



# Responses to Any Further Information at Deadline 4

Application by Luton Rising to extend London  
Luton Airport

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# 1 Introduction

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

## 2 2.01 Draft Development Consent Order (REP4-003)

Reference	Subject	Comment
Articles 2 and 44	Interaction with LLAOL planning permission and s106 agreements	<p>LBC welcomes the additional clarity brought by the amendments to the definition of “LLAOL planning permission” and the new definition for “LLAOL section 106 agreement”.</p> <p>The acceptability of abrogating the LLAOL section 106 agreement and the cessation of the LLAOL planning permission through the exercise of the power contained in article 44 will depend to a large extent on whether the regime that replaces it under the DCO and a new section 106 agreement are appropriate. In this regard, discussions relating to the section 106 development consent obligations, and conditions of earlier planning permissions that are to be carried over into the DCO, are at an early stage. LBC is continuing to work with the Applicant in this regard.</p> <p>While those discussions are ongoing one key aspect of the practical application of article 44 as currently drafted is that it would allow the undertaker the option of switching the DCO regime prior to exceeding the annual passenger limit under the Town and Country Planning Act 1990 planning permissions. Consequently, it is important that the requirements and development consent obligations for the Applicant’s proposal are fit for purpose for the full range of operating conditions for which the Applicant seeks development consent.</p> <p>LBC notes the amendment to article 44(1) such that the notice required by that provision is to be served on Luton Borough Council, rather than “relevant planning authority”. The amendment provides welcome clarity.</p>
Requirement 2	Amendments to approved details	LBC welcomes the addition of new sub-paragraph (5) that clarifies the information required to be included in an application to amend previously approved details.
Requirement 5	Detailed design, phasing and implementation	<p>LBC welcomes the new sub-paragraph (2) and corresponding amendments to sub-paragraph (3) which together provide greater detail as to what is required to be included in an application for detailed design approval.</p> <p>Despite this positive addition, which clarifies the parts of the authorised development for which detailed design approval is sought, nothing in this</p>

		<p>requirement would prevent partial discharge of requirements in relation to other aspects of the authorised development that are beyond the scope of an approval under requirement 5. Thus there remains the prospect of, for example, the undertaker seeking approval of the management plans under requirement 7 for one geographic area (i.e. a “part” of the authorised development) whilst approval is sought under requirement 5 another “part” of the authorised development. It is this fragmentation that risks imposing a greater administrative burden on LBC and consultees. This concern could be addressed by linking the parts of the authorised development for which approval is sought under requirement 5 to the parts of the authorised development for which approval is sought in relation to the other pre-commencement requirements contained in Part 2. The inclusion of the “scheme layout plans” is a helpful addition, but it is not clear on what is envisaged to be submitted in order to satisfy paragraph (2)(b)(ii) “plans identifying the location and extent of those works relative to the scheme layout plans.” Perhaps the Applicant could produce a worked example of this to illustrate how it envisages this working in practice.</p> <p>On a minor drafting point, LBC queries whether the reference to “paragraph 35 of Part 5 of this Schedule” contained in requirement 5(2)(e) ought instead be a reference to paragraph 36 (further information)?</p>
Requirements 27 and 28	Fixed plant noise management plan and ground noise management plan	LBC does not have any comments on the drafting of these requirements at this stage, but their acceptability hinges on the content of the fixed plant noise management plan and the outline ground noise monitoring plans respectively, in relation to which, please see subsequent comments in this document.
Requirements 34 and 35	Interpretation and applications made under requirement	The amendments related to discretionary consultees are, in general welcome. However, it is important to note that a local authority retains a general discretion in the exercise of its functions to consult and, in some circumstances (such as for example in relation to a “subsequent application” as defined in regulation 3 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017) the Applicant is required to consult more widely than the bodies listed in this definition.

		These provisions would be improved by making it clear that it is without limitation to the authority's capacity to consult such persons as it considers to be appropriate in the circumstances that pertain to the approval sought by the undertaker. Given the long-term nature of the Applicant's proposal, it would be inappropriate at this stage to limit the persons that may be consulted in relation to an application under requirement.
Requirement 36	Further information	The provisions of requirements 36(2) to (4) which prescribe the periods after the expiry of which the undertaker need not comply with a request for information are in any event unrealistically short affording a consultee only five working days to determine whether or not further information is necessary to determine an application. Without prejudice to that concern, the provisions of paragraph (4) ought to apply where the relevant planning authority has consulted another person on the application, whether or not that consultation is expressly required by the terms of the requirement in question, whether the relevant planning authority elects to consult a "discretionary consultee" or whether the relevant planning authority considers it to be appropriate in the circumstances to consult some other person.
Requirement 37	Register of requirements	LBC welcomes new requirement 37.

### 3 5.02 Appendix 16.02 Operational Noise Management (Explanatory Note)(REP4-023)

Reference	Subject	Comment
4.2.2 (p19)	Surface access monitoring	Minor updates have been made to ensure that surface access monitoring is sufficient to enable noise insulation criteria to be assessed for the small number of properties affected by significant changes in surface access noise.

### 4 5.02 Appendix 16.3 Fixed Plant Noise Management Plan (REP4-025)

Reference	Subject	Comment
2.2.1 (p2)	Fixed plan noise limits	The document has been updated to account for the acceptance of setting plant noise limits at 10 dB below background noise levels, as well as stating that noise

		surveys should be undertaken within 12 months of acceptance of the DCO scheme, to ensure background noise creep is minimised.
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## 5 Draft Compensation Policies, Measures and Community First (REP4-042)

Reference	Subject	Comment
6.1.23	Ground Noise Insulation Scheme	The update introduces a ground noise insulation scheme to apply to habitable rooms within the 55 dB LAeq,16hour contour and bedrooms within the 45 dB LAeq,8hour contour, with £4,500 per property available. This approach is welcomed.
8.1.7	Funding Community First	With the announcement of planning permission being granted for 19 mppa at Luton Airport, the Applicant has updated the Community First pot to start applying when 19 mppa is reached, rather than 18 mppa. This change could lead to a reduction of £1,000,000 from the total Community First pot (£13M rather than £14M) should the 19mppa permission be implemented ahead of the DCO (if the DCO were to be approved).

## 6 Applicant's Response to Deadline 4 Hearing Actions (REP4-070)

Reference	Subject	Comment
ISH1 – 10, (p10)	Green Horizon's Park	This has been addressed in the Applicant's document 'Response to Issue Specific Hearing 1 Action 10: Green Horizons Park and the Proposed Development' [REP4-073] and LBC continue to meet with the Applicant to discuss both the implementation of the Green Horizon Park planning permission (LBC ref: 17/02300/EIA) and also the interaction with the DCO (articles 44 and 45 and the proposed S106 agreement).
ISH1 – 20, 21, 24 and 26 (p14)	Green Controlled Growth	The response is provided in the table below addressing the Applicant's document 'Applicant's response to Issue Specific Hearing 1 Actions 20, 21, 24 and 26 and Issue Specific Hearing 3 Action 28: Green Controlled Growth – Transition Period and Slot Allocation Process' [REP4-072].
ISH3-1 (p20)	Proposed night time works	Suono have not had sufficient time to review the Applicant's 'Assessment of night-time construction noise' [REP4-080] in detail but note that it appears to set out a common-sense strategy for construction noise. This includes a hierarchical approach as to

		which hours outside of core working hours should be prioritised for permitting activity, through to when night-time working should be considered, as well as limiting areas of work during the night time to those at greatest distance or screened from noise-sensitive receptors.
ISH3-10 (p21)	Restriction on piling	This has been agreed with the Applicant.
ISH3-26 (p24)	Noise insulation delivery programme	The Applicant has responded to this issue in the document 'Issue Specific Hearing 3 Action 26: Noise Insulation Delivery Programme' [REP4-079], which sets out research undertaken by the Applicant into how to most effectively roll out their proposed Noise Insulation Scheme and is commended by the Host Authorities. The expected timeframes involved with rolling out the scheme and assuming a 100% take-up are positively received as they are materially faster than both the existing scheme and other comparable schemes. The scheme has also been expanded again to account for ground noise, as discussed later in '7.10 Draft Compensation Policies, Measures and Community First' [REP4-042].
ISH3-28 (p25)	Slot allocation	This has been addressed in the table below in relation to the responses to ISH1 actions 20, 21, 24 and 26.
ISH3-30 (p25)	Ground noise management plan	The existing controls from the ground noise management plan have been carried through into the 'Outline Ground Noise Management Plan' document [REP4-049], including ground running of aircraft propulsion engines, preferential use of stands and taxiways, use of auxiliary power units (APU's) and the use of ground power units (GPU's). Correct reference is also made to the extant Operations Safety Instructions (OSI's), which instruct airline operators on how these noise sources are managed at Luton Airport. Section 2.5 of the document secures the commitment to construct the acoustic barrier(s) required within each phase to mitigate ground noise

## 7 Applicant's Response to ISH1 Actions 20, 21, 24 & 26 and ISH3 Action 28 (REP4-072)

Question	Subject	Comment
1.1.5	Noise	The Applicant states that they are considering removal of the Transition Period for aircraft noise – this action would be supported by the Host Authorities.



2.2.7	Noise	The Applicant sets out the Local Rules currently in place at Luton Airport. These seek to demonstrate that the 'mitigation toolbox' supporting Green Controlled Growth with regards to noise are sufficient to enable noise contour limits to be controlled and not breached through suitable management. LBC notes that there are no enhancements proposed to the mitigation options that were on offer to the Airport before and during historic breaches, and as such it is not clear how these measures will apply effectively in the future to avoid breaches under the GCG, when they have not done so in the past.
2.2.8	Noise	The Applicant states that it intends to make further updates to the noise controls at Deadline 5. LBC supports the submission of updates for additional noise controls, as have been requested throughout the Examination, and will review and scrutinise these once provided by the Applicant.
3.2	Noise	The Applicant has not explained and justified why it is not possible for the Airport Operator to be prepared to implement the new monitoring regimes under the GCG from the date of service of the notice under Article 44(1) of the draft DCO [REP4-003], noting that the Applicant has control over when it exercises the notice. LBC considers that the Applicant should explain and justify the proposed approach, noting that the Applicant will have time following grant of the DCO application to begin developing and preparing for implementation of the new monitoring regimes under the GCG. It is also not clear the basis on which the Level 2 Thresholds and Limits do not apply during the Transition Period, and the Applicant's explanation does not justify why this approach is robust and does not inhibit the Environmental Scrutiny Groups' (ESG) ability to properly oversee and undertake enforcement in relation to exceedances of Level 2 Thresholds and/or Limits during the Transition Period. The Applicant says that this would not be in the Airport Operator's interests, but it is clear that the controls themselves would be absent during this period, leaving a risk of exceedance without any ability on the part of the ESG to require mitigation.
3.3.10	Noise	The Applicant states that they are considering changes to establish the ESG as soon as is reasonably practicable. LBC supports this approach, subject to scrutinising the detail of the proposals to be submitted by the Applicant at Deadline 5.
5.1.4	Noise	It remains unclear how the benefits of growth are to be shared with the local community, particularly if there is

		no mechanism to incentivise driving effects down (as distinct from sitting just under the Limit but with a plan for ensuring it is not exceeded).
5.3	Noise	Section 5.3 discusses how slot allocations could potentially be used to reduce capacity, in exceptional circumstances. It appears that through implementation of Local Rules to manage the release of slots, alongside 5-year advanced planning (both of which are proposed), Luton Airport may be able to manage noise so as not to need to reduce capacity. Sensible Local Rules, possibly implemented in step changes as part of or in line with the 5-yearly ESG review period, are an important part of an acceptable noise control strategy.