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The Applicant, the Relevant Planning and  
Highway Authorities, the Environment  
Agency and Network Rail

Our Ref: TR020001

Date: 17 January 2024

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Dear Sir/ Madam

**Planning Act 2008 (as amended) Section 89  
The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule  
17**

**Application by London Luton Airport Limited for an Order granting Development  
Consent for the proposed London Luton Airport Expansion Project**

**Request for further information and written comments**

The Examining Authority (ExA) writes to the Applicant, the Relevant Planning and Highway Authorities, the Environment Agency and Network Rail under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010. Having reviewed the documents submitted at Deadline (D)7 the ExA requests the following further information and clarifications.

***General***

**Applicant - response to Deadline 6 submissions [REP7-063]**

The ExA notes that the numbering of the main table in this document is not always sequential. As an example, row 5.5 appears to be missing. The ExA requests that the Applicant confirms whether rows are missing. If they have been accidentally omitted, please amend and resubmit the document as necessary.

**Luton Borough Council (LBC), Central Bedfordshire Council and the Applicant - Solar Farm on Land to the South of the Runway (LBC ref: 23/01314/GPDOPD and CBC ref: CB/23/03617/OAC)**

The ExA notes the responses from LBC [REP7-090] and Central Bedfordshire Council [REP7-084] to its further written question BCG.2.4, advising that they issued a decision for the creation of a solar farm on land to the south of the runway, which confirmed that the proposal constitutes permitted development.

Please provide a copy of the plans for this development and advise of any implications for the current application.



As the solar farm development is now in the consented baseline, the Applicant is requested to submit further information setting out any implications on the Proposed Development and the findings of the Environmental Statement (ES). This should include any potential changes to the Landscape and Visual Impact Assessment, and Cultural Heritage, with reference to Luton Hoo and Someries Castle. This element of the response can be submitted at D9.

## **Heritage**

### **Applicant - Cultural Heritage Management Plan (CHMP) [REP4-020]**

The ExA notes the Applicant's response [REP7-052] to its further written question PED.2.9. To ensure a Written Scheme of Investigation is secured, it is requested this provision is included in section 8 of the CHMP.

Paragraph 11.1.5 of the CHMP [REP4-020] states that the removal of any human remains would take place in accordance with the requirements set out in Schedule 2 of the draft Development Consent Order (DCO) [REP7-003]. However, removal of human remains would be managed by Article 23. Please review and amend documents as necessary.

### **Applicant - Assessment of Noise on Cultural Heritage Assets**

Whilst the ExA notes the Applicant's response to Issue Specific Hearing (ISH) 8 [REP7-048, WQ14] it requests further information explaining how the increased frequency of aviation noise from the operational phase has been considered in the assessment on cultural heritage assets. This should include clarification of whether this solely relates to the change in the noise contour LAeq,16h metric or whether other factors were also considered, such as the impact of aural intrusion from increased frequency.

### **Applicant - Assessments for St Paul's Walden Bury Registered Park and Garden (RPG) and Bendish Conservation Area Designated Heritage Assets**

In respect of St Paul's Walden Bury RPG it is unclear how the assessment in the ES [AS-007, paragraphs 10.9.87 to 10.9.89] has considered the impact of increased frequency of overflight noise and how this would impact on aural intrusion to that asset, noting that it focuses on changes to the noise contours. In respect of visual intrusion, the ExA notes the comment in the ES [AS-077, paragraph 10.7.41] which states, "*impacts to the asset's significance arising from visual intrusion are unlikely*". The ExA requests a more detailed explanation as to how aural and visual intrusion from overflights has informed the assessment of likely significant effects and the conclusion of no harm to the heritage significance.

For Bendish Conservation Area, the ExA requests a more detailed explanation as to how the increased frequency of flights has informed the assessment of likely significant effects from both aural and visual intrusion. The Applicant should explain how the change in overflights has informed the conclusion of negligible effects and a conclusion of no harm to the heritage significance (as per the response to PED.2.16 [REP7-052]).

## **Design**

### **Applicant, Joint Host Authorities and LBC - Independent Design Review**

**Joint Host Authorities:** Paragraph 1.2.2(i) of the Design Principles [REP7-034] sets out the Work Nos. that would be subject to design review. Should any other works be subject to design review? If yes, please provide details of the Work No. and the reason for this.

**Applicant and LBC:** Should the following works be included as part of the independent design review given their relationship with and close association to the proposed Terminal 2 (Work No. 3b (01&02)) and Terminal 2 Plaza (Work no. 3f)? If not, please explain why this is the case.



- Proposed car park P12 (Work No. 4r);
- Coach station (Work No. 3d); and
- DART Terminal 2 Station (Work No. 3g).

## **Water**

### **Environment Agency - Water Framework Directive**

The ExA will need, by the close of the Examination, to be in a position to report to the Secretary of State (SoS) on the effects of the Proposed Development on Water Framework Directive (WFD) water bodies.

In section 3.3.5 of the Statement of Common Ground between the parties [REP6-017] it is recorded on the Environment Agency's behalf that *"The minor adverse effects identified for the River Lee are not acceptable, as this is a chalk river classified as 'Bad Ecological Potential' under the WFD, and no further deterioration is permitted. Impacts on the River Hiz should also not be exacerbated further"*.

The Applicant's response states that this conclusion reflects the lowest magnitude from the agreed methodology, but that this does not mean there would necessarily be deterioration of the water body. They state that the potential impacts to the River Hiz would be managed through detailed drainage design at a later stage. The ExA also notes that the proposed discharge of treated effluent to ground is to the Upper Lee Chalk groundwater body and the River Mimram catchment.

The ExA acknowledge that the Environment Agency is currently reviewing the Design Principles [REP5-034] to ensure that they appropriately capture and mitigate your concerns.

The ExA request that the EA provide a clear statement on its position regarding potential deterioration of WFD water bodies. If the EA is not satisfied that the Design Principles would ensure that there would not be deterioration of the water bodies, can you advise:

- Would compliance with the Drainage Design Statement [REP5-096] achieve this if secured via the draft DCO?
- Could additional wording be inserted into the draft DCO to ensure that there would not be deterioration of the water bodies? If so, please provide some suggested drafting.

## **Traffic and Transport**

### **Applicant - Action Point 4 from ISH7**

Action Point 4 from ISH7 [EV14-008] was for the Applicant to provide an update at D7 on progress made in relation to agreeing the transport model with the relevant Highways Authorities.

The ExA understands from the relevant Highway Authorities' D7 submissions that outstanding issues in relation to the transport modelling remain. Due to the late stage in the Examination, the ExA requests that the Applicant provides details of the outstanding issues and how these will be resolved.

### **Applicant and Relevant Highway Authorities - Road Safety Audit**

In the post hearing submission for ISH7 [REP6-065] the Applicant stated that it was the intention that full completed road safety audits would be provided for D7. These have not been provided.



**Applicant:** Provide these audits, explain what matters, if any, remain outstanding and how these will be resolved by the close of the examination.

**Relevant Highway Authorities:** Comment at D9 on the response provided by the Applicant at D8. If matters remain outstanding at this point explain what you consider needs to be done to resolve them.

### **Applicant and Network Rail (NR) - Rail Capacity**

[REP7-095] stated that although a meeting has been held between the Applicant and NR, until the Applicant sends further information for NR to review, NR will be unable to provide an assessment of whether the increased passenger numbers will create rail capacity issues.

Whilst the ExA is mindful that discussions are ongoing, any resolution after the close of the Examination will not be able to be considered by the ExA in its report to the SoS. Therefore, the ExA requests, as a matter of urgency, that the Applicant supplies NR with the information they require so that NR can review and provide a response to the ExA before the close of the Examination (10 February 2024).

### **Applicant - Cycling and Walking**

The National Planning Policy Framework states that transport issues should be considered from the earliest stages of plan-making and development proposals, so that '*c) opportunities to promote walking, cycling and public transport use are identified and pursued*'. To date the Applicant has only supplied specific detail as to how it has considered non-motorised users for Wigmore Lane [REP7-073].

Provide similar detail regarding cycling and walking provision for all the locations where off-site highway works are proposed, including detail of locations where the recommendations in Local Transport Note 1/20 could not be achieved and the reasons, by D9.

### **LBC- Response to TT.2.16**

The ExA's question TT.2.16 [PD-015] specifically asked about policy LLP6D(i). LBC response [REP7-090] referred to LLP6E. Please provide a revised response.

### **Noise and Air Quality**

#### **Relevant Planning Authorities - Requirement 23 – Exceedance of limit**

In the ExA's schedule of changes to the draft DCO [PD-018] the ExA has suggested the insertion of a new sub-paragraph between 14 and 15 which would impose a financial penalty on the undertaker for persistent breaches of a limit. The Relevant Planning Authorities should confirm what they consider to be an appropriate penalty scale and penalty time period (eg £/day or alternatively £/month), ideally with reference to any existing penalty scales.

#### **Applicant - Response to ISH9 Action Point 37**

The Applicant states "*Provided below is a breakdown of the number of properties potentially eligible for noise insulation which is a larger number than those identified as Category Three interests*" [REP7-072]. Can the Applicant explain what is meant by '*a larger number*' in this context and what the status of the additional eligible properties is if they are not Category Three interests?

#### **Relevant Planning Authorities - Quota Count Budgets**

The ExA requests that the Relevant Planning Authorities provide comments on whether quota count budgets should be on the face of the draft DCO or whether the ExA's expression of the limits combined with the requirement to use these to determine quota count budgets, as set



out in the ExA's schedule of changes to the draft DCO [PD-018], would provide sufficient comfort in respect of quota-related noise controls.

### **Relevant Planning Authorities - Shoulder period ATM Cap**

The ExA requests that the Relevant Planning Authorities provide comments on whether the proposed level of cap as set out in the ExA's schedule of changes to the draft DCO [PD-018] would be appropriate for the shoulder periods, if not what should the cap be and why?

### **Applicant - Accounting for Covid-19 in Transport Modelling - Environmental Appraisal**

[REP7-079] explains the effect of updated transport modelling on the outcomes of the environmental appraisal. The noise assessment explains the effect of the changes but does not provide the numeric data that supports this appraisal. Please provide the evidence (eg data tables) that informs the environmental appraisal.

[REP7-079] includes air quality criteria for excluding road links from further consideration. The ExA requests that the Applicant provides further justification for using criteria (d) in paragraph 1.3.3, which states:

*"If the DM-DS change in the updated traffic was more than the DM-DS change in the ES traffic, and the updated DM-DS change was above the relevant IAQM/EPUK criteria, but the difference between the updated DM-DS change and the ES DM-DS change (i.e. the difference between the changes in each dataset) was below the relevant IAQM/EPUK criteria".*

In particular, the Applicant should explain how many links have been screened out using criteria (d). This is because the criteria could potentially exclude consideration of road links already close to the threshold criteria for assessment. As an example, an increase of 499 Annual Average Daily Traffic (AADT) in the ES DM-DS and 998 AADT in the environmental appraisal would not constitute an increase of 500 AADT between the two assessment scenarios. This would mean that the road link would be screened out from further assessment. However, the additive effect would be an increase of 1,497 AADT in the DS scenario, which is nearly 3 times the threshold criteria for assessment. Where such justification cannot be provided, updated appraisal information should be provided.

### **Deadlines**

The ExA requires responses from by **Deadline 8, Tuesday 23 January 2024** unless otherwise indicated in the request.

Should you have any queries regarding the content of the letter, please contact the case team using the details at the top of this letter.

Yours faithfully

*Jo Dowling*

**Lead Member of the Examining Authority**

