Draft Development Consent Order

Clause 8(4)(b)

- Recognise the point the ExA made at ISH1 (I think)
- But we’re not satisfied the point has been bottomed out and are seeking the ExA’s help in so-doing
- By way of reminder LR are proposing to exclude the need for the Secretary of State (“SoS”) consent to the appointment of an airport operator (other than LLAOL) under this clause leaving the decision to LR
- We are concerned that LR do not have sufficient experience to appoint a new airport operator and can appoint itself as the airport operator (as contemplated in the Funding Statement). This could have a catastrophic effect on aviation safety and security
- LR say in their latest response to the Society that the provisions in s17 Airports Act 1986 will be retained and SoS consent to the appointment of a new airport operator will still be required
- We ask the ExA to verify this is the case otherwise SoS consent should be required to any transfer under this clause as per the Gatwick DCO

Funding

- LR are required to show how land subject to compulsory acquisition and the project as a whole will be funded and that there is a reasonable prospect of those funds becoming available
- LR's original Funding Statement ("FS") merely stated:
  - that the development will make a positive financial return over its life and
  - provided a statement of "if's buts and maybe's" in connection with LR, LBC or some other party providing the finance to underwrite the project's capital costs
- LR have produced a second FS in response to Ms Dowling's comments at CAH1
- LR STILL claim that "funding" means that project's cash flows:
  - However, it is clear that the DCO the ExA referred LR to, Portishead, considered funding to mean the availability of finance to underwrite that project's capital costs
  - Furthermore, we have identified seven recent privately funded DCOs as well as Manston airport DCO where the ExA satisfied themselves that finance was likely to available to underwrite the project's capital costs
- No-one paid much attention to cash flows

Funding – Compulsory Purchase

- Notwithstanding this we've had a look at the proposals
- With respect to compulsory purchase costs LR believes it has the resources to underwrite the compulsory purchase costs (for both Phases) and claims this is demonstrated by the annual concession income of £52.9 million in 2022/23
- LR fail to mention that most, if not all of that concession income, is then spent, as we outlined previously on loan interest, charitable donations, property and staff costs and other operating expenses. The "free" cash flow is extremely limited – as little as £3 million after tax for the next 10 years based on LR's assertion that concession fees in 2023/24 will be £60 million
- We believe the free cash flow will be even more limited as Luton Borough Council currently has a significant unfunded budget deficit for 2023/24 and future budget shortfalls are forecast too and LR also has £17 million of loans maturing on 28th March 2028
- Future concession fees are unlikely to be available to fund compulsory purchase costs

Funding – Project capital costs

- With respect to the project's capital costs we note:
- For Phase 1, LR is expecting LLAOL to underwrite the capital costs. Whilst non-binding heads of terms are being discussed, at today's date there is no funding for Phase 1
- For Phase 2, the position is bleaker. Arup claim to have spoken to potential lenders and received what might colloquially be called "positive vibes" and Arup themselves are positive too
- However, to date, LR has not produced anyone who is prepared to advance over £3 billion to LR to underwrite the capital costs of Phase 2
- This is not surprising:
  - Phase 2 will not start for another 10 years - lenders will be investing in today's opportunities. Lenders fund raising for infrastructure investments 10 years hence won't have started
  - Arup's positivity is caveated "where market and economic conditions are consistent with those we observe today" – lenders will appraise the opportunity based on the market and economic conditions that exist in 10 years' time, not those today. Those market conditions are unlikely to be similar to today's

The Need Case

- LR’s consultants’ response to the ExA’s (and other Interested Parties) questions on Need are consistently evasive and fail to present any evidence to support the proposition that growth at Luton airport is either “vital” or “central” to business growth and, if it doesn’t happen, “would cause businesses to locate elsewhere”
- That comes as no surprise, the South-East, East of England and London have dominated economic growth in the UK for a very long time and Luton’s recent growth has, in any event, largely been a conduit for increasing leisure traffic
- This position won’t change in the future not least because Luton airport is unable to service destinations beyond Europe where global growth will be concentrated.
- Consequently, any need to develop the airport to support business growth is, at best, of marginal relevance

The Need Case

- LR claim that their modelling demonstrates that the demand is there to meet the target capacity of 32 mppa and, of course, the economic benefits only arise if that demand materialises
- However, their model is just that, the result of the assumptions underlying it, it is not evidence of demand and any significance that can be attributed to LR's demand forecasts needs to be discounted to reflect some significant headwinds which postdate the modelling:
- Jet Zero's optimistic forecasts of 2022 have already been replaced by less optimistic forecasts in 2023 (the main cause being the consumer cost of meeting carbon targets)
- Luton airport's core market, the EU, is seeing a reversal of the net immigration into the UK in the 2010's
- Luton airport, in 2023, up to the end of September has reached 90% of 2019's passenger numbers, Heathrow and Stansted are respectively 97% and 98% (Gatwick is 87% but that's because the first three months of this year were constrained – for the last six months its growth has been 90%). Luton is not, as was claimed at the 19mppa Inquiry, recovering more quickly than other airports, it is lagging behind. Suggests they don't have a good understanding of their market
- The growth assumptions in the LR model are higher than the government is saying will be achieved
- LR assume only one new runway will be built in the South-East (Gatwick has already submitted its application for the north runway and the FT has recently noted Heathrow's reengagement on the third runway project)

Noise limits

- Noise at Luton airport impacts a far larger number of people than are impacted at other London airports due to the airport’s proximity to the town of Luton
- Aviation policy states that airports should minimise **the number of people** affected by noise. LR’s proposals make only modest reductions in the number of people affected by noise and the overall numbers for equivalent contour areas will remain significantly above those for other London airports. LR needs to try much harder
- LR’s proposal for sharing the benefits of technology, on its preferred trajectory, is derisory, industry will reap 80% of the benefits in the daytime and a minimum of 88% of the nighttime benefits but what we wanted to point out here is that LR’s claim that communities will benefit if circumstances prove to be more benign is illusory as it will just reflect the benefits agreed in 2014, they are not new

Noise limits

- The 2014 limits are more broadly relevant, despite LR's claims that they aren't. These limits were agreed as part of the planning balance at the time. If they're ignored it leads to a planning farce – any developer can agree to deliver environmental benefits as part of the planning balance, build its development but fail to deliver environmental benefits and then claim the status quo as the baseline for another planning application – the developer wins every time and communities lose
- Gatwick's DCO includes noise limits that will REDUCE over the period of the development compared to 2019's levels. If Gatwick with a predominantly short haul network (with similar airlines dominating) can achieve noise reductions, there is no reason why LR can't
- It's proposed that the night movement cap excludes dispensed flights. We do not believe that any allowance should be given for flights that are delayed due to operational difficulties low-cost airlines have flying multiple rotations each day – they need to manage their operations better. The Q1 and Q2 monitoring reports show large numbers of flights being dispensed for this reason. Any allowance should reflect real need only and anything else should be at the discretion of the ESG