

Response to the ExA's Rule 17 Letter of 17.01.24

Application by Luton Rising to extend London
Luton Airport

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Contents

1	Introduction	1
2	Responses to ExA's Rule 17 Letter	2
	Appendix 1: Solar Farm Plans.....	10



1 Introduction

- 1.1 This report provides the response of Luton Borough Council (LBC) as local planning authority (LPA) to the Examining Authority's (ExA) Rule 17 letter of 17 January 2024.
- 1.2 The ExA's letter requested further information and clarification in relation to documents submitted at Deadline 7 (9 January 2024). The responses provided in this report only relate to points directly addressed to LBC as either local planning authority (LPA) or local highway authority (LHA).
- 1.3 The response is set out in table form on the pages following.

2 Responses to ExA's Rule 17 Letter

Subject	Request	Comment
<p>Solar Farm ref: 23/01314/GPDOPD (page 1/5)</p>	<p>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.</p> <p>Please provide a copy of the plans for this development and advise of any implications for the current application.</p>	<p>The plans submitted with the consultation were:</p> <ul style="list-style-type: none"> • Site Location Plan (reference LLA/22223/18, rev. 001); • Site Layout Plan (reference LA/22223/17, rev. 001); and • Typical Elevations (reference LA/22223/16, rev. 000). <p>These plans are attached as Appendix 1 to this response.</p> <p>In terms of implications for the DCO, one area of land where solar photo-voltaic panels are proposed to be located (area 4 on plan LA/22223/17) is the location where the fire training ground (FTG) is proposed to be relocated in Phase 2b of the DCO (Work No. 2d).</p> <p>Chapter 4 of the Environmental Statement [AS-074] records that this area covers 87,346sqm and that the FTG would require circa 27,500sqm (about 1/3 of the area). The indicative layout is also shown on drawing LLADCO-3C-ACM-FTR-DR-CE-0001 [AS-018]. The FTG would therefore impact upon the extent of the solar panels in this location, which would need to be rearranged at the time the FTG comes forward.</p> <p>Additionally, Work No. 2c(04) indicates that the existing perimeter road to the FTG would need to be assessed to determine if an upgrade to cater for the additional traffic associated with the FTG would be required.</p> <p>The high voltage cable will run from the solar farm to the existing sub-station located close to Gate 1 and the Signature T2 building (to the north of the core terminal area and to the south of Prince Way). The</p>

		<p>HV cable will be at a depth of approximately 1.1m and should have no implications for the Proposed DCO Development.</p>
	<p>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.</p>	<p>At Issue Specific Hearing 10, LBC indicated the buildings that it thought should be subject to design review [REP6-095] and advised that a meeting was scheduled for 12 December 2023. An update on Action Point 53 was provided in our submission Response to ExA Written Questions ExQ2 [REP7-090], with the Applicant in their revised Design Principles submission [REP7-034] taking on board LBC's comments from the 12 December meeting in relation to the design review panel (section 1.2), with more detail provided in relation to the design principles associated with key buildings (Tables 4.3, 4.4 and 4.5).</p> <p>Following review of the latest iteration of the Design Principles [REP7-034], LBC has provided the Applicant with further comments at a design meeting on 16 January 2024. These comments included reference to:</p> <ul style="list-style-type: none"> i) The DART Terminal 2 station (Work No. 3g) – suggesting that it should complement and reflect the DART Terminal 1 station design. Thus, the design principles from the Terminal 1 station should be carried forward; and ii) The multi-storey car park (MSCP) to the north of Terminal 2 (P12 in Work No. 4r) dominates views from the terminal and views of the terminal on arrival, and it is not clear as to how much of a sense of arrival or identity one would have at Terminal 2. <p>Further comment is provided below in response to the ExA's subsequent question.</p>

<p>Independent Design Review (page 2/5)</p>	<p>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.</p> <ul style="list-style-type: none"> • Proposed car park P12 (Work No. 4r); • Coach station (Work No. 3d); and • DART Terminal 2 Station (Work No. 3g). 	<p>As noted above, in meeting with the Applicant, LBC advocated that more attention should be given to both the DART Terminal 2 station and the MSCP (P12).</p> <p>LBC supports the inclusion of the proposed MSCP (P12) and the coach station within the design review process.</p> <p>With regard to the Terminal 2 DART station, LBC would be content for Table 4-5: Terminal 2 and associated works design principles, to be updated at points T.64-T.66 to include reference to the Terminal 2 DART station reflecting and complementing the design of the Terminal 1 DART station.</p>
<p>Traffic and Transport (page 3/5)</p>	<p>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.</p> <p>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.</p>	<p>LBC will comment on the Applicant's submissions at D8.</p>
<p>Traffic and Transport (page 4/5)</p>	<p>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.</p>	<p>Policy 6D of the Luton Local Plan (2011-2031) is specific to Century Park. Policy 6D requires proposals for Century Park to include a 'comprehensive development brief or Master Plan' which was to include, inter alia, 'details of the proposed access', the requirements for which were included in LLP6D(i). As such the policy is specific to</p>

		<p>the Century Park development, and consequently, as per our answer in relation to the ExA’s question CA.2.3 dealing with policy LLP6E, our response would be the same, namely that LLP6D(i) does not directly apply to the Proposed Development.</p>
<p>Noise and Air Quality (page 4/5)</p>	<p>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 (e.g. £/day or alternatively £/month), ideally with reference to any existing penalty scales.</p>	<p>It is difficult at this stage for LBC to set out in any detail what is considered an appropriate penalty scale and period. This is primarily because the Green Controlled Growth (GCG) Framework is a novel concept. Ultimately, LBC considers any mechanism put in place needs to, as previously submitted, act as a proportionate incentive for the Applicant to pursue growth on a precautionary basis, whilst equally acknowledging that growth should not be constrained where it can be achieved sustainably.</p> <p>In terms of the scale, LBC notes that the ExA have suggested that the Secretary of State could be responsible for setting the framework for any sanctions regime for persistent breaches. LBC would support this in principle, as ultimately, LBC is not expert in these sorts of matter. It is also important to recognise that while it is useful to use the language of “<i>finer</i>”, “<i>sanctions</i>” and “<i>penalties</i>” as a short hand, payments of this nature must be seen for what they are which is an obligation to pay compensation to the communities affected adversely by the authorised development persistently operating in breach of environmental Limits.</p> <p>However, if it assists the ExA, it may be helpful to consider analogous scenarios at other airports. For example, Brussels Airport’s owner was fined €6million + €20k per day whilst an environmental limit breach continued. As set out above, any penalty must be sufficiently high to render the financial benefits of persistently breaching the limit unwarranted. Guidance is therefore also drawn from applicable sanctions under the data protection regime, which can be up to 4% of total global turnover or €20million; these values are taken to be within a comparable ballpark to those applied at Brussels Airport.</p>

		<p>Specifically in terms of period, LBC does not have a strong view – per day or per month (or even per quarter) would be equally acceptable but should, it is submitted, tie into the relevant monitoring periods under the GCG Framework and any relevant Monitoring and Mitigation Plan, to ensure that the Applicant is not subject to any penalty for a period for which it is not in breach and vice versa. It is important to note that any noise contour limit breach can only be applied over a penalty time period of the 92-day summer period, as the limit applies to this period, rather than days or smaller periods within this.</p> <p>Taking noise as a specific example, noise contour area limits are introduced to provide communities with certainty, so the act of persistently breaching the limit should automatically lead to a lump sum being applied, with a scaling factor per dB increase above the limit also applying.</p> <p>Any financial payments should be paid into the Community Fund as proposed to be secured by the section 106 agreement to ensure use of any sums for the benefit of the communities affected by the breaches.</p>
<p>Quota Count Budgets (page 4/5)</p>	<p>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],</p>	<p>Sufficient comfort is provided by the ExA's expression of the limits combined with the requirement to use these to determine Quota Count (QC) budgets, as set out in the ExA's schedule of changes to the draft DCO [PD-018].</p>

	would provide sufficient comfort in respect of quota-related noise controls.	
Shoulder period ATM Cap (page 5/5)	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?	<p>The Applicant states in their response to this question, "<i>The controls proposed represent the most restrictive noise controls in UK aviation.</i>"</p> <p>The controls proposed are viewed by LBC as less restrictive than those currently in place at London Luton Airport, as can be seen from the (only) table in Appendix 1 (noise control benchmarking) in the Applicant's Response to Issue Specific Hearing 9 Actions 8, 19 and 20 - Quota Count Noise Controls [REP7-077]. LBC notes again (as we did at Issue Specific Hearing 8) that the QC budgets marked within the summer and winter limits columns are not controls, as these only assist in planning for the noise contour limits.</p> <p>Taking Stansted Airport as a reasonable comparison to London Luton Airport, the table in Appendix 1 also shows that Stansted is subject to more noise controls than London Luton Airport is proposing, and so the basis of the Applicant's stated position is questioned. Manchester and Bristol Airports are also taken as having similar levels of noise control placed on them, demonstrating that London Luton Airport is not being subject to excessive controls and that the inclusion of an early morning limit would be appropriate (as the question pertains).</p> <p>Within the same question response, the Applicant also puts forward an annual aircraft movement limit in the morning shoulder period of 0600-0700 of 13,000 movements. This value is not accepted; no justification has been provided for this figure nor is it demonstrated whether the noise assessment undertaken by the Applicant can accommodate this figure.</p>

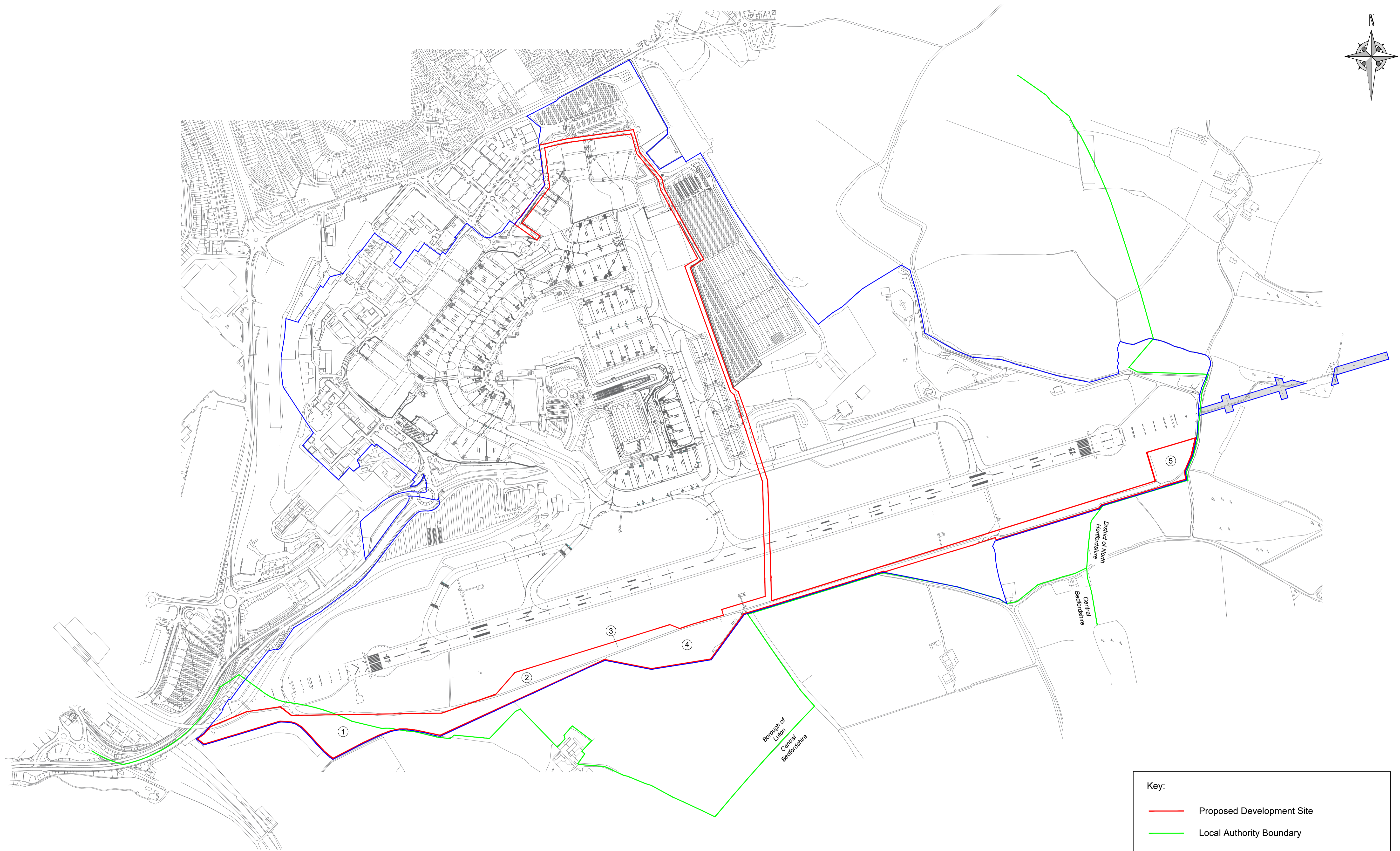
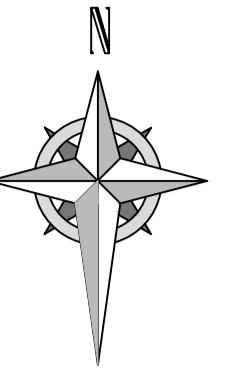
		<p>Provision of the morning shoulder period (0600-0700) limit would in effect provide a proxy limit on the evening shoulder period (2300-2330), noting that there is already a core night period movement limit (2330-0600), the night-time summer contour and the potential annual 24-hour movement limit, all of which envelop this period. For the avoidance of doubt, the full night period is 2300-0700.</p> <p>LBC is of the view that given the very sensitive nature of the shoulder periods the operator should be required to provide an evidenced assessment of the lowest possible number of movements that Air Traffic Movements (ATMs) could be restricted to in order to facilitate the proposal. That would then be available for all parties to review and comment.</p> <p>In advance of that, while all airports are different and have their own characteristics and features, LBC considers that Stansted Airport may provide some guidance in determining an appropriate figure for an aircraft movement limit in the morning shoulder period of 6 to 7 am. Like London Luton Airport, Stansted has a high proportion of its passenger traffic carried by Low Cost Carriers with significant numbers of aircraft based at the airport. Stansted also handles a significant volume of airfreight most of which is flown on pure freighter aircraft which also operate in the early morning period. Stansted is currently handling some 28mppa and may therefore act as an analogue for what might be achieved at a 32mppa London Luton Airport.</p> <p>In the current winter season and the forthcoming summer 2024 season, Airport Co-ordination Limited (ACL) has approved slots for both airports: at these airports, all aircraft movements require a slot from ACL to operate legally. At Stansted, 5.0% of slots were in the period between 6 am and 7 am, whereas at London Luton Airport the</p>
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		<p>figure was 5.9%. This shows that a busier airport can operate with a lower proportion of flights in this hour, perhaps illustrating that there has been some peak spreading as traffic levels have increased.</p> <p>Applying this lower proportion to the Applicant's passenger ATM forecasts for a 32mppa Luton (177,110 per annum) points to a shoulder period limit at London Luton Airport of 8,829 movements per annum. Freighter aircraft generally operate at a lower utilisation (viz. flying hours per day) so should not be too inconvenienced by having operations delayed until after 7 am. LBC also notes that while the Applicant's passenger ATM forecast was regarded as reasonable for assessment purposes they were also advised that it was likely to be an over-estimation, which in turn would suggest a shoulder period cap below the 8,829 figure derived above.</p>
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Appendix 1: Solar Farm Plans

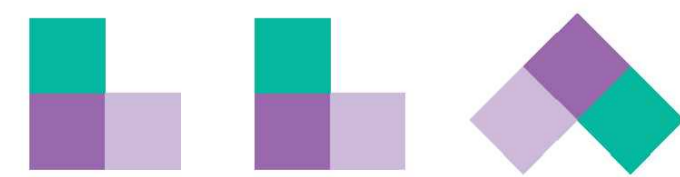
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- Site Layout Plan (reference LA/22223/17, rev. 001); and
- Typical Elevations (reference LA/22223/16, rev. 000).



SCALE BAR 1:5000



Key:		
—	Proposed Development Site	
—	Local Authority Boundary	
—	London Luton Airport Ownership Boundary	



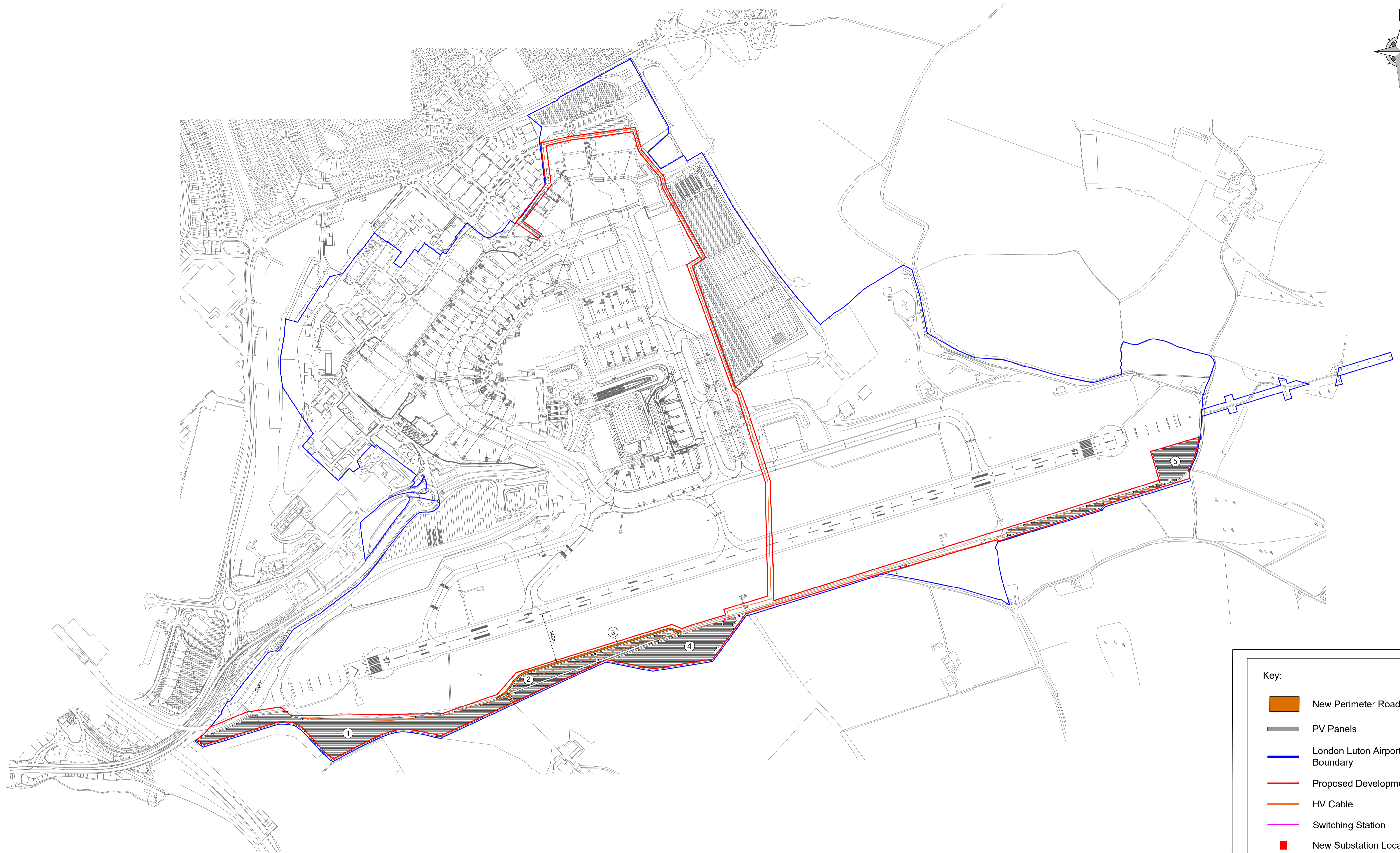
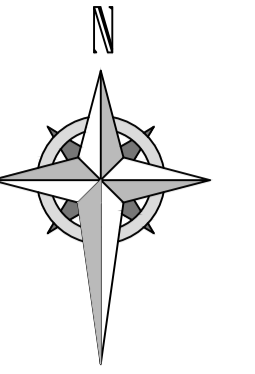
London Luton Airport

Rev	Date	Revision Note

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**LONDON LUTON AIRPORT
 PROPOSED NEW SOLAR INSTALLATION PROJECT**

Drawing Title:
SITE LOCATION PLAN

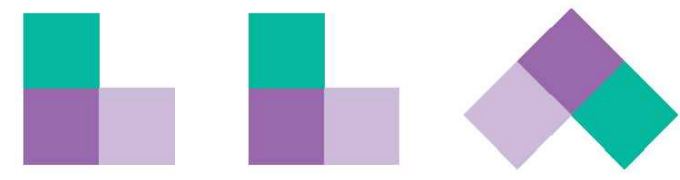
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Drawing Number: LLA/22223/18		Revision: 001



SCALE BAR 1:5000



Key:	
	New Perimeter Road Layout
	PV Panels
	London Luton Airport Ownership Boundary
	Proposed Development Site
	HV Cable
	Switching Station
	New Substation Location
	New Battery Energy Storage System Location



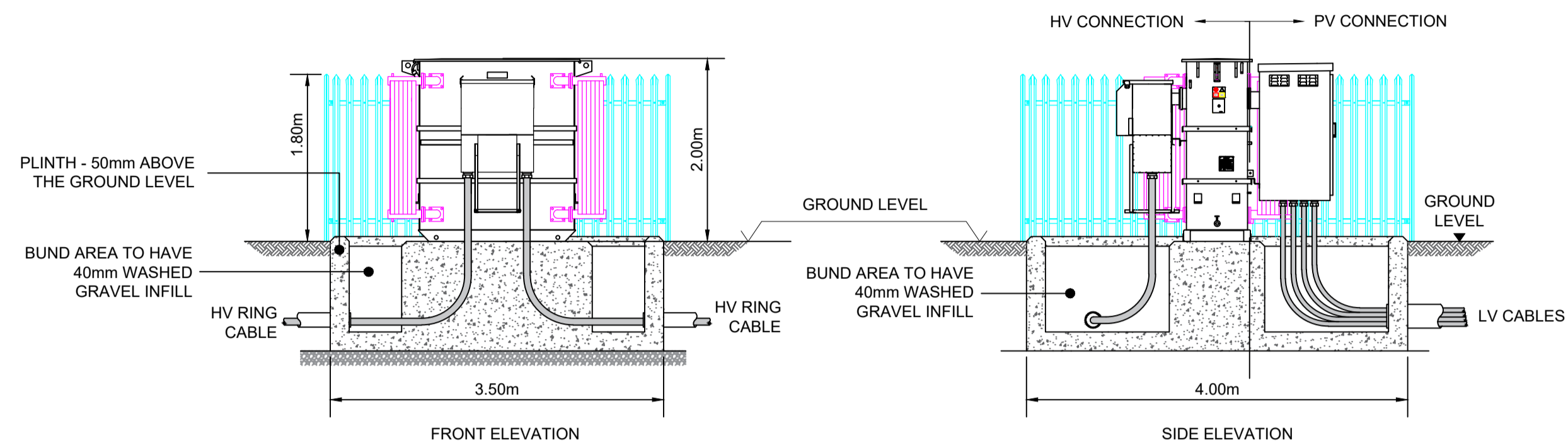
London Luton Airport

Rev	Date	Revision Note

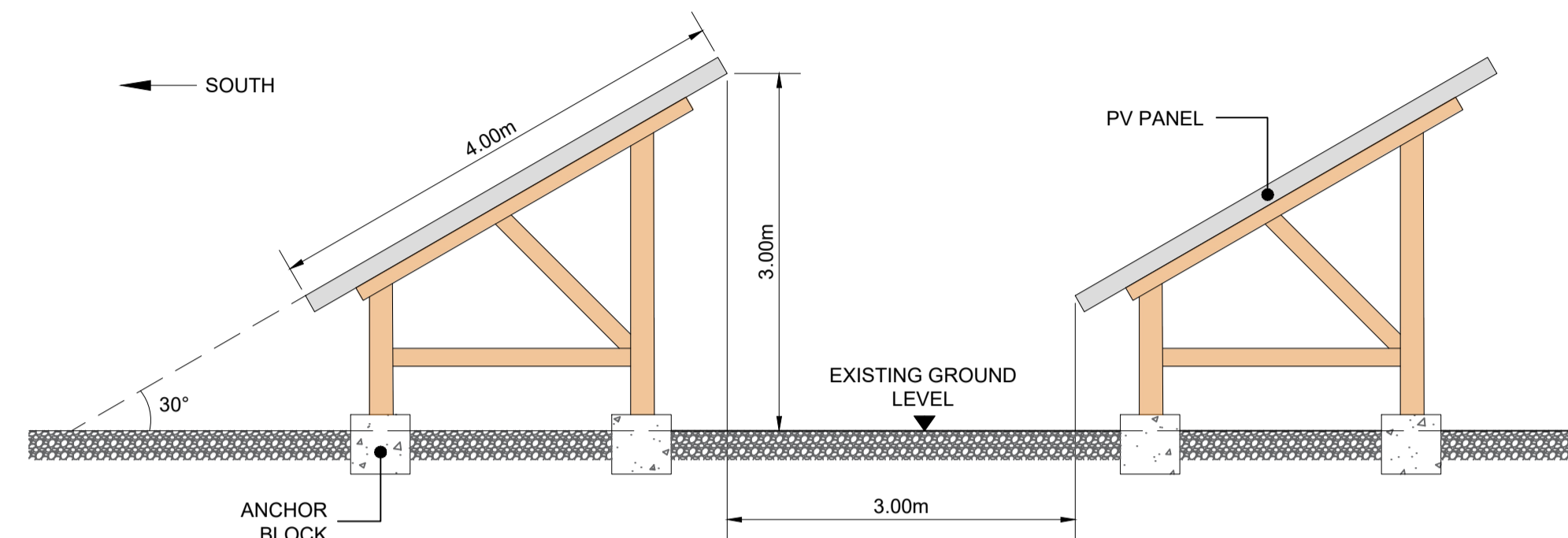
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**LONDON LUTON AIRPORT
PROPOSED NEW SOLAR INSTALLATION PROJECT**

Drawing Title:
SITE LAYOUT

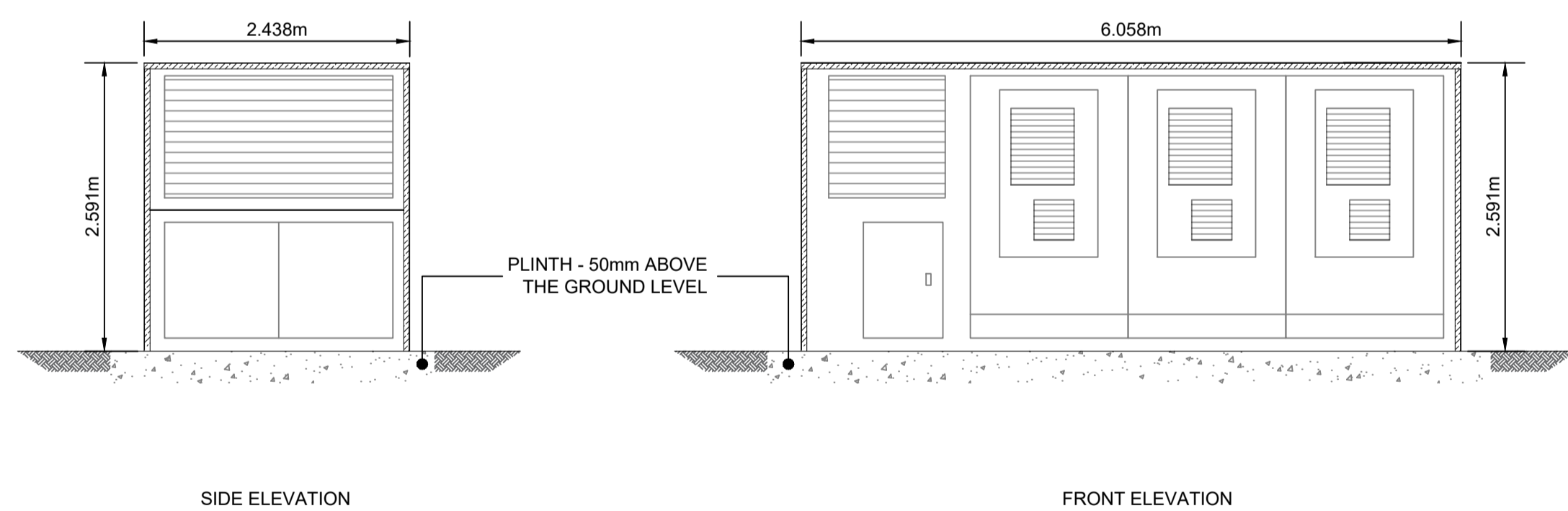
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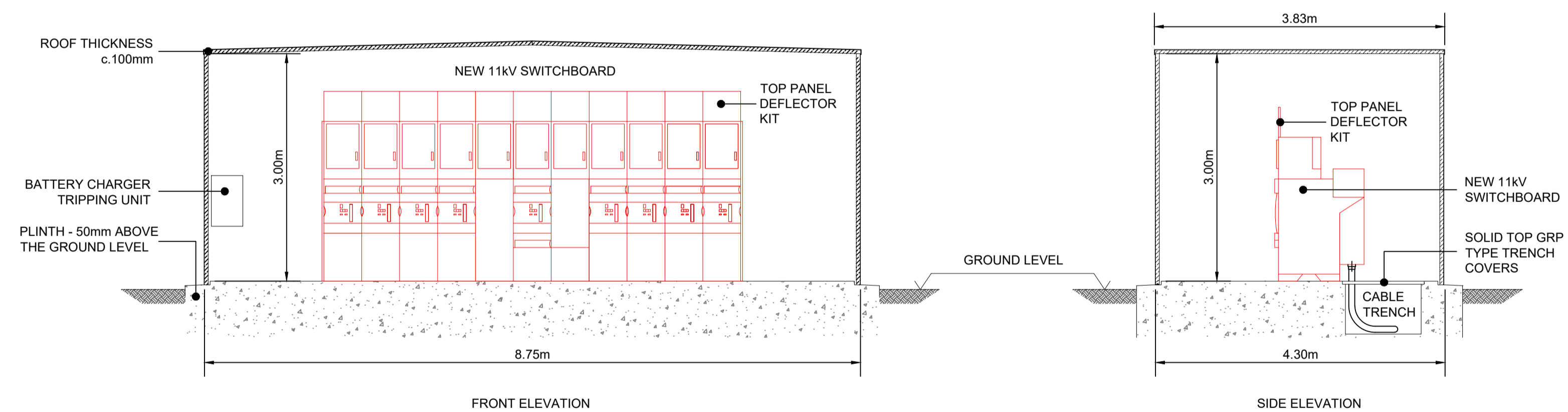
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INDICATIVE SOLAR PV ARRAY
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INDICATIVE BATTERY ENERGY STORAGE SYSTEM ELEVATIONS
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INDICATIVE PV SWITCHING STATION ELEVATIONS
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Rev	Date	Revision Note

Project Title: **LONDON LUTON AIRPORT
PROPOSED NEW SOLAR INSTALLATION PROJECT**

Drawing Title: **TYPICAL ELEVATIONS**

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