



Responses to Any Further Information at Deadline 6

Application by Luton Rising to extend London
Luton Airport

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SoS Ref: TR020001

HA Ref: 20040643

Date: 9 January 2024



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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 by the Applicant at Deadline 6.
- 1.2 At Deadline 6 (8 December) some 76 documents were provided by the Applicant (though half of these were Statements of Common Ground). The five Host Authorities have jointly commissioned consultants in respect of noise (Suono), and draft DCO/legal (Pinsent Masons). LBC has incorporated the comments from the consultant team as appropriate.
- 1.3 The response only address those documents where LBC (or its consultants) have considered that a further comment is necessary, but also reference where responses may have been provided in another submission by LBC at Deadline 7.

2 REP6-052 Deadline 6 Submission - 8.126 Response to Suono's note on Noise Controls

Reference	Subject	Comment
Table 2.1 ID3	Night Quota Count (in the QC period)	<p>The full night period quota count (QC) budget referred to in the second paragraph in the text to the left of the Applicant's response is an internal tool for London Luton Airport only and does not constitute a control. The tool is proposed by the Applicant to assist in meeting the noise contour control and is not a replacement for, or duplication of, separate QC controls (such as the 2,800 QC over a different time period).</p> <p>The Noise Envelope Design Group recommendations do not strictly require core night QC to reduce to 2,800, only to a level below 3,500.</p> <p>LBC notes 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</p>

		<p>to the Applicant at every stage of the DCO process. This would clearly assist in the requirement to “limit, and where possible reduce” noise.</p> <p>Table 6.17: Projected annual night control period aircraft movements (23:30-05:59) in the Core Planning Case</p> <table border="1" data-bbox="759 421 1353 611"> <thead> <tr> <th></th> <th>2019 Actual</th> <th>2027</th> <th>2039</th> <th>2043</th> </tr> </thead> <tbody> <tr> <td>Passenger Movements</td> <td>6,113</td> <td>6,950</td> <td>7,500</td> <td>8,600</td> </tr> <tr> <td>Cargo Movements</td> <td>1,546</td> <td>1,550</td> <td>1,550</td> <td>1,050</td> </tr> <tr> <td>Sub-Total</td> <td>7,659</td> <td>8,500</td> <td>9,050</td> <td>9,650</td> </tr> <tr> <td>Available for Business Aviation²⁰⁴</td> <td>1,185</td> <td>1,150</td> <td>600</td> <td>0</td> </tr> <tr> <td>Movement Limit</td> <td>9,650</td> <td>9,650</td> <td>9,650</td> <td>9,650</td> </tr> <tr> <td>QC Count</td> <td>3,159</td> <td>2,926</td> <td>2,607</td> <td>2,879</td> </tr> </tbody> </table> <p style="text-align: right; font-size: small;">Source: York Aviation</p>		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
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<p>Table 2.1 ID.10</p>	<p>Noise Violation Limits</p>	<p>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.</p> <p>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.</p> <p>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.</p> <p>This approach should be investigated by the Applicant.</p>																																			
<p>Table 2.1 ID.12</p>	<p>Movement Cap</p>	<p>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.</p> <p>During the (Noise Envelope Design Group (NEDG) process, AECOM (one of the Applicant’s acoustic consultants) stated:</p>																																			

		<p><i>“Enforcing a cap on the total number of aircraft movements within a fixed time period provides a 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).</i></p> <p><i>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.</i></p> <p><i>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.</i></p> <p><i>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</i></p>
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		<p><i>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.</i></p> <p><i>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.”</i></p> <p>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]. The Hertfordshire Host Authorities 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.</p>
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3 REP6-053 Deadline 6 Submission - 8.127 Applicant's Response to Deadline 5 submissions

Reference	Subject	Comment
LBC ID.47	7 Noise And Vibration	<p>In response to the Applicant's reply, LBC's comment had considered paragraph 3.2.16 of REP5-020, as the Airport was and is fully able to introduce an internal QC budget tool to aid them to meet their noise contour limits at any stage – this is not something that can only be introduced as a result of this application. GCG only serves to bring the Airport in line with every other UK airport's noise controls given that no other such airport has breached its noise contour limits.</p> <p>LBC again notes, as has been raised in various noise meetings since its publication, that the worked example does not cover the reasons why the historic breaches occurred. It would be more transparent and more convincing if this was the case.</p> <p>The Applicant has not yet proposed to introduce Local Rules ahead of time and as such, there remains concern that breaches could still occur.</p>
LBC ID.49	Noise And Vibration	<p>The quantifications referenced by the Applicant involve a range between the faster growth case and the slower growth case. There is no reason to expect anything other than the faster growth case to materialise, given historic trends after granting of permissions at Luton Airport, meaning that the quantification provided by the Applicant would remain entirely negligible at night time (being 0-1% in 15 of the 20 years stated when compared to P19 future baseline, or 0% in all years when compared to P18 future baseline).</p>

4 REP6-062 Deadline 6 Submission - 8.131 Written Question Responses - Applicant's Response to Luton Borough Council's Comments

Reference	Subject	Comment
DCO.1.6	Article 35 – special category land	LBC notes the Applicant's response in relation to the long-term maintenance of replacement land being secured through an obligation in the s106 agreement, and awaits the latest draft of the agreement to be submitted by the Applicant at Deadline 7 and will discuss this iteration in the week commencing 15 January.

5 REP6-066 Deadline 6 Submission - 8.135 Applicant's Post Hearing Submission - Issue Specific Hearing 8 (ISH8)

Reference	Subject	Comment
Section 3.5.7 and 3.5.8	Noise: aircraft modelling assumptions	LBC understands that the full-length runway trial caused delays due to aircraft backtracking to the full length of the runway and is not expected to be introduced.
Section 3.7.2-3.7.8	Noise: ATM Cap	Please see response to [REP6-052] - Response to Suono's Note on Noise Controls above.

6 REP6-067 Deadline 6 Submission - 8.136 Applicant's Post Hearing Submission - Issue Specific Hearing 9

Reference	Subject	Comment
Section 3.4	Slot Allocations and Local Rules	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

		<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>See also the comment in 'Responses to ExA Written Questions ExQ2' (AP14 from ISH9).</p>
Paragraph 4.4.3	Noise limit review	<p>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.</p>

		<p>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. The Hertfordshire Host Authorities note that this may overlap with the response to NO.2.10 (noise abatement procedures), for which the Hertfordshire Host Authorities await the Applicant's response.</p>
Section 4.5	The balance of growth vs future noise reduction	<p>In the EIA proposals, there is a noise 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.</p> <p>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.</p> <p>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): "<i>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, <u>as part of a policy of sharing benefits of noise reduction with industry.</u></i>" (their emphasis).</p> <p>The Applicant has submitted a noise assessment, which is standalone and</p>

		<p>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.</p> <p>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:</p> <p><i>“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.”</i></p> <p>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.</p> <p>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.</p>
Section 4.7	Noise: ban on scheduled movements during the night	Please see response to [REP6-052] - Response To Suono's Note On Noise Controls above.
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

		<p>the faster growth case and is a new argument put forward by the Applicant.</p> <p>“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.</p> <p>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.</p>
Paragraph 6.1.7	Agreeing QA/QC monitoring process	See the comment in ‘Responses to ExA Written Questions ExQ2’ (AP26 from ISH9).

7 REP5-068 Deadline 6 Submission - 8.137 Applicant's Post Hearing Submission - Issue Specific Hearing 10 (ISH10)

Reference	Subject	Comment
4.1.4 to 4.1.5	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)	<p>LBC welcomes the Applicant’s confirmations contained in paragraphs 4.1.4 that the Applicant is proposing in the Deadline 7 iteration of the draft DCO:</p> <ul style="list-style-type: none"> • 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. <p>LBC also welcomes 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</p>

		<p>article 44(1) notice and confirmation that the Applicant is contemplating including additional drafting in the Deadline 7 DCO to address.</p> <p>LBC notes that their suggestion made at ISH10 (noted on page 9 of Joint Host Authorities ISH10 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.</p>
5.1.12	Action Point 7 in relation to article 45(1) and “operational land”	LBC is content that article 45(1) is well precedented and does not have concerns that it could be construed as applying to Wigmore Country Park permitted development rights associated with an operational airport. However, LBC would draw the Applicant’s attention to the suggestion on page 8 of the Joint Host Authorities ISH10 post hearing submission [REP6-095] that the concerns in relation to Wigmore Country Park could be adequately addressed by ‘carving out’ its application from that land.
5.2.9, 5.2.14, 6.1.9 and 6.1.10	Article 45(2)-(5)	LBC will comment further on the Article 45 following the submission of the revised draft DCO by the Applicant at Deadline 7.
6.4	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 Joint Host Authorities ISH10 post hearing note from [REP6-095] under Action Point 14 (pages 16 to 18). LBC encourages 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	LBC has commented upon the lack of effective sanctions in 'Responses to ExA Written Questions ExQ2' (AP14 from ISH9).
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8 REP6-072 Deadline 6 Submission - 8.141 Response to Issue Specific Hearing Action 10 Action 19 Summary of Section 106 Heads of Terms

Reference	Subject	Comment
Section 3	Heads of Terms	LBC has commented on this in 'Responses to ExA Written Questions ExQ2' (BCG.2.6 and subsequent questions).

9 REP6-073 Deadline 6 Submission - 8.142 Applicant's Response to Issue Specific Hearing 8 Action 22 - Proposed Odour Reporting Process

Reference	Subject	Comment
Section 3	Odour reporting process	LBC commented on this document during ISH8 and has made further comments in our 'Responses to ExA Written Questions ExQ2' (page 13 of 54)

10 REP6-076 Deadline 6 Submission - 8.147 Applicant's Response to Issue Specific Hearing 9 Action 26 - Air Quality Monitoring

Reference	Subject	Comment
Section 2	PM10 and PM2.5 monitoring equipment	The submission does not address how the Applicant intends to access a UK-certified reference-equivalent instrument for PM co-location'