



**CENTRAL BEDFORDSHIRE COUNCIL COMMENTS ON DEADLINE 6
SUBMISSIONS**

LONDON LUTON AIRPORT EXPANSION DEVELOPMENT CONSENT ORDER

Version – FINAL

Introduction

This document sets out the response of Central Bedfordshire Council (CBC) to various documents submitted at Deadline 6. The comments include input from technical consultants.

CBC consider that some submissions require a response where it is necessary to provide clarification. Where a document has not been responded to, this does not mean that the points are agreed.

Additionally, the response includes some further comments on the Draft Development Consent Order (REP5-003) and Road Safety Audits (REP5- 055).

1. REP6 – 056 Applicant’s Response to D5 Submissions – Appendix C Central Bedfordshire Council

I.D 1 – Landscape and Visual

Applicant’s Comments - A description of the operation of the Fire Training Ground (FTG) is provided in paragraphs 3.7.39 to 3.7.41 in Appendix 7.1 Air Quality Methodology [AS-028]. The landscape and visual assessment (Chapter 14 of the ES [AS-079]) took into account the proposed operations of the FTG, as described in Appendix 7.1. Due to the temporary and intermittent nature of the training operations at the site it was not deemed proportionate to provide visual representations of operations, particularly as ‘operations’ will not always involve live fire drills.

CBC Response

CBC acknowledge that there is further information in Appendix 7.1 Air Quality Methodology (AS-028) regarding the operation of the FTG. However, the operational effects of the FTG have not been included in the LVIA as highlighted by the Applicant.

On 2 January 2024 the applicant shared video footage of the existing Fire Training Ground in use. The footage lasts 25 seconds and shows a fire at the rear section of the fuselage. It does not show any associated activity such as Fire Officer’s or vehicle movements etc.

The ExA undertook a visit on 27th November to witness the FTG in operation. A summary of the visit is provided in document EV1-018 and further information is provided in the Applicant’s document EV1-017. Based on the information provided in these two documents, the footage sent to CBC, whilst beneficial, does not show the full operational nature of the FTG and is not reflective of the training event witnessed by the ExA. Whilst it is acknowledged that the use of the FTG is intermittent and for a short period of time, concerns remain regarding the impact of the operational use of the FTG on the setting of Someries Castle and the nearby rights of way network.

There is still lack of information regarding the operational use in terms of lighting installations, smoke reduction features (please see response ISH8 (REP6-090)).

In terms of the permanent installation of the FTG, CBC are concerned about the landscape presence of the installation as shown in block form on Viewpoints 20, 23 and 25 of the LVIA (REP3-011). The impact on Someries Castle remains significant and no mitigation to minimise the intrusive and incongruous nature of the FTG installation is proposed. It is acknowledged that the current operations of the airport have a visual and audible impact on the setting of Someries Castle. However, the existing airport buildings are a significant distance from Someries Castle and the immediate setting north-east of Someries Castle, which encompasses Someries Farmhouse and Someries Cottages outbuildings (buildings of traditional form) still has an open, rural character uninterrupted by airport infrastructure. CBC attaches great importance to significance of setting in respect to Someries Castle.

Overall, CBC consider that the FTG is in the wrong location. An alternative location was considered by the Applicant, as confirmed during ISH8 but was discounted as it was in the Green Belt. No further information is provided on the alternative location to determine whether it was more appropriate in terms of reducing the impacts upon to the Scheduled Monument.

I.D 2 Cultural Heritage

Applicant's Comments - the NPPF paragraph 202 requires any less than substantial harm to heritage assets to be weighed against the public benefit of the proposals. Paragraph 8 of the NPPF clarifies what is considered to constitute public benefits, expanded upon in paragraph 20 of the Historic Environment Planning Practice Guidance. These state that public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives. It also states that these should be of benefit to the public at large and not just be a private benefit. There is no specific requirement for these to be heritage specific benefits; however, it does give examples of heritage benefits where these are appropriate.

Chapter 10: Cultural Heritage of the Environmental Statement [AS-077] identifies those heritage assets where an adverse effect has been identified. Appendix 10.2 Cultural Heritage Gazetteer [REP-4-017] assesses where these effects constitute harm to the heritage asset and where on the scale of harm the effect falls. The assessment concludes that all the harm falls within the less than substantial category and results from changes to the setting of heritage assets which lie outside the boundaries of the development, and thus outside the control of the Applicant. As such, the Applicant considers that there are no appropriate public heritage benefits which can be implemented as part of the Scheme and that it should be weighed against the benefits of the Scheme as a whole.

For individual heritage assets beyond the Applicant's control, mitigation measures are set out in the Cultural Heritage Management Plan [APP-77], which includes a condition survey and air quality monitoring at Someries Castle. The Applicant considers that there is no feasible solution to mitigate noise impacts within a park setting, therefore no specific mitigation measures have been identified in respect of Luton Hoo.

CBC Response

CBC notes that Paragraph 020 of the Historic Environment Planning Practice Guidance (PPG) states that “public benefits should flow from the proposed development”.

CBC also notes that the Applicant has concluded that “there are no appropriate public heritage benefits which can be implemented as part of the Scheme”. CBC respectfully asks that this conclusion is specifically noted, and wishes to highlight its previously stated view that measures of ‘mitigation’ cannot offset a lack of a specific public benefit.

CBC also wishes to highlight its stated concerns regarding the proposed location of the Fire Training Ground (FTG) in respect of the north-east setting of Someries Castle Scheduled Monument, in which harmful visual impact would be directly

counter to the key public heritage benefit set out in the PPG of “sustaining or enhancing the significance of a heritage asset and the contribution of its setting”.

ID 3 – Noise

Applicant’s Comments - It is not agreed that it is atypical for airport noise assessment for the purpose of environmental impact assessment to be based on a ‘reasonable worst case’. This is a standard approach as set out in Chapter 5 Approach to the Assessment [AS-075].

CBC Response

This appears to be a semantic response that intentionally misreads the original statement. It is manifestly clear that EIA is expected to be based on a reasonably worst case, as is noted by the Host Authority in their statement. The position is that the reasonably worst case is formed by the core case, as has been used for other airport EIA applications. The Applicant has not at any stage provided a convincing argument as to why a faster growth case should be used instead of the core case, instead referencing back to arguments that have previously been rebutted without adequate response.

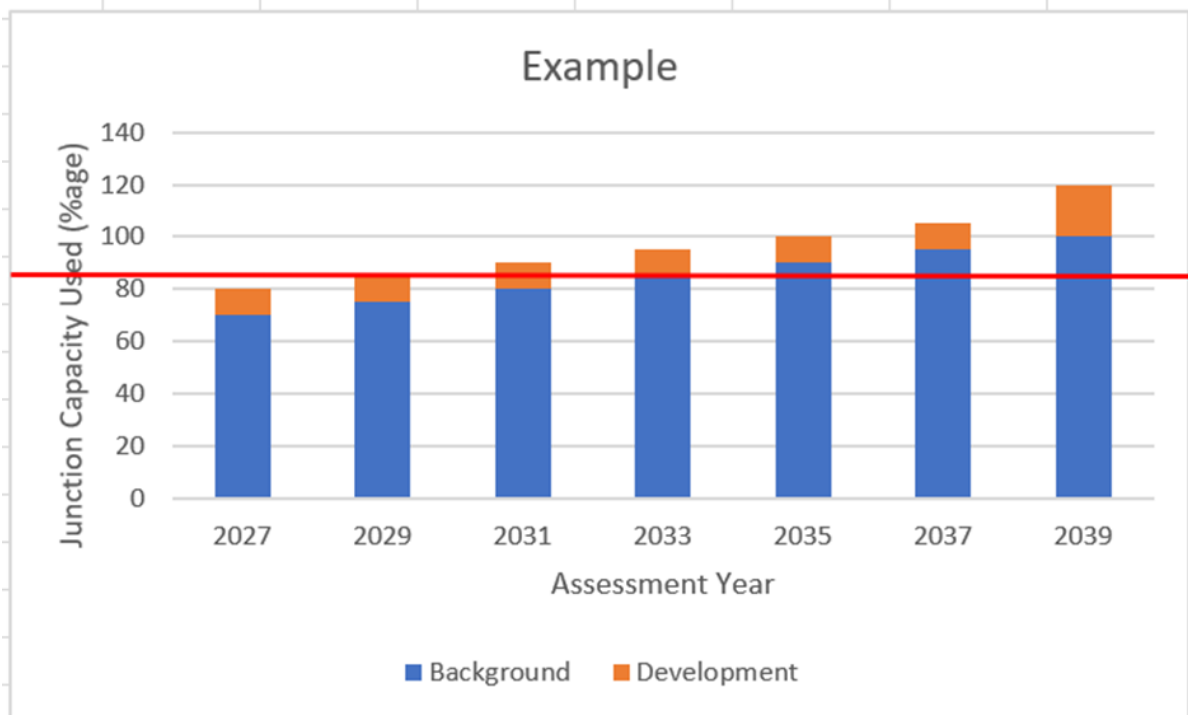
ID 4, 5, and 6 Surface Access – Please see point 5 in this report.

ID 7 Surface Access – The content of the report is noted.

ID 8 Surface Access – Noted.

ID 9 Surface Access –

It appears that CBCs concerns on this matter may have been misinterpreted. It is understood that the OTRIMMA outlines those works necessary to mitigate the impacts of development traffic rather than background traffic, however the concern is that a set level of development traffic could trigger the need to mitigation due to an increase in the background levels of traffic over time (and would not be captured under the current proposals), as shown in the example below.



In this indicative example the growth associated with the airport is shown in orange, whilst background growth is shown as the blue element of each column. As can be seen in this example, the initial growth in 2027 doesn't push the junction over 85% capacity (as the generally applied threshold for reasonable operation), however as background traffic grows between 2029 and 2039, (which is potentially the next period when there would be a guaranteed increase in passenger throughput), the junction operates over capacity, from 2031 onwards, with the growth associated with the airport being responsible for taking the junction over capacity. Under the current proposals there would potentially be no requirement to re-assess the junction until throughput increases in 2039, by which time the junction would have been operating over capacity for 8 years.

ID10 to ID12 Surface Access

CBC remain concerned that both the thresholds for implementing highways works, and the process for agreeing those thresholds, are proposed to be held back until the final TRIMMA, and therefore outside of the DCO process. This leaves the timing of the most significant mitigation works associated with the development undefined and uncontrolled through the DCO.

ID13 Surface Access – Noted

ID14 Surface Access – Noted

ID15 Surface Access – Noted. As the final TRIMMA is expected to be in accordance with the OTRIMMA, CBC would request that reference is made within the OTRIMMA to a methodology being agreed for the calculation and agreement of scheme costs within the final document.

ID16 Surface Access – The response suggests that Off site Car Parking has been assumed to grow in line with the wider growth in background traffic, rather than as a specific allowance within the modelling (with Section 9.4 of the TA relating to the forecast baseline rather than with development scenario). As such it appears that the impacts of Airport growth on off-site car parking has not been assessed, as:

1. The growth in the demand for off-site parking would be expected to be related to the growth in parking demands generated by the development of the airport and the related increase in passenger and staff numbers, not proportional to background growth, which would likely be lower, less localised in terms of impacts, and spread relatively evenly across the assessment period.
2. The growth in demand for off-site parking should form part of the ‘with development’ rather than forecast baseline assessment as it arises as a result of development and would not be present on the network without it.

ID17 Surface Access – CBC do not consider the query raised to have been addressed. I.e.: that whilst the 5 yearly review may identify a differing distribution of traffic (and therefore related impacts), the methodology suggests that MT1 mitigation is fixed and capped at the locations, and in the forms, currently proposed. This appears to limit the flexibility of the TRIMMA approach.

The query over the funding of monitoring to inform the MT2 process remains to be addressed, with CBC remaining of the view that it should not be incumbent upon the Local Authorities to fund the evidence base for requesting works. This is particularly relevant to the Fly Parking issue previously raised, and where the survey costs would make up a large proportion of the overall scheme costs.

ID18 Surface Access – Noted

ID19 Surface Access – Noted

ID20 Surface Access – Noted

I.D 22 Draft DCO – *Requirement 8 (previously Requirement 9)*

CBC are not satisfied that the response from the Applicant adequately addresses the concerns raised. It is recognised that there is scope for additional information to be requested at the time the conditions are being discharged but Work No. 5E specifically includes the erection of boundary treatment and the details required for this are not adequately captured through the requirements as currently worded. The need for cross sections and details of boundary treatment should be included in the wording.

ID23 Draft DCO – CBC remain of the view that some aspects of the initial construction works, excluded from the definition of commencement, would be expected to be controlled via inclusion within the CTMP, for example temporary construction access, the laying of temporary access roads or haul routes, setting up site compounds etc.

The applicant’s position that if a discrete phase of a scheme does not impact any other highway authority it would be disproportionate to consult with the other highway authorities is noted. However the proposed wording was ‘relevant highway authorities’

rather than ‘all highway authorities’, which would provide the flexibility to address this eventuality. At present the wording is to consult the relevant highway authority in which works take place. This approach does not acknowledge the impacts of construction traffic routing, which will impact outside of the area in which works are taking place and is liable to impact upon more than one highway authority (including National Highways). Due the scale and potential impacts of construction activities, CBC do not consider that consultation with impacted highway authorities should be discretionary (as is currently proposed).

I.D 28 Landscape and Visual – Please see CBC response to Further Written Question PED.2.22.

2. REP6 – 060 Written Question Responses – Applicant’s Response to Central Bedfordshire Council’s Comments

TT 1.13 Parking – It is noted that it has been assumed that the current mode share for off-site parking will not meaningfully change. CBC would refer to the considerably proportion of parking currently taking place off site, and therefore the expectation that, should the mode share remain consistent as the airport grows, that this could result in a demand for a considerable number of off-site spaces which are not currently accounted for. Considering the 4,400 off site spaces associated with the Air Parks site, if demand was to grow in proportion to the growth of the Airport, this would result in a potential demand of an additional 3,422 parking spaces. This additional unmet demand would potentially be exacerbated by the decreasing proportion of on-site spaces proposed as the Phases of the Development come forward.

As referenced in other CBC submissions, CBC remain firmly of the view that the management of fly-parking, where there are existing acknowledged issues, and where there is a very reasonable expectation of worsening, should not fall within the TRIMMA process, and should be managed pro-actively rather reactively.

3. REP6 – 052 Response to Suono’s Note on Noise Controls

Responses below only detail noise controls that are not agreed to form part of the noise envelope and there are additional points to be made to avoid reiterating unchanged positions.

3 Night Quota Count (in the QC period)

“The reduced quota count limit goes hand in hand with the reduced contour area limit that applies from 2028 in the current permission (21/00031/VARCON), noting that the current permission has no requirement to calculate quota count budgets for the full night period. The reduced quota count limit of 2,800 would not align with the growth permitted by the DCO.

However, the DCO Noise Envelope requires quota count budgets to be calculated for the full night period for each five-year period, which includes reductions in 2029 and 2034, and a mechanism to reduce these further (the Noise Limit Review) if and when quieter next generation aircraft become available.

An additional reduced quota count limit would therefore overlap and duplicate and conflict the quota count controls for the full night period.”

Response: The full night period QC budget referred to in the Applicant’s response is an internal tool for the Airport only and does not constitute a control.

The NEDG recommendations do not strictly require core night QC to reduce to 2,800, only to a level below 3,500.

We note that the Need Case [AS-125] shows in Table 6.17 that the existing 2,800 limit would be met if the Applicant produced summer noise contour limits using the core case and did not have growth without noise reduction beyond 2039. This has been put to the Applicant at every stage of the DCO process. This would clearly assist in the requirement to “limit, and where possible reduce” noise.

Table 6.17: Projected annual night control period aircraft movements (23:30-05:59) in the Core Planning Case

| | 2019 Actual | 2027 | 2039 | 2043 |
|--|----------------|-------|-------|-------|
| Passenger Movements | 6,113 | 6,950 | 7,500 | 8,600 |
| Cargo Movements | 1,546 | 1,550 | 1,550 | 1,050 |
| Sub-Total | 7,659 | 8,500 | 9,050 | 9,650 |
| Available for Business Aviation ²⁰⁴ | 1,185 | 1,150 | 600 | 0 |
| Movement Limit | 9,650 | 9,650 | 9,650 | 9,650 |
| QC Count | 3,159 | 2,926 | 2,607 | 2,879 |

Source: York Aviation

5 Noise contour reduction methodology

The Host Authorities’ position remains.

10 Noise Violation Limits

Noise Violation Limits (NVLs) graded based on certified departure noise performance can have the opposite effect than intended as it can act as a disincentive to airlines replacing their aircraft with quieter aircraft as they would be subject to a lower limit (in effect penalised by being at greater risk of being fined). The airport operator noted in their response to the NEDG Final Report (Annex A of Appendix 16.2 of the ES [REP4-023]) that this was observed in the 2014 planning permission (12/01400/FUL) which had NVLs set according to quota count and this was demonstrated to be inappropriate and subsequently changed to NVLs with a set limit for all aircraft, reducing over time, in the 2017 planning permission (15/00950/VARCON).

Therefore, to incentivise the use of quieter aircraft, in line with current consented noise controls, NVLs with a set limit for all aircraft, reducing over time, are contained in the Air Noise Management Plan [TR020001/APP/8.125], secured by a DCO Requirement.
 Response: Local communities have been noted to complain about noise from business jets, which would be expected to be well below the NVL set for much larger aircraft, even if operating in a less responsible way.

It is acknowledged that the Applicant does not wish for a highly refined NVL system but there is likely a sensible middle ground that uses a less granular approach. NVLs could be set for broader aircraft groups, such as commercial jets, cargo aircraft and business jets, to ensure each is operating as it should, without risking a situation arising whereby louder aircraft within a grouping are incentivised.

Differential fines could then also be applied, such as business movements being fined a greater amount than commercial aircraft, as it might be expected that business aircraft are more able to absorb the costs of such penalties into their overall fees without changing their flying practice.

This approach should be investigated by the Applicant.

12 Movement Cap

As this comment later notes, it is not the case that there is no proposal for annual movement limits – there is an annual movement limit of 9,650 in the Night Quota Period (23:30 – 06:00).

Movement limits are poorly correlated with noise impact metrics (as demonstrated in Noise Envelope - Improvements and worked example [REP2-032]) and provide no incentive for the adoption of quieter aircraft and therefore no further movement limits are proposed, though annual movements will be reported as set out in the Aircraft Noise Monitoring Plan [REP5-028], secured by a DCO Requirement.

This is in line with CAA's CAP1731 document (Ref 1), which includes a review of suitable noise metrics for limiting and controlling noise, and which notes on page 58 that the number of movements: "has good correlation with day noise quota count and night noise quota count, when broken down into the number of movements per day and night respectively. It shows reasonable correlation with day noise contour area, but it gives no mechanism to limit impact within a given area. It also does not have any correlation with people exposed, so it would be not be effective in controlling population noise exposure or in driving noise reduction. Overall, the number of movements is a metric that should be monitored to understand the growth of the aviation market, but it does not provide effective controls to limit noise generation, noise exposure nor noise impacts."

Response: The Applicant's response has not provided any justification for lack of other controls within this section; namely, shoulder period QC limits, threshold values and staging periods.

During the NEDG process, AECOM (one of the Applicant's acoustic consultants) stated:

"Enforcing a cap on the total number of aircraft movements within a fixed time period provides simple and transparent control on the operations at the airport and, as such, is worth considering within the suite of controls. Such controls already exist in the current permissions for the airport and the project already proposes to maintain the annual movement cap on the night time quota period (23:30-06:00).

A movement cap is easily understandable by local residents and addresses the often-stated view that the number of flyovers is a key consideration in annoyance related to aircraft noise. Such a cap also allows for relatively simple control by the airport operator and easy identification of any breaches or when the limit is being approached. The key disadvantages of a movement cap are that it does not relate directly to noise levels in the community and does not discriminate between the level of noise from individual aircraft (any aircraft movement counts the same towards the number of movements regardless of the level of noise generated). A simple cap on the number of movements would also not achieve the aim of allowing both the operator and community to benefit from the introduction of quieter aircraft, as the benefits would all be seen by the community.

It is considered that the above disadvantages could all be resolved through the application of additional control measures, such as contour area limits and/or quota count limits. However, the value of the absolute movement cap would need to be selected such as to allow these measures to interact appropriately. For example, one might expect a quota count or noise contour area limit to provide the primary control on noise levels with the operation of current (or latest) generation aircraft, but the movement cap would provide a back-stop to ensure that the total number of aircraft movements did not continue to increase unreasonably if future aircraft are quieter again. These additional controls would also be necessary to encourage the uptake of quieter aircraft, with the introduction of quieter aircraft essentially being necessary to allow the airport to approach the movement cap without breaching other control measures.

If a movement cap were implemented in the absence of a cap on passenger numbers, there is potential that it could drive a movement towards use of larger (and hence noisier) aircraft in order to remain within the movement cap. However, this should be considered in the context of the overall DCO application, which includes a cap at 32 million passenger movements per year, and hence should alleviate this concern. Other controls on noise levels (such as contour areas) would also interact with the movement cap to prevent this situation.”

AECOM then went on to recommend an annual 24-hour period limit, as it would provide overall control whilst allowing for seasonal and daily variations [compared to more refined time periods]. We note that the Applicant is entitled to consider the NEDG findings as recommendations only and is not obliged to adopt them wholesale. However, we consider an overall operations limit to be a simple, understandable and therefore effective tool for communicating to the local community that the operator will stand by its stated intentions with regard to controlling noise nuisance.

4. REP6- 067 Applicant’s Post Hearing Submission – Issue Specific Hearing 9 (ISH9)

Section 3.4 (Slot Allocations and Local Rules)

Response: The Applicant highlights, particularly in paragraph 3.4.7, that Green Controlled Growth is unique in providing a forward-looking noise mechanism. Luton Airport is the only major airport in the UK that has breached its noise contour limit and

so the GCG scheme can only be viewed as bringing Luton Airport in line with every other airport's noise control schemes. There is no reason that Luton Airport could not introduce forward-looking QC-budgets to assist in protecting the existing noise contour condition outside of this DCO application.

Section 3.4 makes clear, particularly in paragraphs 3.4.1, 3.4.3, 3.4.5 and 3.4.7, that it would be extremely difficult to withdraw slots from airlines, even if the situation constitutes 'exceptional circumstances'. From the response provided in Section 3.4, it could be easily and fairly reasoned that the process of withdrawing slots in any circumstance could take several years of legal action, all the while local communities are exposed to increased noise levels.

Every effort should therefore be made to prevent a breach from occurring, which includes the Airport seeking to agree Local Rules in advance with airlines. If Local Rules cannot be agreed, this could be a legitimate reason for limiting growth, to ensure that aircraft movements (and therefore noise) are suitably controlled.

A Local Rule would ensure airlines are aware of the local noise constraints to Luton Airport; the QC budget would ensure the Airport is taking account of noise constraints; the noise contour would provide the means of enforcement to the Local Authority (or Authorities). All these measures, taken together, would assist in providing the local community with a high degree of certainty that it will be suitably protected.

Paragraph 4.4.3 (Noise Limit Review)

The Noise Limit Review process will secure further reduction in noise levels from next - generation aircraft if the next ICAO noise chapter specifies that next gen aircraft are to be quieter. The Noise Limit Review requires the airport operator to reduce the limits to below the 2019 Consented baseline (based on the 2017 permission consent not the higher P19 consent) as quickly as is reasonably practicable. The Noise Limit Review is independently overseen by the Noise Technical Panel and subject to approval by ESG.

Response: Considering that the Applicant is not expecting future aircraft to have reduced noise levels during the lifespan of the project, it is not clear how the Noise Limit Review process would offer any changes to noise limits beyond those set out in the documentation.

For instance, it would have been practicable to reduce noise limits during the COVID-affected summers of 2020-2022, but would have been manifestly unreasonable. The Applicant should clarify what would bring about a reduction in noise limit, other than an airspace change. We note that this may overlap with the response to NO.2.10 (noise abatement procedures), for which we await the Applicant's response.

Section 4.5 (The balance of growth vs future noise reduction)

Response: In paragraph 4.5.3, the Applicant states:

"The Applicant noted, with regards to sharing the benefit, there is a balance to be struck in a balance of growth and noise reduction. In terms of the stepping down of

noise limits in the current planning permission, the Applicant noted these steps down reflect the transition of current generation aircraft to new generation aircraft. For the DCO, the growth that occurs in the late 2030s and 2040s is when one would expect next generation aircraft so there is no further benefit to be shared.”

In the proposals, there is a reduction in the daytime (up to 2039), but this also represents an increase in total adverse noise effects, as noise levels are proposed to be greater than the do minimum scenario. This scenario would be in compliance with the Overarching Aviation Noise Policy Statement, as referred to by the Applicant in section 4.5.7 and 4.5.8.

A ‘do something vs. do minimum’ noise increase can arise and still be compliant with UK aviation policy providing an overall reduction against historic noise levels still occurs. The Applicant’s proposals for higher noise levels due to the development in 2039 with no overall decrease in the daytime, and an increase in noise in all years at night-time, do not therefore comply with the policy statement.

This position would then also conflict with the Aviation Policy Framework 2013 reference stated by the Applicant in paragraph 4.5.5 (APF 2013 paragraph 3.3), as they highlight, “aviation industry and local communities.” At paragraph 3.12, the APF notes (emphasis added): “*The Government’s overall policy on aviation noise is to limit and, where possible, reduce the number of people in the UK significantly affected by aircraft noise, as part of a policy of sharing benefits of noise reduction with industry.*” (their emphasis).

The Applicant has submitted a noise assessment, which is standalone and cannot be weighed against any economic benefits potentially arising. They therefore remain outside of the planning balance, a matter that could have been addressed had the Applicant submitted a noise and economic benefits chapter.

The Applicant’s position stated in paragraph 4.5.6 that sharing of benefits is not just concerned with technology and noise reduction does not take account of APF paragraph 3.3, which states:

“We want to strike a fair balance between the negative impacts of noise (on health, amenity (quality of life) and productivity) and the positive economic impacts of flights. As a general principle, the Government therefore expects that future growth in aviation should ensure that benefits are shared between the aviation industry and local communities. This means that the industry must continue to reduce and mitigate noise as airport capacity grows. As noise levels fall with technology improvements the aviation industry should be expected to share the benefits from these improvements.”

This then also tallies with the requirement in the Airports National Policy Statement 2018, requiring an overall noise reduction compared to the relevant historic baseline.

Irrespective of the Applicant’s position, it is therefore clear that the industry must continue to reduce and mitigate noise, especially as airport capacity grows. It is mandated in policy that future technological improvements must lead to noise benefits being shared.

Section 4.7 (Ban on scheduled movements during the night)

A response to noise controls is provided later in this note.

Section 4.13

In paragraph 4.13.4 the Applicant states that there is a negligible difference in noise levels between the core case and faster growth case. This does not justify the use of the faster growth case and is a new argument put forward by the Applicant.

“Limit, and where possible reduce” is clear policy wording, consistently maintained throughout multiple policy updates; it is clear that reduced noise will be a consequence of using the core case operations rather than the faster growth levels.”

It is clear that the Applicant’s proposals conflict with policy wording given that a reduction from the faster growth to the core case (0.3-0.6 dB in daytime and 0.2-0.3 dB at night-time) amounts to what is expected to be a greater reduction than proposed over the next 20+ years of the project timeframe.

5. REP6 – 075 Draft Chilterns AONB Special Qualities Assessment

The revised document has been reviewed and incorporates most of the points raised by CBC in discussions with the Applicant. However, there is still no reference to the Central Bedfordshire Council Tranquillity Study, which CBC consider should be incorporated.

6. REP6 – 009 ES Appendix 18.3 Outline Construction Management Plan

It is noted that the only addition to the Outline CTMP is section 7, related to Pre-Construction condition surveys, which is welcomed. CBC do however remain concerned that the wording of the Draft DCO does not require consultation with all effected Highway Authorities, and whilst the predicted construction impacts within Central Bedfordshire appear likely to be limited, should there be any requirement for materials to be imported from borrow pits within Central Bedfordshire (for example) there would be no requirement for CBC to be consulted. It is also unclear what reference has / . will be made to the list of unsuitable routes requested from the Local Authorities as Action Point 34 arising from Issue Specific Hearing ISH7.

7. AS-159 Additional Submission – Applicant's Response to ISH7 Action 2 – Accounting for Covid-19 in Transport Modelling Final Report

The following provides the initial views of CBC with regards to the updated modelling report. Due to the amount of content to be reviewed, the following does not represent a full and comprehensive review, and as such CBC would seek to reserve the right to comment further, if necessary, but does seek to identify any key issues to be responded to or addressed.

The report considers three potential options for assessing and accounting for the impacts of COVID19 and identifies the third example within the DfT advice as being

the most suitable and proportional, in which a post-model adjustment is applied globally to model results.

It is however noted that the eventual approach taken was not to apply an adjustment factor to either the base or future year models. As such the approach followed does not fully accord with any of the three example options reviewed.

CBC had previously raised concerns that, whilst such an approach may be considered robust in terms of the previously considered junctions and mitigation works, the lack of a downward adjustment on the local road network could result in forecast routing being different to that predicted within the current forecast modelling work, due to greater than predicted levels of residual capacity on the Local Road Network. As such, this could result in differing impacts to those predicted, in terms of both scale and location. Notwithstanding the above, wider matter, CBC would largely agree with the applicant's conclusions with regards to the modelled network as assumed within the note. I.e.: that generally flows are lower than in the previous assessment and with the London Road South junction, for example, reported as operating more efficiently in each forecast scenario as a result of these reduced flows.

However, it is unclear why, when taking into account lower flows, that the predicted operation of some junctions within the network is reported as being worse than that within the previous assessment.

In the case of the A1081 / Gipsy Lane junction, 2027 assessment, as summarised on Page 4 of the Appendix H of the report (Ref. AS-159), the flows passing through the junction are considerably lower than in the previous assessment (as reported in Table 10.63 of the submitted Transport Assessment, ref. APP-204-206), with the flows on the A1081 New Airport Way (for example) reducing in the with Phase 1 assessment from 3,006 to 2,571. However, despite the lower flows, the queues on this approach are significantly greater than previously modelled, increasing from an average queue length of 19m to 254m, and the overall average delay is reported as 41 seconds per vehicle, compared to a previous average of 25 seconds. The difference in results appears counter – intuitive, with over 1,000 less trips passing through the junction and the balance of movements across the junction remaining relatively consistent (and therefore the expectation being that the updated modelling should show better, rather than worse, junction operation).

CBC would therefore seek clarification from the applicant as to the change in predicted operation of this junction between the two assessments.

Para 5.7.30 of AS-159 refers to discussion being held with CBC to discourage traffic movements through Caddington through the TRIMMA. For clarity this does not reflect CBC's understanding of the discussions held to date, as CBC have clearly identified with the applicant the need for specific mitigation at the junctions of:

- Chaul End Road / Luton Road (expected to be in the form of a mini-roundabout)
- Newland Road / Luton Road / Farley Hill Road (expected to be in the form of junction signalisation)

In addition, that further traffic calming will be required within Caddington itself.

CBC are firmly of the view that these schemes should be delivered outside of the TRIMMA as they are identified and foreseeable impacts (with junction delay forecast as tripling in the PM peak hour at both locations in the updated modelling), and moreover do not fall within the limits of the DCO, therefore being subject only to the MT2 (type 2) mitigation, and therefore with no certainty over either funding or delivery. As such, in order to guarantee timely delivery, it is the view of CBC that these schemes should be secured either via the S106 or a separate legal agreement, entered into prior to the conclusion of the DCO (or secured by extension through the DCO). In the absence of such works being secured, CBC's position would be that the DCO would result in unacceptable and unmitigated impacts on the Local Highway.

With regards to other off-site impacts, CBC have previously raised concerns with the applicant team related to the West Hyde Road / B563 crossroads junction, requesting that this junction be specifically monitored outside of the TRIMMA process, due to the apparent sensitivity of this junction to additional traffic. Based upon Figure 4-3 of the updated modelling report, it appears that flows in the 2027 AM peak are predicted to be higher in the updated forecast than previously modelled, with increases on the B653 northern approach and the Chiltern Green Road approach. In light of this further increase CBC are of the view that mitigation is likely to be required at this junction, and would be seeking the agreement of a monitoring and mitigation approach through the Section 106 (or other appropriate mechanism).

Figures 4-2 and 4-3 also appear to demonstrate the impacts resulting from the removal of the assumed Vauxhall Way dualling in the updated 2027 assessment, with the 2027 assessment showing significant levels of re-routing (including the increased use of the B653) that are not apparent in the later forecast years, when the dualling is assumed to be delivered.

CBC would query why the updated modelling in figure 4-13 appears to show no increase in northbound flows on the M1 north of the M1 junction in the PM peak between the baseline forecast and with development scenarios, when compared to the previous modelling work in figure 4-12, (where increases were forecast)

8. REP6-068 Applicant's Post Hearing Submission – ISH10

Agenda Item 3: Article 44 (interaction with LLAOL planning permission) and the granting of consent to increase the passenger cap to 19 million passengers per annum (MPPA)

CBC welcome the Applicant's confirmations contained in paragraphs 4.1.4 that the Applicant is proposing in the Deadline 7 iteration of the draft DCO:

- To carry forward from the P19 noise management plan a new Air Noise Management Plan that will be secured by requirement 26; and
- Adding additional noise controls, including a night-time quota based on a quota count system, a night-time ban on aircraft with a quota count of 2 or more, track violation measures and departure noise violation limits.

CBC also welcome the acknowledgement in paragraph 4.1.5 of some of the potential complexities arising from the partial implementation of the TCPA 1990 permissions at

the point of service of the article 44(1) notice and confirmation that the Applicant is contemplating including additional drafting in the Deadline 7 DCO to address.

CBC note that their suggestion made at ISH10 (noted on page 9 of their post hearing submission [REP6-095]) that such drafting could contain procedural provisions requiring notice to be given to the relevant planning authority as to which permission / consenting regime was being relied upon in relation to which aspects of development. This would provide clarity for the enforcing authority as to which regime prevailed and would address the risk that article 45 could be construed as rendering certain development unenforceable under either regime.

Article 45(2)-(5)

CBC look forward to the outcome of the Applicant's review in the Deadline 7 iteration of the draft DCO.

Miscellaneous Matters

The periods afforded for consultation, provisions relating to the deeming of an authority being in possession of sufficient information and the deeming of consent are all issues raised in the CBC post hearing note from ISH 10 [REP6-095] under Action Point 14 (pages 16 to 18) and encourage the Applicant to consider the matters raised in that response when contemplating amendments to the procedural requirements that apply to the discharge of requirements.

Agenda Item 6: Part 3, Requirements 18 to 25 (Green Controlled Growth)

As noted at ISH9, the Host Authorities remain concerned that there are no effective sanctions for continued breaches of Limits under the proposed GCG Framework. As currently drafted, where a Limit is breached the Applicant would be required to implement a Mitigation Plan, but there is no consideration of what might happen should that Mitigation Plan not reduce impacts below those which were assessed as part of EIA, beyond implementation of a further Mitigation Plan. As such, simply by breaching a Limit, a breach of the DCO does not occur, provided efforts are made to mitigate that breach. This means the enforcement regime under the Planning Act 2008 would not apply.

The Host Authorities noted the discussions at ISH9 around the appropriateness of use of a local rule restricting (or reversing) slot allocation in the event of a continued breach, but note concerns raised by the Applicant that local rules require agreement with airlines, and as such commitment to implementing a local rule could not be made by the Applicant.

Absent an ability to 'reverse' growth in the event of continued breaches of Limits, the Host Authorities consider that a proportionate, but suitably robust, financial sanctions regime should be put in place, culminating in payments to a community fund (which the Authorities propose is the existing Community Fund proposed to be kept in place under the s.106 agreement, which already envisages 'penalty' payments for different breaches (by airlines) being paid into it). There has been discussion during the Examination as to the need for the benefits of growth to be equitably shared between

the Applicant and local communities. The same principle applies in the event of continuing breaches which give rise to on-going adverse effects on communities – those communities should be appropriately compensated. This approach is supported in various aviation industry guidance, such as in the Civil Aviation Authority CAP 1129: Noise Envelopes available at <https://publicapps.caa.co.uk/docs/33/CAP%201129%20Noise%20Envelopes.pdf>. This states on page 51 that financial compensation to a community fund is one form of appropriate action in the event planning controls are breached.

The Host Authorities are not advocating for such a sanctions regime to be triggered in the event a Limit is breached initially. Instead, it is proposed to apply only where a Mitigation Plan has not been effective in removing that breach within 12 months of its implementation (or within the relevant timetable contained within that Plan). The financial sanctions could be payable periodically where a Limit is shown to remain breached (e.g. every 3 months) or annually on a pro rata basis – it would depend on the nature of the breach and the monitoring in place. This would clearly need to operate alongside the required revised Mitigation Plan – if that was able to correct the Limit breach within a reasonable timescale, the financial sanctions would clearly be reduced.

The quantum of financial penalty needs to be of a sufficient level to act as a real incentive to operate the Airport in a way so as to encourage a precautionary approach to growth. In this context, the Host Authorities note that the Applicant will have benefited from increasing its capacity whilst not meeting the Limits in the GCG Framework. In terms of how such financial penalties should be calculated, it is helpful to consider, by way of analogy, penalties payable under other regulatory regimes. For example, the environmental sentencing guidelines link the level of fines with turnover, resulting in significant fines (running into the millions) for breaches of environmental legislation. Another example is that under the street works regime – in the event that such works overrun, a set amount is payable per day for the duration of that overrun. However, the Host Authorities also acknowledge the need for a proportionate, reasonable approach. For that reason, the Host Authorities are willing to discuss the level of financial penalty with the Applicant.

The Host Authorities are aware of the Applicant's position that such a sanctions regime is not required due to the robustness of the GCG Framework. In response to that, the Authorities would submit that if that is correct, the risk of a financial sanctions regime being triggered would be minimal, so putting one in place would be of low risk to the Applicant. In any event, an approach similar to the GCG Framework is unprecedented, so it is reasonable there is some residual doubt as to its effectiveness.

Agenda Item 3: Article 44 (interaction with LLAOL planning permission) and the granting of consent to increase the passenger cap to 19 million passengers per annum (MPPA).

9. REP5-003 Draft Development Consent Order

CBC would be seeking an update to the Description of offsite highways works to take into account the matters identified and raised within the submitted Safety Audits and associated Designers Responses. The proposed changes detailed below.

Work No. 6d

(b) A1081 New Airport Way, B653 and Gipsy Lane. To include the realignment and widening of A1081 New Airport Way (to provide additional traffic lanes), the realignment and widening of A505 Gipsy Lane (to provide additional traffic lanes), the reshaping of the A1081 New Airport Way central reserve islands including the realignment of barriers, the replacement or relocation of signage, lighting and gantries, the re-provision of cycle lanes, the re-provision of roadside barriers, and the reshaping of the A505 Gipsy Lane splitter island;

(h) A1081/London Road (South), including partial signalisation of the existing roundabout and associated works, provision of maintenance bay, and road marking amendments.

10. Update on Rep 5-055 Issues Specific Hearing 4 Action 7 – Updates on Road Safety Audits

CBC are continuing to work with the applicant on the findings of the Stage One Road Safety Audits undertaken at two junctions falling within the DCO limits, these being:

- The London Road South Roundabout (works no 6e (h))
- The Gipsy Lane / A1081 network of junctions (works no 6e (b))

Having considered the findings of the Stage One RSA, and the subsequent Designers Response, CBC do not currently have confidence that the schemes in question can fully account for and address the problems identified within the Stage One RSA whilst staying fully within the order limits.

In the case of the London Road South Roundabout, the area of concern relates to forward visibility to the nearside signal, (identified as Problem 3.1) which it appears may be not achievable to DMRB standards for the current design speed without reprofiling a section of embankment which appears to fall outside of the DCO limits (although this does appear to be achievable within the confines of the public highway, and therefore CBC are content that an engineering solution to the identified problem is available if further land was within the order limits).

In addition, whilst CBC have raised the need for an engineer's service bay to be shown on plan, to confirm that this can be provided in a safe location within the order limits, this has not been shown to date.

In the case of the A1081 / Gipsy Lane scheme the concerns are more significant and relate to a number of the Safety Audit recommendations.

In order to replace the current on-carriageway cycle lanes (Problem 3.7) the proposed designer's response is to further reduce the width of the central reservation, whilst also moving the northern cycle lane northwards by approximately 1.0m from its current position. This has a number of further implications in terms of the related need to relocate a significant length of safety barrier, including bringing the barrier closer to both sets of footings for the Gantry located east of the junction. Safety Audit problem 3.1, which was based upon a scheme in which the central reservation was not being reduced as significantly as is now proposed, identified a concern over the previous

(and lesser) narrowing of the central reservation bringing the carriageway closer to heavy duty items of street furniture and potentially within the working widths of the VRS. It appears probable that works to alter the Gantry may be required, however the northern footing of the Gantry currently falls outside of the DCO limits.

Problem 3.4 identified the dense vegetation to the east of the Gipsy Lane approach as having the potential to limit the available Stopping Sight Distance to the nearside signal head, whilst CBC have a related concern that the realignment of the junction approach also further reduces forward visibility. To achieve forward visibility to standards would require relatively significant regrading of the land to the east of the junction, some of which may fall outside of the DCO limits. In addition, following further checks within the authority, it appears that a proportion of the land to the east of the junction assumed within the application as being highway land (specifically the planted island east of the B653 and north of the A1081), whilst owned by CBC, is not classed as public highway. This matter has been brought to the applicant's attention and CBC are currently working with the Applicant to seek to resolve this.

Problem 3.5 identified a risk of side-swipe collisions on the Gipsy Lane to A1081 movement. The submitted swept paths demonstrate that a HGV on the nearside lane would have to intrude significantly onto the central lane when making a left turn, with the related risk of side-swipe conflicts. To address this there appears to be the need to provide a larger corner radius and taper to accommodate the left turn (as per DMRB standards), however it is not clear that this could be achieved within the DCO limits, as this would require the related relocation of the cycle lane and VRS on the northern side of the A1081 to accommodate.

It is also noted that the current lane widths are close to the recommended minimum (at 3.1m) and should the more detailed design process identify a need for greater lane widths, there is little scope for this to be accommodated.

CBC do note that there are relatively significant areas of highway land to the southern side of the junction, which would allow for more flexibility in terms of addressing these matters during detailed design, however this land does not fall within the current DCO limits.

However, based upon the information currently available, CBC are not in a position to agree the Safety Audits and therefore have related concerns over the deliverability of the schemes in question.

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