Consent Order 2022 (power to alter layout etc. of streets); - article 14(6) of the A57 Link Roads Development Consent Order 2022 (temporary alteration, diversion, prohibition and restriction of the use of streets); and - article 14(4) (power to alter layout etc. of streets) of the A47 Wansford to Sutton Development Consent Order 2023. <p>Turning specifically to NH's interests as a highway authority, these are protected by the protective provisions which were added to the Draft Development Consent Order at Deadline 4 [REP4-003]. See, in particular, paragraph 39 of Part 5 of Schedule 8 which contains bespoke approval processes for NH in respect of the strategic road network. This includes the exercise of article 11 and consequently it is considered that the protective provisions address NH's concerns.</p>
43	Draft DCO	<p>2. <i>[Luton drafting]</i> Article 15(2) If a street authority which receives an application for consent under paragraph (1) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.</p> <p>Proposed NH Amendment: If a street authority which receives an application for consent under paragraph (1) fails to notify the undertaker of its decision before the end of the period of 2856 days beginning with the date on which the application was made, it is deemed to have granted consent.</p> <p><i>[NH Explanation]</i> The Explanatory Memorandum references that this drafting is based on article 14 of The A63 (Castle Street Improvement, Hull) Development Consent Order 2020, article 12 of The M25 Junction 28 Development Consent Order 2022 and article 21 of The Sizewell C (Nuclear Generating Station) Order 2022. We would note that the deemed consent provision is not replicated in the A63 or M25 Orders. Whilst deemed consent is included in the Sizewell C Order, the relevant period is 56 days. NH consider this to be the standard period and ask that this is replicated in the Order.</p>	<p>See the answer to I.D. 58 above, which applies equally here – in the Deadline 5 version of the draft Development Consent Order, the Applicant has added article 15 to the list of provisions included in paragraph 39 of Part 5 of Schedule 8.</p> <p>For completeness, the Applicant notes that both the A63 and M25 Orders include deemed consent provisions in various articles. Furthermore, those Orders both contain an "access to works" provision with no right of approval for the street authority, so they are more flexible than the Applicant's DCO in this respect.</p>
44	Draft DCO	<p>3. <i>[Luton drafting]</i> Part 4 of Schedule 2</p> <p>Proposed NH Amendment: (1) No part of Work No. 6e may commence until a scheme providing for motorway signage and a maintenance bay necessitated by the proposed development for the M1 Junction 10 has been submitted to and approved in writing by the relevant planning authority in consultation with</p>	<p>The Applicant considers that such a requirement is unnecessary. It has already provided NH with details of how a maintenance bay can be accommodated, and current draft protective provisions give NH sufficient control to ensure that the relevant works can be provided. The protective provisions ensure that no development in, on, under or over the SRN may take place without prior approval by NH of the detailed design of those works (including traffic signs and</p>

I.D.	Topic	Deadline 4 submission (Verbatim)	Luton Rising's Response
		<p>the relevant highway authority; (2) The authorised development must be constructed in accordance with the signage and maintenance bay scheme approved under subparagraph (1); (3) The authorised development must not be operated unless and until the works provided for in the signage and maintenance bay scheme approved under subparagraph (1) have been commissioned and completed; (4) This requirement may be enforced by National Highways as if it was a relevant planning authority;</p> <p><i>[NH Explanation]</i> This is a proposed new requirement. To comply with NH safety standards, the signage and maintenance bay must be provided prior to commencement of Work No. 6e.</p>	<p>maintenance and repair strategy). Works must then be constructed in accordance with the approved detailed design and in accordance with DRMB standards and may not be opened for use until a final certificate has been issued by NH.</p>
45	Draft DCO	<p>4. <i>[Luton drafting]</i> Part 4 of Schedule 2</p> <p>Proposed NH Amendment: (1) No part of Work No. 6e may commence until: (a) a scheme of works is approved by the relevant highway authority for the proposed mitigation works to the south-facing slip roads; and (b) a scheme of reporting for airport capacity thresholds is approved by the relevant highway authority; (2) The authorised development must not exceed 21mppa until the scheme of works approved under sub-paragraph (1) have been commissioned and completed; (3) The mitigation works to the south-facing slip roads must be constructed in accordance with the scheme of works approved under sub-paragraph (1); (4) This requirement may be enforced by National Highways as if it was a relevant planning authority;</p> <p><i>[NH Explanation]</i> This is a proposed new requirement. NH considers that the point at which the traffic flows on the southbound slips exceed tolerances is likely to be around the 2027 design year, at which point the mitigation to the slips (still to be agreed) must have been provided in order to enable further growth at the airport.</p>	<p>The Applicant considers that such a requirement is unnecessary and inappropriate. The Transport Assessment demonstrates that even without any capacity upgrade on the M1 mainline the Proposed Development continues to mitigate its own impacts and provide benefits. Given that the work to date on the Rule 9 modelling has shown a likely reduction in the forecast demand the position may be slightly improved as compared to that modelling.</p> <p>The Transport Assessment also demonstrates that capacity issues on the M1 motorway corridor arise irrespective of the Proposed Development and are part of the future baseline rather than a result of the Proposed Development.</p> <p>The modelling approach adopted by the Transport Assessment was agreed with NH as part of the extensive scoping and modelling discussions that have taken place over a number of years.</p>
Friends of Wigmore Park [REP4-171] and Janet Ingham [REP4-177]			
46	Wigmore Valley Park and Open Space	<p><i>[Friends of Wigmore Park Bank Holiday Survey 2020]</i></p>	<p>The Applicant conducted open space quality assessments, user number and questionnaire surveys in 2019, following a method developed in consultation with Luton Borough Council. These surveys informed the assessment of Heath and Community effects reported in the Environmental Statement [AS-078] and are provided as Appendices 13.1 to 13.2 [APP-083 to APP-085]. Surveys were conducted over several days over the year before the pandemic and are considered to represent a robust baseline for the assessment. It should be noted that the facilities in the north of the part, such as the children's play area and skate park, are being replaced and enhanced as part of the extant Green Horizons Park planning permission and not altered by the DCO.</p>