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Dear Jo Dowling

London Luton Airport Expansion Project

Response to Deadline 7 of the Examination

1. Submissions made at Deadline 7

Please see Appendix A (Tables 1 and 2) for a list of new and updated documents in clean and tracked change versions submitted by Luton Rising (the Applicant) for Deadline 7 of the Examination of the London Luton Airport Expansion Project.

Documents **TR020001/APP/8.149 - 8.161** submitted at Deadline 7 provide the Applicant's responses to the Examining Authority's (ExA) Further Written Questions (ExQ2), published on 15 December 2023, and republished on 22 December 2023.

2. Statements of Common Ground (SoCGs)

Discussions continue to take place between the Applicant and other Interested Parties with regards to SoCGs, with good progress made and there are several SoCGs with all matters agreed. The Applicant will continue to engage with the Interested Parties ahead of Deadline 9, at which point SoCGs will be finalised. An **SoCG Updates Document [TR02001/APP/8.106]** has been provided at Deadline 7.

3. Action Points arising from the Open Floor Hearing, Compulsory Acquisition Hearing and Issue Specific Hearings

The Applicant has provided a response to the ExA's Action Points for Deadline 7 in the **Applicant's Response to November Hearing Actions (OFH3, CAH2, ISH7-10) [TR020001/APP/8.165]**. Where Action Points have been responded to by the Applicant in other documents submitted at this deadline, this has been signposted.

This includes the ExA Action Points republished on 5 December 2023 to reflect amended deadlines requested by the Applicant and agreed by the ExA for Compulsory Acquisition

Hearing 2 (CAH2) [EV12-006], Issue Specific Hearing 7 (ISH7) [EV14-008], ISH8 [EV15-013], ISH9 [EV16-009] and ISH10 [EV17-007].

Written Questions noted in the above Action Points can be found in the **Applicant's Response to Written Questions Arising from Hearings [TR020001/APP/8.146]**.

4. Covid 19 Traffic Modelling – Environmental Appraisal

The **Accounting for Covid-19 in Transport Modelling – Environmental Appraisal [TR020001/APP/8.172]** has been submitted at Deadline 7. The Applicant notes the Rule 17 letter received by the ExA on 18 December [PD-016] requesting that the Applicant explains the next steps, including timeframes, in more detail at Deadline 7. The Deadline 7 submission provides the environmental assessment of the updated traffic modelling which represents the final information to be issued, no further submissions are proposed.

5. Draft Development Consent Order (DCO) and Airport Boundary Plans

The Draft DCO has been updated for Deadline 7 to include reference to an 'Airport Boundary Plan (Existing)' and an 'Airport Boundary Plan (Expanded)'. The **Airport Boundary Plan [AS-022]** will be updated for Deadline 8 to include a new plan showing the boundary of the expanded airport at 32 mppa, in addition to the existing plan that shows the existing airport boundary. The plans will be re-titled such that they match the terminology included in the Deadline 7 version of the Draft DCO and the intention is for them to become certified in accordance with Article 50 and Schedule 9 of the Order.

6. Draft Section 106 Agreement

The Applicant continues to negotiate the terms of a section 106 agreement with the relevant local authorities, with a view to it being finalised by Deadline 9 (30 January 2024). The latest draft, prepared by the Applicant, is provided at Deadline 7 [TR020001/APP/8.167] as requested in the ExA's Rule 17 letter dated 3 January 2024 [PD-017].

The agreement is proposed to be made not only under section 106 Town and Country Planning Act 1990 but also under section 111 Local Government Act 1972 and all other enabling powers. This is common practice. It provides for situations in which the contents of such an agreement do not wholly fall within section 106 or where there is any doubt about whether its provisions fall within section 106, particularly section 106(1), since the scope of section 111 (and other provisions, such as section 1 of the Localism Act 2011) is very broad. This point is also relevant to whether provisions in the draft agreement can, alternatively, be set out in a unilateral obligation under section 106.

The Applicant acknowledges and shares the ExA's concern that it may not be possible to reach an agreement with all parties, at least by Deadline 9. The Applicant notes that the ExA is considering the possibility of using articles and schedules in the DCO to secure commitments that would otherwise be in the section 106 agreement.

The Applicant has also been considering the possible alternatives to a section 106 agreement if the section 106 agreement it is hoping to settle is not agreed in time. It is possible that agreement can be reached with the local authorities on parts of the proposed agreement if not all of it, in which case the agreement would cover those parts. However, assuming that no agreement at all is reached, the Applicant has set out below some possible alternatives to a section 106 agreement, taking each schedule of the draft agreement in turn.

Schedule 1 – Land Interests

This schedule is simply to record the land interests of the Applicant and airport operator (LLAOL).

Schedule 2 – Re Provision of Sports Pitches

This schedule requires the Applicant to make a payment to Luton Borough Council for the re-provision of sports pitches in certain locations. It could be converted to a section 106 unilateral obligation in the absence of an agreement.

Schedule 3 – Future Management of Wigmore Valley Park

This schedule requires the establishment of a community trust to manage and take ownership of Wigmore Valley Park in its re-constituted form (i.e. with part taken for the airport development and some added as “replacement land” under the DCO). The schedule also provides for the payment by the Applicant of £250,000 pa to the Community Trust as the future owner and manager of the park.

It would not be appropriate for this to be dealt with under a unilateral obligation as the annual payment is to be made to the trust rather than to Luton Borough Council and the schedule also requires the Council or the Applicant, depending upon the circumstances prevailing at the time, to transfer or grant a long lease of its interest in the park (as re-constituted) to the trust.

An agreement with Luton Borough Council is needed to achieve this and if not in the form of a section 106 agreement, it would need to be under a side agreement between the Applicant and the Council.

Schedule 4 – Employment and Training Strategy (ETS) and Local Procurement Protocol

This schedule requires the Applicant and the airport operator to adhere to the ETS, being a document that is before the ExA. The Local Procurement Protocol is intended to be annexed to another version if it. This could be covered by a requirement in the DCO.

Schedule 5 – Green Controlled Growth Funding

This schedule involves the Applicant making annual payments to various local authorities to assist in their obligations as regards the Environmental Steering Group (ESG) to be established under requirement 19 of the DCO and related technical panels. It could be converted to a unilateral agreement in the absence of an agreement.

There is a possibility that these provisions will be removed from the agreement in its final form and payments made instead directly to the ESG in circumstances where the ESG is to be constituted as a corporate entity as the Applicant has indicated is its preferred form for the body.

Schedule 6 – Prospect House Day Nursery

This schedule involves the Applicant assessing the need for replacement nursery place provision at the relevant time, in circumstances where the Prospect Day Nursery is unable to continue to operate on its present site on account of the airport development. The outcome of the assessment will determine the steps then to be taken by the Applicant to address any need for replacement provision. These obligations could be converted to a section 106 unilateral obligation in the absence of an agreement.

Schedule 7 – Compensation Policies

This schedule requires the Applicant to make available the compensation arrangements in the **Draft Compensation Policies, Measures and Community First** document [TR020001/APP/7.10]. The Community First element is a reference to grant funding to local organisations to assist in tackling deprivation and achieving carbon neutrality, as explained in Part 8 of the document.

This obligation could be covered by a requirement in the DCO.

Schedule 8 – TRIMMA, Residual Impact Fund

This schedule requires the Applicant to make available funds (the Residual Impact Fund) for allocation on the recommendation of the Airport Transport Forum (ATF) Steering Group in respect of as yet unidentified highway mitigation measures required, according to the process set out in the TRIMMA (Transport Related Impacts Monitoring and Mitigation Approach). The final version of the TRIMMA would be approved by the relevant local planning authority under requirement 29 of the DCO.

These provisions could alternatively be covered in a requirement of the DCO.

Schedule 9 – Sustainable Transport Fund

This schedule concerns the establishment, by the airport operator, of the sustainable transport fund, built up by way of levies on car parking at the airport and on “dropping off” of people arriving at the airport. The funds would be applied on the recommendation of the ATF Steering Group towards meeting the objectives of the Surface Access Strategy and relevant Travel Plans.

This could be dealt with by a requirement in the DCO.

Schedule 10 – Community Fund

This schedule concerns the airport operator maintaining its existing community fund, to be applied by an independent body, defined in the draft agreement as the Bedfordshire and Luton Community Foundation. The fund would be topped up each year by the airport operator as well as from fines collected from the airlines for breaches of tracking or noise level requirements.

In the absence of a section 106 agreement this is most appropriately covered in a side agreement.

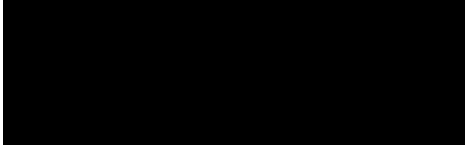
Schedule 11 – Design Review Body

This schedule deals with the role of a design review body to provide expert design advice on prospective applications for the approval of detailed designs for certain elements of the project under requirement 5 of the DCO.

In the absence of a section 106 agreement this could be dealt with by additions to that requirement.

Please do not hesitate to get in touch should you have any further comments or questions.

Yours sincerely,



Antony Aldridge
Head of DCO Programme

APPENDIX A – DEADLINE 7 LUTON RISING DOCUMENTS SUBMITTED

Table 1: List of new documents submitted by the Applicant for Deadline 7

Document Title	Document Number
Applicant's Response to Written Questions	
Applicant's response to Written Questions Arising from Hearings	TR020001/APP/8.146
Applicant's response to Written Questions - Broad Cross Topic Questions	TR020001/APP/8.149
Applicant's response to Written Questions - Air Quality and Odour	TR020001/APP/8.150
Applicant's response to Written Questions - Compulsory Acquisition and Temporary Possession of Land and Rights	TR020001/APP/8.151
Applicant's response to Written Questions - Physical Effects of Development and Operation	TR020001/APP/8.152
Applicant's response to Written Questions - Draft Development Consent Order	TR020001/APP/8.153
Applicant's response to Written Questions - Green Controlled Growth (GCG)	TR020001/APP/8.154
Applicant's response to Written Questions – Need Case	TR020001/APP/8.155
Applicant's response to Written Questions - Noise	TR020001/APP/8.156
Applicant's response to Written Questions - Water Environment	TR020001/APP/8.157
Applicant's response to Written Questions - Socio-economic Effects	TR020001/APP/8.158
Applicant's response to Written Questions - Health and Community Effects	TR020001/APP/8.159
Applicant's response to Written Questions - Major Accidents and Disasters	TR020001/APP/8.160
Applicant's response to Written Questions - Traffic and Transport	TR020001/APP/8.161
Applicant's Response to Deadline 6 Submissions	
Applicant's Response to Comments on the Draft Development Consent Order at Deadline 6	TR020001/APP/8.162
Applicant's Response to Deadline 6 Submissions	TR020001/APP/8.163
Applicant's Response to Deadline 6 Submissions - Appendix A - Friends of Wigmore Park	TR020001/APP/8.163
Applicant's Response to Deadline 6 Submissions - Appendix B - National Highways	TR020001/APP/8.163
Applicant's Response to Deadline 6 Submissions - Appendix C - LADACAN	TR020001/APP/8.163

Document Title	Document Number
Applicant's Response to Deadline 6 Submissions - Appendix D - Central Bedfordshire Council	TR020001/APP/8.163
Applicant's Response to Deadline 6 Submissions - Appendix E - Luton Borough Council	TR020001/APP/8.163
Applicant's Response to Deadline 6 Submissions - Appendix F - Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, Luton Borough Council, North Hertfordshire District Council	TR020001/APP/8.163
Applicant's Response to Deadline 6 Submissions - Appendix G - Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire District Council	TR020001/APP/8.163
Applicant's Response to Hearing Actions	
Applicant's Response to November Hearing Actions (Compulsory Acquisition Hearing 2 and Issue Specific Hearings 7-10)	TR020001/APP/8.165
Applicant's Response to Issue Specific Hearing 7 Actions 13 and 14: Needs of Non-Motorised Users	TR020001/APP/8.166
Applicant's Response to Issue Specific Hearing 8 Action 20: Position Statement on Health Monitoring	TR020001/APP/8.168
Applicant's Response to Issue Specific Hearing 8 Action 41: Commentary Regarding Non Carbon Dioxide Emissions	TR020001/APP/8.169
Applicant's Response to Issue Specific Hearing 9 Actions 8, 19 and 20: Quota Count Noise Controls	TR020001/APP/8.170
Applicant's Response to Issue Specific Hearing 9 Action 27: Note on GHG Limits	TR020001/APP/8.171
Additional Documents	
Accounting for Covid-19 in Transport Modelling - Environmental Appraisal	TR020001/APP/8.172
SoCG Updates Document	TR020001/APP/8.106
Gas Mitigation Measures Technical Note	TR020001/APP/8.164
Draft Section 106 Agreement	TR020001/APP/8.167

Table 2: Updated list of documents submitted by the Applicant for Deadline 7

Document Title	Document Number
Volume 1	
Application Document Tracker	TR020001/APP/1.06
Volume 2	
Draft Development Consent Order Draft Development Consent Order (Tracked Change Version)	TR020001/APP/2.01
Explanatory Memorandum Explanatory Memorandum (Tracked Change Version)	TR020001/APP/2.02
Consents and Agreements Position Statement Consents and Agreements Position Statement (Tracked Change Version)	TR020001/APP/2.03
Volume 5	
Environmental Statement – Chapter 13 Health and Community Environmental Statement – Chapter 13 Health and Community (Tracked Change Version)	TR020001/APP/5.01
Environmental Statement - Chapter 17 Soils and Geology Environmental Statement - Chapter 17 Soils and Geology (Tracked Change Version)	TR020001/APP/5.01
Environmental Statement - Chapter 17 Soils and Geology Figures 17.1-17.3 <i>Please note that a tracked change version is not submitted as the change at Deadline 7 was to add Figure 17.3 and it is not possible to show this in tracked changes.</i>	TR020001/APP/5.03
Environmental Statement - Appendix 16.1 Noise and Vibration Information Environmental Statement - Appendix 16.1 Noise and Vibration Information (Tracked Change Version)	TR020001/APP/5.02
Volume 7	
Employment and Training Strategy Employment and Training Strategy (Tracked Change Version)	TR020001/APP/7.05
Design Principles Design Principles (Tracked Change Version)	TR020001/APP/7.09
Green Controlled Growth Explanatory Note Green Controlled Growth Explanatory Note (Tracked Change Version)	TR020001/APP/7.07
Green Controlled Growth Framework Green Controlled Growth Framework (Tracked Change Version)	TR020001/APP/7.08

Document Title	Document Number
Green Controlled Growth Framework Appendix A - Draft ESG Terms of Reference Green Controlled Growth Framework Appendix A - Draft ESG Terms of Reference (Tracked Change Version)	TR020001/APP/7.08
Green Controlled Growth Framework Appendix B - Draft Technical Panels Terms of Reference Green Controlled Growth Framework Appendix B - Draft Technical Panels Terms of Reference (Tracked Change Version)	TR020001/APP/7.08
Green Controlled Growth Framework Appendix C - Aircraft Noise Monitoring Plan Green Controlled Growth Framework Appendix C - Aircraft Noise Monitoring Plan (Tracked Change Version)	TR020001/APP/7.08
Green Controlled Growth Framework Appendix D - Air Quality Monitoring Plan Green Controlled Growth Framework Appendix D - Air Quality Monitoring Plan (Tracked Change Version)	TR020001/APP/7.08
Green Controlled Growth Framework Appendix E - Greenhouse Gases Monitoring Plan Green Controlled Growth Framework Appendix E - Greenhouse Gases Monitoring Plan (Tracked Change Version)	TR020001/APP/7.08
Green Controlled Growth Framework Appendix F - Surface Access Monitoring Plan Green Controlled Growth Framework Appendix F - Surface Access Monitoring Plan (Tracked Change Version)	TR020001/APP/7.08
Draft Compensation Policies, Measures and Community First	TR020001/APP/7.10
Draft Compensation Policies, Measures and Community First (Tracked Change Version)	TR020001/APP/7.10
Volume 8	
Summary of changes to the Draft Development Consent Order	TR020001/APP/8.54
Air Noise Management Plan Air Noise Management Plan (Tracked Change Version)	TR020001/APP/8.125
Applicant's Response to Issue Specific Hearing 4 Action 26 and Issue Specific Hearing 7 Action 10: Sustainable Transport Fund Applicant's Response to Issue Specific Hearing 4 Action 26 and Issue Specific Hearing 7 Action 10: Sustainable Transport Fund (Tracked Change Version)	TR020001/APP/8.119
Outline Transport Related Impacts Monitoring and Mitigation Approach (TRIMMA) Outline Transport Related Impacts Monitoring and Mitigation Approach (TRIMMA) (Tracked Change Version)	TR020001/APP/8.97

Document Title	Document Number
<p>Applicant's Response to Issue Specific Hearing 8 Action 42 - Chilterns Area of Outstanding Natural Beauty Special Qualities Assessment</p> <p>Applicant's Response to Issue Specific Hearing 8 Action 42 - Chilterns Area of Outstanding Natural Beauty Special Qualities Assessment (Tracked Change Version)</p>	<p>TR020001/APP/8.144</p>