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London Luton Airport Expansion

Planning Inspectorate Scheme Ref: TR020001

Volume 8 Additional Submissions (Examination)

8.175 Applicant's Response to Deadline 7 Submissions

Infrastructure Planning (Examination Procedure) Rules 2010

Application Document Ref: TR020001/APP/8.175

The Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

**London Luton Airport Expansion Development Consent
Order 202x**

8.175 APPLICANT'S RESPONSE TO DEADLINE 7 SUBMISSIONS

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Appendix A

1 INTRODUCTION

1.1 Purpose of this document

- 1.1.1 This document has been prepared by Luton Rising (a trading name of London Luton Airport Limited) ('the Applicant') for submission to the Examining Authority (ExA). It provides the Applicant's response to Deadline 7 submissions by Interested Parties (IPs) including IP responses to the ExAs Further Written Questions (ExQ2) **[PD-015]**.
- 1.1.2 To avoid unnecessary repetition of information, and in acknowledgement that the examination will soon close, the Applicant has only provided responses to points of clarification or new matters raised in submissions, i.e., the Applicant has not responded to matters that it considers have already been addressed in previous submissions.
- 1.1.3 This document does not include responses to matters that the Applicant considers will be addressed as part of the Statements of Common Ground (SoCG). Responses to such matters will be reflected in updated SoCG documents. Whilst this document includes responses to some submissions made by parties that have an SoCG with the Applicant, these responses are confined to matters that the Applicant considers may benefit from a response before the issue of an updated SoCG at Deadline 9.
- 1.1.4 In instances where the Applicant considers that no matter has been raised or the point raised has been dealt with previously and the Applicant has not responded to a matter, this should not be read as the Applicant's acceptance of, or agreement with, the matter raised.
- 1.1.5 Some IPs have not been responded to as the Applicant believes that the issues raised have been addressed in the Applicant's responses to previous deadline submissions.

1.2 Structure of document

- 1.2.1 Where possible, the Applicant has responded to Deadline 7 submissions in Tables 2.1-2.20. This includes responses to the following submissions:
- a. Buckinghamshire Council [REP7-080 & REP7-081]
 - b. Central Bedfordshire Council [REP7-083 & REP7-084]
 - c. Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire District Council the 'Hertfordshire Host Authorities' [REP7-085 & REP7-087]
 - d. Luton Borough Council [REP7-089 & REP7-090]
 - e. Environment Agency [REP7-091]
 - f. Historic England [REP7-092]
 - g. Natural England [REP7-094]
 - h. Network Rail [REP7-095]

- i. Bristol Airport Action Network [REP7-098]
- j. Friends of Wigmore Park [REP7-099 & REP7-100]
- k. Holiday Extras Limited [REP7-102]
- l. John Gass [REP7-103]
- m. LADACAN [REP7-104 & REP7-105]
- n. New Economics Foundation [REP7-106 & REP7-107]
- o. Peter White [REP7-108 & REP7-109]
- p. Richard Choppin [REP7-110]
- q. Richard Taylor [REP7-111]
- r. Stop Luton Airport Expansion [REP7-114]
- s. The Chilterns Conservation Board [REP7-115]
- t. The Harpenden Society [REP7-116]

1.2.2 The Applicant's response to the above Deadline 7 submissions are outlined in the below tables, arranged by the relevant topic.

- a. Table 2.1 Air Quality and Odour
- b. Table 2.2 Biodiversity
- c. Table 2.3 Climate Change & Greenhouse Gases
- d. Table 2.4 Compulsory Acquisition & Temporary Possession of Land and Rights
- e. Table 2.5 Cultural Heritage
- f. Table 2.6 Need Case
- g. Table 2.7 Design
- h. Table 2.8 Draft Development Consent Order
- i. Table 2.9 Employment & Training Strategy
- j. Table 2.10 Funding Statement
- k. Table 2.11 Geen Controlled Growth
- l. Table 2.12 Health & Community
- m. Table 2.13 Landscape & Visual
- n. Table 2.14 Noise & Vibration (including Noise Insulation)
- o. Table 2.15 Section 106 Agreement
- p. Table 2.16 Soils & Geology
- q. Table 2.17 Surface Access
- r. Table 2.18 Town Planning
- s. Table 2.19 Water Environment
- t. Table 2.20 Wigmore Valley Park

2 APPLICANT'S RESPONSE TO DEADLINE 7 SUBMISSIONS

2.1 AIR QUALITY AND ODOUR

Table 2.1 provides a response to matters the Applicant considers need to be responded to.

Table 2.1 Applicant's Response to Deadline 7 Submissions – Air Quality and Odour

I.D.	Interested Party	Reference	Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	Hertfordshire Host Authorities (Dacorum Borough Council, Hertfordshire Council, North Hertfordshire District Council)	[REP7-085] Page. 27 Ref: 5 Conclusion Paragraphs 5.1.1 and 5.1.2	The Hertfordshire Host Authorities have no ongoing concerns in relation to the Hitchin Air Quality Management Areas (AQMAs) where the measured pollution levels, plus the outcome of this assessment, highlight that there is no potential for any significant air quality impact due to the Proposed Development. The measured levels are significantly below objective levels to the extent that there are proposals in place to revoke both these AQMAs.	The Applicant acknowledges there are no ongoing concerns and that there are current proposals to revoke the two AQMAs in Hitchin.
2	Luton Borough Council	[REP7-090] Section 3 Page. 13 Ref: AP25 from ISH8 [EV15-013]	An initial response was provided at Deadline 6 in LBC's post hearing submission for ISH8 [REP6-106] together with related comments on AP22 (the Applicant's Fuel Odour Control Procedure) and AP24 (the potential issue of odour and flies) [REP6-107]. LBC awaits to see how the comments in relation to reporting structures have been taken on board by the Applicant.	An updated version of the Odour Control Procedure, addressing the comments from Luton Borough Council (LBC), will be submitted and shared at Deadline 8 in the Proposed Odour Reporting Process [TR020001/APP/8.142] . After LBC has reviewed the document, the Applicant will discuss with LBC.
3	Luton Borough Council	[REP7-090] Section 3 Page. 13 Ref: AP26 from ISH9 [EV16-019]	LBC is still discussing with the Applicant a QA/QC procedure and/or providing a reference-equivalent instrument for PM monitoring co-location.	The Applicant detailed the QA/QC procedure in the Applicant's Response to Issue Specific Hearing 9 Action 26 – Air Quality Monitoring [REP6-076] . It states in paragraph 2.2.2 "Monitors will be collocated with a reference monitor to allow dynamic calculation of correction algorithms". This refers to a reference-equivalent instrument in relation to PM monitoring. Therefore, a reference -equivalent instrument will be used for collocation for PM monitoring also. The specific location used for collocation has not yet been specified, but there are locations available in the LBC area (e.g. the Dunstable Road East site). Given the timescales it is considered suitable to review these options nearer to the set up of the monitoring network and look to agree this with the council. In addition, as noted in GCG ID 6, the Applicant commits to including one DEFRA reference equivalent monitor at a GCG location to inform the QA/QC process.

2.2 BIODIVERSITY

Table 2.2 provides a response to matters the Applicant considers need to be responded to.

Table 2.2 Applicant's Response to Deadline 7 Submissions - Biodiversity

I.D.	Interested Party	Reference	Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	Natural England	[REP7-094] Para. 4 Page. 2	<i>Major developments (Town and Country Planning Association) in England will be required to deliver 10% "Biodiversity Net Gain" from January 2024 (specific date to be confirmed). This is not anticipated to affect this application because the timetable for implementation of mandatory Biodiversity net gain for Nationally Significant</i>	This is noted and the clarity Natural England's response provides is welcomed. Although not required to deliver Biodiversity Net Gain, the Applicant has set a voluntary 10% target, as presented in the Biodiversity Net Gain Report [APP-067] .

I.D.	Interested Party	Reference	Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			Infrastructure Projects remains unchanged and is still planned for late 2025.	

2.3 CLIMATE CHANGE & GREENHOUSE GASES

Table 2.3 provides a response to matters the Applicant considers need to be responded to.

Table 2.3 Applicant's Response to Deadline 7 Submissions – Climate Change and Greenhouse Gases

I.D.	Interested Party	Reference	Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
Greenhouse Gases				
1	LADACAN	[REP7-104] Table 1 Response to REP6-054, ID2	<p>The Applicant justifies excluding Scope 3 emissions from its Greenhouse Gas Action Plan (GGAP) and the Green Controlled Growth (GCG) Limits by arguing that because these emissions are covered by the UK Emissions Trading Scheme (UK ETS) they can be addressed at a national level.</p> <p>This conclusion is inappropriate for two principal reasons:</p> <p>Firstly, while the Government has set a target for UK airports to be zero emissions by 2040, the precise scope of included emissions has not yet been defined. The Government's call for evidence in May 2023 included a question on the extent to which Scope 3 emissions should be included, even if limited to their measurement and reporting. Policy proposals have not yet been issued, so it is premature to assume Scope 3 emissions tracking will be excluded.</p> <p>Secondly, the UK ETS does not apply to all aircraft emissions - it only covers flights within the UK and departures to EEA destinations. While this may cover the majority of commercial flights at LLA today, it does not cover business aviation and the Applicant has also indicated a potential for a larger number of non-EEA destinations to be served commercially in the future (see AS-125 6.3.27-6.3.36 "Long haul overlay forecasts"). Since most non-EEA destinations will be medium- and long-haul routes that generate more emissions, there is potential for a significant volume of Scope 3 aircraft emissions associated with LLA to fall outside the UK ETS.</p>	<p>This is incorrect. Scope 3 emissions have not been excluded from either the Outline Greenhouse Gas Action Plan or the Green Controlled Growth Framework; Scope 3 emissions associated with both Airport Operations and Surface Access are explicitly included within the Green Controlled Growth Framework [REP7-020], and all Scope 3 emissions are within the scope of the Outline Greenhouse Gas Action Plan [APP-081].</p> <p>On the second point, the Jet Zero Strategy sets out Government's commitment to managing emissions from aviation in line with the UK net zero targets. Jet Zero provides a national approach to managing these emissions. While the Applicant acknowledges they have a role in facilitating the uptake of low and zero carbon aircraft, overall measures to decarbonise aviation must be implemented and managed at a national and international level. If the Applicant were to implement specific measures to address emissions from aircraft using London Luton Airport, airlines would likely move their business to another airport with less onerous regulations, resulting in no material reduction overall.</p> <p>In Jet Zero: One Year On, the UK Government states that UK ETS and CORSIA are key levers to allow aviation to be net zero by 2050, and sets out plans describing how they will continue to develop these mechanisms so this can be achieved. Government is committed to working with ICAO to strengthen CORSIA while a second consultation has been launched to include the interaction between UK ETS and CORSIA.</p> <p>The Climate Change Committee has an advisory role only. There is no legal requirement for Government to adopt their recommendations. In the Government response to the Climate Change Committee's Annual Progress Report 2023 it was stated: <i>'The Government has always been clear that the expansion of any airport must meet our climate change obligations. Any planning application submitted by an airport will be judged by the relevant planning authority, taking careful account of all relevant considerations, including environmental impacts and proposed mitigations. We will review our Jet Zero Strategy every five years to ensure the aviation sector is on track to achieve net zero by 2050, and, if appropriate, we will consider reviewing our policy frameworks for airport planning to ensure they remain compatible with achieving our net zero target.'</i></p>

I.D.	Interested Party	Reference	Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>Meanwhile, the Government has yet to decide whether the UK ETS will apply to EEA routes in the future, given that they are also subject to CORSIA offsetting obligations. Unlike the UK ETS, CORSIA is not aligned with Net Zero targets, nor with UK climate ambitions. The Government has consulted on how routes covered by CORSIA and UK ETS could operate in the future, and options include using CORSIA only. Given the current policy uncertainty, it would be reasonable for the GGAP and GCG framework to make precautionary provision for inclusion of Scope 3 aircraft emissions.</p> <p>Use of the Bristol decision (to exclude greenhouse gases from flights from local climate change mitigation plans) as a precedent is questionable. The Government's statutory advisers on the Climate Change Act have recommended no increases in airport capacity until the Government puts in place a policy framework for managing aviation demand. The Government has not (yet) adopted this advice, arguing that the Jet Zero Strategy allows for airport growth while achieving emissions reductions in aviation. Nevertheless, the precise methodology for achieving the Government's legal commitments is still unclear.</p> <p>Regardless of future policy decisions, to ensure that the Applicant's aspirations for Scope 3 emissions reductions will be in line with the Jet Zero trajectory, it is reasonable to include GCG controls to secure such a trajectory, due to the proposed scale of expansion. This approach would not conflict with current policy, nor with the operation of the ETS or CORSIA, but is a reasonable and precautionary measure given the importance of the issue. We hope that the ExA will take a similar view.</p>	
2	Bristol Airport Action Network	[REP7-098]	<p>The increased emissions from these proposals would demonstrably increase the GHG emissions profile of the airport, with no mitigation from any other UK airport shrinking its passenger numbers being included as part of the proposals. In its 2023 Progress Report to Parliament https://www.theccc.org.uk/publication/2023-progress-report-to-parliament/, the UK government's advisers as appointed by the CCA 2008, the Climate Change Committee (CCC) issued a strongly-worded recommendation that there should be no net airport expansion across the UK, stating that: "Demand management is the most effective way of reducing aviation CO2 and non-CO2 emissions (page 267)... No airport</p>	<p>The Climate Change Committee is advisory only. There is no legal requirement for Government to adopt their recommendations. In the Government response to the Climate Change Committee's Annual Progress Report 2023 it was stated: <i>'The Government has always been clear that the expansion of any airport must meet our climate change obligations. Any planning application submitted by an airport will be judged by the relevant planning authority, taking careful account of all relevant considerations, including environmental impacts and proposed mitigations. We will review our Jet Zero Strategy every five years to ensure the aviation sector is on track to achieve net zero by 2050, and, if appropriate, we will consider reviewing our policy frameworks for airport planning to ensure they remain compatible with achieving our net zero target.'</i></p>

I.D.	Interested Party	Reference	Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>expansions should proceed until a UK-wide capacity management framework is in place to annually assess and, if required, control sector CO2 emissions and non-CO2 effects." This framework is not currently in place and the emissions which would be caused by this and similar expansion proposals are not currently assessed on a cumulative basis. Therefore permitting airports to expand would clearly be against the Climate Change Committee's advice. We therefore ask Officers and Inspectors to endorse the concept of all UK airport expansion emissions being viewed and considered in the planning system as cumulative, as strongly suggested by the CCC.</p> <p>Despite the current decision making of airport expansion which appears to be firstcome-first-served, emissions do not limit themselves to any individual airport but tally up nationally and indeed globally. Each tonne of carbon, wherever it comes from, has an impact on global warming. The CCC's advice for the UK governments 6th Carbon Budget was that there should be no net expansion of UK airport capacity, unless that sector was on track to sufficiently out perform its net emissions trajectory and the additional demand could be accommodated. Despite the promises in Jet Zero strategy this sector continues to expand its production of GHG and will be an increasing proportion of the UK's budget as we move forward towards net-zero in 2050. We therefore ask that if Officers and/or Inspectors decide they cannot endorse the concept of all UK airport expansion emissions being viewed and considered in the planning system as cumulative and given due weight for the implications, then reference is directly made in their final report that this national problem is making a mockery of the national planning process - and that they recognise the problem and recommend UK government need to deal with this anomaly by taking up previous CCC advice to do so and acting upon their policy commitment.</p>	
Climate change				
3	Stop Luton Airport Expansion (SLAE)	[REP7-114] Para. 5.10.2	<p>5.10.2 Trends in the recent past have shown that the UK climate is continuing to warm. The UK Climate Impact Programme 2018 (UKCP18) (Ref. 27) provides the most recent climate predictions, which are as follows:</p> <ul style="list-style-type: none"> a) average summer temperatures are estimated to increase by 5oC, whilst the average b) winter temperatures are estimated to increase by 3.4oC (both 50th percentile); c) the average summer rainfall rate is estimated to decrease by 30%, whereas the average 	<p>The Drainage Design Statement (Appendix 20.4 of the ES) [REP5-096] for the Proposed Development accounts for surface water flows during 1 in 100 years storm event, accounting for an increase in precipitation of 40% due to climate change aligned with EA guidance.</p> <p>Chapter 9 – Climate Change of the ES [APP-035] outlines that the Luton DART extension will either be designed for the climatic conditions projected for the end of their design life, using appropriate design guidance where available or adaptive capacity will be built into the designs.</p>

I.D.	Interested Party	Reference	Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>d) winter rainfall rate is estimated to increase by 31% (both 50th percentile); and</p> <p>e) an overall increase in extreme weather events</p> <p>SLAE Response</p> <p>Will the tunnel under the taxiway on the approach to the airport cope with these increases as it has a history of flooding?</p> <p>Will the route of the DART be going from the existing terminal to the proposed Terminal 2 cope?</p>	<p>The Luton DART extension will be designed to the EA's guidance on Flood risk assessments: climate change allowances and the principles of the Luton Local Transport Plan.</p>

2.4 COMPULSORY ACQUISITION & TEMPORARY POSSESSION OF LAND AND RIGHTS

Table 2.4 provides a response to matters the Applicant considers need to be responded to.

Table 2.4 Applicant's Response to Deadline 7 Submissions - Compulsory Acquisition & Temporary Possession of Land and Rights

I.D.	Interested Party	Reference	Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
Replacement public open space				
1	Friends of Wigmore Park	<p>[REP7-099] [REP7-100]</p> <p>Response to WQ CA.2.4</p>	<p>Friends of Wigmore Park Facebook members, and other park users who don't use Facebook, are aware that the fields beyond the current Wigmore Park have been used by walkers over the years. The contention that Luton Rising are providing a "new and larger area" of replacement park on a portion of these fields thus appears to be flawed. In order to ascertain current and historical usage of the area of replacement we posted the following on our Facebook page, (Friends of Wigmore Park), on 13th December 2023, together with an aerial map outlining the "New Park".</p> <p>"The Luton Airport Expansion Planning Inspectorate is seeking information about the public usage of the fields beyond Wigmore Park. Please let us know your stories / memories of where you went and who with?"¹</p> <p>...These rich personal recollections show that the area designated as 'Replacement open space' - as described by the applicant, has always been open space well used in the locality, so it in fact equals a clear net loss of open space for the community...</p>	<p>The Applicant has considered the submissions and evidence submitted by Friends of Wigmore Park ('FWP'), the purpose of which evidence was intended to be to support FWP's claim that the Applicant's proposed Replacement Land is in fact already informally for public recreation. The guidance at Annex A, paragraph 9, Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land (DCLG) (September 2013) (the Guidance) indicates that land that is already informally used for the purposes of recreation should not be provided as replacement land.</p> <p>Having reviewed that evidence, the Applicant's position is as follows.</p> <p>As regards use of the whole of the proposed Replacement Land for recreational purposes (as opposed to particular routes for walking), the evidence is very limited. The Applicant has since obtained a letter from the organisation which farmed the land up until 2019 which confirms that the land has not been used for public recreation (see Appendix A). The only detailed evidence that there is, in REP7-099, is clear that such uninterrupted use (as claimed) has only carried on since the Applicant acquired the land and ceased farming activities (paragraph 15 refers). This is consistent with the fact that, prior to the Applicant's acquisition, the land was in active use for arable farming and uninterrupted use of that land for recreation would have been incompatible with such use. This is significant for a number of reasons.</p> <p>First, it means that there has been no use of the whole or part of the Replacement Land for the purposes of public recreation 'as of right' for a period of 20 years, meaning that no such rights are capable of having accrued (albeit noting for the reasons set out in the Applicant's Response to Written Questions – Compulsory Acquisition and</p>

¹ REP7-100 records 29 comments from members of the public via Facebook, and REP7-99 contains a separate statement from a local resident. These are not repeated here.

I.D.	Interested Party	Reference	Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>FoWP wish to comment on CA.2.4 regarding the recent claimed removal of any permissive informal use of the proposed replacement open space through signage and if this can operate retrospectively. Despite extensive research we cannot find any information or examples where this can be introduced retrospectively. The applicant has owned this land for a number of years and was fully aware it was being used by members of the public and did nothing to prevent access. We note that the previous owners also did nothing to prevent access.</p> <p>FoWP refer the Examining Authority to two gov.uk webpages in this submission that covers how to prevent permissive rights over land. One is from Luton Borough Council while the other is from Cornwall Council, as they have a comprehensive section on permissive informal use and how to stop it. They do not state that by putting up No Trespassing signage in recent weeks removes historical access rights particularly as additional measures could have been carried out.</p> <p>This includes:</p> <ul style="list-style-type: none"> - Luton Rising and previous land owners could have closed access to the land and its paths for at least one day each year and that closures should be supported by signage. - By depositing a statement and map under Section 31(6) of the Highways Act 1980 and at any time during a 20 year period indicating a lack of intention on their part to dedicate any other public rights of way over the land... <p>FoWP is now exploring the possibility of making a claim to Luton Borough Council and North Herts District Council that the public have used long established permissive informal paths and land through the proposed new Wigmore Valley Park for a period of 20 years without interruption based on the following points:</p> <p>Section 31 of the Highways Act 1980 sets how a public right of way comes into existence legally through long use by the public. It requires that:</p> <ul style="list-style-type: none"> - The public have used the land for a period of 20 years without interruption - The public were using the land without force, secrecy, or permission. - The landowner did not display signs or take action to prevent the public from using the land. 	<p>Temporary Possession of land and rights [REP7-051] in response to question CA 2.4 that such use could not have led to registration of the land as a Town or Village Green in any event).</p> <p>Second, in those circumstances the Applicant is entitled to assert its rights as landowner and its notices withdrawing permission to use the land are effective for that purpose, even insofar as those notices are subsequently ignored by members of the public: see, e.g. <u>Winterburn v Bennett</u> [2016] EWCA Civ 482.</p> <p>Third, any continued use of the land by third parties for recreation is a trespass and unlawful, and the Applicant would be entitled to either close off the land or enforce its rights through legal action, though it is not obliged to do so: see again <u>Winterburn</u> which confirms that there is no need for a landowner to fence off the land or bring legal proceedings to demonstrate that it does not accede to the public's use. Nor is it obliged to deposit a statement with the relevant local authority; it may do so but the same is not legally required in order to prevent the accrual of rights.</p> <p>It is further noted that in his 2020 decision on the Midland Metro (Birmingham Eastside Extension) Transport and Works Order, the Secretary of State accepted that the fencing off of land in respect of which there had been a dispute as to whether it comprised open space brought to end its status as open space (because it could no longer be used for the purposes of public recreation). It is therefore clear that public recreation can be brought to an end by a landowner even where it has taken place, and the land will no longer be treated as being used for those purposes.</p> <p>In the circumstances, there can be no question of the Examining Authority reasonably treating the whole or part of the proposed Replacement Land as being in existing recreational use and preventing the Applicant from using land that it has acquired for that purpose as Replacement Land.</p> <p>As regards the use of field margins and a limited number of other linear routes for walking, it is accepted that there is greater evidence of this. Nonetheless, the Applicant does not consider that the evidence provided would be sufficient to establish deemed dedication as a footpath under s.31 of the Highways Act 1980. In particular:</p> <ul style="list-style-type: none"> • There remain only a limited number of witnesses who attest to 20+ years of use. The majority of comments referred to do not specify a period, or indicate more recent usage. If 20 years' use cannot be established, the Applicant's notices are effective to interrupt use of any ways as footpaths and prevent the accrual of rights. Indeed, s.31(3) of the Highways Act 1980 makes clear that such notices are sufficient evidence to negative the intention to dedicate the way as a highway. • There is little specificity about the precise route(s) used. In particular, the 'Facebook' evidence set out in REP7-100 is not given by reference to the annotated plan also included within that submission. The Examining Authority would need to be clear about exactly which routes had been walked for that period if it were to conclude that the evidence supported deemed dedication. • There is no evidence as to whether those who walked along any of the field margins believed they were doing so 'as of right'. As the Examining Authority will be aware, in order to establish rights of way by long user, the use is required to be without force, secrecy or permission (<i>'nec vi, nec clam, nec precario'</i>). Indeed, the only

I.D.	Interested Party	Reference	Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>- The landowner did not clearly display a lack of intention to dedicate the land for public use.</p> <p>- The landowner did not deposit a map and declaration under Section 31(6) of the Highways Act 1980 with the local authority</p> <p>With this submission we have included a satellite view dated 2009 that has been marked with red and blue arrows. Blue denotes a public right of way while the red arrows mark the principle permissive routes that remain active and are in use to this day. The red arrows also point to sections of informal paths that have been picked up by the satellite both inside the proposed replacement open space and outside the proposed open space but under the ownership of Luton Rising. These can be easily seen if the Examining Authority expand the image. These long established routes can be found on foot today and go back in excess of 20 years. It should be noted that since crops have stopped being grown, each year sees new paths created that last just one session</p>	<p>detailed evidence provided (REP7-099) appears to indicate that farmers may have permitted walkers to walk along their field margins in order to provide some surveillance. Such use would have been with permission and would not give rise to accrued rights.</p> <p>Further and in any event, even if the Examining Authority (or another decision maker on any Definitive Map Modification Order, as FWP indicate they are now considering seeking) reached a different conclusion, and concluded that s.31 rights may have arisen, that conclusion would <u>not</u> prevent the proposed Replacement Land being used for its intended purpose. As previously explained in response to Question CA 2.4 (REP7-051), to which the Examining Authority is referred):</p> <ul style="list-style-type: none"> • The use of the linear routes as footpaths is not inconsistent with their use as part of the Replacement Land as open space. They are proposed to be kept open and recreational walking may take place upon them. • Even if they were to be excluded from the proposed Replacement Land, the amount of open space being provided as part of the Proposed Development significantly exceeds that which exists at present. <p>One thing that does clearly emerge from the FWP representations is that those persons who do use the land clearly regard it as being both accessible in relation to the existing Wigmore Valley Park and (even in its existing condition) to provide amenity value when used for walking.</p> <p>It follows from the above that the evidence provided by FWP has no implications for the Applicant's ability to rely on the proposed Replacement Land in order to satisfy the test in s.131(3) of the Planning Act 2008.</p>
2	Friends of Wigmore Park	<p>[REP7-099] [REP7-100]</p> <p>Response to WQ CA2.5</p>	<p>Our understanding is that the two ACV's have both expired. Despite a request at the time of the first registrations, the Applicant/LBC refused to disclose the cost of acquiring Wigmore Valley Park. As the applicant did not go ahead in a timely manner to acquire the land the applicant has stated at a hearing that the land has to be advertised again. We would request that Luton Borough Council write to both Parish Councils and FoWP when this occurs but we note the comment at a hearing that the applicant would compulsory purchase Wigmore Valley Park regardless of any new ACV placed on the land so undermining the legislation to protect assets for future public use.</p>	<p>The Applicant notes FWP's points but confirms that there is no legal bar to compulsorily acquiring land which is subject to an ACV designation. Had Parliament desired or intended to afford such land greater protection than other land from compulsory acquisition in the public interest (as it has done in the case of other special category land), it could and would have done so.</p>

2.5 CULTURAL HERITAGE

Table 2.5 provides a response to matters the Applicant considers need to be responded to.

Table 2.5 Applicant's Response to Deadline 7 Submissions – Cultural Heritage

I.D.	Interested Party	Reference	Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	Central Bedfordshire Council	[REP7-083] Page 4 ID.2 Cultural Heritage	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".	<p>Chapter 10 of the ES [AS-077] (section 10.9.7) states that the setting of Someries Castle is defined by the extent of its upstanding and buried remains. This is what is legible and appreciable when someone visits the monument. Long-range views do not contribute to this experience; there is nothing in the wider landscape that contributes visually to the asset's understanding and it is acknowledged that the operational airport dominates the noise environment. The statutory authority states the same in their LIR, that both parts of the monument (the ruins and the earthworks) can still be appreciated for their heritage and arch interest and despite their physical separation (by way of the fencing that surrounds the ruins) their relationship to one another can be perceived.</p> <p>The visualisations in Appendix 14.7 of the ES [AS-141] demonstrate that the FTG would be partially visible in the middle-distance. This would be viewed alongside existing modern structures, including farm buildings and an earthen bund and would further emphasise the proximity of the airport.</p> <p>However, because long-range and middle-distance views are not an important part of its setting, the presence of the FTG in views would not impact setting, and would certainly not impact those components of setting (the upstanding and buried remains) that do contribute to its significance. The impact can only therefore be assessed as 'very low' in line with the agreed methodology in Table 10.8 of Chapter 10 [AS-077], as it would represent minimal change to the asset's setting but no change to its heritage interests or value, resulting in a minor adverse effect.</p>
2	Historic England	[REP7-092]	The effects of increased noise has the potential to effect the wider setting of any heritage asset, particularly development where noise is an intrinsic side-effect, such as industrial or transport related development. We therefore believe that in this particular instance there is very good reason for the effects of noise to be scoped into an assessment of setting. This would also be in accordance with our published guidance The Setting of Heritage Assets Historic Environment Good Practice Advice in Planning Note 3 which includes noise on the suggested assessment checklist. Otherwise we would expect the applicant to provide robust evidence to substantiate any claim that such an assessment is not warranted.	Chapter 10 of the ES [AS-077] considers the potential for impact on setting through changes to noise levels on all heritage assets, in line with Historic England guidance The Setting of Heritage Assets Historic Environment Good Practice Advice in Planning Note 3. The methodology followed in outlined in section 10.3.5 of the ES. This has therefore been scoped into the assessment.
3	Historic England	[REP7-092]	We appreciate that financial contributions would not constitute mitigation, but as we have stated previously, because the applicant considers that mitigation of the residual impact is not achievable in this instance, we have therefore suggested that financial contributions might instead be an appropriate means of off-setting the impact	As Luton Hoo lies outside the ownership of the Applicant, it is not possible to offer any offsetting through financial contributions.
4	Hertfordshire Host Authorities (Dacorum Borough)	[REP7-087]	The impact to Bendish Conservation Area caused by aural intrusion should be assessed. The level of impact is not provided, and it is not possible to see how the conclusion of 'no harm' has been reached in Appendix 10.2 Cultural Heritage Gazetteer [REP4-017].	Chapter 10 Cultural Heritage of the ES [AS-077] considered the potential for aural intrusion to impact on the significance of all heritage assets within the noise contours; however, only those assets where a change in noise would result in an impact were considered further.

I.D.	Interested Party	Reference	Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
	Council, Hertfordshire County Council, North Hertfordshire District Council)			The Bendish Conservation Area was identified within the air noise contours resulting from aircraft movements (between Lowest and Significant Observed Adverse Effect Levels) and therefore was noted in Table 10.11. However, the change in noise levels was assessed to be negligible and therefore no harm to the heritage significance caused.

2.6 NEED CASE

Table 2.6 provides a response to matters the Applicant considers need to be responded to.

Table 2.6 Applicant's Response to Deadline 7 Submissions – Need Case

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	Luton Borough Council	[REP7-090] Ref: NE.2.2 Page. 35	London Gatwick Airport's assessment of its own capacity with just its existing single runway is higher than that used as an illustration by CSACL in its September report to the Host Authorities [REP2-057].1 Therefore this capacity assessment made by Gatwick's management/advisors gives further weight to the position of CSACL that the Applicant has under-estimated the capacity available at Gatwick, and in turn this would delay achievement of a 32 mppa throughput at Luton. CSACL also contended that passenger handling capacity at Heathrow would increase for similar reasons as at Gatwick (viz. continued growth in average passengers per movement) in contrast to the Applicant's assumed 90 mppa limit at Heathrow. Further growth in Heathrow's capacity would also make its own contribution to delaying achievement of 32 mppa throughput at Luton.	<p>The Applicant notes that the Initial Review of DCO Need Case from CSACL [REP2-057] cited an indicative capacity of Gatwick Airport with a single runway at 60.4 mppa. However, this was amended, by reference to the single runway capacity referred to in Gatwick Airport's DCO Application, in the Host Authorities Issue Specific Hearing 2 post-hearing submission [REP3-093] to 67 mppa, as referred to in ExQ2 NE.2.2 [PD-015].</p> <p>For the reasons set out , the Applicant does not accept that it is appropriate to base its assessment of the capacity attainable at Gatwick Airport with a single runway with a different assumption than that used by the Department for Transport in its modelling.</p> <p>However, without prejudice to its position as to the validity of the assumption that 67 mppa would be attainable, the Applicant has undertaken the additional scenario modelling requested by the ExA assuming a 67 mppa capacity for submission at Deadline 8 in Applicant's Response to Written Questions NE.2.1 and NE.2.2 – Demand Forecasts [TR020001/APP/8.174].</p>
2	Hertfordshire Host Authorities (Dacorum Borough Council, Hertfordshire Council, North Hertfordshire Council)	[REP7-085] Ref: NE.1.3 Page. 14	<p>The Applicant's response does not seek to defend its previous statement that increases in passenger load factors account for a substantial proportion of the growth in passengers per movement and does not dispute the Authorities' evidence presented at Deadline 5 that increases in load factor and in average number of seats per flight account for similar proportions of increases in passengers per movement.</p> <p>The Applicant's response focuses on one replacement possibility for the largest long-haul aircraft (the A380) and argues that the only way that passengers per movement could be increased at Heathrow and Gatwick would as a result of a switch from short haul to long haul flights. This ignores the possibility of increases to aircraft seating capacity across the spectrum of air services from regional (albeit limited at the two airports) through short and medium haul to long haul flights. The assumed passengers per aircraft at the two airports implied by CSACL's capacity assessments of the airports are set out in Table 3.3 of the Initial</p>	See response above at ID 1 above to similar point from Luton Borough Council. The Applicant stands by its previous response in respect of the potential for growth in average passengers per passenger aircraft movement as set out in response to the ExA's WQ NE.1.4 [REP4-059]. For similar reasons as stated in respect of Gatwick Airport, the Applicant does not consider it valid to assume a different capacity for Heathrow with only two runways than otherwise assumed by the Department for Transport in its modelling.

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>Review of DCO Need Case [REP2-057] and are at average levels which are eminently achievable. This is certainly the view of the management of Gatwick Airport with its higher assessment of its own capacity.</p> <p>To the extent that passenger capacity is greater at Heathrow and Gatwick than assumed by the Applicant, it will reduce (at any particular year) the number of passengers using London Luton Airport, which the Applicant's own forecasts show higher proportions of traffic being attracted from areas closer to Heathrow and Gatwick as illustrated for example in Figure 6.6. of the Applicant's own primary Need Case document [AS-125].</p>	
3	Central Bedfordshire Council	<p>[REP7-084] Ref: NE.2.2 Page. 11</p>	<p>London Gatwick Airport's assessment of its own capacity with just its existing single runway is higher than that used as an illustration by CSACL in its September report to the Host Authorities (REP2-057). Therefore this capacity assessment made by Gatwick's management/advisors gives further weight to the position of CSACL that the Applicant has under-estimated the capacity available at Gatwick, and in turn this would delay achievement of a 32 mppa throughput at Luton. CSACL also contended that passenger handling capacity at Heathrow would increase for similar reasons as at Gatwick (viz. continued growth in average passengers per movement) in contrast to the Applicant's assumed 90 mppa limit at Heathrow. Further growth in Heathrow's capacity would also make its own contribution to delaying achievement of 32 mppa throughput at Luton.</p>	See response to Luton Borough Council at ID 1 above.
4	Buckinghamshire Council	<p>[REP7-080] Para. 2.45.3 Page. 14</p>	<p>The Applicant's response, provided in section 9.1, does not change the Council's position that the Applicant should be able to demonstrate the impacts of the slower developments in SAF and next generation fuels. Where the Applicant has undertaken a Monte Carlo analysis of various sensitivities, beyond what has been relied on from the Jet Zero Strategy, the Council would welcome an overview of the impacts on growth and carbon prices for review and comment.</p>	<p>The Applicant has sought to engage with Buckinghamshire Council on this topic in connection with the Statement of Common Ground.</p> <p>The demand forecasts fully take into account a range of assumptions, from low to high, on future carbon prices and their impact on future demand. The Applicant does not consider that further sensitivity testing is required as the risk of higher carbon prices is already reflected in the slower growth case.</p>
5	Buckinghamshire Council	<p>[REP7-080] Appendix B, ID 3 Page. 6</p>	<p>The Council notes the clarification provided on actual employment growth compared to forecast growth. Further detail relating to the impact of earlier employment and training schemes in more deprived areas would be beneficial, although the Council recognises this was not a specific ask on the Applicant in ISH2.</p>	<p>The Employment and Training Strategy [TR020001/APP/7.05] outlines that any monitoring and evaluation of outcomes and initiatives outlined within the ETS will be agreed and scoped out once a decision on the DCO has been reached. The Applicant, together with the airport operator, will regularly monitor and review progress against its own objectives to ensure their efficiency and impact.</p>
6	Buckinghamshire Council	<p>[REP7-081] Ref: NO.2.1 Page. 14</p>	<p>The Council would accept that adopting the 2019 actuals provides a more accurate representation than the consented baseline. As highlighted in Buckinghamshire Council Comments on Further Deadline 4 Submissions (TR020001) adopting 19mppa has an impact on the economic case for expansion. Most notably, this includes a reduction in the number of jobs expected to be created. The Council wishes to see a quantitative assessment of</p>	<p>The alternative employment data for the Three Counties assuming a 19 mppa baseline is shown in the table below, which is an amended version of Table 8.3 of the Need Case [AS-125].</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response																																																																																		
			this change, rather than a qualitative sensitivity analysis, which is the approach that the Applicant has taken to date																																																																																			
			<table border="1"> <thead> <tr> <th></th> <th>2019</th> <th colspan="3">2027</th> <th colspan="3">2039</th> <th colspan="3">2043</th> </tr> <tr> <th></th> <th>Baseline</th> <th>Without Development</th> <th>Core Case</th> <th>Growth vs. 2019</th> <th>Core Case minus Without Development</th> <th>Without Development</th> <th>Core Case</th> <th>Growth vs. 2019</th> <th>Core Case minus Without Development</th> <th>Without Development</th> <th>Core Case</th> <th>Growth vs. 2019</th> <th>Core Case minus Without Development</th> </tr> </thead> <tbody> <tr> <td rowspan="4">Employment</td> <td>Direct</td> <td>10,900</td> <td>10,900</td> <td>11,700</td> <td>+700</td> <td>+800</td> <td>9,900</td> <td>13,200</td> <td>+2,300</td> <td>+3,300</td> <td>9,700</td> <td>15,100</td> <td>+4,200</td> <td>+5,400</td> </tr> <tr> <td>Indirect</td> <td>2,100</td> <td>2,000</td> <td>2,200</td> <td>+100</td> <td>+100</td> <td>1,900</td> <td>2,400</td> <td>+300</td> <td>+500</td> <td>1,900</td> <td>2,700</td> <td>+700</td> <td>+900</td> </tr> <tr> <td>Induced</td> <td>3,500</td> <td>3,400</td> <td>3,700</td> <td>+200</td> <td>+300</td> <td>3,300</td> <td>4,100</td> <td>+600</td> <td>+900</td> <td>3,300</td> <td>4,800</td> <td>+1,300</td> <td>+1,500</td> </tr> <tr> <td>Total</td> <td>16,500</td> <td>16,300</td> <td>17,500</td> <td>+1,000</td> <td>+1,200</td> <td>15,100</td> <td>19,700</td> <td>+3,200</td> <td>+4,600</td> <td>14,800</td> <td>22,600</td> <td>+6,100</td> <td>+7,800</td> </tr> </tbody> </table>		2019	2027			2039			2043				Baseline	Without Development	Core Case	Growth vs. 2019	Core Case minus Without Development	Without Development	Core Case	Growth vs. 2019	Core Case minus Without Development	Without Development	Core Case	Growth vs. 2019	Core Case minus Without Development	Employment	Direct	10,900	10,900	11,700	+700	+800	9,900	13,200	+2,300	+3,300	9,700	15,100	+4,200	+5,400	Indirect	2,100	2,000	2,200	+100	+100	1,900	2,400	+300	+500	1,900	2,700	+700	+900	Induced	3,500	3,400	3,700	+200	+300	3,300	4,100	+600	+900	3,300	4,800	+1,300	+1,500	Total	16,500	16,300	17,500	+1,000	+1,200	15,100	19,700	+3,200	+4,600	14,800	22,600	+6,100	+7,800	
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7	Buckinghamshire Council	[REP7-081] Ref: SE.2.1 Page. 18	The Council welcomes the request from the ExA for the information to be presented in this manner. It is considered that it may be useful in providing insight into the extent of job creation and the potential effectiveness of earlier strategies that, in turn, would be a helpful input to the development of interventions by the Applicant, including through the involvement of the LEDWG.	As outlined in the Employment and Training Strategy response provided at ID 2 in Table 2.9, Buckinghamshire Council will be engaged and involved with the LEDWG.																																																																																		
8	LADACAN	[REP7-104] Ref: Table 1 Response to REP6-054, ID3 Page. 5	<p>The Applicant has not answered the concern because it has not evidenced the Need for further expansion at this stage, ie prior to the completion of Project Curium and the proven delivery not just of its economic benefits but also its associated mitigations. Such mitigations include:</p> <ul style="list-style-type: none"> • Completion of the installation of noise insulation by way of compensation to residents impacted by the growth to 18mppa • Production and acceptance of the Long Term Noise Reduction Strategy, demonstrating that commitments to fleet modernization adequate to reduce noise to permitted levels at 18mppa (and potentially 19mppa) can be achieved <p>Luton residents have reported in Representations and Hearings not seeing the benefits of the Project Curium windfall revenue, largely because it has been ploughed back into facilitating developments for yet more growth in Airport capacity, and servicing increasing debt levels.</p> <p>Residents in the local and wider area have already been exposed to premature surface transport loading because of accelerated growth. Passenger numbers in 2019 had been projected by the Airport Operator to be 12.9mppa, not 18mppa (REP1-095, PDF p43, para 31). This is on top of the excessive noise due to condition breaches.</p> <p>A need to "Level Up Luton" cannot reasonably be used to justify degrading quality of life in the wider area.</p>	<p>As noted in the Applicant's Response to Deadline 5 Submissions Appendix A – LADACAN [REP6-054], the local area has realised the benefits of growth of the airport to 18 mppa. Hence, it is appropriate for the DCO to consider the incremental benefits of growth above that level to 32 mppa. The impacts of that growth have been assessed against a base case that complied with relevant conditions relating to the original Project Curium position, namely a base case where the consented noise limits are complied with, notwithstanding that the airport attained 18 mppa earlier than expected</p> <p>The Applicant considers that the ES for the Proposed Development demonstrates that the benefits of growth to 32 mppa outweigh the negative impacts across the wider area.</p>																																																																																		

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
9	LADACAN	<p>[REP7-104] Ref: Table 1 Response to REP6-054, ID6 Page. 8</p>	<p>It is incorrect and misleading of the Applicant to state that the 2017 Air Navigation Guidance “only refers to WebTAG in the context of assessing and comparing airspace design options”. We have provided a copy of the 2017 Air Navigation Guidance (ANG) separately to assist the ExA.</p> <p>The ANG title page says it provides: “Guidance to the CAA on its environmental objectives when carrying out its air navigation functions, and to the CAA and wider industry on airspace and noise management.”</p> <p>ANG paragraph 3.6 explains the purpose of WebTAG: “3.6 The Department for Transport’s WebTAG includes a module for valuing the impacts of noise, including those from changes in aircraft noise, on health and quality of life. It is not a comprehensive assessment of noise impacts as it is only currently possible to monetise these specific impacts based on average noise metrics. This approach does however allow decisions on transport schemes to take account of the costs and benefits of different options with regards to average noise contours in a consistent manner. The CAA must ensure that adverse effects of airspace change proposals are estimated in accordance with this methodology.”</p> <p>This excerpt makes it clear that ANG requires airspace change proposals to be assessed using WebTAG, but not (as the Applicant suggests) that WebTAG is exclusively to be used for that purpose.</p> <p>Paragraph 2.6 of ANG confirms that WebTAG is the tool to use for airspace change, without limiting its application elsewhere: “2.6 To ensure a consistent and transparent assessment of the options within and across proposals, it is advised that a single appraisal methodology is followed. The CAA will need to provide guidance on the options’ appraisal methodology. These options must follow WebTAG which is a series of guides and spreadsheet tools based on up-to-date evidence following the principles of HM Treasury’s Green Book.5 Elements of WebTAG (largely noise, air quality and carbon units) serve as a guide for airspace change options appraisals outside of government.”</p> <p>ANG Appendix C again emphasizes the generality of WebTAG: “C.2 WebTAG is the Department for Transport’s suite of guidance on assessing the expected impacts of policy proposals and projects. This guidance covers various transport modes including; rail, road, aviation, walking and cycling. Although designed primarily for use by government, the guidance can also be used by transport practitioners as all of WebTAG is publically available. WebTAG includes guidance documents, excel tools, excel data books and excel summary sheets.”</p> <p>(our underline in all the above quotes)</p> <p>Furthermore, as we had indicated, the Gatwick Airport DCO Application includes a WebTAG analysis of noise impacts in any case, and this precedent is relevant.</p>	<p>As stated in its original response, the Applicant has already made clear that there is no requirement for a full WebTAG economic appraisal in respect of the Proposed Development in its responses to the New Economics Foundation [REP2-038 and REP4-096].</p> <p>It should be noted that the latest WebTAG guidance in relation to aviation (Ref ¹) makes clear, at paragraph 1.1.4, that:</p> <p><i>“Decisions on planning applications for airport development will be considered in the normal way, including to take account of relevant material considerations which may include evidence relating to the strategic, commercial, financial and management case of a development proposal.”</i></p> <p>The guidance is clear that there is no requirement for a WebTAG appraisal in respect of a planning application for airport development.</p> <p>As stated, the reference to the potential requirement for a WebTAG assessment in the Scoping Opinion related to the specific need for such an assessment in connection with airspace change or the comparison of different design options.</p> <p>See also response provided at ID 14 of this table.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
10	LADACAN	[REP7-104] Ref: Table 1 Response to REP6-054, ID9 Page. 12	<p>Figure 6.21 in the Need Case (AS-125) shows the Busy Day early morning departure wave starting at 5am, though the use of smooth lines makes it hard to discern numbers of flights in the hour between 5am and 6am.</p> <p>AS-125 explains Busy Day as "6.6.25 These BDTTs are intended to represent a typical busy day, not the peak day in the year or the busiest hour in the year but a typical busy period relevant to be used for design purposes. This is normally based on the day containing the 30th busiest hour in the year." (our underline)</p> <p>The Indicative Timetable for an August Day in APP-214 (Appendix C PDF p13) schedules 4 departures at 05:55 followed by 32 departures between 06:00 and 06:59.</p> <p>Whilst they count as night movements, these are particularly likely to shorten the "night" for local residents. Based on past performance at LLA we have no confidence that additional flights will not creep into this sensitive time.</p> <p>We suggest that there is a need to add protection for residents during this sensitive period, by defining a "Quiet Period" between midnight and 6am during which there would be no departures.</p> <p>Removal of the Early Morning Shoulder movement cap of 7,000 in the 06:00-07:00 period (REP5-014 PDF p19 item iv) is unacceptable with no equivalent replacement.</p>	<p>Figure 6.21 of the Need Case [AS-125] clearly shows a small number of aircraft scheduled to depart in the 05:00 hour and shows that this is consistent with the 2019 pattern. Hence, these movements are already present within the night control period.</p> <p>The Applicant's position on a 'quiet period' or 'ban' of flights during the night period is set out in the Applicant's Post Hearing Submission – Issue Specific Hearing 3 [REP3-050], section 7.1. The Applicant's position on the use of a movement cap as a noise control for the 06:00-07:00 shoulder period is set out in Applicant's Response to Written Questions - Noise [REP7-056] in response to Written Question NO.2.6.</p>
11	LADACAN	[REP7-104] Ref: Table 2 Response to REP6-069, ID9c Page. 20	<p>Our comment is correct in the context of the airspace in which at LLA operates, and which is affected by other airports such as London City, Northolt and Heathrow – and also where LLA's easterly departures conflict with its easterly arrivals.</p> <p>LADACAN's concern is shared by the Airspace Change Organising Group and recognized by NATS. If flight paths cross (or "intersect") in lower airspace and this cannot be resolved by using different flight paths or different levels (due to constraints caused by other users of airspace or due to inability to climb aircraft sufficiently rapidly) then currently no technical solution exists. It is possible that Departure Management Systems could be enhanced to ensure timewise avoidance of two aircraft being in the same place at the same time, but such systems are not generally in use in the UK. It was discussed at the LLA Noise and Track Sub-Committee in December 2023.</p> <p>Since these unresolved constraints currently require LLA's westerly departures and easterly arrivals often to be held low for extended track miles, our point was, and remains, that it would be appropriate for the Applicant to defer substantial increase in flights until the issues can be resolved. Latest estimates are that FASI-South will not be delivered before 2030.</p>	<p>The Application does not envisage a substantial increase in flights before 2037, beyond the timescale over which Future Airspace Strategy Implementation – South (FASI-S) is expected to be implemented.</p> <p>Nonetheless, to be conservative, the Applicant has assessed the impact of the higher throughput based on the existing airspace arrangements, which address the issue of intersecting flightpaths by control of level resulting in some London Luton Airport departures currently being held at lower levels for a period. Implementation of FASI-S is anticipated to deliver environmental benefits.</p>
12	The Harpenden Society	[REP7-116] Fleet Mix	Detailed comments on fleet mix not duplicated here in full.	The Applicant has responded in detail to NO.2.2 in the Applicant's Response to Written Questions – Noise [REP7-056] . The Applicant believes that the fleet projections presented continue to represent a reasonable pathway for fleet replacement overall.

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
				<p>The analysis presented by the Harpenden Society neglects to account for factors such as the upcoming Airbus A139 replacement by easyJet which is likely to bolster Airbus A320 flying at the airport (as the likely replacement aircraft). Mistakenly, the Harpenden Society assumes that these aircraft are all associated with airlines such as Wizz Air. Furthermore, the table at paragraph 23 includes not only passenger aircraft but some which will only operate at the airport as cargo aircraft, such as the Boeing 757 and a proportion of the Boeing 737-800s.</p> <p>The Harpenden Society presents information on load factors to argue that the projected future passenger volume could be accommodated on fewer aircraft movements. However, its analysis fails to take account the fact that low fare airlines report their load factors based on seats sold, rather than seats occupied. For airports, it is the latter which is important as there is always a small proportion of passengers that do not use their booked tickets. These factors, as well as seasonal variation, have been considered in the Applicant's forecasts as set out in the Need Case [AS-125].</p> <p>These examples of discrepancies serve to highlight the risks associated with trying to undertake detailed airline by airline specific fleet projections over the medium to long-term, and why it is more robust to rely on a more general assessment of fleet replacement trends for longer term forecasting.</p>
13	New Economics Foundation	<p>[REP7-107] and appendix (e-mail exchange) [REP7-106]</p>	<p>Summary Social welfare-based cost-benefit analysis, including monetised environmental impacts, is a widely accepted and useful approach to understanding the proportionality of scheme impacts. NEF stands by its re-appraisal of the scheme's welfare-based cost-benefit analysis shown in Table 1 of our Deadline 5 submission. The table lacks assessment of monetised noise and air quality impacts which would further reduce the net present value. When unmitigated non-carbon costs are included, using the conservative 1.7x multiplier (recent evidence suggests it could be up to 3.0x) the overall net present value to society of the scheme turns deeply negative, even after controlling for the double counting of traded-sector emissions.</p> <p>NEF also maintains its position that the proposed scheme will deliver no material wider economic impacts linked to business travel. Recent evidence, including sources provided by the airport, points towards the saturation of the business air travel market and a declining role in economic growth. Post-pandemic data only suggests an acceleration in this trend.</p> <p>The latest iteration of the DfT's TAG aviation chapter, released since our last submission, further supports NEF's approach to appraisal, and the concerns we have raised with the applicant's assessment. TAG's aviation methodology has developed significantly since it was considered at the Bristol Airport hearing. Subsequent amendments have emphasised its applicability to the private-sector-led development context. The applicant has refused to accept TAG as best practice in aviation appraisal, or</p>	<p>The Applicant maintains its position that a full TAG cost-benefit appraisal is not a requirement in respect of a planning application for airport development.</p> <p>The following responses at ID 14 below address the specific points made by the New Economics Foundation (NEF).</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>even “useful” to this process. Our view is that the applicant is engaging neither with the letter, nor the spirit of the DfT’s guidance. If, despite clear DfT statements to the contrary, and its use in the Gatwick case, TAG is not useful to this appraisal, what standard can interested parties use to hold the applicant’s work on economics to account? For the majority of their economic analyses, the applicant references no such standard.</p>	
14	New Economics Foundation	<p>[REP7-107] and appendix (e-mail exchange) [REP7-106]</p>	<p>New developments since deadline 5 The aviation chapter of the DfT’s Transport Analysis Guidance (TAG/WebTAG) was updated and republished on the 30th November 2023. A previous Forthcoming Change Notice, referred to in NEF’s deadline 5 submission, gave some insight into the contents of this chapter, but the final release is worth reviewing at it contains more detail, and a new worked example on the valuation of greenhouse gas emissions. It is important to note that the content and wording of the chapter is now different in a number of material ways to the version which was before the Planning Inspectors in the Bristol Airport Appeal hearing. The latest publication is the second iteration since the Bristol hearing in 2021. The most important distinctions between the guidance we now have, and the guidance as it was in 2021 are: Introduced in November 2022:</p> <ol style="list-style-type: none"> 1. Stronger wording around the usefulness of the guidance to appraisals of “non-government aviation interventions” (para 1.1.3). The applicant refuses to accept this usefulness. 2. Direct reference to “planning applications for airport development” (para 1.1.4). NEF has sought further clarification from the DfT on this paragraph. Our short correspondence was submitted to the London City Airport inquiry (with permission) and has been attached to this submission for the information of the inspectors. This confirms, again, the applicability of TAG to planning applications for airport development as the DfT’s best practice standard and as part of a wider business case assessment. The applicant refuses to accept this applicability. 3. Additional clarification on the treatment of Non-UK residents (para 3.2.10). The applicant’s approach to Non-UK residents runs contrary to the DfT’s requirement that the assessment have “internal consistency” because some key scheme costs are excluded (inbound flight emissions) while benefits are included (air fare and travel time savings to foreign residents). The DfT are clear that if impacts cannot be accurately apportioned to domestic/foreign residents then “the analysis should include all impacts on all affected parties, regardless of origin”. 4. Additional guidance on the quantification of air quality impacts (para 3.3.2). The applicant has not costed air quality impacts. 	<p>Applicability of WebTAG The Applicant would highlight that a key change in the TAG Aviation Guidance (Ref 1), since the Bristol Airport Appeal has been the inclusion of specific wording that makes clear that there is no requirement for a WebTAG appraisal in respect of a planning application for airport development. The latest WebTAG guidance in relation to aviation makes clear, at paragraph 1.1.4, that: <i>“Decisions on planning applications for airport development will be considered in the normal way, including to take account of relevant material considerations which may include evidence relating to the strategic, commercial, financial and management case of a development proposal.”</i> This language was not included in the 2018 version of the Aviation Appraisal guidance (‘the guidance’), applicable at the time of the Bristol Airport decision but was added to provide clarification that such an appraisal is not required in the 2022 and 2023 guidance. The Applicant’s interpretation of the e-mail exchange between Dr Chapman of NEF and the Department for Transport is that:</p> <ol style="list-style-type: none"> a. the WebTAG Aviation Appraisal module is provided for guidance only to non-Government bodies in terms of how an economic case might be set out when preparing a business case for development; b. the economic case is only part of the broader range of considerations that would need to inform a planning decision; and c. there is no mandatory requirement to apply the guidance in respect of a planning application. <p>In relation to the reference to 5-case business model, which requires consideration of the strategic, economic, commercial, financial and management cases, this might be relevant to the decision made by a developer in terms of whether to proceed to the stage of submitting an application for development or selecting its preferred option, but is not relevant to the determination of a planning application. There is no requirement for such an assessment under relevant planning law or environmental impact assessment regulations. Notwithstanding the Applicant’s view that such full socio-economic welfare appraisal following WebTAG is not required, the detailed points made by NEF are addressed below.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>Introduced in November 2023:</p> <p>5. Addition of several paragraphs of new detail on the assessment and valuation of greenhouse gas impacts (para 3.3.3), including:</p> <p>a. Clarification on the recommended approach to traded sector emissions: "any change in emissions should be valued using the carbon appraisal values in the TAG databook" with "an additional adjustment to exclude the cost of traded sector permits". This appears to be the approach taken by the applicant (at least in regard to outbound carbon emissions) but, contrary to DfT guidance, they then seek to remove the resulting values from consideration in the cost-benefit analysis.</p> <p>b. Clarification that inbound flight emissions should be appraised. The applicant has not appraised inbound flight emissions.</p> <p>c. More detail on the approach to non-CO2 emissions, including re-stating that quantitative assessment of non-CO2 impacts using the GWP factors provided by DESNZ is an appropriate sensitivity test. The applicant does not accept that this is an appropriate sensitivity test.</p> <p>d. Greater detail on the recommended approach to distributional impacts (equity). The applicant has not followed the approach recommended in TAG.</p>	<p>Non-UK Residents</p> <p>NEF implies that additional clarification has been provided on the treatment of non-UK residents in any assessment. However, there was no substantive change to paragraph 3.2.10 from the 2018 and 2022 versions of the guidance. The guidance is clear that, where all impacts cannot be robustly apportioned between UK and non-UK residents, the analysis can include all impacts, if proportionate to do so. This is the approach taken in the Applicant's cost benefit analysis presented in the Need Case [AS-125].</p> <p>Treatment of Carbon Costs</p> <p>For the reasons set out above, the Applicant's cost benefit analysis was not intended to be a full WebTAG appraisal and was presented to provide additional information relevant to the social welfare benefits of the Proposed Development.</p> <p>The position was illustrated with and without taking into account the costs of carbon emissions. These were valued in the analysis using the full BEIS carbon appraisal values. However, in line with practice at the time, only the costs of carbon associated with departing flights was included.</p> <p>The Applicant recognises that, if a full WebTAG appraisal was being undertaken, the latest guidance (paragraph 3.3.3, 4th bullet) would require the inclusion of the costs associated with arriving and departing flights. However, the guidance is clear that any displacement of emissions should be accounted for:</p> <p><i>"In some circumstances, there may be evidence that a UK policy or scheme has displaced emissions from other geographies or elsewhere within the sector. Where proportionate and possible to do so, these changes in emissions and associated levels of displacement should be considered in an appraisal."</i></p> <p>It remains the Applicant's position that limiting growth at London Luton Airport would simply result in airlines using their aircraft at other airports, in the UK or beyond, with no global reduction in emissions and, to the extent that passengers that would have chosen to use the airport would have to use alternative airports, this would result in increased carbon from surface access.</p> <p>The WebTAG guidance (para. 3.3.3, 1st bullet) is also clear that, to the extent that the costs of carbon are already accounted for within the demand forecasts, these costs should be excluded from any economic appraisal.</p> <p>Hence, to the extent that the cost benefit analysis at Table 8.8 of the Need Case [AS-125] shows the costs of carbon, these are the gross costs based on the BEIS appraisal values <u>before</u> netting off the extent to which these costs are already internalised in the demand forecasts. The carbon costs used in the demand forecasts are taken from the Government's Jet Zero Strategy and trend to the BEIS appraisal values over the longer term so only the net difference in carbon costs that would need to be included in any</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
				<p>WebTAG appraisal and these are materially less than the indicative carbon costs shown in the Need Case [AS-125].</p> <p>The guidance (para. 3.3.3, 5th bullet) is also clear that, given uncertainties, a qualitative approach to non-CO₂ emissions is acceptable, even within the context of a full WebTAG appraisal.</p> <p>As there is no requirement to undertake a WebTAG assessment, the Applicant has not considered distributional impacts in economic terms but has produced an Equality Impact Assessment [AS-129], in line with the normal practice for planning applications.</p> <p>The Applicant does not consider that the revised appraisal set out by NEF in Table 1 of [REP5-081] has any validity as it fails to follow the key principles set out above.</p>
15	New Economics Foundation	[REP7-107] and appendix (e-mail exchange) [REP7-106]	<p>2. The current design of CORSIA means it has, and will have, no meaningful impact on aviation emissions in the UK. The applicant speculates about what may happen in the future, such speculation has many inherent risks. The applicant has used the DfT's Jet Zero assumptions about the trajectory of future CORSIA prices. Even if these do materialise, these prices are well below the carbon values which should be used in appraisal. According with DESNZ and BEIS guidance, the residual cost (the carbon value less the permit price paid) to society must be appraised and included in the scheme cost-benefit analysis.</p>	<p>As set out in the response provided at ID 14 above, the carbon costs illustrated in the cost benefit analysis are calculated gross based on the BEIS target appraisal values.</p> <p>Notwithstanding the comments about CORSIA prices being lower, the residual carbon costs would be materially lower than the costs illustrated as the values used in the demand forecasts in Need Case Appendices – Appendix B [APP-214] trend to the full appraisal values over the longer term within the 60-year period used in the appraisal.</p>
16	New Economics Foundation	[REP7-107] and appendix (e-mail exchange) [REP7-106]	<p>3. The applicant accepts that the correct method of costing greenhouse gas emissions is to establish the residual after deducting carbon permit prices from the total emissions cost. This emissions cost should be included in the primary cost-benefit analysis</p>	<p>See response provided at ID 15 above. This would have the effect of reducing the carbon costs shown in the cost benefit analysis.</p>
17	New Economics Foundation	[REP7-107] and appendix (e-mail exchange) [REP7-106] Point by point response	<p>4. This process is not a national emissions inventory, it is an impact assessment. Inbound emissions and their welfare costs should be assessed according with DfT and DESNZ guidance. If the applicant wishes to include benefits accruing to foreign residents in the cost-benefit analysis, they must also include this cost. The assessment, as presented by the applicant, does not have internal consistency and therefore is not fit for purpose.</p> <p>5. The applicant confuses matters by referring to double counting of traded-sector emissions. A clear process for dealing with this is set out by the DfT and DESNZ and described above. The residual carbon cost, after deducting carbon permit prices, is what matters, and this residual is significant. This residual is what NEF has used in its estimate of the scheme cost-benefit analysis. The applicant is correct that there may be some displacement of greenhouse gas emissions in the aviation sector. However, the</p>	<p>Please see the responses provided at ID 14 and ID 15 above.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			rapid overall growth in international aviation emissions (around 4-5% per year outside of pandemic times) ¹ highlights that this displacement must be extremely limited. If the applicant disagrees, the applicant	
18	New Economics Foundation	[REP7-107] and appendix (e-mail exchange) [REP7-106] Point by point response	6. TAG assessment is not a yes/no matter. TAG is a best-practice guide. NEF is holding the applicant to account against this standard. 18. The welfare-based cost-benefit analysis is of vital importance to decision makers. It helps understand the proportionality of impacts when deciding whether proceeding with the scheme is in the public interest. 19. If the applicant's position on TAG is correct, there was no "requirement" for the majority of the economic analysis produced by the applicant. NEF reserves its right to critique that analysis against the best practice standard set out by government. A TAG appraisal is not a yes/no matter. It is a best practice guide which is important if decision makers are to have confidence in the claims made about the scheme's impact.	A WebTAG assessment is not a standard requirement for a planning application in connection with an airport as is made clear in the guidance (para. 1.1.4). See also the response provided at ID 9 and ID 13 above.
19	New Economics Foundation	[REP7-107] and appendix (e-mail exchange) [REP7-106] Point by point response	8. The DfT and DESNZ clearly regard the DESNZ non-CO ₂ multiplier as useful for the purposes of a sensitivity test. NEF has conducted such a test. The applicant's interpretation of the High Court ruling as having "rejected" the multiplier is a clear contortion of the nuance of the ruling. The High Court simply ruled that the absence of the use of the multiplier was not grounds for the Court to intervene in the planning process. This is unsurprising given that the multiplier is recommended as a sensitivity test. There is broad consensus that if only the carbon cost of the scheme is quantified, this will be a significant underestimate of its true social welfare cost. 10. Given that the multiplier is recommended for use by DESNZ and by the DfT, as a sensitivity test, to claim there is "no justification" is clearly incorrect.	For the reasons set out above, there is no requirement for a quantitative assessment of Non-CO ₂ emissions under current guidance. See also response at ID 14 above and Applicant's Response to ISH8, Action 41: Commentary regarding Non-Carbon Dioxide Emissions [REP7-076] .
20	New Economics Foundation	[REP7-107] and appendix (e-mail exchange) [REP7-106] Point by point response	12. The applicant's assessment must be internally consistent. If benefits arising to foreign residents are included, costs arising to foreign residents (in this case via international emissions accounting norms) must also be included. The welfare impact of GHG emissions must be included in the scheme cost benefit analysis, and done so consistently.	The Applicant has treated all impacts consistently due to the difficulties of apportioning impacts for the reasons set out in Written Question Responses – Applicant's Response to Comments by The Harpenden Society, LADACAN and NEF [REP6-063] .
21	New Economics Foundation	[REP7-107] and appendix (e-mail exchange) [REP7-106]	13. The applicant's cost-benefit analysis is flawed and not fit for purpose in its current form. 14.	The Applicant does not accept that its cost benefit analysis is flawed in the terms in which it is presented, i.e. it is not presented as a full self-contained WebTAG economic appraisal. It was included to add a further dimension to the overall assessment of the economic benefits of the Proposed Development in line with best practice for planning applications.

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
		Point by point response	NEF has re-worked the applicant's cost-benefit analysis according with best practice as set out by the DfT, and according with basic principles of comprehensive socioeconomic impact assessment.	NEF's reworking, as presented in their Deadline 5 submission, [REP5-081] , does not itself follow key principles of the WebTAG guidance to ensure that impacts are not double counted.
22	New Economics Foundation	[REP7-107] and appendix (e-mail exchange) [REP7-106] Point by point response	15. The applicant's approach is obstructive. It would not be difficult for the applicant to devise a sensible approach to allocating construction costs.	The Applicant has nothing further to add to why it is simply not possible to apportion construction costs for airport facilities between UK and non-UK resident users.
23	New Economics Foundation	[REP7-107] and appendix (e-mail exchange) [REP7-106] Point by point response	16. The applicant's approach to emissions costs is clearly inconsistent and at odds with DfT best practice guidance. Responsible appraisal practice does not arbitrarily exclude costs to one user group.	The Applicant's approach is precisely not to differentiate between different user groups. The costs relevant to all users are included.
24	New Economics Foundation	[REP7-107] and appendix (e-mail exchange) [REP7-106] Point by point response	17. The Jet Zero strategy does not consider the ramifications of emissions growth in aviation on operational costs in other emitting sectors.	This appears to be a comment on the Government's Jet Zero Strategy.
25	New Economics Foundation	[REP7-107] and appendix (e-mail exchange) [REP7-106] Point by point response	26. The argument that Gatwick Airport have used TAG because their application is somehow different in nature to that of Luton Airport is incredibly weak. Gatwick airport have applied for a DCO just as Luton Airport have. NEF reserves its right to provide comments on the Gatwick DCO.	The Applicant remains of the view that the context for the partial WebTAG appraisal presented by Gatwick Airport Ltd as part of its application for development consent is different as the case being made is principally based on the assumption that a third runway is not provided at Heathrow and so seeks to present the case in terms of overall UK wide benefits as an alternative to Heathrow Airport.
26	New Economics Foundation	[REP7-107] and appendix (e-mail exchange) [REP7-106] Point by point response	38. The applicant is correct that Luton Airport has historically served a lower income group of travellers than most other UK airports. It is also the case that particularly deprived communities live very close to Luton Airport's flight path, and are most exposed to climate hazards. Our concern here is less with the equity of historical patterns, and more with future impacts. Will the airport's move into the long-haul market serve a different, potentially higher income, passenger group? Will new flights be populated with first-time flyers or frequent flyers? In NEF's view a key equity issue relates to the distribution of impacts between air passengers and non-flyers. A large proportion of recent air passenger capacity growth has been captured by frequent flyers. In any given year 50% of the UK population do not fly, yet all will experience the detrimental affects of climate change. All will be exposed to the higher emissions	The Applicant would draw the ExA's attention that at 32 mppa, less than 7% of passengers (Need Case [AS-125] , (para. 6.3.35)) are expected to be on long haul services and these are anticipated to be mainly leisure type services. The future passenger mix is shown in Figure 5 . The Applicant does not anticipate a substantial change in the relative income profile of passengers using the airport in future. The Applicant does not agree with NEF's view in relation to equity and, in any event, this appears to be a comment addressed to the Government's overall policy on aviation growth as set out in section 3 of the Need Case [AS-125] .

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			trading prices caused by aviation growth (increasing, for example, energy costs), and all will suffer the hazards and damages resulting from unmitigated non-CO2 emissions.	
27	New Economics Foundation	[REP7-107] and appendix (e-mail exchange) [REP7-106] Point by point response	<p>45. The business passenger – GDP elasticity applied by the applicant is not credible. It cannot be assumed that the relationship used, developed on data spanning 1980 to 2010, heavily influenced by an era of booming growth in the air-travel dependency of the economy in the 80s and 90s (Figure 1), is fit for purpose in 2023/24 given trends seen since 2011 and the global pandemic. Structural shifts (Figure 1) have occurred which such a model cannot account for. These shifts are widely recognised across the aviation industry and are triggering changes in business models from airlines previously more dependent on the business passenger market.</p> <p>46. The applicant has cited four consultancy reports in evidence defending its business elasticities. All four studies use out-of-date data, and two of them appear to refer to different iterations of the same model used by the applicant. The most recently published study, Oxford Economics for ATAG (2020), does not publish new analysis (and hence references out-of-date data). That study does however state: “Analysis shows a positive relationship between connectivity to the global network as a proportion of GDP and labour productivity, and hence higher GDP and living standards among developing economies. For developed countries, there is still a positive relationship but with smaller incremental impacts once a threshold level of connectivity as a proportion of GDP is reached” (p.25) This is precisely the point made in NEF’s Losing Altitude report (2023). In the UK’s already highly connected economy, with a net outbound tourism flow and stagnant business demand, connectivity growth no longer creates significant wider economic benefits.</p>	<p>The Applicant does not agree with NEF’s view on the appropriateness of adopting the Department for Transport’s long run elasticities for the growth of air passenger demand relative to GDP as set out in the Department for Transport’s <i>Econometric Models to Estimate Demand Elasticities for the National Air Passenger Demand Model</i> of March 2022, which were calibrated over a long time period from 1996 to 2017, which included other periods when there has been a step change in the relationship.</p> <p>The Applicant considers these elasticities are valid and, when coupled with the market maturity assumptions adopted (Need Case [AS-125], paragraph 6.3.7), fully consider any change in the rate of demand growth relative to GDP in future. The overall business travel elasticity is 0.9 (Need Case, Table 6.1) and this means that business travel demand growth will be below GDP growth.</p> <p>In terms of the relationship between business travel and productivity, the fact that the number of business trips relative to GDP is declining means that each trip is by definition more productive.</p> <p>The Applicant does not accept that the relationship used to estimate the productivity impact on increasing business travel using the airport is inappropriate. If anything, it may be conservative as it does not factor such growing productivity from an individual trip into the estimate.</p>

2.7 DESIGN

Table 2.7 provides a response to matters the Applicant considers need to be responded to.

Table 2.7 Applicant's Response to Deadline 7 Submissions - Design

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	Peter White	[REP7-108] para. 1-5 page. 1	Within the applicant's Phase 1 plans for passenger growth to 21.5 million passengers per annum (MPPA), there is no detail/reference as to how the extra aviation fuel required for that growth will be transported to/stored on the airport site. The two current sites are space restricted for the addition of extra storage tanks, so the only logical conclusion is that supply will be	<p>The Applicant would I refer Peter White to the Design and Access Statement Volume II [AS-124] section 5.22 which explains the fuel storage facilities and their use.</p> <p>In response to specific question please see below:</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>maintained by tankered delivery as at present. Could the applicant please provide details of how many daily tanker refuelling journeys are required to provide enough supply to the current throughput of 18 MPPA, and the requirement for executive aircraft movements? Could this figure also include the return journeys of empty tankers returning to base? Could the applicant then provide the same details for the extra movements required for the increase in flights to achieve 21.5 MPPA? How will the applicant monitor/record the extra pollution delivered by this increase in road movements, and how will it mitigate that increase in pollution?</p>	<p>a. For Phase 1 the existing fuel storage sites will continue to serve Terminal 1. Please refer to the Statement of Common Ground [REP6-011] with World Fuel Services where this has been discussed and agreed.</p> <p>b. The number of daily tanker deliveries varies across the year to correspond to demand. The average number of daily tanker deliveries forecast for 21.5mppa is 45 per day, so with the return journey 90 truck movements.</p> <p>c. The additional tanker movements associated with the fuel delivery have been accounted for in the traffic numbers used in the Air Quality assessment [AS-076] and Greenhouse Gases assessment [REP3-007].</p>
2	Peter White	[REP7-108] para. 6-9 page. 1	<p>Phase 2 of the development details the building of a new fuel farm to the East of the new development. The reasoning behind this is that a branch pipeline could be run from an existing aviation fuel main pipeline that delivers supply to London Stansted airport. London Stansted has recently received approval to increase their passenger cap from 35 MPPA to 43 MPPA. Could the applicant please confirm that the capacity of that existing pipeline is sufficient to maintain the current Stansted supply, the extra capacity for that growth, and the additional demand from Luton airport? Could the applicant confirm whether that when/if this new fuel farm site comes on line, the existing sites will still operate?</p>	<p>The Finaline fuel pipeline, which the Applicant seeks to source fuel from, transports fuel from Prax Lindsey Oil Refinery in North Lincolnshire to Buncefield Terminal in Hemel Hempstead. Stansted sources its fuel from a separate fuel main (Exolum, former GPSS, pipeline system).</p> <p>The Applicant would refer Peter White to the Statement of Common Ground [REP6-012] where the delivery of fuel via the Finaline pipeline is discussed.</p> <p>In summary, the exact operation of the pipeline in 2032 cannot be confirmed and therefore the Applicant has completed sensitivity testing to ensure the sizing of the facilities and environmental effects are considered in the case of not being able to obtain all the fuel through the pipeline.</p> <p>Please refer to the Design and Access Statement Volume II [AS-124] section 5.22 which explains that the existing fuel storage facilities are kept to service T1 with the fuel being provided from the proposed fuel storage facility (either via tankers or a pipeline connection).</p>
3	Peter White	[REP7-108] para. 10-11 page. 1	<p>The applicant claims that sustainable aviation fuels will cut emissions from the expansion. Could the applicant detail where any supplies of sustainable aviation fuels would be stored on the current storage sites? It is unlikely that all aircraft operators will use blends of these fuels and regular fossil fuels, so some form of separate storage facility will be required.</p>	<p>For the Proposed Development, sustainable aviation fuels (SAF) will be blended off site at the refineries and transported to site either via tanker or pipeline.</p> <p>There is no required segregation of SAF and these will use the common infrastructure at the site.</p> <p>Please refer to the Design and Access Statement [AS-124] para 5.22.13 and Statements of Common Ground [REP6-011] and [REP6-012] where this is agreed with the fuel companies.</p>
4	Peter White	[REP7-108] para. 10-11 page. 1	<p>The applicant claims that emissions from aircraft from Phase 2 of the expansion should be cut by the introduction of next generation of aircraft, powered by electric/hydrogen/hybrid engine technology rather than current fossil fuel technology. Could the applicant please provide details of how any electric aircraft will be recharged whilst on the parking aprons? Could the applicant please provide details of where/how hydrogen will be delivered/stored/transported around the airport site?</p>	<p>Please refer to the Design and Access Statement Volume II [AS-124] section 5.22.12-17, Safeguarding for the future which discusses the alternative fuels that may become available.</p>

2.8 DRAFT DEVELOPMENT CONSENT ORDER

Table 2.8 provides a response to matters the Applicant considers need to be responded to.

Table 2.8 Applicant's Response to Deadline 7 Submissions – Draft Development Consent Order

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
Article 44				
1	Luton Borough Council Hertfordshire Host Authorities (Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire District Council) Central Bedfordshire Council	[REP7-089] page. 10-11 [REP7-085] page. 24 [REP7-083] page. 16-17 (All contain same response to 4.1.4 to 4.1.5 of REP6-068)	The Host Authorities 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. The Host Authorities note 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.	The Applicant duly amended article 44 in the amended Draft DCO [REP7-003] submitted at Deadline 7. An explanation is contained in the Summary of Changes to the Draft Development Consent Order [REP7-038] and Explanatory Memorandum [REP7-006] also submitted at Deadline 7. The Applicant clarifies that the notification process referred to the Authorities in this context arose at ISH10 in relation to article 45, not article 44. In response to the Host Authorities' suggestion, the Applicant introduced a notification procedure into article 45 as part of the amendments introduced to that article at Deadline 7.
Article 45(1)				
2	Luton Borough Council Hertfordshire Host Authorities	[REP7-089] page. 11 [REP7-085] page. 24 (Both contain same response to 5.1.12 of REP6-068)	[LBC / the Hertfordshire Host Authorities] are 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.	The Applicant has provided a response to this at ID 33 of Applicant's Response to Comments on the Draft Development Consent Order at Deadline 6 [REP7-062] and subsequently through the amended Draft DCO [REP7-003] , Summary of Changes to the Draft Development Consent Order [REP7-038] , and Explanatory Memorandum [REP7-006] submitted at Deadline 7.
Article 45(2)-(5)				
3	Luton Borough Council	[REP7-090]	Whilst part 1 of this question is posed to the Applicant, Pinsent Masons acting on behalf of LBC as one of the Joint Host Authorities consider it appropriate to respond to it.	The Applicant is grateful for the confirmation from the Host Authorities that they agree that article 45(2) to (4) falls within a matter which can be addressed in a Development Consent Order under section 120 of the

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
		<p>page. 20-30 Response to ExA Q DCO.2.2</p>	<p>Article 45(2) to 45(4) – meaning of “inconsistent”</p> <p>The Host Authorities understand from the Applicant’s Explanatory Memorandum and from the discussion on this topic at ISH 10 that the Applicant’s intentions underlying the drafting of article 45(2) and (3) is to safeguard the existing planning permissions (the LLOAL planning permission as defined in article 2(1) and the Green Horizons Park planning permission as defined in article 45(5) and referred to in this response as the “Existing Planning Permissions”), any future planning permissions and the development consent that would be granted by this development consent order, from being prejudiced by the Hillside decision in relation to any inconsistency arising between the development consent and those permissions (and vice versa).</p> <p>In principle, a development consent order can contain a provision that achieves that outcome. It would be within the scope of section 120(3) of the Planning Act 2008, being a “matter ancillary to, the development for which consent is granted.” Additionally, section 120(5) is clear that a DCO may modify existing statutory provisions and may include “any provision that appears to the Secretary of State to be necessary or expedient for giving full effect to any other provisions of the order.” While not commonplace, there are sufficient examples of development consent orders interacting with planning permissions and other development consent orders that would support DCOs including deliberate measures to manage those interactions proactively rather than leaving them to be subsequently interpreted by the courts.</p> <p>However, while such a provision may be within the scope of the powers afforded to the Secretary of State under the Planning Act 2008, whether or not such a provision is appropriate for inclusion in this development consent order is a matter for the judgement of the Secretary of State. In that regard, the potential consequences of the provision need to be carefully scrutinised. It clearly would not be appropriate for a DCO to interfere unduly and disproportionately with a local planning authority’s functions so as to prevent enforcement action being taken under either the 1990 Act or the 2008 Act.</p> <p>With some variations, article 45(2) to (4) uses “inconsistent with any power or right exercised under this Order or the authorised development” as its yardstick for identifying an inconsistency between a planning permission and the development consent order. There are two issues with this formulation (and indeed the</p>	<p>Planning Act 2008. The Applicant made a number of amendments to article 45 at Deadline 7 which the Applicant considers accommodates all but two of the concerns of the Host Authorities.</p> <p>The Host Authorities raise three queries relating to the drafting of these provisions. First, the Host Authorities seek to draw a distinction between “inconsistency” in the “Hillside sense” and a “broader interpretation” which may arise from the plain and ordinary meaning. It is not clear what this perceived and unparticularised distinction is in practice, and the Applicant can find no evidence that their Lordships sought to draw such a distinction. In any event, the Explanatory Memorandum makes clear that the mischief which is sought to be remedied is that arising from the Hillside judgment. The Applicant therefore does not consider any amendment is necessary.</p> <p>Second, the Host Authorities query why the inconsistency relates to powers exercised under the Order and the authorised development, and any potential development, rather than merely the inconsistency between the “authorised development” and any other potential development. In short, this is because there are other powers under the Order which may give rise to an inconsistency (for example, the street works powers). The Host Authorities refer to a number of powers which are not relevant to an inconsistency (e.g., compulsory acquisition powers). In respect of such powers, no inconsistency would raise and therefore the provision would simply not bite. The Applicant does not consider it appropriate to limit the effect of the provisions to specific powers because of the inadvertent consequence which may arise as a result of a power being exercised, giving rise to an inconsistency, and no certainty being provided that such powers – which would have been authorised – would not be subject to a conflict thereby giving rise to the perverse risk that an authorised power could be subject to enforcement action.</p> <p>Third, in relation to article 45(2), the Host Authorities question why the provision relates to inconsistencies from the point at which the “authorised development” is “begun” and note there are no notification requirements leading to a concern that they will not know, practically speaking, what and when an inconsistency is or arises. The Applicant, at Deadline 7, amended the Draft DCO [REP7-003] so that the provisions bite “from the point at which that inconsistency arises” and also inserted a notification requirement so that “Where the undertaker identifies an inconsistency between a planning permission and this Order which engages the provisions of paragraphs (2), (3) or (4) as the case may be, it must notify the relevant planning authority as soon as reasonably practicable about the existence of the inconsistency, and how the undertaker is proceeding in view of that inconsistency in accordance with this article”. These procedural requirements apply to any planning permission, including those promoted by the Applicant itself. The Applicant considers these changes address the concerns expressed by the Host Authorities.</p> <p>The Host Authorities also seek “Confirmation in relation to paragraphs (2) to (4) that the relevant consent (be it an Existing Planning Permission, another</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>other similar formulations used in paragraphs (2) to (4) of article 45).</p> <p>First, while it appears the Applicant intends “inconsistent” to convey the technical meaning in which it is used in the Hillside judgment, clearly the term “inconsistent” in its ordinary and natural meaning invites a broader interpretation, which is the manner in which a court is required to construe it absent any other assistance from the legislation. For example, it would not strain the meaning of the term “inconsistent” to say that the conditions of the Existing Planning Permissions are inconsistent with the provisions of the Order. This is evidently the case; they are different consents covering different developments, but such differences would not automatically be “inconsistent” in a Hillside sense. Therefore, to avoid the provisions of article 45 being misconstrued in the future it should be made clear on the face of article 45 that the inconsistencies it is concerned with are those in the Hillside sense and not the wider ordinary and natural meaning of “inconsistent”.</p> <p>Secondly, the yardstick against which such inconsistencies are to be measured are similarly drawn widely, relating to “any power or right exercised under this Order or the authorised development.” This would include (i) the exercise of the “front end” provisions, such as the “streets” provisions in Part 3 and the “supplemental powers” in Part 4 of the draft DCO, (ii) the compulsory acquisition of “rights” and land under Part 5 of the DCO, as well as (iii) the “authorised development” as given effect by Part 2, “principal powers”. The decision in Hillside was concerned only with the interaction of overlapping planning permissions and if the Applicant seeks to safeguard against the effect of that decision, it ought to be constrained to the Planning Act 2008 equivalent, being the development consent granted for the “authorised development” and not the subsequent exercise of other “powers” or “rights” which, unless otherwise caught by the definition of “authorised development”, would not require planning permission.</p> <p>Article 45(2)</p> <p>Paragraph (2) is drafted so as to apply “To the extent that the LLOAL planning permission or the Green Horizons Park permission or compliance with any conditions or [sic – it is assumed this should be read as an “of”] either of those permissions is inconsistent with any power or right exercised under this Order or the authorised development”. This is said by the Applicant in its Explanatory Memorandum to be intended to capture the situation where the Existing Planning Permissions, or their conditions, are inconsistent with the authorised development or any function that may be exercised under the Order. The key</p>	<p>planning permission, or the development consent order) relied upon remains enforceable in relation to all other aspects beyond the Hillside inconsistency”. The Applicant can confirm this and notes that the provisions only relate to an inconsistency which arises. In line with best practice legislative drafting, the Applicant does not consider it is appropriate to include “for the avoidance of doubt” drafting such as this on the face of the Order.</p> <p>Substantively, the Applicant reiterates that article 45 is not novel, and has clear precedent – see, for example: article 35 of Network Rail (Cambridge South Infrastructure Enhancements) Order 2022; article 3(3) of the Lake Lothing (Lowestoft) Third Crossing Order 2020; and article 6(4) of the Riverside Energy Park Order 2020. There are also a number of DCOs which contain provision which have materially the same effect as article 45(4) (e.g., article 5(2) of The East Midlands Gateway Rail Freight Interchange and Highway Order 2016, article 44(3) of the West Midlands Rail Freight Interchange Order 2020 and article 6(2) of the Little Crow Solar Park Order 2022).</p> <p>The Applicant further notes that a similar provision is included in article 56 of the draft Lower Thames Crossing DCO, which has been subject to examination and was well received by the host local authorities for that project as a necessary and welcome provision (see, for instance, [page 25 of [REP5-107] and [page 33 (row 33) of [REP3-210] of the Lower Thames Crossing examination library). Finally, a similar provision is included in article 9 of the draft Gatwick Airport DCO.</p> <p>Whilst each of these precedents is drafted in a manner applicable to the specific scheme, the substantive effect of the provision in each case is the same. These precedents highlight the potential necessity for such a provision where a scheme engages overlapping permissions, and that (in terms of the made Orders) the Secretary of State has endorsed them as acceptable, and in accordance with section 120 of the Planning Act 2008 in the case of DCOs. The Applicant would highlight that none of the precedents referred to above include the notification provision now included at article 45(5) of the Draft DCO, so the Applicant has gone further than precedent in this respect.</p>

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			<p>point being it is the “inconsistency”, however it so arises, that is caught by this paragraph. This distinction is understood by the Host Authorities and it means that it is not the case that the Existing Planning Permissions are rendered wholly unenforceable; only unenforceable in relation to an “inconsistency” with the Order. If “inconsistency” is construed in its narrow Hillside sense this may be acceptable. If “inconsistency” is construed in a wider sense more in keeping with its ordinary and natural meaning, then it clearly significantly limits the relevant planning authorities’ enforcement powers.</p> <p>Paragraph (2) then goes on to say that:</p> <p>“The inconsistency is to be disregarded for the purposes of establishing whether any development which is the subject matter of that planning permission is capable of physical implementation.” This appears to be targeted at the Hillside scenario and it tells us to ignore the Hillside rule when determining whether the remainder of any of the Existing Planning Permissions is physically capable of implementation, after development has been carried out;</p> <p>“no enforcement action under the 1990 Act may be taken against such development carried out in accordance with that planning permission by reason of such inconsistency, whether inside or outside the Order limits; and”, which appears to be targeted at avoiding otherwise compliant development carried out under the one of the Existing Planning Permissions being enforced where the breach in question relates to an ‘inconsistency’ between the planning permission and the Order; and</p> <p>“any conditions on that planning permission that are inconsistent with this Order or the authorised development cease to have effect from the date the authorised development is begun”.</p> <p>This renders the conditions of the Existing Planning Permissions, where inconsistent with the DCO, unenforceable from the date that the authorised development is “begun”. As was discussed at ISH10 and recorded in the Host Authorities’ post hearing submission (including written summary of oral submissions) [REP6 -095], because the term “begun” is not defined in the DCO then the definition contained in section 155 of the Planning Act 2008 would prevail. Section 155 of the Planning Act 2008 confirms that development is taken to “begin” on the earliest date on which any “material operation” is carried out. A “material operation” is defined as “any operation” (the prescribed exceptions referred to in that provision relate to regulation 7 of the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015, which exclude from that</p>	

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			<p>definition the marking out of a road). Consequently, very trivial "operations" can be taken to have "begun" development. It should also be noted that "begun" is not tied to the concept of "commence" and so those trivial operations required for the authorised development to have "begun" may not be caught by the pre -commencement requirements.</p> <p>As can be seen, where the "inconsistency" is constrained to its narrow Hillside meaning the provisions are potentially acceptable, assuming the other issues are remedied. But when given their wider meaning, where they would bite on any difference, it would have the clearly inappropriate effect of curtailing the relevant planning authorities' enforcement functions.</p> <p>In relation to article 45(2)(c), given that trivial operations are capable of "beginning" the authorised development without the need for discharge of pre -commencement requirements, the enforcing authorities may be wholly unaware that the authorised development has "begun" for the purposes of these provisions. The second issue is that, given the nature of this DCO and the way in which it is structured, it will in practice be very difficult to understand in any meaningful way whether any inconsistency has arisen. Indeed, it may not be possible to do so at the point that the authorised development is "begun" and the inconsistency may only crystallise at a later stage.</p> <p>This is because many of the requirements (both operational and pre -commencement) require an outline certified document to be developed into a detailed document and submitted for approval. It is only once these outline documents have been approved does the duty on the undertaker crystallise and so the "inconsistency" becomes manifest, yet the inconsistent planning condition to an Existing Planning Permission is deemed to be ineffective, so far as the planning permission is concerned, since the authorised development "begun". This is most evidently a significant risk in the construction phase prior to the service of the article 44(1) notice where the airport will continue operating under the LLOAL permission but the development will be being built under the provisions of the DCO, and all the while the Green Horizons Park planning permission will subsist in the background.</p> <p>Further, many of the powers included in the Order are of a general or unspecified nature. For example, the power in article 15 (access to works) authorises the Applicant to form and layout means of access, or improve existing means of access "at such locations within the Order limits as the undertaker requires for the purposes of the authorised development". It is important to note this power is not tied to the "construction" of the authorised development but to the far wider "for the purposes of the</p>	

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			<p>authorised development” and so could be used during operation. The power is exercisable with the consent of the street authority, who may very well not be the relevant planning authority (as most street authorities will be the highway authority, i.e. the upper tier county council). Whether or not the exercise of such a power is inconsistent with any of the Existing Planning Permissions is fundamentally a matter in the hands of the Applicant when considering how to exercise those powers. Such an inconsistency may only arise long after the authorised development has “begun”.</p> <p>It is evident in that scenario that there is a considerable risk of such inconsistencies arising. It is therefore incumbent upon the Applicant, the person with the benefit of the Existing Planning Permissions and the provisions of the DCO, if granted, to be clear in relation to such development, which permission or consent it is relying upon. Consequently, at ISH10 the Host Authorities recommended the Applicant give consideration to the inclusion within article 45 of procedural provisions that would require the Applicant in such circumstances to give notice to the relevant planning authority, to identify the nature of the inconsistency and to confirm that it is relying upon the provisions of the Order to carry out such development, and to confirm whether such development is being carried out pursuant to the Order or to the relevant Existing Planning Permission, so there can be clarity as to which provisions regulate such development.</p> <p>The Applicant may well say in reply to this concern that the relevant planning authority will have the role of approving submissions under the requirements and so it will be apparent to it whether or not such inconsistency will arise, and it has the option of refusing to approve such a submission. The Host Authorities’ answer to that would be to say that, given the deemed consent provisions coupled with the very short time frames for determination, such an approach places too high a burden on the authorities also to vet for consistency with the Existing Planning Permissions. This is not a burden they would ordinarily bear under the 1990 Act; in such circumstances the Hillside rule would ultimately provide clarity.</p> <p>As it is the Applicant’s desire to disapply the rule in Hillside the drafting in article 45 ought to ensure that the burden falls on the Applicant to specify, in relation to any inconsistency that has arisen, whether it is relying on either the Existing Planning Permission or the development consent order and that the specified consent may continue to be enforced against in relation to matters other than the mere existence of an inconsistency.</p>	

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			<p>The Host Authorities note that the Applicant intends to submit an updated DCO at Deadline 7 addressing the matters discussed at ISH10 and so the Host Authorities will look forward to considering those updates in due course.</p> <p>However, having reflected on the discussion at ISH 10, the Host Authorities consider that any updated drafting of article 45 ought to include, at a minimum:</p> <ul style="list-style-type: none"> - A clear definition for “inconsistent” in a Hillside sense and one which: <ul style="list-style-type: none"> - uses as its yardstick the “authorised development” only, and not the wider “exercise of any power or right”; and - in relation to timing, runs only from the point in time when an inconsistency arises. - In relation to the Existing Planning Permissions and paragraph (2), procedural provisions requiring the Applicant, where it becomes aware of an inconsistency, to serve notice on the relevant planning authority confirming which of the Existing Planning Permissions, or the development consent order, that it is relying upon. - In relation to article 45 (3) and (4) where the undertaker is also the person with the benefit of the new or other planning permissions, to comply with the procedural provisions referred to in the bullet point immediately above. - Confirmation in relation to paragraphs (2) to (4) that the relevant consent (be it an Existing Planning Permission, another planning permission, or the development consent order) relied upon remains enforceable in relation to all other aspects beyond the Hillside inconsistency. <p>With regard to the second question addressed to LBC, as noted in the response above, the Host Authorities consider that with the amendments and clarifications suggested above, article 45(2) to (4) is capable of being drafted in a form that would not give rise to the risk identified by the ExA in its question.</p> <p>However, if this is not achieved the Host Authorities would contend that it would not be appropriate for the Order to put development beyond enforcement under both regimes.</p> <p>If the Applicant’s definition of “inconsistent” were to remain as it currently stands then there is a risk that LBC (and indeed, the other Host Authorities that are also relevant planning authorities)</p>	

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<p>may find themselves in a situation where there is inappropriate development against which enforcement action cannot be taken. This risk is most acute in relation to article 45(3) if "inconsistent" is given its ordinary and natural meaning where no enforcement action could be taken under either the Town and Country Planning Act 1990 or the Planning Act 2008 "by reason of such inconsistency."</p> <p>In such circumstances the relevant planning authority would have very limited options and would have to consider its broader suite of local authority powers with a view to identifying an appropriate 'tool' to fit the circumstances of the mischief arising. For example, if the inappropriate development were to give rise to a statutory nuisance it could look to its powers under the Environmental Protection Act 1990, although it must be noted that in relation to the authorised development those powers are curtailed by the Planning Act 2008 and by the provisions of the draft DCO.</p>				
Schedule 1				
4	Central Bedfordshire Council	[REP7-083] page. 18-19	<p>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.</p> <p>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.</p>	<p>The Applicant notes that the proposed amendments to the wording are in respect of Work No. 6e, rather than 6d as referenced in the comment. Otherwise, the Applicant has considered CBC's suggested amends to Work No. 6e and has incorporated these changes into the Draft DCO to be submitted at D8.</p>
Schedule 2, Part 2				
5	Central Bedfordshire Council	[REP7-083] page. 7 (Response to REP6-056 at ID22)	<p><i>Requirement 8</i> 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</p>	<p>Upon further consideration of CBC's comments and the ExA's dDCO commentary, the Applicant has made these amendments to the Draft DCO submitted at D8.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			requirements as currently worded. The need for cross sections and details of boundary treatment should be included in the wording.	
6	Central Bedfordshire Council	[REP7-083] page. 7-8 (Response to REP6-056 at ID23)	<p><i>Requirement 13</i></p> <p>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.</p> <p>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).</p>	The Applicant has amended original Requirement 13, which is now Requirement 14, in the amended Draft DCO submitted at Deadline 8 [TR020001/APP/2.01] to address this concern. Requirement 14 now requires the relevant planning authority which is to approve the construction traffic management plan, to consult with the "specified authorities, Buckinghamshire Council and National Highways" before giving such approval. The draft DCO has also been updated to provide a definition for "specified authorities" - this is found in paragraph 1 of Schedule 2 and is defined as, "Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, Luton Borough Council and North Hertfordshire District Council, but excluding any of those authorities where they are the discharging authority".
7	Central Bedfordshire Council	[REP7-083] page. 14 (Response to REP6-009)	<p><i>Requirement 13</i></p> <p>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.</p> <p>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.</p>	<p>As noted in the Applicant's response above, Requirement 14 (originally Requirement 13) of the Draft DCO submitted at Deadline 8 [TR020001/APP/2.01] now contains a requirement for the relevant planning authority to consult with "specified authorities" which includes Central Bedfordshire Council (except where it is the relevant planning authority for the works).</p> <p>Please refer to the Applicant's response to Action Point 34 provided at ID 15 of the Surface Access Table 2.17.</p>
Schedule 2, Part 5				
8	Luton Borough Council Hertfordshire Host Authorities	[REP7-089] page. 11 [REP7-085]	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). The Joint Host Authorities encourage the Applicant to consider the matters raised in that response when contemplating amendments to the	The Applicant has provided a response to this at ID 44 of Applicant's Response to Comments on the Draft Development Consent Order at Deadline 6 [REP7-062] and subsequently through the amended Draft DCO [REP7-003] as further detailed in the Summary of Changes to the Draft Development Consent Order [REP7-038] and Explanatory Memorandum [REP7-006] submitted at Deadline 7.

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	Central Bedfordshire Council	page. 25 [REP7-083] page. 17 (All contain same response to 6.4 of REP6-068)	procedural requirements that apply to the discharge of requirements.	
Schedule 8 – Protective Provisions				
9	Network Rail	[REP7-095] page. 1	<p>We note that in the ExA written questions dated 15 December 2023, our client was requested to provide an 'Assessment as to whether the increased passengers numbers will create any rail capacity issues' today. Unfortunately, our client will be unable to meet this deadline as the meeting which was arranged in December to discuss the capacity issues with the Promoter had to be postponed, due to the Promoter's travel consultant falling ill. The meeting between the relevant consultants was instead held yesterday. The meeting was positive and Luton Rising's consultants agreed to send our client further information by the end of the week. Therefore, until the information is received and reviewed our client will be unable to provide their assessment. Our client is aware the examination is shortly coming to a close and will provide their assessment as soon as they can. We apologise for the delay in sending across the assessment.</p> <p>We have also provided the attached protective provisions to the promoter's solicitors, which are to be included on the face of the order.</p>	<p>The Applicant thanks Network Rail for agreeing to attend the meeting set up by the Applicant to progress the status of the protective provisions and related matters.</p> <p>At the meeting held on 8 January 2024, Network Rail put forward a number of requests for further information which the Applicant confirmed they would respond to, where possible at this late stage of the process, subject to client consent. The Applicant is providing this information via the updated Rail Impacts Summary [TR020001/APP/8.121] submitted at Deadline 8.</p> <p>Network Rail confirmed it is still going through its clearance process, and as such, and in accordance with their Deadline 1 submission Written representations submitted on behalf of Network Rail Infrastructure Limited [REP1-113], it is "unable to comment fully on the impact of the proposals on its operational railway". Network Rail has also confirmed that it will not deviate from its standard protective provisions. The Applicant notes Network Rail has submitted its standard form of protective provisions [REP7-095] into the examination.</p> <p>Whilst the Applicant will continue to engage with Network Rail, at this stage of the examination the Applicant is proposing to submit its case under section 127 of the Planning Act 2008 and include protective provisions for Network Rail that it considers proportionate and appropriate to the limited nature of interface.</p> <p>The Applicant has submitted an amended form of protective provisions in the Draft DCO submitted at Deadline 8 [TR020001/APP/2.01]. The Applicant also provided the amended form of protective provisions for Network Rail's review in advance of Deadline 8 to enable them to provide comments at Deadline 8. The amendments have been made in track and the reasons supporting the Applicant's changes are summarised as follows (employing Network Rail's original first-level paragraph numbering):</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
				<p>Paragraph 1: Deletion of “and, in the case of paragraph [15] of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph” as a result of amendment of the indemnity paragraph.</p> <p>Paragraph 2: Deletion of “asset protection agreement” within the definitions and reference to it within original paragraph 3(7): the Applicant does not agree to enter into an “asset protection agreement” prior to carrying out works, the Protective Provisions provide adequate protection for Network Rail, especially considering the minimal impact of the Proposed Development on Network Rail’s land and interests. Additionally, it is not commonplace to include direct reference to asset protection agreements within railway Protective Provisions.</p> <p>Paragraph 4: this has been deleted. Requiring consent from Network Rail before exercising powers under articles and legislation noted in the original paragraph 4 will cause unnecessary delay and is again disproportionate considering the impacts of the scheme to Network Rail land. The Applicant has agreed to supply Network Rail with plans for approval prior to the commencement of any ‘specified works’; this provides Network Rail with effective means of controlling aspects of the authorised development that would interact with Network Rail’s interests.</p> <p>Additionally, restrictions on compulsory acquisition powers are unnecessary as the compulsory acquisition process already allows for any disagreements on commercial matters to be resolved in a tried and tested way, through the referral of compensation disputes to the Upper Tribunal to be determined in accordance with the compensation code.</p> <p>It would not necessarily be unusual for Network Rail to take a different view to the Applicant in respect of commercial matters as both parties’ interests are not necessarily going to be aligned, however the Applicant is concerned that any dispute on commercial matters could delay or preclude the exercise of the land powers to the detriment of the timely and efficient delivery of the authorised development.</p> <p>The Applicant’s approach to land acquisition is that voluntary acquisition is preferable where possible. However, it has not yet proved possible to reach agreement with Network Rail. It is on this basis that the Applicant is seeking Order powers to ensure it is able to compulsory acquire land and interests in land where it has not been possible to reach agreements. The Applicant must retain compulsory acquisition powers in respect of land where voluntary agreement has not yet been obtained or in the circumstance where voluntary agreement may later prove to have granted insufficient rights. Moreover, compulsory powers are more readily enforceable so reducing additional risk, cost and delay.</p> <p>There is no provision within the Planning Act 2008 which requires an Applicant to secure Network Rail’s consent to the exercise of Order powers</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
				<p>(in contrast with for instance, the position of the Crown where such provision has been made in section 135 of the Planning Act 2008) and the Applicant is not persuaded of any basis on which such consent ought to be required. To the contrary, the Applicant is concerned that the inclusion of such a provision will enable Network Rail to dictate not only the nature of the interest in land granted for the Proposed Development but also the commercial terms on which such an interest may be granted. The Applicant's position is that it has submitted its case in support of the land interests it requires through the submission of the DCO and supporting documentation. Network Rail has not objected in principle to the Proposed Development nor presented any evidence to suggest that the proposals are incompatible with the efficient and safe operation of the railway. As Protective Provisions are already provided in the Order there can be no serious detriment to Network Rail's undertaking under section 127 of the Planning Act 2008. Indemnity provisions have also been provided and therefore adequate and appropriate protections are already included.</p> <p>Paragraph 6(2): reference to 'loss' has been amended to 'direct loss', as the Applicant does not agree to take responsibility for consequential loss.</p> <p>Paragraph 9(1) and 14: amendments included for clarity in terms of the notice procedure.</p> <p>Paragraph 9(2) and 10: amendments to make clear that the engineer's opinion must be reasonable, in line with original paragraph 5(1) and to clarify the Applicant is only responsible for compensating for reasonable and proper expenses incurred by Network Rail.</p> <p>Paragraph 11(2): the Applicant does not agree to the inclusion of wording "(unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change)"; this wording will cause unnecessary delay.</p> <p>Paragraph 11(6): new paragraph inserted. There is already an obligation on the Applicant to make appropriate arrangements to verify the effectiveness of measures preventing EMI under paragraph 10(3).</p> <p>Paragraph 11(7)(d): deleted, as this paragraph is too wide ranging as drafted. The Applicant is already under a duty to provide preventative measures with regard to EMI under paragraph 11.</p> <p>Paragraph 11(9): deleted, as the Applicant provides adequate assurances with regard to compensation to Network Rail's reasonable and properly incurred costs, charges, damages and expenses within the protective provisions, and more specifically within the 'catch all' paragraph 15. The inclusion of an additional indemnity paragraph is overly onerous and not accepted by the Applicant.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
				<p>Paragraphs 14 and 15: amended to make clear that the Applicant is only responsible for expenses properly and reasonably incurred by Network Rail.</p> <p>Paragraphs 15(1)(c) and (e): deleted as they are not required due to the wording of paragraphs 15(1)(a) and (b) providing either the same or adequate protection.</p> <p>Paragraph 15(2): amendments to ensure the Applicant is provided with reasonable notice and information, and an opportunity to provide representations that Network Rail should consider, with regard to a claim or demand, or potential claim or demand, that the Applicant is responsible for paying. Further amendments are made at original paragraph 15(2)(b) to ensure Network Rail does not conduct itself in a way that could exacerbate any claim or demand.</p> <p>Paragraph 15(3) – a new sub-paragraph inserted at (3) which reiterates the Applicant is not responsible for any indirect or consequential loss or loss of profits save in the circumstances noted at sub-paragraph (3). The inclusion of a requirement to provide the Applicant with operator agreements provides transparency to the Applicant, providing them with the knowledge of any potential costs that could arise, and is not overly onerous, especially considering only two train operating companies will be caught under the Proposed Scheme.</p> <p>Paragraph 20: deleted. Adding a requirement to notify Network Rail when the Applicant proposes to make an application under article 8 (transfer of benefit) is unnecessary due to the limited impact the Proposed Development has on Network Rail's operational land.</p>

2.9 EMPLOYMENT & TRAINING STRATEGY

Table 2.9 provides a response to matters the Applicant considers need to be responded to.

Table 2.9 Applicant's Response to Deadline 7 Submissions – Employment and Training Strategy

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	Buckinghamshire Council	[REP7-081] Page 7	Q21 of ISH10- Discussion with Buckinghamshire regarding Employment and Training Strategy [APP-215] component of s106. No such discussions have taken place.	A call between Buckinghamshire Council and the Applicant took place on 15 January 2024 to discuss the s106 agreement.
2	Buckinghamshire Council	[REP7-081] Page 10	S106-HoT Buckinghamshire membership on the Local Economic Development Working Group implementation and monitoring. Significant economic, employment and training opportunities will be generated by the DCO. Buckinghamshire required involvement in the ETS which will take place via the Local Economic Development Working Group. The ETS will secure actions that will be targeted at Bucks' residents and businesses.	Buckinghamshire Council's interest to be involved with the Employment Training Strategy is noted. As noted in the responses to points raised in the Employment Training Strategy by Buckinghamshire Council through the Statement of Common Ground [REP6-037] , the Applicant has reiterated Buckinghamshire Council's involvement in the ETS including involvement in any initiatives delivered through the Strategy.

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
3	Buckinghamshire Council	[REP7-081] Page 10	<p>s106 – Alternatives</p> <p>In Buckinghamshire Council's view the following would need to be secured via a DCO Requirement:</p> <ul style="list-style-type: none"> • Employment and Training Strategy. <p>The authorised development must be carried out in accordance with the Employment and Training Strategy.</p>	<p>As noted, it is intended that the Employment Training Strategy will be secured through the s106 agreement. As the entirety of the ETS is being secured through the s106 agreement, the ETS does not need to be secured via a DCO Requirement. If agreement is not reached, then the ETS will be secured by either a Unilateral Undertaking or through the addition of a requirement.</p> <p>Further discussions, as outlined in ID 1 above, have taken place regarding a separate agreement with Buckinghamshire Council will be made to ensure their involvement.</p>

2.10 FUNDING STATEMENT

Table 2.10 provides a response to matters the Applicant considers need to be responded to.

Table 2.10 Applicant's Response to Deadline 7 Submissions – Funding Statement

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
Car Park fire				
1	Ronald Taylor	[REP7-111]	<p>Financial Implications on the construction of Terminal 2 and adjacent car park PLUS the demolition and rebuild of the Car Park 1 adjacent to Terminal 1 following fire in the Autumn 2023</p> <p>The Planning Inspectorate are undoubtedly aware that the Terminal 1 Car Park is now being cleared of the burnt vehicles ahead of the demolition and rebuild.</p> <p>In addition, all interested parties will be waiting for the official Inquiry to explain how a single diesel vehicle catching fire developed into a catastrophic fire engulfing the whole of the car park with all cars burnt out and severe structural damage.</p> <p>ISSUES OF CONCERN FOR INVESTIGATION</p> <ul style="list-style-type: none"> • No sprinkler system • No warning fire system • Lack of fire prevention material • No CTTV system • How did the fire spread across all floors from one car? • How did structural floors of concrete and steel collapse? • Why was water to extinguish the fire during the early stages of the fire not available? <p>These and many more questions put the credibility of Luton Rising in their ability to manage a civil engineering project of such magnitude into question.</p>	<p>The Applicant maintains the position that the recent fire at Terminal Car Park 2 does not affect the Proposed Development. The Applicant does not consider the fire, or any subsequent investigation into the fire, to be relevant to matters for consideration in the ongoing Examination of this application for development consent.</p> <p>For clarity, the Applicant is unaware of an Inquiry into the fire but acknowledges that it would be quite normal in the circumstances for the Bedfordshire Fire & Rescue Service, within its remit, to investigate matters relating to the fire.</p> <p>There is no financial effect on the Proposed Development, the fire is an insured event and is the subject of an ongoing insurance claim which is not related to the Applicant or the Proposed Development. All buildings and structures forming part of the Proposed Development have been assumed to be designed and constructed to all relevant standards.</p> <p>Please also refer to the previous responses provided at section 6.1.2 of the Applicant's Post Hearing Submission – Issue Specific Hearing 7 (ISH7) [REP6-065] and Table 2.1, ID 2 of the Applicant's Response to Deadline 4 Submissions [REP5-046].</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>AND with high costs to rebuild the car park at Terminal 1 PLUS the likely increase in costs to reformulate the financing for Terminal 2 + adjacent car parking their financial projections including increased borrowings could make the expansion untenable.</p> <p>Will the findings of the Inquiry be available ahead of any decision making and recommendation by the Planning Inspectorate?</p>	
Effect of inflation on project viability				
2	LADACAN		<p>Few economists or civil engineers appear to agree with the contention of the Applicant that higher inflation is better for infrastructure development projects. A view more commonly espoused is that inflation is a challenge.</p> <p>A July 2023 blog on the Institute of Civil Engineers Website summarises the issues: <i>“The construction industry keenly feels the impact of inflation. During periods of inflation, governments and investors must make hard decisions about priorities and affordability. At a government level, rising inflation means major projects need deferring or rescoping to save money. Consultants and contractors see profit margins narrow, and smaller suppliers face the threat of insolvency as they struggle with rising costs, growing loan repayments, and remaining competitive.”</i></p> <p>Document “ICE 2022 Roundtable writeup May 2022.pdf” (submitted separately) makes similar points.</p> <p>This Application is for a £2.7bn construction project –that is what would be challenged by inflation and that is what needs to be demonstrated to be viable, not the future operation of a larger airport. Unless the capital project is financially viable, Compulsory Acquisition and the Phase 1 build on Wigmore Park should not occur.</p>	<p>As the Applicant set out in its response to CAH2 – WQ4 Applicant's Response to Written Questions Arising from Hearings [REP7-048]:</p> <p><i>“The Applicant has run inflation sensitivities on all model inputs at rates higher than the forecasted rates, e.g. at 1% and 2% higher than Consumer Price Index (CPI) rates, for the duration of the project, and it further improves the financial attractiveness of the project. For example, in the Applicant's Deadline 6 response to Question 4 by LADACAN [REP6-054] about the impact of slower growth it was stated “Inflation generally affects revenue as well as costs i.e. higher general inflation typically flows through to revenue via higher aero and other charges, as has been seen in the market recently through price increases resulting in higher prices for consumers. As airport income is greater than costs, then profits can also grow with inflation. Analysis shows that higher inflation and the passage of time can improve the already robust financial viability of the project.”</i></p> <p>For projects where there is little link between higher cost inflation allowing for higher revenues to be earned, the Applicant agrees that higher construction inflation would reduce a project's financial viability. However, as explained, <i>“higher general inflation typically flows through to revenue via higher aero charges and other charges”</i> and this leads to increased revenue which in turn counteracts the inflationary effects.</p> <p>To reiterate, the Proposed Development is financially viable and can be being funded from the net income derived from operating the airport. Sensitivity testing of higher inflation shows this remains the case.</p>

2.11 GREEN CONTROLLED GROWTH

Table 2.11 provides a response to matters the Applicant considers need to be responded to.

Table 2.11 Applicant's Response to Deadline 7 Submissions – Green Controlled Growth

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	Buckinghamshire Council	[REP7-081]	GCG.2.2 Increase of thresholds, limits and contours	As set out in paragraph 2.3.4 of the Green Controlled Growth Framework [REP7-020] , there will be no ability to change any of the Level 1, Level 2

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
		Page 12	Wording should be included to cover a scenario where the number of people overflowed increases due to a change in the shape of the contours due to circumstances not assessed in the Environmental Statement (ES).	Thresholds or Limits to permit materially worse environmental effects than those identified in the Environmental Statement (ES). As such, were the number of people overflowed to change due to circumstances not assessed in the ES to the extent that this creates a materially worse environmental effect, this would not be permitted. As such, it is not considered that any changes to the wording of the GCG Framework on this point are required. It is notable that the Host Local Authorities also do not consider that any change to the wording is required (see [REP7-084], [REP7-087] and [REP7-090]).
2	Luton Borough Council	[REP7-090] Page 31	<p>GCG.2.10 Automatic Number Plate Recognition Data Due to the ES air quality assessment concluding that the operational phase impacts would not have a significantly detrimental effect, the installation of a wider permanent network of ANPR cameras was not something that LBC required. However, LBC recognise that ANPR-derived data can be very useful.</p> <p>It would assist LBC if the applicant could provide additional clarification on how, when and where they would propose to use ANPR data to look at air quality impacts, as does not appear to have been covered elsewhere in their submission. Paragraph D2.3.19 of Appendix D [REP5-030] appears to describe tools and data sources that might be used to investigate exceedances of the GCG Limit or Level 2 Threshold, though it is unclear whether the suggested use of ANPR refers to the installation of permanent cameras or the initialisation of a temporary survey triggered by a potential breach.</p> <p>The airport already has ANPR located at the traffic lights on the Airport Approach Road that provide access to the midstay car park, thereby identifying all vehicles from that point onwards in to the airport. It could be expected that further ANPR would be at the Eaton Green Link Road. The on-site ANPR would need to be augmented with offsite monitoring to assess the local impact of airport-related traffic.</p> <p>If temporary surveys are to be used, clarification on how/when they will be triggered would be welcomed. Additionally, LBC would expect to be consulted on and agree the specifics of any offsite ANPR surveys undertaken within its administrative area for air quality purposes (especially in terms of locations and timings).</p>	<p>The Applicant has provided a similar response on this subject in response to the Examining Authority's Written Question GCG.1.10, which can be found in the Applicant's response to Written Questions – Green Controlled Growth (GCG) [REP5-090]. That response set out how there are a range of options that could be used to determine the airport's contribution to the exceedance of a Level 2 Threshold or Limit at an in-scope air quality monitoring location, of which ANPR is just one.</p> <p>The approach taken to determine the airport's contribution for any given exceedance that may occur in future would need to be tailored to the specifics of that particular exceedance – including the type of pollutant, the location and likely source. For example, an exceedance of an Air Quality Limit at a monitoring location on the boundary of the airport would be more likely to be attributable to airport operations activities within the boundary of the airport, rather than emissions from airport-related traffic, so ANPR would be of little to no relevance for determining the airport's contribution to a particular exceedance.</p> <p>However, it has been acknowledged that there are situations where ANPR could be useful, including where emissions from airport-related traffic are likely to be the primary airport-related source contributing to a potential breach. However, even in these circumstances there are steps that the airport operator would likely undertake initially, prior to commissioning temporary ANPR surveys. These include engaging with the relevant local authority to understand local air quality trends elsewhere, identifying location-specific factors (e.g. roadworks or new development) or regional factors, or analysing the apportionment from different sources using 'openair'. Where the likely source of any breach cannot be identified from these methods, ANPR could then be used.</p> <p>Throughout the above process, the airport operator would need to engage with the Air Quality Technical Panel, of which LBC would be a member, to ensure that the analysis it was undertaking was robust and that the findings put forward by the airport operator are accepted by the Air Quality Technical Panel. Ultimately, the ESG is then responsible for deciding whether the airport is or isn't responsible for a potential breach and would require the necessary evidence to make that determination.</p> <p>Such engagement would therefore need to include the specifics of any off-site ANPR surveys, as suggested by LBC, to ensure that the findings from the</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
				resulting analysis were accepted to all parties. The processes of the GCG Framework are therefore considered to have the necessary flexibility and certainty to achieve the required outcome, and no specific mechanism is required in the Draft DCO to agree the location and approach to monitoring traffic using ANPR.
3	Hertfordshire Host Authorities (Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire District Council)	[REP7-085] Page 13	GCG.1.11 GCG framework – Revision of limits and thresholds in light of changing legal limits On review of the tracked change version of the GCG Framework [REP5-022] [REP5- 023], it does not appear that any amendments have been made under Section 4.4 beyond additional text concerning review of monitoring locations at Phase 2a – which is not the subject of the Hertfordshire Host Authorities' Written Question. It would appear that the matter has not been addressed in GCG as stated that it would be by the Applicant.	The amendments to section 4.4 of the GCG Framework suggested in the Applicant's response to Deadline 4 Hearing Actions [REP4-070] will be made at Deadline 9.
4	Hertfordshire Host Authorities	[REP7-085] Page 20	The Hertfordshire Host Authorities would agree [the use of bias factors] is true for NO ₂ diffusion tubes which do require bias adjustment, but assert that this is not the case for data from the "continuous sensor monitoring system" that has been proposed by the Applicant at each of the 15 monitoring sites identified in the Green Controlled Growth Framework [REP5- 022 page 10-13] and Green Controlled Growth Framework Appendix – Air Quality Monitoring Plan (Tracked Change Version) [REP5-030 page 3-4, 8-9]. Whilst the data collected should go through a QA (ratification) process, there is no need to wait until the end of March each year to undertake this. Unlike diffusion tubes, the use of continuous instruments allows the Applicant continuous visibility of the data collected and associated statistics – including 1-hour mean, 24-hour mean and rolling annual mean concentrations.	As set out in paragraph D2.1.4 of the Green Controlled Growth Framework Appendix D – Air Quality Monitoring Plan [REP7-028] , the assessment of compliance with the NO ₂ annual mean air quality objective will be assessed based on the annual results from diffusion tubes, as requested by the Host Authorities. This means that the use of bias adjustment factors is necessary for the purposes of formally reporting annual performance against GCG Limits for NO ₂ . Notwithstanding this it has been acknowledged in previous responses that air quality monitoring data from the continuous monitoring system would be open source and as such (unvalidated) near real-time monitoring data would be available to the airport operator and the Environmental Scrutiny Group to allow continuous review of air quality monitoring results throughout the year to allow for an early warning of potential issues. It will be in the interests of the airport operator to monitor air quality throughout the year and to take early action where risks of exceedances are identified in order to avoid formally reporting the breach of a Limit and associated restrictions on airport growth.
5	Hertfordshire Host Authorities	[REP7-085] Page 6	GCG Transition Period The Hertfordshire Host Authorities do not consider this proposal to be acceptable. As the Hertfordshire Host Authorities have stated in the post-hearing submission for ISH 9 [REP6-094] page 4-5 'Post hearing note': <i>"There is no good reason why air quality monitoring should not be operational by the start of Phase 1; indeed, the Authorities consider that it would be in the interests of the Applicant and Airport Operator to have collected and considered a full calendar year of baseline data in the run-up to Phase 1 at the proposed GCG monitoring sites.</i> <i>The Applicant has indicated that it considers that there is no point in monitoring during this period as the Level 2 Limits and Thresholds cannot apply, on the basis that they are applicable on the basis of an annual metric, and so cannot apply over part of a year.</i>	It is understood both from the wording of this submission and ongoing Statement of Common Ground discussions with the Hertfordshire Host Authorities that their residual concerns in relation to the GCG Transition Period relate only to the timing of commencement of air quality monitoring, and there are no concerns in relation to the Transition Period for other GCG topics. In relation to the points made by the Hertfordshire Host Authorities over the requirement for monitoring to commence earlier to allow short-term exceedances to be reported and controlled via the GCG Framework, it is not proposed to incorporate Limits for short-term exceedances for the reasons previously outlined on a number of occasions, including at Section 3 of the Applicant's Response to Issue Specific Hearing 9 Action 26 – Air Quality Monitoring [REP6-076] . On the basis of the submission made by the Hertfordshire Host Authorities referenced at ID6 below and discussions during

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p><i>The Hertfordshire Host Authorities have made representations that a more adaptive approach would be appropriate for example for air quality in particular, where there is a need to account for short term exceedances that may impact on health. If such an adaptive approach were adopted, then it would be possible to meaningfully undertake monitoring and reporting against those shorter term metrics, and the Authorities' position is that the GCG should include more adaptive monitoring and management, which should be introduced as early as possible, so that the Environmental Scrutiny Group (ESG) can properly oversee and undertake enforcement in relation to exceedances of Level 2 Thresholds and / or Limits from the outset.</i></p> <p><i>The Applicant says that it would not be in the Airport Operator's interests to exceed a Level 2 Threshold or Limit during the Transition Period, but it is clear that the controls themselves would be absent during this period, leaving a risk of exceedance without any ability on the part of the ESG to require mitigation.</i></p> <p><i>The Hertfordshire Host Authorities welcome the proposal to bring forward the application of all Thresholds and Limits to the start of the first full calendar year, but would request that the Applicant consider whether, on the basis of adaptive monitoring and management, these could be applicable at an earlier stage."</i></p> <p>The key point here is that controls are required for a shortened Transition Period and that these could be achieved by implementing the adaptive approach suggested.</p>	<p>the SOCG process it is understood that the Authorities accept that short-term air quality impacts would sit outside the scope of the GCG Framework.</p> <p>With the joint agreement that GCG Thresholds and Limits are to be applied to annual averages and that any short-term monitored effects are to be reviewed and managed outside of GCG through environmental management procedures, the issue raised regarding adaptive management would only apply to annualisation of monitoring data.</p> <p>As discussed in air quality SOCG meetings the practicalities of monitoring would mean monitoring would need to be set up in advance of the first full year of operation to test equipment and ensure data is being provided as expected from the equipment. The GCG process will then apply from the first full year of operation so that any controls imposed through GCG apply to the Proposed Development, rather than GCG being applied to baseline conditions.</p>
6	Hertfordshire Host Authorities	<p>[REP7-087] Page 3</p>	<p>ISH9 – AP26 Air Quality Monitoring</p> <p>Regarding PM10 and PM2.5 monitoring equipment, the Hertfordshire Host Authorities could accept the use of indicative continuous monitoring methods if the Applicant commits to having at least one of these instruments permanently co-located at a monitoring station employing a DEFRA equivalent reference method for each measured parameter (i.e., NO2, PM10 and PM2.5); which is situated at no less than one of the GCG Framework monitoring locations, with calibration of the indicative measurements to be undertaken on a monthly basis to sustain assurance of data accuracy and precision (not just "Prior to deployment ..." as proposed by the Applicant in the Applicant's Response to Issue Specific Hearing 9 Action 26 - Air Quality Monitoring [REP6-076 paragraph 2.2.2]). This matter is the subject of ongoing SoCG discussions.</p> <p>Regarding short-term monitoring, the Hertfordshire Host Authorities could accept that use of short-term monitoring data falls outside of the scope of the GCG Framework in return for a formal commitment by the Applicant to consider short-term data and action Thresholds as part of routine everyday environmental management of London Luton Airport's operations.</p>	<p>The Applicant has set out the proposed QA/QC process within the Applicant's Response to Issue Specific Hearing 9 Action 26 - Air Quality Monitoring [REP6-076]. The Applicant can commit to providing one DEFRA equivalent reference monitor which is situated at one of the GCG Framework monitoring locations, with calibration of the indicative measurements to be undertaken on a regular basis (in line with manufacturer requirements) to sustain assurance of data accuracy and precision. Green Controlled Growth Framework Appendix D – Air Quality Monitoring Plan [REP7-028] will be updated at Deadline 9 to reflect this commitment.</p> <p>The Applicant is also happy to commit to reviewing and managing where practicable short-term monitored effects through environmental management procedures in line with national air quality objectives, outside of the scope of the GCG Framework.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
7	Luton Borough Council	[REP7-089] Page 12	<p>REP6-076 Deadline 6 Submission - 8.147 Applicant's Response to Issue Specific Hearing 9 Action 26 - Air Quality Monitoring</p> <p>The submission does not address how the Applicant intends to access a UK-certified reference-equivalent instrument for PM colocation.</p>	<p>The Applicant has set out the proposed QA/QC process within the Applicant's Response to Issue Specific Hearing 9 Action 26 - Air Quality Monitoring [REP6-076]. Access to a reference-equivalent monitor will be reviewed based on local equipment availability either owned by a local council or by the Applicant. Given the timescales it is considered suitable to review these options nearer to the set-up of the monitoring network and look to agree this with Luton Borough Council.</p>
8	<p>Central Bedfordshire Council</p> <p>&</p> <p>Hertfordshire Host Authorities</p> <p>&</p> <p>Luton Borough Council</p>	<p>[REP7-083] Page 17</p> <p>[REP7-085] Page 25</p> <p>[REP7-089] Page 32</p>	<p><u>Agenda Item 6: Part 3, Requirements 18 to 25 (Green Controlled Growth)</u></p> <p>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.</p> <p>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.</p> <p>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</p>	<p>As set out in section 2.7 of the Green Controlled Growth Explanatory Note [REP7-018], from the outset the intention of the Green Controlled Growth Framework [REP7-020] has been to provide a clear, legally-binding set of processes and procedures which must be followed and measurable Thresholds and Limits at which defined actions must be taken. Through these processes and system of Thresholds and Limits, the GCG Framework will be self-enforcing in respect of mitigating environmental effects above Limits, with the process designed to require action by the airport operator both to take early action with the intention of avoiding an exceedance of a Limit, and in the unlikely event that this occurs, to address this exceedance as soon as is reasonably practicable.</p> <p>The focus of the GCG Framework is therefore on avoiding breaches in the first instance and addressing any breach, should it occur, as soon as is reasonably practicable. The GCG Framework is intended to enable and encourage sustainable growth permitted under the Development Consent Order with robust systems to support this rather than being a system simply designed as a punitive measure for breaches of a Limit. This approach is secured through the requirement to consult the Environmental Scrutiny Group (ESG) and seek their approval of a Mitigation Plan, meaning that any mitigation brought forward will be agreed by the airport operator, local authorities and independent experts to be the most appropriate way of mitigating the relevant impact. For there to be a continued breach, this would mean that not only would the early action secured by the GCG Framework at a Level 1 and Level 2 Threshold have been unsuccessful, but the Mitigation Plan <u>agreed with and approved by the ESG</u> would also need to have been unsuccessful. This is considered to be an unlikely scenario, and it is unclear how the prospect of an additional sanction would mean that an environmental impact would be addressed and reduced below the Limit any sooner than via the proposed GCG process, which is what all parties are agreed is the required outcome.</p> <p>This approach as currently set out is considered to be a significant enhancement when compared to the historic approach to securing binary planning conditions (<i>'impact X shall not exceed Y'</i>) as it provides early warnings and action to prevent Limits from being exceeded as well as transparency around when a Limit has been exceeded, what actions are being taken by the airport operator to mitigate impacts where these exceed Limits, and the timescales over which these actions are planned to take effect, all supported by independent expert analysis and agreed by multiple local authorities, none of which are secured by traditional planning conditions</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>compensation to a community fund is one form of appropriate action in the event planning controls are breached.</p> <p>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.</p> <p>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.</p> <p>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.</p>	<p>or obligations. On this basis, it is not considered that a sanction for the breach of a Limit is necessary to make the Proposed Development acceptable in planning terms.</p> <p>Notwithstanding this, the GCG Framework already includes an explicit link between environmental Limits and commercial benefit. If a Limit is exceeded, the airport will not be able to grow. Any such constraint on airport growth by itself means there is an implicit (and significant) financial impact associated with the breach of a Limit. By contrast, the Applicant is not aware of any other airport Noise Envelope that has financial implications (either implicit or explicit) associated with a breach.</p> <p>It is also considered that the approach taken to both the Noise Envelope and other environmental impacts is completely aligned with CAP1129, notwithstanding that this is guidance and there is no legal obligation to comply with it. CAP1129 notes financial penalties as one form of measure that could be appropriate but does not state that financial penalties should form part of every Noise Envelope. Indeed, the relevant section of CAP1129 sets out that it may not be appropriate to secure a Noise Envelope in such a way that its breach implies the breach of a planning condition or obligation, and that instead it may be appropriate to draft a planning control in such a way that failure to take action following a breach (rather than a breach itself) constitutes failure to comply with a planning control. In addition to financial compensation, another action listed is to secure a process by which a breach is rectified. This is exactly the approach secured by the GCG Framework.</p> <p>In this context, a continued breach of Limits that is caused by the airport operator not taking action as required by the GCG Framework (including the requirement to prepare, agree and implement a Mitigation Plan) would be a breach of the Development Consent Order and would be enforceable under the Planning Act 2008.</p> <p>Finally, the Applicant would note that any action taken after 12 months would not be action taken to address a <u>continued</u> breach. The GCG process is designed around annual monitoring and reporting, and therefore 12 months is the minimum time period that would be required to determine whether a Mitigation Plan has been effective. The Applicant further notes that the inclusion of financial sanctions was rejected by the Secretary of State in connection with the P19 planning permission granted, citing the fact that established enforcement provisions were sufficient.</p>
9	Luton Borough Council & Hertfordshire Host Authorities	[REP7-089] Page 5	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.	The Applicant does believe that it has addressed the reasons why historic breaches occurred. As noted in Noise Envelope - Improvements and worked example [REP2-032] , the worked example focusses on night-time noise (23:00 to 07:00) as the night-time contour limits were repeatedly breached from 2017 to 2019 and so provides the most historic data to understand why the noise contour limit was breached. The paper also notes how the lessons learnt apply to the historic daytime breaches. The forward-

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
		[REP7-085] Page 12		looking worked example in Applicant's Response to Issue Specific Hearing 9 Actions 8, 19 and 20 – Quote Count Noise Controls [REP7-077] also applies to daytime and night-time slot management and capacity declarations, again addressing the reasons for historic breaches.
10	Central Bedfordshire Council & Hertfordshire Host Authorities & Luton Borough Council	[REP7-083] [REP7-085] [REP7-089]	<p><u>Section 3.4 (Slot Allocations and Local Rules)</u> 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.</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>	The Applicant responded to Action Point 8 from Issue Specific Hearing 9 concerning the use of local rules in the Applicant's Response to Issue Specific Hearing 9 Actions 8, 19 and 20 – Quote Count Noise Controls [REP7-077] . As set out in this paper, the GCG Framework and Noise Envelope have been designed around forward planning and the use of QC budgets in slot management and capacity declarations. With appropriate forward planning it should not be necessary to employ Local Rules for the purpose of staying within the GCG noise Limits and for this reason, it is not necessary or appropriate to agree local rules or to limit growth on this basis.
11	LADACAN	[REP7-104] I.D 2	<p>The Applicant justifies excluding Scope 3 emissions from its Greenhouse Gas Action Plan (GGAP) and the Green Controlled Growth (GCG) Limits by arguing that because these emissions are covered by the UK Emissions Trading Scheme (UK ETS) they can be addressed at a national level.</p> <p>This conclusion is inappropriate for two principal reasons:</p> <p>Firstly, while the Government has set a target for UK airports to be zero emissions by 2040, the precise scope of included</p>	This is incorrect. Scope 3 emissions have not been excluded from either the Greenhouse Gas Action Plan or Green Controlled Growth; Scope 3 emissions associated with both Airport Operations and Surface Access are explicitly included within the Green Controlled Growth Framework [REP7-020] , and all Scope 3 emissions are included within the Outline Greenhouse Gas Action Plan [APP-081] .

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			emissions has not yet been defined. The Government's call for evidence in May 2023 included a question on the extent to which Scope 3 emissions should be included, even if limited to their measurement and reporting. Policy proposals have not yet been issued, so it is premature to assume Scope 3 emissions tracking will be excluded...	
12	LADACAN	[REP7-104] I.D 12	<p>The Applicant's response does not address the point.</p> <p>Unless the dDCO and GCG provisions robustly address the need for cumulative scrutiny of any application to increase Limits, there is clearly a risk of salami-slicing.</p> <p>Suppose, as the Applicant suggests, the Airport Operator seeks to increase a Limit, arguing that the change in environmental impacts is not material (as it argued in the case of the 19mppa application). If the impact assessment is limited to the impact of that increase only, permission to increase the Limit may be granted. Such a process could then be repeated...</p> <p>These increases would not be stand-alone, but part of, or a consequence of, the much larger DCO project and so the assessment of any proposed increase in Limits should not be compared to the impacts identified in the ES, but added to those impacts and compared to the original baseline to determine whether it tips it over into SOAEL. In other words, a proper cumulative assessment.</p> <p>Otherwise, this loophole could be exploited to enable a subsequent series of small salami-slice increases, and unless GCG and/or the dDCO effectively prevent this risk, it is hard to see how communities could have any confidence in the Limits and the assessed impacts.</p>	<p>Paragraph 2.3.4 of the Green Controlled Growth Explanatory Note [REP7-018] states that <i>"There will be no ability to change any of the Level 1, Level 2 Thresholds or Limits to permit materially worse environmental effects than those identified in the Environmental Statement (ES)."</i></p> <p>Any changes to Limits would therefore need to identify the environmental effects in the same way as the ES to determine if the effects were materially worse. In other words, the noise effects would be determined by comparison to the do-minimum scenario, i.e. the same 'original baseline' as used in the ES.</p>

2.12 HEALTH & COMMUNITY

Table 2.12 provides a response to matters the Applicant considers need to be responded to.

Table 2.12 Applicant's Response to Deadline 7 Submissions – Health and Community

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	Buckinghamshire Council	[REP7-080] 2.45.2	Within ISH8, the Council made a substantial number of points in relation to health. On this basis, point 4.2.4 is inaccurate – the Council indicated that it had a series of matters to raise but intended to do this as part of agenda item reported by the Applicant at 4.4. Further, it is noted that these are not referenced by the Applicant within the main body text of the Applicant's ISH8 post-submission hearing. Action point 13 has been noted by the	The statement that <i>'Buckinghamshire Council (BC) had no comment'</i> , made in the Applicant's Post Hearing Submission – Issue Specific Hearing 8 (ISH8) [REP6-066] , refers specifically to comments in relation to Item 4.2: <i>'Whether local datasets and health strategies should be used to inform the health and community assessment'</i> . Buckinghamshire Council did not raise any specific points in relation to this item at the hearing; likewise, Buckinghamshire Council's post-hearing submission [REP6-087] did not raise any points in relation to this item.

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			ExA and the Council will review the Applicant's response to this after Deadline 7.	
2	Buckinghamshire Council	[REP7-080] 2.24.2	The Council also notes that the Applicant has not provided any responses to the health matters raised in the Council's Deadline 5 submission – the Council would like this omission to be addressed by the Applicant.	<p>The Applicant's responses to the health points raised in Buckinghamshire Council's Deadline 5 submission [REP5-064] are as follows:</p> <p><i>'2.42.1 This submission [Assessment of night-time construction noise [REP4-080]] has been reviewed from the perspective of health effects. The geographical scope of the assessment provided by the Applicant focuses on construction activities at and close to the airport and thus excludes the consideration of impacts from night-time working associated with Off-Site highway activities, which may become relevant to the Council depending on the outcome of ongoing SoCG discussions.'</i></p> <p><u>Applicant's response:</u> The Assessment of night-time construction noise [REP4-080] includes the consideration of the effects of off-site night-time roadworks at M1 Junction 10. No significant effects have been identified.</p> <p><i>'2.42.2 The Council accepts that the conclusions of 'no significant effects' within the Applicant's submissions follow the recognised noise assessment methodology. However, the Council considers that this approach fails to reflect the potential significance of night time noise disturbance impacts, leading to sleep disturbance or deprivation that can manifest as adverse mental health and well-being effects that may be significant even over a short duration. There is a need for this to be reflected in the ES and suitable mitigation measures to be clarified and appropriately secured.'</i></p> <p><u>Applicant's response:</u> A response to this point was provided in the Deadline 6 Submission Applicant's Response to Deadline 5 Submissions Appendix B – Buckinghamshire Council [REP6-055], at ID5.</p>
3	Buckinghamshire Council	[REP7-080] 2.38.2	HAC.1.5 – matters relating to the health assessment methodology were discussed in greater detail through ISH8. The Council notes that the response provided by the Applicant at the ISH differed to that included in this document (Written Question Responses – Applicant's Response to Buckinghamshire Council's Comments [REP6-059]). The Council will progress on the basis that materials that are being prepared for Deadline 7 (i.e. post-dating ISH8) will reflect the latest updated perspective for all parties. The Council expects that this will be a continued topic for discussion.	<p>The Council's question HAC 1.5 concerns the community assessment. The Applicant's responses to question HCA 1.5 in Written Question Responses – Applicant's Response to Buckinghamshire Council's Comments [REP6-059] relate to the community assessment only.</p> <p>Although the health and community assessments are contained within the same chapter, the assessments are separate and are based on different methodologies.</p>
4	Buckinghamshire Council	[REP7-080] 2.38.2	HAC1.14 and HAC.1.15 (Written Question Responses – Applicant's Response to Buckinghamshire Council's Comments [REP6-059]) – elements of these responses have been superseded by discussions at ISH 8 and the comments made in relation to HAC1.5 are relevant in this regard. The Council notes that the Applicant's focus is on aircraft noise. However, the Council is keen to ensure that the Applicant does not overlook the potential for traffic derived noise to result in potentially significant adverse effects on health and well-being in	<p>The Applicant has not overlooked the potential for traffic derived noise to result in potentially significant adverse effects on health and wellbeing.</p> <p>Based on the findings of the strategic traffic model, no likely traffic-related impacts on health determinants (such as noise) were identified in the Buckinghamshire area and therefore no assessment of health effects was required.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			the wider study area, below thresholds for the noise topic assessment methodology – this is a continued topic for discussion.	The noise assessment reported in Chapter 16 of the ES [REP1-003] includes an assessment of surface access noise. As noted in response to Written Question NO.2.12 [REP7-056] , Buckinghamshire is outside the surface access noise study area as the Strategic Modelling Forecasting Report [APP-201] shows the level of traffic impact within Buckinghamshire is forecast to be relatively low.

2.13 LANDSCAPE & VISUAL

Table 2.13 provides a response to matters the Applicant considers need to be responded to.

Table 2.13 Applicant's Response to Deadline 7 Submissions – Landscape and Visual

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
Landscape and Visual Impact				
1	Central Bedfordshire Council	[REP7-083] Page 3	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	<p>The Applicant's position in relation to the effects of the Fire Training Ground (FTG) is set out in the Applicant's Post Hearing Submission - Issue Specific Hearing 8 (ISH8) [REP6-066].</p> <p>In summary, the Applicant maintains its position that the new planting proposed is considered appropriate to mitigate the significant landscape and visual effects identified in Chapter 14 of the ES [AS-079]. Alternative locations for relocation of the FTG were considered during the design development process.</p> <p>The reasons for locating the FTG in the proposed location are set out in the Applicant's Post Hearing Submission - Issue Specific Hearing 8 (ISH8) [REP6-066].</p> <p>The video footage of the FTG provided to CBC was for demonstration purposes rather than as a means of assessment.</p> <p>The Applicant has also responded to CBC comments on the impact of the FTG on the setting of Someries Castle under Table 2.5 Cultural Heritage, at ID 1 above.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>Somerles Farmhouse and Somerles 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 Somerles Castle.</p> <p>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.</p>	
2	Central Bedfordshire Council	[REP7-084] PED 2.18	<p>CBC recognise that users of Hyde FP4, FP5 and BW3 may use these to enjoy the wider landscape towards the airport. CBC Officer's have undertaken site visits and there are opportunities to view planes landing and taking off. However, this is more limited from BW3 and the purpose of the hedgerow planting in this location is unclear. From FP5 the hedgerow planting could potentially screen the FTG from these receptors but there is lack of detail in the submission to determine whether the hedgerow planting and potential boundary treatment (as detailed in the scope of Works 5e) would be suitably effective. There are other vantage points and scope for views to the airport from other nearby footpaths and field openings that ensure the enjoyment and recreational value of these receptors would not be detrimental.</p>	<p>Hedgerow planting and restoration adjacent to the footpaths noted by CBC is proposed to strengthen landscape character and structure, and to mitigate potentially significant effects on people's visual amenity, as set out in Section 14.10 of the ES [AS-079] and the Strategic Landscape Masterplan (SLMP) [AS-172].</p> <p>More detailed information on the extent, species mix, size and density of any proposed hedgerow planting will be provided and secured via Requirement 9 of the Draft DCO [TR020001/APP/2.01].</p>
3	Central Bedfordshire Council	[REP7-084] PED 2.21	<p>CBC are not aware that Ash dieback has been considered in the Landscape and Visual Impact Assessment. Existing woodland planting, notably Bush Pasture and George Wood provide an important role in screening the proposed development from key receptors and vantage points within Luton Hoo, as per the viewpoints listed below: Viewpoint 5 (REP3-009) Viewpoint 17 and 17A (REP3-010) • Viewpoint 18 and 19 (REP3-011) This screening needs to be maintained to ensure no further impact. CBC expect mitigation measures to be highlighted if the existing species include Ash.</p>	<p>The Applicant has responded to this matter in the Applicant's Post Hearing Submission - Issue Specific Hearing 8 (ISH8) [REP6-066].</p> <p>The Landscape and Visual Impact Assessment in Chapter 14 of the ES [AS-079] assesses the baseline situation, the existing vegetation and takes into account any proposed loss of vegetation to facilitate the Proposed Development, as is normal best practice for assessing the impact of a proposed development.</p> <p>It is not reasonable to attempt to estimate or consider the future loss of other trees due to disease given the variable nature and uncertainty regarding location and extent this may or may not occur in the future, with or without the Proposed Development.</p>
4	Central Bedfordshire Council	[REP7-084] PED 2.22	<p>Given the sensitive nature of Luton Hoo RPG it is considered that the Glint and Glare Assessment should include a landscape and visual assessment.</p>	<p>The Applicant has responded to this matter in the Applicant's Post Hearing Submission - Issue Specific Hearing 8 (ISH8) [REP6-066].</p> <p>Visual receptors (i.e. a visitor enjoying Luton Hoo) are unlikely to be impacted by glare in a manner that is safety critical as they would have the option to move or turn away from the reflection, unlike road users or airline pilots. Any glare would be temporary and of limited duration due to the changing angle of the sun. The effect of glare is observed on bodies of water or other reflective surfaces so can already be experienced at many locations.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
5	Hertfordshire Host Authorities	[REP7-085]	<p>Visual receptors - Provision of visual receptors plan.</p> <p>The Hertfordshire Host Authorities note the Applicants reluctance to provide a version of the Visual Receptors Plan with the Zone of Theoretical Visibility overlaid. However, the Hertfordshire Host Authorities maintain that such a plan would be helpful so that the specific visual receptors can be perceived in relation to the general theoretical visibility coverage.</p>	<p>Given the extent of the Zone of Theoretical Visibility (ZTV), the Applicant considers that a single plan with all the visual receptors overlaid with the ZTV is likely to be difficult to read, and the information already provided is sufficient to understand.</p>
6	Hertfordshire Host Authorities	[REP7-085]	<p>Hedgerow restoration.</p> <p>The Hertfordshire Host Authorities request further clarification on mitigation and justification for appropriateness of that proposed in order to understand its effectiveness and purpose, particularly given that this forms the framework for the detailed design. The Hertfordshire Host Authorities have provided additional comments on Mitigation at Deadline 6 in ISH8 Post-Hearing Submission: Agenda Item 9 – Landscape and Visual – Visual effects and approach to Mitigation [REP6-093]. The Hertfordshire Host Authorities have provided additional comments on Mitigation in their Responses to the Examining Authorities Further Written Questions relating to Agenda Item 10 - Design - Primary Mitigation submitted at Deadline 7.</p>	<p>Hedgerow planting and restoration is proposed to strengthen landscape character and structure, and to mitigate potentially significant effects on people's visual amenity, as set out in section 14.10 of Chapter 14 of the ES [AS-079] and the Strategic Landscape Masterplan (SLMP) [AS-172]. More detailed information on the extent, species mix, size and density of any proposed hedgerow planting will be provided and secured via Requirement 9 of the Draft DCO [TR020001/APP/2.01].</p>
7	Hertfordshire Host Authorities	[REP7-085]	<p>Glint and Glare Assessment</p> <p>The Hertfordshire Host Authorities request that the Glint and Glare Assessment is used to inform the Landscape and Visual Impact Assessment (LVIA) in relation to perceptual and aesthetic qualities, as well as visual amenity, in line with the Landscape institute (2013) Third Edition on Guidelines on Landscape and Visual Impact Assessment (GVIA3) (e.g., paragraph 2.20); or that the Applicant clarifies why glint and glare do not contribute to perceptual qualities in the surrounding area.</p>	<p>The Applicant has responded to this matter in the Applicant's Post Hearing Submission - Issue Specific Hearing 8 (ISH8) [REP6-066].</p> <p>The photovoltaics are located within a proposed recess within the landscape and any views experienced will be across and above this installation and will be largely screened by landform, existing and proposed vegetation.</p> <p>Moreover, any glare experienced by visual receptors would be temporary and of limited duration due to the changing angle of the sun. The effect of glare is observed on bodies of water or other reflective surfaces so can already be experienced at many locations.</p> <p>The Applicant maintains its position that perceptual/aesthetic qualities or visual amenity would not be affected by glint and glare.</p>
8	Hertfordshire Host Authorities	[REP7-085] PED1.18	<p>Whilst the Hertfordshire Host Authorities agree that no further categories are required, they have previously noted that the LVIA methodology does not set out how value and susceptibility are combined to determine overall sensitivity, and this remains a weakness, given that receptor sensitivity is a key component in determining the subsequent significance of the effect. Clarification on how value and susceptibility are combined to determine overall sensitivity should be provided in order to robustly justify the sensitivity ratings shown</p>	<p>The criteria used for determining value and susceptibility which then inform sensitivity are set out in sections 5.5 and 6.4 of Appendix 14.1 of the ES [AS-036].</p>
9	Hertfordshire Host Authorities	[REP7-085]	<p>The Hertfordshire Host Authorities request that glint and glare, particularly from solar energy generation, should be factored into</p>	<p>Please refer to the Applicant's response provided above at ID 7 of this table.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
		PED 1.27	the assessment of landscape and visual effects as they contribute to the perceptual and aesthetic qualities of landscape and visual amenity (in line with GLVIA3 e.g., paragraph 2.20)	
10	Hertfordshire Host Authorities	[REP7-085] PED 1.31	The Hertfordshire Host Authorities disagree that, "In most instances, these (landscape and visual) impacts can be adequately mitigated" and maintain fundamental concerns regarding the visual impact of the introduction of large scale built development. It does not believe that mitigation in relation to built form has been adequately considered, such as how landscape has informed the approach to siting design. Identification of mitigation measures in relation to anything other than soft planting is highly limited in the Design Principles [REP5-034] document e.g. the approach to building heights, colour, massing, rooflines and similar. Mitigation measures in relation to the built form and site therefore needs strengthening. The Landscape Design Principles should also cross reference the Sustainability principles, so it is clear which sustainability objectives they are actively contributing to.	<p>The Applicant maintains its position that most of the landscape and visual impacts of the Proposed Development as set out in Chapter 14 of the ES [AS-079] can be adequately mitigated.</p> <p>The design has been developed to generate the development parameters for the ES and to retain necessary flexibility in the final design. The mitigation measures set out Sections 14.8 and 14.10 of the ES, the principles set out in the Design Principles [REP7-034] and the Strategic Landscape Masterplan (SLMP) [AS-172] are appropriate for this stage of the Development Consent Order (DCO) process.</p> <p>The approach to prescribing building heights, colour, rooflines and similar matters will be secured via Requirement 5 of the Draft DCO [TR020001/APP/2.01].</p>
11	Hertfordshire Host Authorities	[REP7-085] ISH 8 Agenda Item 9: Landscape & visual Paragraph 10.2.11 Action Point 43	Paragraph 14.3.11 only cites consideration in relation to construction effects. The Applicant should confirm if effects have been considered at operational stages as well. In relation to paragraph 14.6.6, 'It is understood additionally that, in comparison to sitewide lighting, the transient and dynamic impact of lower powered vehicular headlights and/or aircraft lights would not have a significant impact on dark skies'. Can the Applicant confirm how they have arrived at this 'understood' position and how this conclusion in relation to LVIA was made? Transient lighting was not modelled in the Light Obtrusion Assessment Part A [APP-052] and therefore consideration of transient lighting should be included	<p>Landscape and visual effects during the operational stages have been considered, as confirmed in 14.3.12 of Chapter 14 Landscape and Visual of the ES [AS-079].</p> <p>The statement at paragraph 14.6.6 is based on the conclusion at paragraph 3.1.3 of Appendix 5.2 of the ES (Light Obtrusion Assessment) [APP-052],</p>
Draft Chilterns Area of Outstanding Natural Beauty Special Qualities Assessment [REP-075]				
12	Chilterns Conservation Board	[REP7-115]	<p>The Chilterns Conservation Board (CCB) is grateful to be consulted and proposes several additions and amendments to this second draft. This is the same copy as sent to the applicant on 21s December 2023.</p> <p>To assist the ExA and aware of the timetable, we have prepared an Executive Summary. At the very core of this the CCB is especially interested in the apparent discrepancy between the assessment of relative tranquillity in the Sustainability Assessment compared to the second draft special qualities assessment. We deal with this in the Executive Summary at 'The calibration of impacts upon the special quality of relative tranquillity'.</p> <p>For ease of reference, all fresh (second draft) CCB comments are denoted in boxed text. We have annotated our executive summary comments, to assist the ExA, as follows:</p> <ul style="list-style-type: none"> • 'Matters with which we agree' • 'New matters welcomed'. 	<p>The Chilterns Conservation Board (CCB) sent comments on the Draft Chilterns Area of Outstanding Natural Beauty Special Qualities Assessment [REP-075] to the Applicant on 21 December 2023.</p> <p>The Applicant has reviewed these comments and responded to them in the updated Chilterns Area of Outstanding Natural Beauty Special Qualities Assessment [REP7-047] submitted at Deadline 7.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>• 'Matters outstanding'</p> <p>For ease of reference, apart from the Executive Summary (in monochrome with red for emphasis) all new and/or updated points are in red text.</p>	
13	Central Bedfordshire Council	<p>[REP7-083] Page 14</p>	<p>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.</p>	<p>The Central Bedfordshire Tranquillity Strategy (Ref. 2) acknowledges that there is no overarching methodology on how to quantify tranquillity (or the impacts on it). The Draft Special Qualities Assessment has therefore utilised sources such as CPRE tranquillity and dark skies mapping and Natural England's indicators of relative tranquillity to inform the assessment on relative tranquillity.</p>
14	Hertfordshire Host Authorities	<p>[REP7-085] Para 2.1.1 of REP6-075</p>	<p>Noted but not added in/ acknowledged in the baseline text of the Special Qualities report currently.</p>	<p>Hertfordshire Host Authorities comments on the first draft of the Special Qualities Assessment (issued 23 October 2023) noted reference to Special Qualities in Notes and Clarifications on aspects of the 3rd Edition Guidelines on Landscape and Visual Impact Assessment (GLVIA3) P.14 PP. 5(12).</p> <p>This Note and Clarification was not deliberately omitted from the updated version of the Assessment, however the inclusion of a reference to it would not alter the scope, methodology, findings or conclusions of the Assessment.</p>
15	Hertfordshire Host Authorities	<p>[REP7-085] Appendix 1 2.2.2 Table 1 NE Comments Row 2 of REP6-075</p>	<p>In Table 2.1 row 2, the Applicants response states that 'specific criteria' are needed to assess 'relative tranquillity' but goes on to state in Appendix A row ID 41 that 'Assessment has considered the effects of the Proposed Development on perceptual qualities including relative tranquillity'. This appears to be a contradiction. The Applicant is referred back to our previous comments requiring the appropriate establishment of baseline tranquillity. Also refer to next comment</p>	<p>The Chilterns Area of Outstanding Natural Beauty Special Qualities Assessment [REP7-047] submitted at Deadline 7 includes further discussion on relative tranquillity.</p> <p>In the absence of any defined or accepted methodology for measuring effects on tranquillity, professional judgement has been used to assess the effects of the Proposed Development on this Special Quality based on the Relative Tranquillity indicators set out in Natural England's Guidance for assessing landscapes for designation as National Park or Area of Outstanding Natural Beauty in England; the mapping provided in Figures 6.7 to 6.14 of the Assessment; and the overflights data contained in Table 6.1 of the Assessment. The assessment of Tranquillity within the Special Qualities Assessment is considered to be robust.</p>
16	Hertfordshire Host Authorities	<p>[REP7-085] Appendix 1 2.2.2 Table 1 NE Comments Row 3 of REP6-075</p>	<p>It is noted that there remains a lack of accepted methodologies, however, describing a baseline situation as simply having a 'varied' level of tranquillity is not considered a robust discussion. The perceptual and aesthetic baseline is identified as 'varied' in Section 5.3. This section, which includes identification of baseline tranquillity and darkness, is less than 220 words long. This does not provide a meaningful understanding of the baseline environment to understand potential changes to it. If CPRE tranquillity mapping and Dark Skies mapping only have informed aesthetic and preceptorial qualities, given that no field surveys appear to be informing the written discussion in Section 5.3, then a much stronger narrative should be provided to analyse the mapping in relation to the AONB and the Study Area defined on Figure 5.1. It is not expected that every detractor is identified, but an informed discussion on the mapping nuances in relation to the AONB existing baseline – and consequently how that changes – should be clearly provided in Section 5.3 and the subsequent</p>	<p>Refer to the Applicant's response at ID 15 above.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			assessment. There is still no indication in the Special Qualities Assessment of the capacity of the baseline resource to absorb more overflying aircraft. This consideration should be discussed as part of the baseline sensitivity of each SQ. This is crucial in understanding subsequent impacts.	
17	Hertfordshire Host Authorities	[REP7-085] Appendix 1 2.2.2 Table 1 NE Comments Row 3 of REP6-075	The use of the 7,000ft threshold is noted, and acknowledgement by the Applicant that aircraft movements/ noise may be perceptible beyond those parts of the AONB where aircraft would be below 7,000ft is welcomed. This acknowledgement should be clearly stated in the front end of the Special Qualities Assessment. There appears to be a typo on Figure 6.13 in relation to the '10' flights per day contour - this should only show '20' and not should not show 10' as well at Baldock.	Hertfordshire Host Authorities comment on this matter is noted. The Applicant considers that the acknowledgement can remain in this section of the Assessment as it would not alter the scope, methodology, findings or conclusions of the Assessment. The '10' labelled near Baldock on Figure 6.13 is in error, however the contours themselves are correct and understandable.
18	Hertfordshire Host Authorities	[REP7-085] Appendix 1 Page 4 Para 4.2.1 of REP6-075	As above, an informed discussion on 'relatively dark skies' should be provided in Section 5.3. Only 1 short paragraph currently outlines the baseline and this is not considered sufficient to understand the existing baseline situation and therefore the assessment conclusions on its effects.	Refer to the Applicant's response at ID15 above.
19	Hertfordshire Host Authorities	[REP7-085] Appendix 1 Page 5 Para 6.3.6 of REP6-075	Case law and decisions have frequently upheld the position that impact on a part of the AONB is impact on the AONB as a whole - it's harm to natural beauty in that location, and therefore it's not the percentage of the AONB that is being harmed by the development that should be considered. Susceptibility and Value should therefore not be 'watered down'. The Applicant is again requested to review the susceptibility rating of 'medium' and to include identification of the capacity of the baseline resource to accommodate further aircraft movements - such as around St Paul's Walden to the north east and Jockey End to the south west which are both outside the 5km study area but within the AONB (in the case of Jockey End) and where there are c200 aircraft flights below 7000ft at Phase 2b and in areas of relative tranquillity and dark skies. There is still no indication in the Special Qualities Assessment of the capacity of the baseline resource to absorb more overflying aircraft. This consideration should be discussed as part of the baseline sensitivity of each SQ. This is crucial in understanding subsequent impacts.	Refer to the Applicant's response at ID 15 above. The Hertfordshire Host Authorities statement that case law and decisions have established that impacts on part of an AONB is an impact on the AONB as a whole is misleading and the Host Authorities do not provide a reference to a decision to support this view. As detailed in para 3.1.1 of REP6-075 the assessment methodology requires an assessment of the sensitivity of the AONB special qualities, magnitude of impacts on the AONB special qualities and the significance of effects on the AONB special qualities. Therefore, whilst the impact on part of the AONB is apportioned to the AONB in its entirety, it is an impact assessed in the round taking into account the magnitude of effect (which accounts for the geographic extent, size and scale of the impact), susceptibility and value to assess the significance/materiality of the effect. Support in case law for such an approach is found in the decision of <i>R (James) v Dover District Council</i> [2022] LLR 516 where it was held that the “ Council, as decision-maker, was required to assess the tranquillity of that part of the AONB that was affected and then consider the likely impacts of the proposal... There was sufficient evidence upon which the Council could properly conclude that additional use would not significantly diminish tranquillity beyond the site ” . Therefore, it is the Applicant's position that it would be inappropriate to say that there is no difference between an effect on a small part of the AONB to an effect on the entirety of the AONB. The scale/magnitude, and susceptibility and value would come into the significance/materiality of the effect.

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
<p>The Applicant has noted in the assessment that the area of the AONB subject to increased overflights is already subject to overflights and reduced tranquillity as a result of urban development and transport infrastructure including the M1. The Applicant has considered the baseline/receptors on which potential impacts would be experienced as suggested, and not watered down any part of the assessment.</p>				
<p>Trees and Arboricultural Matters</p>				
20	Stop Luton Airport Expansion	[REP7-114]	<p>TR020001-000724-5.02 Environmental Statement Appendix 14.2 Tree Survey</p> <p>This document forms part of the applicant's airport expansion submission with the version date February 2023. The content title is Arboricultural Survey dated May 2016 and a reference of RE30131V002/B and prepared for Luton Borough Council. On page 36 there is a drawing titled Eastern Access with a number of KQ30131H038. SLAE do not believe that this road is shown in any other application documents, it also does not show the Eaton Green Link Road that passes through a small wood. Seeing that this document is a tree survey it should.</p> <p>The project is called the 'New Luton Airport Perimeter Road'; however, this wasn't the name of the project at the time, it was variations of the Century Park Access Road. The map photograph on page 9 (Figure 2 Site Survey Area) shows a layout of New Century Park, not Century Park or Green Horizons. SLAE ask if this is sufficient evidence that the airport expansion was planned before May 2016?</p> <p>In evidence elsewhere in this DCO examination, we are sure there were questions around the dates and when Luton Borough Council and Luton Rising announced the expansion? SLAE understand that this was firmly denied at the time.</p> <p>This document covers Northern options for a New Luton Airport Perimeter Road, however there is no option shown in this document for Southern options. Surely options should have included a Southern option and this would have filtered into the Sift options appraisal. SLAE asks if this again provides evidence that a northern location for expansion was a foregone conclusion.</p>	<p>The Tree Survey in Appendix 14.2 of the ES [APP-089] is a historic survey which was undertaken to assess the original proposals for the Airport Access Road (AAR) in May 2016. The drawings and scheme information contained in this Tree Survey predate and do not relate to the application for development consent.</p> <p>However, information in relation to existing trees adjoining the AAR has been used to help inform judgements about tree losses in this part of the Main Application Site.</p>
21	Stop Luton Airport Expansion	[REP7-114]	<p>001065-5.02 Environmental Statement Appendix 14.3 Arboricultural Impact Assessment Revision 1</p> <p>2nd paragraph on page 6, Executive Summary <i>"865 trees and 445 tree groups, including hedgerows and woodlands are included within the survey area (including trees within the area subject to this application as well as the New Century Park area, for which consent has already been granted).</i></p>	<p>The Tree schedule in Appendix A of the Arboricultural Impact Assessment includes the Green Horizons Park area.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p><i>The data for which is presented within the Tree Schedule at Appendix A of this report.</i></p> <p>SLAE Response Green Horizons Park which supersedes New Century Park has a different footprint, does the same Tree schedule in Appendix A still apply?</p>	
22	Stop Luton Airport Expansion	[REP7-114]	<p>3rd paragraph <i>“353 trees, 214 tree groups and 2 hedges (jointly referred to as ‘tree features’) have been identified for removal to facilitate the Proposed Development. Of the tree groups and hedgerows identified to be removed, several are only removed in part, which is shown on the Tree Removal and Retention Plan. One Category A tree (T343) which is a re-grown ancient and veteran coppice, will be re-coppiced and translocated to another area of the site. 98 trees, 67 tree groups and 1 hedgerow are category B, ‘trees of moderate quality’. 167 trees, 119 tree groups and 1 hedgerow are category C ‘trees of low quality’ tree groups. A further 87 trees and 28 tree groups have been assessed as category U ‘those in such a poor condition that they cannot be realistically retained ‘and as a result are recommended for removal irrespective of any future land use.’”</i></p> <p>SLAE response The tree sum doesn't appear to add up, several (7) + 1 + 98 + 167 + 87 = 360. A difference of 7 trees. What is happening to the 87 trees that are recommended for removal?</p>	<p>The ‘several’ trees are only removed in part and are not included in the total number of trees to be removed.</p> <p>Information on trees recommended for removal is provided in section 4.2 of the Outline Landscape and Biodiversity Management Plan (LBMP) in Appendix 8.2 of the ES [AS-029].</p>
23	Stop Luton Airport Expansion	[REP7-114]	<p>Paragraph 4 <i>“All remaining trees and tree groups will be retained and integrated into the development. Sufficient space and adequate protection measures will be set out to ensure that retained trees are not damaged during the pre-construction and construction phase and to enable their successful development post-construction. Retained tree protection measures are discussed throughout this report and phased Tree Protection Plans will be provided before each relevant phase. No retained trees are anticipated to require remedial tree work to facilitate the development.”</i></p> <p>SLAE Response Can Luton Rising confirm that any tree work (remedial and other) scheduled for phase 2b is as stated in this document, even though phase 2b is not due to start until 2037? What provision is there for revisions as a result of disease (particularly ash die back) and climate change over the 18 years of development?</p>	<p>The Outline Landscape and Biodiversity Management Plan (OLBMP) in Appendix 8.2 of the ES [AS-029] provides additional information on tree works including Phase 2b. The OLBMP will be used as the basis for the lead contractor appointed to take forward to prepare a finalised LBMP for approval by the relevant statutory bodies as required by the development consent. Should subsequent updates be required during construction of the various assessment phases of the Proposed Development, these would be made in agreement with the relevant consultees where appropriate.</p> <p>With regard to ash dieback, retained trees will be subject to monitoring to ensure their health is maintained throughout the life of the Proposed Development. All retained trees will be protected in line with BS5837: 2012 Trees in relation to design, demolition and construction (as described in paragraph 4.2.4 of the OLBMP [AS-029]).</p> <p>Regarding climate change, woodland tree and shrub species to be planted would be similar to those that exist within the surrounding landscape, in line with the local landscape character and be resilient to climate change. The detail of the proposed species will be informed by the Applicant's ecologist and be secured via Requirements 9 and 10 of the Draft DCO [TR020001/APP/2.01].</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
24	Stop Luton Airport Expansion	[REP7-114]	<p>Paragraph 8 <i>"Works including tree removal and new tree planting are assumed to be phased between 2025 and 2040. The phasing is illustrated on the Tree Removal and Retention Plan at Appendix B of this report."</i></p> <p>SLAE Response Can the arboricultural phased work tie into the three development phases and the work within each phase be clearly clarified, i.e. phase 1, phase 2a and 2b? a. Phase 1 works would commence in 2025 and be complete by mid-2027; b. It is currently anticipated that assessment Phase 2a works would commence in early 2033 ending 2036 and would enable a step up in capacity in the first quarter of 2037; and c. Phase 2b works would commence in 2037, and would deliver incremental capacity increases from 27 mppa to 32 mppa. The works would be completed incrementally with the full capacity provided by 2043. For clarity the assumption should be amended to 2043.</p>	<p>The arboricultural works will be undertaken in line with best practice as set out in the arboricultural method statement and the relevant British Standards. It is anticipated that the tree removal and tree planting will align with the three assessment phases, but establishment and management responsibilities will be developed by the Applicant and the lead contractor and be provided as the detailed design and implementation develops.</p>
25	Stop Luton Airport Expansion	[REP7-114]	<p><i>"1.3.1 The Proposed Development builds on the current operational airport with the construction of a new passenger terminal and additional aircraft stands on land owned by the Applicant located to the north east of the runway. This will take the overall passenger capacity from 18mppa to 32mppa."</i></p> <p>SLAE Response Factually incorrect as the land is not owned by the applicant it is owned by Luton Borough Council. Is this further evidence that Luton Rising and Luton Borough Council are one entity all but in legal definition?</p>	<p>The reference to the Applicant's land ownership is noted but this does not affect the Assessment scope, methodology, survey or findings.</p>
26	Stop Luton Airport Expansion	[REP7-114]	<p><i>1.3.3 The main elements of the Proposed Development include the following: (h) Landscaping and ecology improvements, including the replacement of existing and planned public open space and amenities.</i></p> <p>SLAE Response Factually incorrect as planned public open space is not a replacement.</p>	<p>The reference to planned public open space is noted but this does not affect the Assessment scope, methodology, survey or findings.</p>
27	Stop Luton Airport Expansion	[REP7-114]	<p><i>"2.1.7 The scope of the tree survey involved recording the species present within the 335 groups with an estimated count of the number of each species within each group. In some cases, the approximate position of individual tree stems within groups are is plotted, elsewhere, just the approximate numbers are included. As a consequence, for trees in groups, whilst an estimate of the number of trees within the population and the</i></p>	<p>The number of tree groups stated in paragraph 2.1.7 is incorrect. The correct number will be stated in an updated Arboricultural Impact Assessment to be submitted at Deadline 9.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p><i>number of trees proposed for removal is provided, an accurate number of trees within groups is not possible to ascertain from the dataset held."</i></p> <p>SLAE Response There appears to be a difference between the table and paragraph 2.1.7 of the number of tree groups.</p>	
28	Stop Luton Airport Expansion	[REP7-114]	<p><i>3.1.5 It is assumed that tree removals would be phased to reflect construction activities between 2025 and 2040. During this time, new tree planting will be introduced and establish which will compensate for those removed.</i></p> <p>SLAE Response Who checks on the establishment of new tree planting, for how long and what happens if the trees don't establish?</p>	Further information on the responsibilities for establishment, new tree planning and ongoing management is provided in Section 2.2. of the Outline Landscape and Biodiversity Management Plan (LBMP) [AS-029] , the full LBMP is secured by Requirement 10 of the Draft DCO [REP7-003] .
29	Stop Luton Airport Expansion	[REP7-114]	<p><i>"3.1.6 All trees other than those in Table 2 will be retained and protected during each development phase (see section 3.3). This results in the retention of 14 category A, 231 B and 482 category C tree features. Eight U category trees can also be retained for habitat value. However, it should be noted that tree losses associated with the Airport Access Road and off-site highway works have not been assessed within the existing tree surveys."</i></p> <p>SLAE Response Why not as the Airport Access Road forms part of the Airport expansion plans??</p>	The Arboricultural Impact Assessment (AIA) at Appendix 14.3 of the ES [AS-085] includes trees associated with the AAR. The last sentence of paragraph 3.1.6 is from a previous version of the AIA and should be deleted. An updated version of the AIA with the sentence omitted will be submitted at Deadline 9.
30	Stop Luton Airport Expansion	[REP7-114]	<p>3.3.1 Root Protection Areas and Construction Exclusion Zones <i>"Retained trees will be protected during development by establishing a Construction Exclusion Zone (CEZ) around their Root Protection Areas (RPAs). RPAs are a layout design tool, indicating the minimum area around a tree deemed to contain sufficient roots and soil to maintain the tree's viability. RPAs should be treated as a precautionary area within which activities such as ground compaction, excavation, the storing of materials, ground level changes and other construction activity are likely to cause damage to trees and should therefore be excluded. This CEZ can be achieved by the erection of barriers at the locations presented in subsequent, phased Tree Protection Plans. Tree protection barriers must be installed before any demolition or construction works start, and, unless approved by the overseeing authority or by an arboriculturist approved by them, should remain in place until all construction activity has been completed.</i></p> <p>SLAE Response Will the CEZ will remain in place from the start until the end of phase 2b, scheduled in 2043?</p>	The exact timing and duration of the Construction Exclusion Zone will be provided by the lead contractor as the detailed design and implementation develops.

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
31	Stop Luton Airport Expansion	[REP7-114]	<p><i>"3.3.4 The location of tree protection fencing has not been provided on the Tree Removal and Retention Plan. However, detailed Tree Protection Plans will be provided before each phase begins to ensure retained trees within a phase are appropriately protected, before any associated enabling works, earthworks and construction works takes place."</i></p> <p>SLAE Response What happens if a Tree Protection Plan is not provided before each phase? Does the phase stop until one is in place?</p>	The protection of trees will be the responsibility of the lead contractor and must be considered in developing detailed landscape designs to be provided before each part of the authorised development begins as secured by Requirements 9 and 10 of the Draft DCO [TR020001/APP.2.01] .
32	Stop Luton Airport Expansion	[REP7-114]	<p>3.4 Special Technical Measures 3.4.1 Conflicts between retained trees and aspects of the proposed development that cannot be dealt with by exclusion zones, tree protection or tree work, can be mitigated by the use of special technical measures. Any required special measures will be managed with the use of Arboricultural Method Statements through the life of the project.</p> <p>SLAE Response What is a special technical measure?</p>	As described, special measures are those that may be deployed if conflicts cannot be adequately managed with the normal measures described such as exclusion zones. By their nature they cannot be described now as the specific issues they will need to address cannot be identified. They are mentioned here so that a solution can be developed in the future, if/as required, rather than only being permitted to use standard measures.
33	Stop Luton Airport Expansion	[REP7-114]	<p>3.5.2 Soft Landscaping <i>A suitably qualified Arboricultural Consultant should review any landscape operations that involve any work within the RPAs of retained trees and input additional site-specific methodology where necessary.</i></p> <p>SLAE Response All "should" must be replaced with "will" Why are trees marked as Early Mature and Good (G1187) being felled and not moved elsewhere? Although 'Special Engineering Measures' will meet performance criteria, what are 'Special Engineering Measures'?</p>	The text can remain as 'should' in this Assessment as any work within Root Protection Areas (RPAs) will be approved via the Strategic Landscape Masterplan [AS-072] which is secured via Requirement 9 of the Draft DCO [TR020001/APP/2.01] and the Landscape and Biodiversity Management Plan [AS-029] which is secured via Requirement 10 of the Draft DCO [TR020001/APP/2.01] .

2.14 NOISE & VIBRATION (INCLUDING NOISE INSULATION)

Table 2.14 provides a response to matters the Applicant considers need to be responded to.

The Host Local Authorities share a single noise consultant and therefore noise issues are frequently raised across multiple documents with the same text. Where this occurs, the Applicant has indicated in the 'Interested Party' and 'Reference' columns, but has not only reproduced the text once in the summary and response columns.

Table 2.14 Applicant's Response to Deadline 7 Submissions – Noise and Vibration (Including Noise Insulation)

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
LADACAN				

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	LADACAN	<p>[REP7-105]</p> <p>&</p> <p>[REP7-104]</p> <p>I.D 7 Page 10</p>	<p>Our concern arises because of the less substantial nature of the older McFarland Park Homes on Half Moon Lane, compared to brick-built houses with slate or tiled roofs.</p> <p>A noise assessment based on a contour model only estimates external noise impacts, whereas the key is an accurate understanding of noise inside the properties, particularly at night. Because the noise attenuation of the mobile homes is likely to be less than that of a permanent brick-built structure, it is reasonable to treat such dwellings as a special case.</p> <p>In other words, if a substantial brick building were to be placed next to an older Park Home on the Half Moon site, would the residents of the Park Home experience higher levels of noise than those inside the house? It is reasonable to suppose that they would.</p> <p>This is why we have requested a noise survey at the site, inside the older properties, to ascertain the actual noise levels to which the residents are exposed when overflowed by departing aircraft compared to the noise outside, to assess the attenuation achieved by the structure. This can then be used to assess whether these residents are being or would be subject to noise levels above the SOAEL, either by day or at night or both.</p> <p>Only at that point is it possible to determine whether the noise would need to be avoided, rather than simply mitigated as far as reasonably practicable, for the sake of their health and well-being. The outcome may necessitate extension of the compensation provisions.</p>	<p>As noted in response to WQ NO.1.29 [REP4-060], no adverse likely significant effects (due to noise change) or significant effects on health and quality of life (due to exposure above the Significant Observed Adverse Effect Level (SOAEL)) have been identified for the McFarland Park homes in Pepperstock.</p> <p>The assessment criteria for all residential receptors is set out in Chapter 16 of the ES [REP1-003]. Following Government noise policy, guidance and standard practice, the assessment criteria is based on external noise levels and is not affected by the construction of individual properties. It is standard practice to apply one set of Lowest Observable Adverse Effect Levels (LOAELs) and SOAELs for all residential receptors, regardless of the inevitable variability of constructions across housing stock and different types of buildings.</p> <p>As set out in the Applicant's ISH8 Post Hearing Submission [REP6-066], the compensation policy requires surveys to be undertaken for each eligible property to determine what is practicable in terms of noise insulation, and the assessment and mitigation for these park homes is fully compliant with noise policy.</p>
2	LADACAN	<p>[REP7-104]</p> <p>I.D 8 Page 11</p>	<p>Going forward, unless a substantially increased rate of fully effective noise insulation installation can be secured, it is hardly able to be cited as compensation and certainly not as noise mitigation. The Applicant has not yet addressed the reality of this challenge.</p>	<p>The Applicant considers that it has fully addressed the reality of this challenge. See Applicant's response to Issue Specific Hearing 3 Action 26: Noise Insulation Delivery Programme [REP4-079] and response to WQ NO.2.15 [REP7-056].</p>
3	LADACAN	<p>[REP7-104]</p> <p>I.D 10 Page 13</p>	<p>Our contention in REP1-095 paragraphs 176-178, that the Applicant misrepresented the information in the ICAO report on Environmental Trends and has drawn a spurious conclusion from it, still stands.</p> <p>We agree that this spurious information was applied in a sensitivity test to produce Tables 12.32-12.35 of AS-096 and the subsequent contour changes in Tables 12.36 to 12.39.</p> <p>Given that the original presumption (of next generation aircraft being less noisy) is unsubstantiated but on balance unlikely (for the reasons given in paras 179 and 180 of REP1-095), it would</p>	<p>The Applicant does not consider that it has misrepresented the information or drawn a spurious conclusion from the quoted report. The information has been used in sensitivity testing for potential future scenarios, in a similar manner as has been done by the CAA (Ref 3). However, the Applicant acknowledges that 'predicts' is not an appropriate word to be used in this context and will correct this language in a revision to Appendix 16.1 of the ES [REP7-013] at Deadline 9.</p> <p>It is not considered necessary to undertake an additional sensitivity test in which next-generation aircraft are noisier than new-generation aircraft, as this would result in noise contour areas being larger than those permitted by the Green Controlled Growth Noise Envelope Limits.</p>

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			<p>have been more appropriate to perform a sensitivity test on an increase in noise from such aircraft to inform the Environmental Assessment.</p> <p>As for the new generation aircraft, the A321neo still performs less well compared to the A321ceo at Luton and elsewhere, than does the A320neo compared to the A320ceo. We are engaging with the Applicant on this point and have an online meeting scheduled for 11 Jan.</p> <p>The modelling of A321neo noise remains an open issue and is of significance due to the increasing proportion of that type in the future fleet – see Chart 1 overleaf. It will influence our comments on REP6-063 responses to items NO.1.11 and NO.1.13 in due course.</p>	<p>The performance of the A321neo has been acknowledged and addressed many times, see for example the Applicant's ISH3 post hearing submission [REP3-050].</p> <p>The Applicant has engaged with LADACAN as noted in their submission, principally around the noise monitoring terminal inputs to the noise model validation, and is pleased to report that the data shared by LADACAN of their analyses of 2019 NMT01 and NMT02 noise monitoring data is within 0.1 to 0.3 dB of the Applicant's equivalent analyses, including for the A321neo.</p>
4	LADACAN	<p>[REP7-104]</p> <p>I.D 14 Page 17</p>	The extract from the 2022 Scoping Report cited in our point of concern has not been addressed in the response by the Applicant.	<p>The Applicant has addressed the extract of the 2022 Scoping Report.</p> <p>As requested in the Scoping Report, the Applicant has set out the relationship between the existing noise controls and the proposed noise controls, including the basis for any departure in Comparison of consented and proposed operational noise controls [REP5-014].</p>
5	LADACAN	<p>[REP7-104]</p> <p>I.D 15 Page 18</p>	<p>REP3-015 proposes in paragraph 3.2.15 that when a Level 1 threshold is exceeded, the forward-looking quota-counts will be calculated to inform future planning and “to incentivize airlines to operate the quietest aircraft available in response to the opportunity for growth”.</p> <p>It would be helpful for the Applicant to clarify how this measure would in practice incentivize an individual airline to operate or invest in less noisy aircraft.</p>	<p>The Green Controlled Growth Explanatory Note [REP7-018] has since been updated to note that paragraph 3.2.15 will apply every year, regardless of whether the airport is above a Level 1 Threshold.</p> <p>As noted in that paragraph, and in the worked example in the Applicant's Response to Issue Specific Hearing 9 Actions 8, 19 and 20 – Quota Count Noise Controls [REP7-077], the airport will use the QC budgets to inform forward planning of airport operations and as part of the process of slot management and capacity declaration. If an individual airline does not invest in quieter new generation aircraft then their fleet would have a larger total QC and as QC budgets will be used to inform slot management and capacity declaration, then the airline would have less opportunity to grow as its growth would be constrained to the QC points available and so be at a commercial disadvantage.</p>
Host Local Authorities				
6	<p>Central Bedfordshire Council</p> <p>&</p> <p>Hertfordshire Host Authorities (Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council)</p>	<p>[REP7-084]</p> <p>[REP7-087]</p> <p>BCG.2.3</p>	<p>Noise response: Government indicated within the Overarching Aviation Noise Policy (March 2023) that it is their intention to publish a noise policy paper later this year in 2023.</p> <p>CBC consider it is likely to incorporate the changes set out in Appendix 30: Response to ExQ1 PED.1.2 – Aviation 2050 The Future of UK Aviation [REP4-156], which are:</p> <ul style="list-style-type: none"> • setting a new objective to limit, and where possible, reduce total adverse effects on health and quality of life from aviation noise. 	<p>The Applicant is also aware of the intention to publish the updated Aviation Noise Policy paper but notes that the policy paper has not yet been published at the time of Deadline 8 submission. As noted in the Applicant's Response to November Hearing Actions [REP7-072] in response to ISH9 Action 18, the Applicant will provide commentary on the implications of the updated Aviation Noise Policy paper as and when it is produced if prior to the close of the examination.</p> <p>With respect to the comment on reduction in night-time noise, the Applicant expects the policy paper to reflect the Overarching Aviation Noise Policy</p>

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			<ul style="list-style-type: none"> developing a new national indicator to track the long-term performance of the sector in reducing noise. routinely setting noise caps as part of planning approvals (for increase in passengers or flights). requiring all major airports to set out a plan which commits to future noise reduction, and to review this periodically. <p>The Overarching Aviation Noise Policy issued in March 2023 maintains the commitment to noise reduction, through reference to ICAO's Balanced Approach to Aircraft Noise Management, which aims to reduce aircraft noise in a variety of ways. There is not expected to be any support for the Applicant's position that no reduction in night-time noise is acceptable.</p>	<p>Statement (Ref 4) which notes that "an increase in total adverse effects may be offset by an increase in economic and consumer benefits".</p>
7	<p>Central Bedfordshire Council</p> <p>&</p> <p>Hertfordshire Host Authorities</p> <p>&</p> <p>Luton Borough Council</p>	<p>[REP7-084]</p> <p>[REP7-087]</p> <p>[REP7-090]</p> <p>NO.2.1</p>	<p>The P19 decision only increases the noise contour limit for future years and does not amend limits for years past. For 2019, any baseline can therefore only be directly compared against the previous P18 decision. No summer periods since 2019 have given rise to noise contours greater than those that would have been limits for the P18 decision, and therefore use of any of these other years as a baseline would also be compliant and acceptable to CBC.</p> <p>The Applicant is requested to propose future summer period noise limits in both the day and the night that fall below the historic baseline, showing noise reduction over time. These noise limits can be greater than the future baseline years (the do-minimum), as this increase in total adverse effects is permitted by UK aviation policy, so long as a trend of noise reduction continues.</p> <p>The Applicant's newly proposed summer period noise limits should also demonstrate a fairer balance of benefit sharing with the local community than currently proposed. It is noteworthy that acceptance of a non-compliant baseline could set a precedent whereby regularising a breach only results in positive outcomes for an airport. In such a case, it becomes easier to demonstrate noise reduction associated with any new application (even then the Airport only manages this in the daytime).</p>	<p>The Applicant's position on the "P19" 19 mppa planning application (21/00031/VARCON) and how it relates to the 2019 baseline is set out in the Applicant's ISH8 Post Hearing Submission [REP3-066].</p> <p>See also section 4.5 'the balance of growth vs future noise reduction' in the Applicant's ISH9 Post Hearing Submission [REP6-067].</p>
8	<p>Central Bedfordshire Council</p> <p>&</p> <p>Hertfordshire Host Authorities</p> <p>&</p>	<p>[REP7-084]</p> <p>[REP7-087]</p> <p>[REP7-090]</p> <p>NO.2.3</p>	<p>Paragraph 2.6.1 of the referenced document refers to Sections 2.1.6 to 2.5 within it. It is assumed that this should properly read 2.2 to 2.5 and would request the Applicant double-check these references.</p> <p>The grounds for dispensation listed in bullets a - g (forming the total list) are acceptable, on the basis that accepted definitions are used for bullets a and b. The Applicant should either fully define these two terms or make reference to Annex F: Guidelines on Dispensations of Department for Transport's Night Flight</p>	<p>Paragraph 2.6.1 should have referred to sections 2.2 to 2.5 and this has been corrected in the version of the Air Noise Management Plan [REP7-044] that was submitted at Deadline 7.</p> <p>As noted in response to Written Question NO.2.3 [REP7-056], the Air Noise Management Plan [REP7-044] has also been updated to reference and align the list of dispensations with the relevant DfT guidance (Ref 5) and is therefore in alignment with the Host Authority's suggestion.</p>

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	Luton Borough Council		<p>Restrictions, March 2023 to ensure these grounds are correctly applied and for the avoidance of doubt.</p> <p>The two terms are: 'serious congestion' (bullet a), and 'widespread and prolonged disruption of air traffic' (bullet b). The remaining bullets are sufficiently clear to not need further definition.</p>	
9	Central Bedfordshire Council & Hertfordshire Host Authorities & Luton Borough Council	[REP7-084] [REP7-087] [REP7-090] NO.2.4	<p>The Noise Violation Limits (NVLLs) in place at London Luton Airport have contributed to ensuring aircraft fly in the correct manner, but manner but have not clearly led to incentivisation for quieter aircraft, which has been achieved through other means. NVLs should be proposed to reduce over time, in line with the introduction of quieter aircraft. If these are not entering service, then reducing NVLs could lead to fines for the majority of aircraft, which potentially disincentives flying quieter aircraft. The Air Noise Management Plan therefore needs to include scope to reduce NVLs, where appropriate, and for this approach to be suitably secured. Such an approach could include reviewing NVLs as part of London Luton Airport's Noise Action Plan.</p> <p>While this is within the control of London Luton Airport, should they choose not to tighten NVLs over time, a situation could arise whereby aircraft fly in a less-regulated manner. This in turn impacts the summer noise contours, which are enforceable. NVLs are therefore a useful tool for London Luton Airport to maintain for their own benefit. These comments should be read in conjunction with the Response to Suono's Note on Noise Controls [REP6-052] in the CBC comments on Deadline 6 documents.</p>	<p>As noted in response to Written Question NO.2.4 [REP7-056], the Applicant considers the approach to Noise Violation Limits (NVLs) is appropriate and the Air Noise Management Plan [REP7-044] has been updated to include secured reductions in both the daytime and night-time NVLs from 2028.</p> <p>The Written Question response further notes that paragraph 1.1.4 of the Air Noise Management Plan [REP7-044] has been updated to specify that the plan, including NVLs, can be updated and must be reviewed every five years in line with the Noise Action Plan cycle.</p>
10	Central Bedfordshire Council & Hertfordshire Host Authorities & Luton Borough Council	[REP7-084] [REP7-087] [REP7-090] NO.2.5	<p>The total ATM cap should be no greater than what has been assumed within the various assessments undertaken for the DCO application. This will ensure that the provided secondary metric information, such as overflights and Number Above contours remains accurate. The Need Case [AS-125] identifies this figure as 209,410 aircraft movements.</p> <p>A phasing or varying of this cap over time is not expected to offer material benefits beyond what is being proposed by the 5-yearly forecasting period within the Green Controlled Growth framework. Variation of the ATM cap is not sought. These comments should be read in conjunction with the Response to Suono's Note on Noise Controls [REP6-052] in the CBC comments on Deadline 6 documents.</p>	<p>As noted in response to Written Question NO.2.5 [REP7-056], although the Applicant does not believe such a movement cap to be necessary or appropriate, it considers that any limit on annual aircraft movements should not be less than 225,000 annual aircraft movements to allow for the potential for a variant mix of smaller aircraft types to be deployed in future to deliver 32 mppa, the impacts of which would still be controlled by the noise Limits in Green Controlled Growth.</p> <p>The Applicant agrees with the Host Local Authorities that if any movement limit were to be imposed that it is not necessary for the limit to be phased over time.</p>
11	Central Bedfordshire Council &	[REP7-084] [REP7-087] [REP7-090]	<p>As with the response to NO.2.5 ATM cap, the Limits, and associated quote count (QC) values, should be set based on aircraft movements and mix assumed within the DCO application. This would ensure that movements do not drift out of the core night period into the shoulder periods, where there is higher potential for sleep disturbance. It is not clear from the Applicant's</p>	<p>As noted in response to Written Question NO.2.5 [REP7-056], although the Applicant does not believe such a movement cap to be necessary or appropriate, it considers that any limit on annual aircraft movements in the 06:00 – 07:00 shoulder period should not be less than 13,000 annual aircraft movements.</p>

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	Hertfordshire Host Authorities & Luton Borough Council	NO.2.6	documentation what the actual limit would be, but we expect the future possible QC budget figures will be provided by the Applicant at Deadline 7. Once this is provided, CBC will be able to consider further.	
12	Central Bedfordshire Council & Hertfordshire Host Authorities & Luton Borough Council	[REP7-084] [REP7-087] [REP7-090] NO.2.8	There is no control against which to monitor ground noise, which would make monitoring an additional exercise for CBC to maintain with little benefit. The controls in place limit the number of aircraft movements that can occur to a suitable extent such that ground noise is inherently controlled. This works alongside the Outline Ground Noise Management Plan [REP4-049].	The Applicant notes and agrees with the Host Local Authorities' position on this matter. In addition, the Applicant has noted the practical limitations in monitoring ground noise in response to Written Question NO.2.8 [REP7-056].
13	Central Bedfordshire Council & Hertfordshire Host Authorities & Luton Borough Council	[REP7-083] [REP7-085] [REP7-089]	<p><u>3 Night Quota Count (in the QC period)</u> 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.</p> <p>The NEDG recommendations do not strictly require core night QC to reduce to 2,800, only to a level below 3,500.</p> <p>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.</p>	<p>It is not agreed that QC budgets are not a control, the budgets are explicitly linked to the contour area Noise Limits and the airport operator is legally required to follow the steps in paragraph 3.1.7 of the Green Controlled Growth Framework [REP7-020] which is a certified document in the DCO.</p> <p>In terms of meeting the existing 2,800 limit beyond 2030, Faster Growth and the Core Case converge beyond 2039 so the use of Core Case noise Limits is not relevant to this point. The Applicant's position on growth and noise reduction beyond 2039 is set out in Section 4.5 of the Applicant's ISH9 Post Hearing Submission [REP6-067].</p>
14	Central Bedfordshire Council & Hertfordshire Host Authorities & Luton Borough Council	[REP7-083] [REP7-085] [REP7-089]	<p><u>10 Noise Violation Limits</u> 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>	See response on NVLs at ID 9 of this table.

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			<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>	
15	<p>Central Bedfordshire Council</p> <p>&</p> <p>Hertfordshire Host Authorities</p> <p>&</p> <p>Luton Borough Council</p>	<p>[REP7-083]</p> <p>[REP7-085]</p> <p>[REP7-089]</p>	<p><u>12 Movement Cap</u></p> <p>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.</p> <p>During the 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 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. 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 the movement cap would provide a back-stop to ensure that the total number of aircraft movements did not continue to</i></p>	<p>The Applicant's position is that a movement cap is not necessary or appropriate (see response to Written Question NO.2.5 [REP7-056]), therefore threshold movement values and staged movement limits are inherently also not supported by the Applicant.</p> <p>The Applicant's position on shoulder period QC limits is set out in response to Written Question NO.2.6 [REP7-056] and in the Applicant's Response to Issue Specific Hearing 9 Actions 8, 19 and 20 – Quota Count Noise Controls [REP7-077].</p> <p>The Applicant acknowledges the quotation from AECOM, which is from a draft position paper produced for the NEDG in December 2019, prior to the introduction of the Green Controlled Growth Framework. It is one of several position papers on different forms of noise controls that were produced to aid discussion within the NEDG and informed their final recommendation. The Applicant has always acknowledged the NEDG recommendations relating to movement limits, and has responded to the recommendation throughout the process, for example at the time of the DCO submission in Appendix 16.2 of the ES [REP4-023] and most recently in response to Written Question NO.2.5 [REP7-056].</p> <p>The Applicant notes the Host Local Authorities' view that a movement limit is a simple and effective tool for communication to local communities. The Applicant agrees that movement counts can be an effective communication tool and notes that the Air Noise Management Plan [REP7-026] commits the airport operator to reporting monthly and annual aircraft movements as part of the Quarterly and Annual Monitoring Reports.</p>

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			<p><i>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]. 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.</p>	
16	Luton Borough Council & Hertfordshire Host Authorities	<p>[REP7-085] [REP7-089]</p> <p>LBC ID.49</p> <p>Table 1.1 ID.5</p>	<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>	<p>The range represents the range of growth sensitivity tests in the ES. It is not the case that there is no reason to expect anything other than the Faster Growth case to materialise. Paragraph 6.4.8a of the Need Case [AS-125] notes that the central demand growth scenario used to define the Core case is the 'most likely' to occur.</p>
17	Central Bedfordshire Council & Hertfordshire Host Authorities & Luton Borough Council	<p>[REP7-083] [REP7-085] [REP7-089]</p> <p>4. REP6-067 Applicant's Post</p>	<p><u>Paragraph 4.4.3 (Noise Limit Review)</u> 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.</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</p>	<p>It is not the case that the Applicant does not expect future aircraft to have reduced noise levels, see for example the sensitivity test in Section 12.6 of Appendix 16.1 of the ES [REP7-013], based on the assumption that next-generation aircraft exhibit a similar reduction in noise levels as new-generation aircraft. If this were to occur, the implications for the noise Limits following a Noise Limit Review are presented in paragraphs 3.3.22 onwards of Appendix 16.2 of the ES [REP4-023].</p> <p>Paragraph 3.2.29 of the Green Controlled Growth Explanatory Note [REP7-018] is clear that the ICAO publication of a new noise 'Chapter' for next-generation aircraft would trigger a Noise Limit Review.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
		Hearing Submission – Issue Specific Hearing 9 (ISH9)	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.	
18	Central Bedfordshire Council & Hertfordshire Host Authorities & Luton Borough Council	[REP7-083] [REP7-085] [REP7-089] 4. REP6-067 Applicant's Post Hearing Submission – Issue Specific Hearing 9 (ISH9)	<p><u>Section 4.5 (The balance of growth vs future noise reduction)</u> 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.</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 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, as part of a policy of sharing benefits of noise reduction with industry."</i> (their emphasis).</p> <p>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.</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</i></p>	<p>The Overarching Aviation Noise Policy Statement Policy Paper (Ref 3) states:</p> <p><i>"We consider that "limit, and where possible reduce" remains appropriate wording. An overall reduction in total adverse effects is desirable, but in the context of sustainable growth an increase in total adverse effects may be offset by an increase in economic and consumer benefits. In circumstances where there is an increase in total adverse effects, "limit" would mean to mitigate and minimise adverse effects, in line with the Noise Policy Statement for England."</i></p> <p>This language does not specify that "an increase in total adverse effects" is only in relation to a do-something vs do-minimum increase. The Proposed Development, with its increase in economic and consumer benefits, complies with this policy wording which is an evolution and clarification of the wording in the Aviation Policy Framework (Ref 6), see Commentary on the Overarching Aviation Noise Policy Statement [REP1-012].</p> <p>In the situation where an increase in total adverse effects occurs (in relation to a do-something vs do-minimum increase or an increase by comparison to a historic baseline), the policy wording is clear that "limit" means to "mitigate and minimise adverse effects, in line with the Noise Policy Statement for England". As previously noted by the Applicant, the Noise Policy Statement England (Ref 7) objectives are explicitly in the context of Government policy on sustainable development.</p> <p>The Applicant disagrees that the noise assessment remains outside the planning balance. The Planning Statement [REP5-016] provides a clear quantification of the planning balance, taking into account the economic benefit and the adverse noise effects of the Proposed Development.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p><i>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>	
19	<p>Central Bedfordshire Council</p> <p>&</p> <p>Luton Borough Council</p>	<p>[REP7-083] [REP7-089]</p> <p>4. REP6-067 Applicant's Post Hearing Submission – Issue Specific Hearing 9 (ISH9)</p>	<p><u>Section 4.13</u></p> <p>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.</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>	<p>This is not a new argument, the difference in noise impacts between the Core case and Faster Growth case have been compared and discussed before (for example see section 12.3 of Appendix 16.1 of the ES [AS-096]), this is simply another means of quantifying the difference.</p> <p>See response at ID 18 in this table in relation to policy wording.</p>
20	<p>Central Bedfordshire Council</p> <p>&</p> <p>Hertfordshire Host Authorities</p>	<p>[REP7-083] [REP7-085]</p> <p>Table 1.1 ID.1</p> <p>ID3</p>	<p>It is manifestly clear that Environmental Impact Assessment (EIA) is expected to be based on a reasonable worst case, as is noted by the Hertfordshire Host Authorities in their statement. The position is that the reasonable worst case is formed by the Core case, as has been used for other airport EIA applications.</p> <p>The Applicant has not, at any stage, provided a convincing argument as to why a faster growth case should be used to set future noise contour limits instead of the Core case, and continues to reference a position that has previously been rebutted without adequate response.</p> <p>The use of the Core case is required by the Applicant to "limit and where possible reduce the number of people in the UK significantly affected by aircraft noise", as quoted by the Applicant from APF2013, where this is a clear instance of reducing people experiencing significant noise effects.</p>	<p>The Applicant has provided adequate responses to why the Faster Growth case has been used to set noise contour Limits, for example see ID 14 of Table H.1 in Applicant's response to Deadline 3 Submissions – Appendix H [REP4-013].</p> <p>The Core Case is not the reasonable worst-case, it is the 'likely' case (see response at ID 15 of this table) hence it has been used to identify 'likely' significant effects in the ES. This is then combined with the sensitivity tests for other growth outcomes to determine the reasonable worst-case 'envelope' of potential effects in the ES, which are then secured via the Noise Envelope Limits.</p> <p>The assessment of noise in Chapter 16 of the ES [REP1-003] is robust and fit for purpose, Having regard to all relevant policy, guidance and best practice. The assessment appropriately identifies the significant adverse effects over the life Proposed Development (including for the Faster Growth case) and adequate controls and mitigations are in place to avoid adverse significant effects.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>Use of the faster growth case to set noise contour limits is expected to lead to increased numbers within local communities experiencing higher noise levels than compared to the Core case, which is taken to not comply with UK aviation noise policy, where noise effects should be reduced where possible.</p> <p>Although we understand the Applicant's response and agree that in general terms 'reasonable worst case' is a standard approach in EIA the Applicant fails in its response to address to grapple with the substance of the submission made and demonstrate that in taking this approach that the 'reasonable worst case' used and applied uses the realistic forecasts and covers all likely receptors across the life of the project based on all relevant policy, guidance and practice in relation to noise, particularly in relation to airports and these particular proposals. It is not reasonable to provide realistic forecasts and then not fully account for these in any consideration of the 'reasonable worst case'. Therefore, it is necessary to ensure that adequate assessment has been taken account of by the Applicant fully addressing the underlying substance of the local authority submissions and context and legitimate concerns set out in this response.</p> <p>To be clear the Authorities and Examining Authority need to be assured that the assessment is robust and fit for purpose, in the context of airports (and Luton in particular within the full consented envelope sought). This means that those that can be significantly affected over the life of the Proposed Development must be appropriately assessed on a precautionary basis having regard to all relevant policy, guidance and practice and this is fully accounted for and adequate monitoring and protections are secured to avoid direct and indirect adverse effects on existing and future population and sensitive receptors.</p>	
The Harpenden Society				
21	The Harpenden Society	<p>[REP7-116]</p> <p>ExQ2 NO.2.3</p>	<p>The Government's 2014 guidance on the granting of dispensation exceptions under section 78(4) states that they should "relate to operational matters affecting a small number of flights". The list of operational matters that can be dispensed includes: emergencies, widespread and prolonged air traffic disruption and delays as a result of disruption leading to serious hardship and congestion at the airfield or terminal.</p> <p>At Luton Airport dispensations are currently permitted by the S106 Agreement which states: <i>5.12 Disregarded movements</i></p> <p><i>5.12.1 For the purposes of Section 78(4)(a) of the Act, the following circumstances are specified in relation to the taking of and landing of aircraft at Luton Airport, namely:</i></p>	<p>The Applicant does not agree with the Harpenden Society's comment on dispensations relating to squeezing in rotations of low cost carriers. One of the main reasons for the dispensation of "passenger hardship" for Q2 2023 at London Luton Airport was the French ATC strikes (end of March to end of June), that also had big impacts on other London airports. Other pre-planned and allowed dispensations were related to the events such as the Kings Coronation (May 2023) and the German NATO air defender exercise (August 2023).</p> <p>As noted in response to Written Question NO.2.3 [REP7-056], the Applicant has updated the Air Noise Management Plan [REP7-044] to reference and align the list of dispensations with the relevant DfT guidance (Ref 5). This guidance is considered an appropriate mechanism for determining when it is appropriate to dispense aircraft that are not within the airport operator's control for the purposes of the Air Noise Management Plan.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p><i>(A) delays to aircraft which are likely to lead to serious congestion at the aerodrome or serious hardship or suffering to passengers or animals;</i></p> <p><i>(B) delays to aircraft resulting from widespread and prolonged disruption of air traffic.</i></p> <p>Until March 2023 Luton airport did not dispense flights as the preceding 12 month night movement count was generally below 9,000, well within the permitted limits.</p> <p>However, this changed in 2023 and at the end of the Q1 monitoring period the airport operator reported that the preceding 12 month night movement total was 9,608 (close to the limit – although it had been in the high 8,000s in 2022 on a relatively low movement count compared to the peak passenger year 2019). This spike in night movements resulted in the airport operator applying dispensations liberally.</p> <p>In the period from March to June (4 months) Luton airport dispensed 738 flights which was 28% of the all the night flights during the same period.</p> <p>The vast majority of these dispensations (72%) were described as “passenger hardship” but, in reality, as the authors of this note can attest to, they reflect late night Wizz flights arriving at or departing from the airport because the requirement of low cost airlines to squeeze in as many rotations as they can which often means the last (Luton) leg suffered from accumulated delays.</p> <p>In the Noise Management Plan (REP6-051) LR are proposing that conditions 2.6.1 a. and 2.6.1b. replicate the current S106 dispensations (which are similar to those set out in the guidance to 78(4) of the Civil Aviation Act 1982).</p> <p>We do not believe the ExA should grant LR or any operator authority to dispense aircraft under these headings as recent experience of dispensations at Luton airport have been significantly more than a “small number of flights” and are attributable to the operational characteristics of low cost airlines rather than any genuine passenger hardship or congestion at the airport.</p> <p>This is illustrated in the following table, using data from the Quarterly Monitoring Reports for 2023:</p> <p>The existing proposals will lead, on recent experience, to a minimum 20% increase in actual night movements and probably</p>	<p>The Applicant also notes that the ESG has a role in agreeing dispensations with regards to the Noise Envelope contour area Limits in the Green Controlled Growth Framework (see paragraph C4.1.3 of the Aircraft Noise Monitoring Plan [REP7-026] and paragraphs 2.2.37 to 2.2.43 of the Green Controlled Growth Explanatory Note [REP7-018]).</p>

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			considerably more as LR are seeking to cram more flights into the night time. This is wholly unacceptable. As we have suggested in an earlier submission, only if the ESG agrees should flights be dispensed (under any heading).	
Buckinghamshire Council				
22	Buckinghamshire Council	[REP7-081] NO.2.3	The applicant should reference the “Department for Transport Guidelines on Flights Which May Be Given Dispensation from the Night Restrictions” issued by Department for Transport in July 2014.	As noted in response to Written Question NO.2.3 [REP7-056] , the Applicant has updated the Air Noise Management Plan [REP7-044] to reference and align the list of dispensations with the DfT guidance (Ref 5) referenced by Buckinghamshire Council.
23	Buckinghamshire Council	[REP7-081] NO.2.6	<p>The Overarching Aviation Noise Policy sets out the Government’s overarching noise policy statement as reproduced below.</p> <p>“The government’s overall policy on aviation noise is to balance the economic and consumer benefits of aviation against their social and health implications in line with the International Civil Aviation Organisation’s Balanced Approach to Aircraft Noise Management. This should take into account the local and national context of both passenger and freight operations, and recognise the additional health impacts of night flights.”</p> <p>On this basis the Council would resist any additional ATMS during the night shoulder periods.</p>	The Applicant has set out how the Proposed Development complies with the Overarching Aviation Noise Policy in Commentary on the Overarching Aviation Noise Policy Statement [REP1-012] . Complying with this policy does not require that there should be no additional aircraft movements during the night, shoulder period or otherwise.
24	Buckinghamshire Council	[REP7-081] NO.2.9	<p>See answer to 6 above.</p> <p>Also, it is suggested that the restrictions at [REP6-051] Para 2.3 “Maximum quota count for night-time (23:00 – 07:00) aircraft movements be amended so that aircraft” be amended so that no cargo, business and private flights with a quota count of 1 or more are permitted to take off or land. To align it with the Night Quota Period (23:30 – 06:00) movement cap.</p>	As noted in response to Written Question NO.2.9 [REP7-056] the noise controls in the Air Noise Management Plan [REP7-044] and Green Controlled Growth Framework [REP7-020] controls noise from all aircraft and therefore apply equally to cargo, business and private flights. The Applicant does not consider it necessary to specify any additional controls specifically for these types of aircraft, though notes that this does not preclude the airport operator from introducing additional restrictions for these types of flights in order to stay within the limits imposed by the DCO noise controls.
25	Buckinghamshire Council	[REP7-081] NO.2.12	<p>The early morning traffic increases on the B489 between the hours of 03:00 and 07:00 are predicted to be 57 two-way movements. At present the Council’s ATC survey data shows that in this time period there are 156 two-way movements on this corridor. The growth set out in the Applicant’s latest data would represent a 37% increase in these early hours for this corridor.</p> <p>It is understood that the low numbers are unlikely to equate to a significant effect in relation to the thresholds of the noise assessment work. However, the Council’s concern is related to the health implications of the changes to the noise environment, particularly in terms of the potential for sleep disturbance. The Council would welcome specific qualitative analysis of this matter to be included within the relevant parts of the ES. Furthermore, the Council is of the opinion that the percentage change is sufficient to merit intervention in the village locations along this</p>	As noted in the Applicant’s response to Written Question NO.2.12 [REP7-056] the B489 is outside of the study area for noise impacts as no significant effects on health and quality of life with respect to road traffic noise are expected from this road. This includes the consideration of night-time noise, peak hours impacts and sleep disturbance. This focus on the wider daytime and night-time periods, rather than just a peak period, also aligns with studies into the health impacts of exposure to road traffic noise as reported by the World Health Organisation (WHO, Ref 8).

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			route, to seek to mitigate adverse effects arising from the traffic impacts.	
26	John Gass	[REP7-103]	<p>I have previously explained the problems with noise insulation and listed buildings and in particular the issues surrounding the property I own which is a listed building under the flight path in Breachwood Green, and you asked for my comments on the previous decision (15/00950/VARCON) about airport expansion and how it affects the current planning consideration.</p> <p>As you know I was selected for noise insulation by the Airport in March 2022, and accepted this in April 2022, however the Airport have still not found an acceptable solution, please see their comments in the attached email of 23rd November 2023 where they state they are looking for a solution. Clearly still considering how to mitigate the noise in December 2023, 20 months after offering noise insulation is not a solution.</p> <p>I applied to Luton Borough Council asking them to investigate the breach of planning, and they have replied see attached email that there is no time limit for the Airport provide noise insulation and therefore they are not in Breach of the planning consent and they will not act, and that it their position.</p> <p>Clearly therefore any section 106 agreement will not be a means for reducing the noise impact of the current application, as Luton Borough Council are unwilling to act on the current agreement.</p>	<p>This representation is a reference to the existing scheme which is not part of the application for the Proposed Development.</p> <p>The proposed new noise insulation policy includes measures to address challenges that arise when the subject properties are Listed buildings. See paras 6.1.17 to 6.1.19 of the Compensation Policies, Measures and Community First [REP7-036]. There are also commitments in the process of introducing the new policy which will require the Applicant to offer and complete the insulation of properties as soon as reasonably practicable. The proposed new noise insulation policy will be secured via a section 106 agreement which ensures that these proposals remain enforceable.</p>

2.15 SECTION 106 AGREEMENT

Table 2.15 provides a response to matters the Applicant considers need to be responded to.

Table 2.15 Applicant's Response to Deadline 7 Submissions – Section 106 Agreement

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
Section 106 – heads of terms				
1	Buckinghamshire Council	[REP7-080] para. 2.21.2 page. 9 and para. 2.53.1 page.16-17	<p>Buckinghamshire Council has significant concerns regarding the progression of the s106 agreement and the delay in the sharing of this document which the Council, received on 04 January 2024. As a relevant neighbouring authority, Buckinghamshire Council has not been party to discussions on the s106 agreement and therefore has been unable to engage in meaningful discussions in order to ascertain the certainty with which proposed mitigation has been adequately secured. This also raises doubts over how the Council may secure mitigation benefiting its residents through alternative means – this cannot be achieved without the Applicant undertaking adequate consultation with the Council on its contents.</p>	<p>Buckinghamshire Council is not a party to the section 106 agreement hence early drafts of the agreement were not shared. A draft was shared on 4 January 2024 and a further update was shared following submission of an updated draft to the ExA at Deadline 7. A call was held between the Applicant and the Council on 15 January 2024 and it was confirmed that the whole of the Employment and Skills Training Strategy is secured through the section 106 agreement. The Council has committed to sharing their comments on the draft section 106 agreement by Friday 19 January 2024 and the Applicant will consider these once received.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
2	Buckinghamshire Council	<p>[REP7-081] page. 8-10</p> <p>Response to WQ BCG.2.11</p>	<p>In Buckinghamshire Council's view the following need to be secured:</p> <p><i>(i) New express bus route from Aylesbury to Luton.</i> Expansion of airport would mean increased passenger air travel. Customers will need to have real choice of sustainable transport to contribute to sustainable development and minimise use of private car. Required to ensure traffic impacts of development within Bucks are mitigated by promoting sustainable transport.</p> <p><i>(ii) Reinstatement of Bus Route 61 from Aylesbury to Luton.</i> Expansion of airport would mean increased passenger air travel. Customers will need to have real choice of sustainable transport to contribute to sustainable development and minimise use of private car. Required to ensure traffic impacts of development within Bucks are mitigated by promoting sustainable transport. This would address the existing lack of long distance fast bus services connecting east and west, or locations within Buckinghamshire with Luton Airport or the M1 corridor and the East Coast mainline, without a requirement to use London interchanges.</p> <p><i>(iii) Priority junction improvements at the B489 and B488 Ivinghoe.</i> Long distance commuting route uses the Buckinghamshire network via the B489. The intensification in use of this is shown within the DCO Trip Distribution Plans. Small increases in traffic flow would have unacceptable impacts to this junction.</p> <p><i>(iv) An agreed Sustainable Transport Fund.</i> A fund to support sustainable transport to serve the Scheme. Expansion of airport would mean increased passenger air travel. Customers will need to have real choice of sustainable transport to contribute to sustainable development and minimise use of private car. This should be extended to sustainable transport measures within Buckinghamshire County.</p> <p><i>(v) Community First fund to include areas of Buckinghamshire: wards of Aylesbury North, Aylesbury North West, Aylesbury South-West and Chesham.</i></p>	<p>(i)-(ii) – The Applicant notes the request for the bus routes to be secured. However, it is the Applicants position that these measures should be brought to the ATF Steering Group for consideration post DCO consent. If approved by the ATF Steering Group these measures would be funded by the Sustainable Transport Fund [REP7-043]. The Applicant has committed to undertake a 5-yearly bus and coach market analysis study and does not want to pre-empt the outcome of this study at this stage.</p> <p>(iii)- As set out in the Applicant's Response to Issue Specific Hearing 7 Action 3 - Ivinghoe Junction Modelling Review [REP7-070] the proposed development results in a small numerical and percentage increase in total traffic which cannot be considered as 'severe' and would not warrant the need for a capacity improvement at the B489/B488 junction.</p> <p>(iv) The GCG Framework will ensure that the airport cannot grow in an unsustainable way. Noted measures can be proposed and considered for funding by the Sustainable Transport Fund by the ATF Steering Group.</p> <p>(v) The Applicant notes the request from Buckinghamshire Council to extend the Community First Zone to the wards of Aylesbury North, Aylesbury North West, Aylesbury South-West and Chesham. The Applicant highlights that the Community First zone has already been extended during the examination – this change was made at Deadline 4 in response to comments made by Buckinghamshire Council at CAH1. As stated at paragraph 9.1.2 of the Draft Compensation Measures, Policies and Community First [REP7-036], the Community First Zone includes the eastern parts of Buckinghamshire. This is shown in Figure 9.1 and includes Aylesbury and Chesham.</p>
3	Central Bedfordshire Council	<p>[REP7-083] page. 15-16</p>	<p>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:</p> <ul style="list-style-type: none"> • Chaul End Road / Luton Road (expected to be in the form of a mini-roundabout) 	<p>The Applicant is aware of the specific mitigation requested by CBC and the parties are discussing a separate legal agreement to address the matters raised.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>• Newland Road / Luton Road / Farley Hill Road (expected to be in the form of junction signalisation)</p> <p>In addition, that further traffic calming will be required within Caddington itself.</p> <p>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.</p>	
4	Central Bedfordshire Council	[REP7-083] page. 16	<p>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).</p>	<p>Modelled traffic flows at the West Hyde Road / B563 crossroads junction have not materially changed and, given that the Rule 9 work showed that traffic levels on the local road network are generally lower than modelled the Applicant does not agree that mitigation is likely to be needed. The Applicant believes that a commitment to monitoring remains the most appropriate approach.</p> <p>As noted above, the Applicant is currently negotiating a separate agreement with CBC in respect of the matters detailed in ID3, and this would be a more appropriate place to settle an agreement beyond what is set out already within the application for development consent.</p>
5	Central Bedfordshire Council	[REP7-084] page. 7-8 Response to ExA Q2 BCG.2.6	<p>CBC are engaged in on-going discussions with the Applicant on the proposed S106 agreement.</p> <p>CBC have continued concerns around the proposed highway mitigation at various locations (relating to but not limited to their design, funding etc.) and the interaction between this and the TRIMMA arrangements. Discussions are on-going around the best mechanism for ensuring the funding and timely delivery of appropriate mitigation through a legal agreement.</p> <p>The removal of the reference to entering into Section 278 agreements as the means of securing and delivering highways works places an even greater emphasis on the need for a robust set of protective provisions for the Local Highway Authorities. Reinstating this provision within the Section 106 would help address the significant concerns currently related to the currently</p>	<p>The reference to entering into section 278 agreements was removed from the draft section 106 agreement because the specific obligation relating to a highways contribution was removed from the draft. This is because that obligation will remain in the Green Horizons Park section 106 agreement and will be payable under that scheme. The DCO scheme is already appropriately mitigated and therefore it is not necessary to include this obligation in the DCO section 106 agreement.</p> <p>The Applicant also highlights that the protective provisions for local highway authorities, set out in Schedule 8 to the draft DCO, have been substantially enhanced at Deadline 8 to include equivalent commitments that would otherwise be contained in a section 278 agreement – e.g. plan approval, step-in rights, commuted sums, indemnities.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>proposed wording within the DCO.</p> <p>A Section 278 / 38 agreement would also provide for an appropriate mechanism to allow for the dedication of land as public highway should detailed design or amendments to any schemes make this necessary. As such CBC would advise that reference to S278 being the mechanism referenced within the Section 106 should be retained.</p>	
6	Central Bedfordshire Council	<p>[REP7-084] page. 8-9 Response to ExA Q2 BCG.2.11</p>	<p>As set out above, CBC are engaged in on-going discussions with the Applicant on the proposed s106 agreement, as well as other issues, with a view to agreement being reached prior to the end of the Examination, including on the items to be included in the s.106. Whilst CBC are now broadly content with scope of the heads of terms (subject to the response above), as discussions progress and conclude on other matters (e.g., GCG), it may be that further items need to be secured through the s.106 agreement or variations made to those items currently secured. The headings of additional items CBC are seeking to secure are set out below:</p> <ul style="list-style-type: none"> - Contribution for traffic calming and works to the Luton Road / Chaul End Road junction in Caddington - Works to the junction of Luton Road / Newlands Road / Farley Hill - Monitoring and mitigation at the junction of the B653 / West Hyde Road <p>Monitoring of the Slip End Cross Roads.</p>	<p>The Applicant's position is that the section 106 agreement with the local highway authorities is now substantially in an agreed form, and any additional commitments should be secured in the separate side agreement, to be agreed between the parties. The Applicant is aware of the suggested measures in respect of the Luton Road / Chaul End Road junction, and works to the Luton Road / Newland Road / Farley Hill junction, and these are included in the proposed separate legal agreement with CBC referenced in responses above.</p>
7	Hertfordshire Host Authorities	<p>[REP7-087] page. 18-19 Response to ExA Q2 TT.2.15</p>	<p>ExA Query: Proposed off-site highway works: Provide an update on the ongoing discussions regarding the proposed off-site highway works to the three junctions in Hitchin, including a roadmap to resolution.</p> <p>Hertfordshire Host Authorities Response: The Applicant has confirmed that, in principle, it is open to exploring alternative designs for mitigation.</p> <p>However, the Hertfordshire Host Authorities require further clarification on a number of issues, including how sufficient certainty can be secured on the adequacy (and approval) of design, funding and implementation timeline, having regard to the current TRIMMA provisions. The Applicant has suggested this could be captured through a 'side agreement' and the Hertfordshire Host Authorities consider that this issue could be included in the s.106 agreement but consideration will need to be given to ensuring this is consistent with the TRIMMA. The Hertfordshire Host Authorities propose that this issue should be picked up as part of the s.106 agreement.</p>	<p>The Applicant's position is that the section 106 agreement with the local highway authorities is now substantially in an agreed form, and any additional commitments should be secured in the separate side agreement, to be agreed between the parties. The Applicant's position is set out in the Applicant's Response to Written Questions – Traffic and Transport [REP7-061]. Discussions are ongoing with the Hertfordshire Host Authorities and the parties are considering a separate legal agreement to provide certainty as to the extent and cost of the off-site highway works to the three junctions in Hitchin.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
Section 106 – alternatives				
8	Buckinghamshire Council	<p>[REP7-081] page. 10-11</p> <p>Response to WQ BCG.2.12</p>	<p>In Buckinghamshire Council's view the following would need to be secured via a DCO Requirement:</p> <ul style="list-style-type: none"> - Employment and Training Strategy: <i>The authorised development must be carried out in accordance with the Employment and Training Strategy.</i> - Draft Compensation Policies, Measures and Community First document: <i>No part of the authorised development may commence until a Compensation Policies, Measures and Community First document, substantially in accordance with the draft document, has been approved in writing by the relevant planning authority.</i> 	<p>The Applicant agrees that, if a section 106 agreement cannot be completed, these matters can be secured by a DCO Requirement.</p> <p>The Applicant clarifies that the Compensation Policies, Measures and Community First document is not intended to be an "outline" document at the point of DCO decision, and therefore is not required, post-consent, to be approved by the relevant planning authority before taking effect. The document has been marked "draft" up until now to signal that the policy is amenable to change during the examination. At Deadline 9, the Applicant will be removing "Draft" from the name of the document.</p>
9	<p>Central Bedfordshire Council</p> <p>Hertfordshire Host Authorities</p> <p>Luton Borough Council</p>	<p>[REP7-084] page. 9-10</p> <p>[REP7-087] page. 8</p> <p>[REP7-090] page. 10-11</p> <p>(Identical responses to ExA Q2 BCG.2.12)</p>	<p>The Host Authorities will continue to seek to work with the Applicant with a view to reaching agreement on the s.106 agreement in good time during the Examination.</p> <p>However, the Host Authorities are conscious that the end of the Examination is fast approaching, so it would be prudent to consider a 'backstop' solution in a scenario where the s.106 agreement is not agreed prior to the end of the Examination.</p> <p>Notwithstanding the points made in the Examining Authority's Rule 17 request dated 3 January 2024, the Host Authorities' view at this stage is that the nature of the detailed provisions that would be contained in a completed s.106 agreement would not in themselves be appropriate for inclusion as a DCO requirement (or requirements). Instead, the Host Authorities consider that the most robust approach would be for a new DCO requirement to be included that requires a s.106 agreement to be entered into prior to the authorised development commencing (or certain DCO powers being exercised). There is general precedent for this approach in other made DCOs (such as the Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (as amended)).</p> <p>The Host Authorities will discuss this approach with the Applicant as part of the on-going engagement on the s.106 agreement and will seek to present an update on this position to the Examining Authority at Deadline 8.</p>	<p>The Applicant is continuing to seek agreement on the draft section 106 agreement and believes that the discussions to date have been constructive and are progressing well. All-parties calls took place on Friday 12 January 2024 and on Friday 19 January 2024.</p> <p>The Applicant does not believe that it would be appropriate to include a Grampian style DCO Requirement requiring a section 106 agreement to be entered into prior to commencement of the authorised development as it is not in the control of the Applicant as to whether the Host Authorities sign the section 106 agreement. For this reason it is the Applicant's preference that this approach is not taken. If agreement cannot be reached, as set out previously, the Applicant would look to secure the obligations unilaterally. The Applicant is however, optimistic that an agreement can be reached.</p>

2.16 SOILS & GEOLOGY

Table 2.16 provides a response to matters the Applicant considers need to be responded to.

Table 2.16 Applicant's Response to Deadline 7 Submissions – Soil and Geology

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	Luton Borough Council	[REP7-090] section 3 Page. 12	The Applicant issued a draft technical note on gas mitigation measures to LBC on 21 December 2023. The Council has reviewed this document and met with the Applicant on 9 January 2024 in order to be able to close off the outstanding issues within the SoCG relating to remediation (LBC118), watching brief (LBC119) and gas mitigation (LBC120). It is understood that the document will be submitted to the ExA for Deadline 7. LBC indicated that a supplement to the document should be provided, detailing other gas mitigation measures (or in combination measures with the proposed 'virtual curtain') if the magnitude of migrating gas exceeds the capacity of the virtual gas curtain. The intent of this supplement is to provide clear direction to the designer/engineer responsible. Having met with the Applicant, LBC will be able to agree the outstanding issues listed above.	LBC confirmed that it is satisfied with the Gas Mitigation Measures Technical Note [REP7-071] (submitted to ExA for Deadline 7) which includes the supplementary details on the implementation of other or in combination gas mitigation measures as discussed at the meeting on 9 January 2024. This describes measures to be used, if the magnitude of migrating gas exceeds the capacity of the virtual gas curtain. The intent of this is to provide clear direction to the designer / engineer responsible.

2.17 SURFACE ACCESS

Table 2.17 provides a response to matters the Applicant considers need to be responded to.

Table 2.17 Applicant's Response to Deadline 7 Submissions – Surface Access

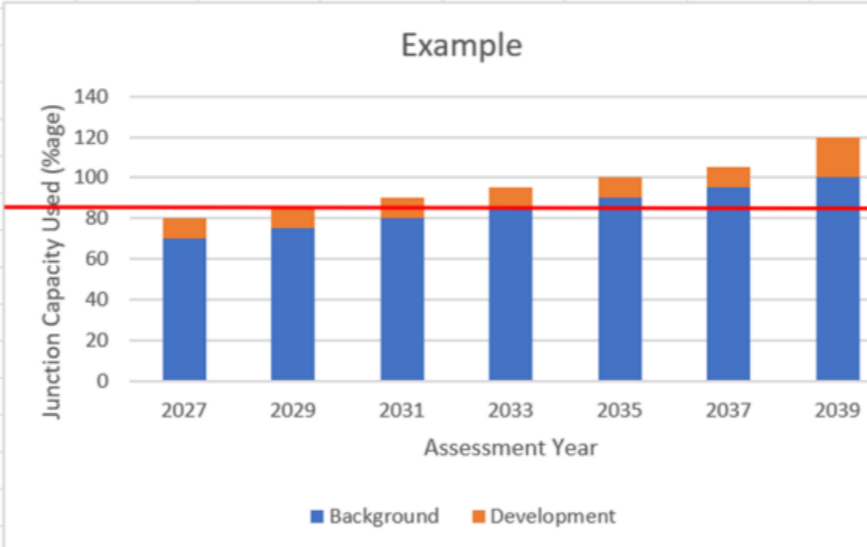
I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	Buckinghamshire Council	[REP7-080] Paragraph 2.6	REP6-009; REP6-01; 5.02 Appendix 18.3 Outline Construction Traffic Management Plan (clean and Tracked change version): This submission has been reviewed. The Council welcomes the introduction of the Pre-Construction condition surveys for traffic management plans and considers the included matters to be appropriate for the purposes of the Construction Traffic Management Plan (CTMP). It is noted that the collection of this information is only useful if it is to be applied in some manner through the life of the construction phase. It should therefore be accompanied by a matching survey at the end of the construction period, with measures included to address any areas of damage or deterioration that can be identified through the surveys as being caused by the construction activities. Thresholds for remedial action should be established and agreed prior to the agreement of the full CTMPs.	Dilapidation surveys will be carried out at the start and end of each phase. This way it can be easily identified whether deterioration to the local road network is caused due to the construction phases or whether it is due to the general wear and tear, as expected. The OCTMP will be updated accordingly before final submission to reflect this.
2	Buckinghamshire Council	[REP7-080] Paragraph 2.21	REP6-037; REP6-038; 8.18 Statement of Common Ground between London Luton Airport Limited and Buckinghamshire Council (clean and Tracked change version): This submission has been reviewed. They reflects the up-to-date position as at Deadline 6, detailing matters of concern to the Council that have been raised through the SoCG process. The Council's position remains broadly as set out in this document as well as its Deadline 6 submissions, however,	The Applicant has sought to share working drafts of the section 106 agreement and has now sent through 3 versions of the draft, the most recent version being sent on 19 January 2024. Although Buckinghamshire Council are not a signatory to the agreement, we would be happy to consider any comments they have if they wish send any to us.

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>some progress has been made with the Applicant subsequently.</p> <p>Notwithstanding the above, the Council has significant concerns regarding the progression of the s106 agreement and the delay in the sharing of this document which the Council, received on 04 January 2024. As a relevant neighbouring authority, Buckinghamshire Council has not been party to discussions on the s106 agreement and therefore has been unable to engage in meaningful discussions in order to ascertain the certainty with which proposed mitigation has been adequately secured. This also raises doubts over how the Council may secure mitigation benefiting its residents through alternative means – this cannot be achieved without the Applicant undertaking adequate consultation with the Council on its contents.</p>	
3	Buckinghamshire Council	[REP7-080] Paragraph 2.44	<p>REP6-065: 8.134 Applicant's Post Hearing Submission - Issue Specific Hearing 7 (ISH7):</p> <p>This submission has been reviewed. The Council is now satisfied that the modelling validation on the B489 is suitable for assessment. Recent submissions by the Applicant have provided data on the projected traffic on the B489 and these show that in the early hours of the morning there is a significant increase in airport related trips. Currently there are 123 (two way) airport related trips between 03:00 and 07:00 and this is proposed to rise to 179 (two way) airport related trips against a current total of two way movements during this period of 245.</p> <p>The Council awaits the submissions from the Applicant that are set out in action point 3 from ISH7.</p> <p>The Council continues to seek confirmation that the STF will be able to provide sufficient funds to implement measures in the early stages of the development, through the collection of a levy on the car parking charges. The Council awaits further information to be provided by the Applicant on this matter in response to action point 10.</p> <p>The Council is concerned that the provision of walking and cycling infrastructure relies on the delivery of the LBC LCWIP schemes. The Council considers the proper approach to be assuming responsibility for the delivery of any elements of the schemes required to provide access to the airport based on the development program for the airport.</p>	<p>The Applicant disputes that walking and cycling improvements are reliant on the LBC LCWIP document. Improvements are proposed in the vicinity of the airport along the proposed route of Airport Access Road (AAR), which connect into existing routes along Eaton Green Road and provide connectivity to existing residential areas. Other localised improvements are proposed at several off-site junctions where signalised pedestrian crossing facilities are incorporated within the junctions, many of which coincide with the proposed cycle routes forming the LBC LCWIP.</p> <p>In addition, improvements are proposed to several Public Rights of Way (PRoWs) within the Wigmore Valley Park area, which seek to improve connectivity to rural areas in the east.</p> <p>Regarding the Council's comment on the STF, the Applicant refers the Council to the Sustainable Transport Fund [REP7-042]. This document provides confirmation that the STF will be able to provide funds to implement measures in the early stages of the development.</p> <p>Regarding the Council's comment on the OTRIMMA, the Applicant refers the Council to the updated version of the OTRIMMA submitted at Deadline 7 [REP7-039]. This document responds positively to the Council's comment regarding funding of monitoring/mitigation.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>The Council remains concerned that the OTRIMMA places burdens of costs on the local authorities in order to provide the evidence that will be needed to access mitigation type 2. Since the hearing (ISH7), it has been suggested that the Applicant consider the implementation of a reimbursement mechanism for costs incurred by local authorities in gathering data sufficient to make a successful application for the delivery of type 2 mitigation, due to effects that are demonstrably attributed to the expansion of the airport. The Council awaits clarification of this by the Applicant.</p>	
4	Buckinghamshire Council	[REP7-080] Paragraph 2.46	<p>REP6-067: 8.136 Applicant's Post Hearing Submission - Issue Specific Hearing 9 (ISH9):</p> <p>The Council is willing to accept the Applicant's position that the Council does not have a seat on the ESG with respect to surface access arrangements, only subject to the Council being satisfied that the TRIMMA is able to be considered acceptable and fit for purpose. At present the Council remains concerned that the TRIMMA is unclear in its drafting and therefore may not achieve its objectives – the Applicant needs to provide further information to demonstrate its viability and effectiveness.</p> <p>The Council shares the ExA's concerns regarding the achievement of mode share targets and the use of the Sustainable Transport Fund or TRIMMA to do so. At present it is still not known what the values of these funds are to be and if there would be sufficient within the funds to deliver the required public transport provisions.</p> <p>The new Surface Access flow diagram (EV16-002) shows no link between GCG and the FTP or TRIMMA once the development commences. The Council considers this to be a weakness of the proposals, and that the FTP is weakened as a result. GCG is shown to operate independently of these documents, and it has been stated that if GCG targets are not met then measures will be implemented from the airport's day to day running costs. The Council considers that these should be linked documents and suggests that at least at the point of the 5 yearly Travel Plan updates, GCG targets should be considered to ensure that the STF value is appropriate and able to support the Travel Plan in achieving objectives of GCG.</p>	<p>The Applicant refers the Council to the updated version of the OTRIMMA submitted at Deadline 7 [REP7-039], which has been updated following representations made by the Council.</p> <p>The Applicant reiterates that the TRIMMA is not intended to be used to achieve mode share targets. In addition, it is not necessary for the TRIMMA to be linked to the STF (or travel plans) or to GCG for any of these mechanisms to achieve their stated aims.</p> <p>Regarding funding, in the Deadline 7 submission of the Sustainable Transport Framework [REP7-042], the Applicant has provided further detail and has set out a significant increase to the forecast size of the fund.</p> <p>The Green Controlled Growth Framework is shown in [EV16-002] to operate independently of the Framework Travel Plan and TRIMMA because it has its own defined processes, requirements and governance arrangements which are separate from those associated with the FTP and TRIMMA.</p> <p>The process for the setting of the Targets required for each future Travel Plan however does require consideration of the GCG Limits, as described in paragraphs 4.1.4(a) and 4.2.4 of the Framework Travel Plan [REP4-044]. Each Travel Plan must then set out the proposed interventions to meet the new Targets for the next five year period, with the travel plan then approved by the relevant planning authority. It is also noted in paragraph 5.1.2 of the FTP that some interventions may be delivered either in partnership with the airport operator, or independently from the airport operator – i.e. the STF is therefore not the only funding to support the delivery of the Travel Plan Targets. The operation of the airport in accordance with each Travel Plan is then secured under Requirement 30(5) of Schedule 2 of the Draft DCO [TR020001/APP/2.01], which is considered to give the necessary certainty that the proposed measures will be delivered by the airport operator.</p>
5	Buckinghamshire Council	[REP7-080] Paragraph 2.51	<p>REP6-070: 8.139 Applicant's Response to Issue Specific Hearing 7 Action 3 - Ivinghoe Junction Modelling Review:</p> <p>This submission has been reviewed. The Council acknowledges that the junction in question falls within the fully modelled area with source data from mobile phones. It also acknowledges and maintains its longstanding position</p>	<p>Buckinghamshire Council acknowledged at the SoCG meeting on 15 January 2024 that the traffic modelling methodology was now agreed. The Applicant maintains its position as set out in Applicant's Response to Applicant's Response to Issue Specific Hearing 7 Action 3 - Ivinghoe Junction Modelling [REP6-070] that it is considered that such a small numerical and percentage increase in total traffic would not warrant the need for a capacity</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>that it recognises that the impacts on the B489 corridor are smaller than those experienced elsewhere.</p> <p>The Council's contention is whether the impacts of the changes in the traffic movements result in effects that are significant due, for example, to the nature of the highway within this area and its relationship to the village layouts and environment, including the proximity of residential receptors to the affected routes. The Council acknowledges that greater information has been presented with regard to the Dunstable Leighton Buzzard Screenline count locations and the presence of a count location on the B489 does provide some increased confidence of the outputs at the junction in question. It is also acknowledged that the validation results in this location are demonstrating a high level of accuracy at the screenline.</p> <p>The Council also acknowledges that the numbers of staff expected to use the route will be extremely low and the concern relates to passenger commuting patterns. The Council's position regarding the heightened sensitivity that should be assigned to the B489 corridor is unchanged. The Council maintains that small changes in traffic flows amount to high proportionate changes and the perception and experience of these changes will have a significant effect on residents proximate to the corridor. On this basis, the Council asserts that the Applicant should give fuller consideration to the nature of the resultant effects and that the proportional changes in flows, particularly in the early morning period, merit intervention to reduce the magnitude of effects (principally for mental health and well-being, associated with disturbance).</p> <p>The Applicant is presenting within this document that the daily increase in vehicle numbers at the point of full development is 343 two way movements per day. The peak movements are in the hour 07:00 – 08:00. In the preceding four hours, the data shows an increase of 57 two way movements. The Council counts show that for this period there are currently 156 two way movements. The relative increase in the early hours of the morning is therefore significant as a proportion of the current situation. It is recognised that over the lifetime of the development there will be some level of background growth in traffic, however 4given the time of the night that is being considered, this is not likely to be a significant factor in and of itself.</p>	<p>improvement at the B489/B488 junction as a result of the proposed airport expansion.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>The Applicant has drawn attention to the acknowledgement of known pre-existing concerns in the area and therefore seeks to further justify their position with an expectation that a scheme would need to be delivered irrespective of the airport expansion. The Council has already implemented measures in the area to manage traffic and risks. The Council is not seeking development in the area that would increase traffic or exacerbate safety concerns and so maintains its position that it is appropriate for the Applicant to deliver the scheme requested, since the airport is the triggering development.</p>	
6	Buckinghamshire Council	[REP7-080] Appendix B ID 1	<p>The Council acknowledges the Applicant's statements made during Issue Specific Hearing 7 (ISH7) that progress against Travel Plan targets will be considered on an annual basis and reviewed through the Airport Transport Forum (ATF). This addresses the Council's concerns that the 5 yearly reviews would not provide sufficient management of the travel plan.</p> <p>The Council remains concerned that the STF is not sufficiently detailed and does not provide sufficient funding to ensure the implementation of the proposed measures.</p>	<p>In the Deadline 7 submission of the Sustainable Transport Fund [REP7-042], the Applicant has provided further detail and has set out a significant increase to the forecast size of the fund.</p>
7	Buckinghamshire Council	[REP7-080] Appendix B ID 2	<p>The Council acknowledges that the impacts of the development do not represent large numbers of vehicle trips during the peak hours. The Council's concerns remain regarding intensification of use of the route through the early hours of the morning and during the day. Consideration of the effects of the traffic impacts needs to acknowledge baseline sensitivity and percentage increases in the context of traffic impacts as determinants of human health – the consideration must therefore be greater than pure highway capacity terms. The Council has undertaken a review of the additional data supplied by the Applicant at Deadline 6. this shows increases in movements in the most sensitive locations along the route of 56 additional movements between the hours of 03:00 and 07:00 or a 145% increase in development traffic. The current total movements during this time period are 245 two-way movements, background growth over the same time period would not be expected to be significant over the same time period given the time of day. Consequently, this would lead to impacts on residents that are believed to be sufficient to warrant intervention by the Applicant, principally to address potential disturbance/sleep disturbance and modal conflict.</p>	<p>The Applicant notes that the forecast percentage increase is 45% and not 145% as stated in the comment.</p> <p>The Applicant maintains its position as set out in Applicant's Response to Applicant's Response to Issue Specific Hearing 7 Action 3 - Ivinghoe Junction Modelling [REP6-070] that it is considered that such a small numerical and percentage increase in total traffic would not warrant the need for a capacity improvement at the B489/B488 junction as a result of the proposed airport expansion.</p>
8	Buckinghamshire Council	[REP7-080] Appendix B ID 6	<p>The Council welcomes its addition to the ATF and the submission of the documents regarding its management. The Council considers it necessary for the Applicant to give further attention to the refinement of the terms of reference</p>	<p>Please refer to the updated version of the OTRIMMA submitted at Deadline 7 [REP7-039]. This document provides further detail on the future final TRIMMA and on how costs will be managed.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response																																
			of the ATF and the OTRIMMA. In particular, some mechanism of cost claw back remains necessary.	The ATF ToR will be refined post examination. The outline ToR for the ATF Steering Group will be provided within the OTRIMMA.																																
9	Buckinghamshire Council	[REP7-080] Appendix B ID 7	The Council welcomes this response; however, a full on-street audit is required from Luton Town Centre to the airport. The Council has undertaken a test cycle from Eddlesborough to the airport and found that the route is well defined and signed until reaching Luton Town Centre; beyond that point the route becomes undefined and ceases to direct cyclists to the airport. Whilst some elements can be addressed through the future travel plans, a proper audit of sustainable access by all modes, including cycles, should be carried out prior to that point and significant deficiencies should be addressed through the Type 1 mitigation.	Please see the response provided at ID 7 in the Applicant's Response to Deadline 5 Submissions Appendix B – Buckinghamshire Council [REP6-055] regarding the detail of analysis undertaken. As part of the future Travel Plans and the monitoring process a more extensive cycle audit could be undertaken when determining appropriate mitigation measures. This would be discussed in the ATF Steering Group.																																
10	Central Bedfordshire Council	[REP7-083] Pages 5-6 ID 9	<p>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.</p>  <table border="1" data-bbox="884 1045 1694 1556"> <caption>Example: Junction Capacity Used (%)</caption> <thead> <tr> <th>Assessment Year</th> <th>Background (%)</th> <th>Development (%)</th> <th>Total (%)</th> </tr> </thead> <tbody> <tr> <td>2027</td> <td>70</td> <td>5</td> <td>75</td> </tr> <tr> <td>2029</td> <td>75</td> <td>5</td> <td>80</td> </tr> <tr> <td>2031</td> <td>80</td> <td>5</td> <td>85</td> </tr> <tr> <td>2033</td> <td>85</td> <td>5</td> <td>90</td> </tr> <tr> <td>2035</td> <td>90</td> <td>5</td> <td>95</td> </tr> <tr> <td>2037</td> <td>95</td> <td>5</td> <td>100</td> </tr> <tr> <td>2039</td> <td>100</td> <td>5</td> <td>105</td> </tr> </tbody> </table> <p>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</p>	Assessment Year	Background (%)	Development (%)	Total (%)	2027	70	5	75	2029	75	5	80	2031	80	5	85	2033	85	5	90	2035	90	5	95	2037	95	5	100	2039	100	5	105	<p>The off-site highway works have been designed based on future forecasts for airport and background traffic. Mitigation will be delivered when airport traffic reaches a certain threshold (to be defined); these thresholds will be informed by changes to background traffic between 2016 and the time of the issuance of the notice to grow (as described in the OTRIMMA [REP7-039]). The Applicant must agree these thresholds with each highway authority.</p> <p>If, after the definition of thresholds, CBC identifies that background traffic deviates from the forecast such that work is required before this is identified by the TRIMMA or that additional works are required, this will not be considered mitigation due to the impacts of the Proposed Development and will not be the responsibility of the Applicant.</p>
Assessment Year	Background (%)	Development (%)	Total (%)																																	
2027	70	5	75																																	
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I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			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.	
11	Central Bedfordshire Council	[REP7-083] Page 6 ID 10-12	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.	The final TRIMMA must be agreed in advance of the issuance of the notice to grow. The thresholds must be informed by monitoring as described in the OTRIMMA [REP7-039] as ML0. As ML0 cannot be undertaken until around the time of the issuance of the notice to grow, the thresholds cannot be stated in the final TRIMMA. Therefore, it is proposed that the process for agreeing the thresholds will be contained in the final TRIMMA, which will be consulted upon with – and be subject to agreement by – local authorities. Thresholds will be contained in separate agreements with relevant highway authorities.
12	Central Bedfordshire Council	[REP7-083] Page 6 ID 15	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.	This will be considered by the Applicant and may be included in future updates to the OTRIMMA.
13	Central Bedfordshire Council	[REP7-083] Page 7 ID 16	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: <ol style="list-style-type: none"> 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. 	The baseline peak hour trips to/from the off-site car parks were established using a method similar to that used for the future years as described in section 9.5 of the Transport Assessment [APP-205] . The increase in the off-site car park trips established from applying the traffic modelling growth was compared with the increase in trips forecast for the With Development scenario (using the methodology in section 9.5). The comparison showed that the model growth was a reasonable reflection of the forecast growth in off-site car park trips. The growth in peak hour trips associated with off-site third-party car parks is small and would be dispersed across the network to various locations which are unknown at this stage, as they are not within the control of the Applicant. If the growth in off-site car park trips were included in the With Development scenario, the impact would be insignificant. The trips are nevertheless included in the modelling as background traffic and are therefore used to inform the performance of the road network and design of off-site highway mitigation proposals.
14	Central Bedfordshire Council	[REP7-083] Page 7 ID 17	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	Regarding the first part of this comment, it is incorrect to state that the form of MT1 mitigation is fixed; this is stated in the OTRIMMA [REP7-039] and in the Applicant's response to which CBC have responded in this document. The Applicant disagrees that the limited scope of MT1 limits the flexibility of the TRIMMA; MT2 exists as a means of identifying impacts and delivering mitigation at non-MT1 locations. Regarding the second part of this comment, the Applicant refers CBC to the updated OTRIMMA [REP7-039] submitted at Deadline 7.

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>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.</p>	
15	Central Bedfordshire Council	<p>[REP7-083] Page 14</p>	<p>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.</p>	<p>With respect to design maturity, if it is identified that resources are required from areas other than the ones currently identified and there might be a potential impact on the local road network, appropriate steps will be taken to consult the affected highway authority.</p> <p>At this current stage, it would be inappropriate to list all unsuitable routes for construction traffic in the outline CTMP; this information will be provided in the final CTMP at a later stage during the detailed design phase.</p>
18	The Hertfordshire Authorities	<p>[REP7-085] Page 7 Table 1.1 ID 7, 8, 9 & 10</p>	<p>The proposed mitigation at the three Hitchin junctions remains an area of disagreement with the Applicant from North Herts Council and Hertfordshire County Council perspective. Please see the response to TT.2.15 in the Hertfordshire Host Authorities' Responses to the Examining Authorities' Further Written Questions also being submitted at Deadline 7 for an update on the ongoing discussions between the Applicant and the Hertfordshire Host Authorities.</p> <p>The mitigation schemes proposed are not in keeping with policy aspirations (further details summarised in bullet points below) in relation to providing for active and sustainable travel and whilst the Applicant has indicated there is opportunity for the local and highway authority to implement an alternative, it would be the responsibility of the Hertfordshire County Council to fund the additional cost, which is not acceptable. Please see Hertfordshire Host Authorities' Principal Areas Of Disagreement Summary Statement (PADSS) [REP6-099] and Hertfordshire Host Authorities' Comments On Any Further Information / Submissions Received By Deadline 5 [REP6-100] submitted at Deadline 6. Insufficient information has been provided with respect to the costs of the respective junction changes at the three Hitchin junctions. Hertfordshire County Council and North Herts Council seek clarity on the assumed value for the junction changes.</p> <p>The Applicant (through Arup) has presented modified plans that include signalisation of two of the junctions. HCC and</p>	<p>The Applicant disagrees that the mitigation strategy is modelling or traffic led. As has been set out in the Transport Assessment [APP-203, AS-123, APP-205, APP-206] report, the Applicant has developed a package of measures which seeks to minimise the number of additional vehicle trip in the first instance. However, it is recognised that with a larger Airport there will be some additional vehicular traffic and in the Hitchin area, the main impacts of the scheme are related to this additional vehicular traffic.</p> <p>The Applicant has previously set out how the proposed mitigation schemes address the scheme impacts which, in these locations, are related to additional vehicles.</p> <p>Notwithstanding this, the Applicant has set out to the Hertfordshire Host Authorities how the existing DCO schemes could be modified to incorporate additional measures for sustainable transport and how these could be delivered through the TRIMMA. A side agreement is being negotiated between the Applicant and the Hertfordshire Authorities to secure alternative mitigation to be delivered by the Applicant.</p> <p>The Applicant also notes that in respect of the AQMA, [REP7-085] submitted at Deadline 7, states: ""The Hertfordshire Host Authorities have no ongoing concerns in relation to the Hitchin Air Quality Management Areas (AQMA) where the measured pollution levels, plus the outcome of this assessment, highlight that there is no potential for any significant air quality impact due to the Proposed Development. The measured levels are significantly below objective levels to the extent that there are proposals in place to revoke both these AQMA's."</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>NHDC will provide a comprehensive response to the Applicant on the revised and currently proposed layouts presented as part of the DCO process which are unacceptable. The main reasons for continued disagreement are summarised here:</p> <ul style="list-style-type: none"> • The current mitigations are modelling-led and space for additional capacity is unlikely to be realised in practice. • Poor level of modelling validation in Hitchin which is leading the scheme development is concerning. • The mitigation proposals benefit only private vehicles. • The mitigation proposals provide no enhancement for pedestrians and cyclists. • The Hitchin Hill junction is in an Air Quality Management Area (AQMA), measures to attract additional traffic in this area should not be encouraged. • The proposed layouts do not align to proposals in HCC and NHDC adopted strategies: • HCC's LTP4 policy 1 says that the needs of vulnerable road users such as pedestrians and cyclists as well as public transport should be considered before the needs of private vehicles - the proposed mitigation measures provide minor increases to vehicle capacity but nothing to improve the junctions for pedestrians, cyclists or buses. 	
19	The Hertfordshire Authorities	<p>[REP7-085] Page 8 Table 1.1 ID 12 (</p>	<p>NHDC request that they should be included in the Membership of the ATF given the significant likely east-west impacts through the district. Similar comments have been made in relation to the s106 to request inclusion in the group membership.</p>	<p>Membership of the ATF Steering Group is proposed to be for highway authorities only. Member authorities will be encouraged to engage with their associated local planning authorities on matters discussed by the ATF Steering Group.</p>
20	The Hertfordshire Authorities	<p>[REP7-085] Page 9 Table 1.1 ID 18</p>	<p>The proposed mitigation at the three Hitchin junctions remains an area of disagreement between the Applicant and North Herts Council and Hertfordshire County Council. Again, please see the response to TT.2.15 in the Hertfordshire Host Authorities' Responses to the Examining Authorities' Further Written Questions also being submitted at Deadline 7 for an update on the ongoing discussions between the Applicant and the Hertfordshire Host Authorities and also refer to response to Table 1.1 ID 7, 8, 9 & 10 for further detail on reasons.</p> <p>The mitigation schemes proposed are not in keeping with policy aspirations in relation to providing for active and sustainable travel and whilst there is opportunity for the local and highway authority to implement an alternative, it would</p>	<p>The meeting of 14 December 2023 identified how the existing DCO proposed works could be refined to address Hertfordshire Host Authorities' concerns with regard to sustainable transport within the existing DCO limits. The Applicant considers that the amendments could all be reasonably delivered through the TRIMMA process and the Applicant remains committed to working with the relevant highway authorities in funding and delivering these works. The Applicant continues to discuss with the Hertfordshire Host Authorities what further information is required to provide assurance that the alternative proposals would be deliverable.</p> <p>A side agreement is being negotiated between the Applicant and the Hertfordshire Authorities to secure alternative mitigation to be delivered by the Applicant. Should the highway authorities or North Hertfordshire Council wish to implement alternative measures, the Applicant would consider providing a</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>be the responsibility of the authority to fund the additional cost which is clearly not an equitable solution. Sufficient information has not been provided with respect to the costs of the respective junction changes and therefore the potential availability of resources for alternatives to the proposed junction improvements. It is assumed this matter will not be resolved and will remain as not agreed in the Statement of Common Ground and as a Principal Area of Disagreement in the PADSS.</p> <p>There was a meeting with Arup on 14th December 2023 to specifically discuss the three Hitchin junctions. Arup presented an alternative design for the Hitchin Hill junction which is more in line with the Host Authorities' aspirations but were challenging the concept of signalling the Pirton Road junction. The Hertfordshire Host Authorities are awaiting more information from Arup (layouts, modelling results and costs). However, it is not expected that this will be done within the timelines of the DCO and the plans already submitted as part of the DCO application cannot be substituted.</p> <p>This could however potentially form part of a side agreement to identify a proportional contribution to the costs of the improvements. These costs will need to be index linked and have adequate flexibility in any agreement to ensure there is sufficient cost coverage.</p>	<p>proportionate contribution to such measures. The Applicant is not aware that the authorities have developed any alternative proposals.</p>
21	The Hertfordshire Authorities	<p>[REP7-085] Page 15 ISH7 Action 20</p>	<p>The additional off-site car parking assumes that an additional 4,080 parking spaces could be required to maintain the mode share, based on the growth assumptions. As previously raised in the Hertfordshire Host Authorities' Principal Areas Of Disagreement Summary Statement (PADSS) [REP6-099], the Hertfordshire Host Authorities are concerned that the trips associated with these car parks will not form part of the trip monitoring through TRIMMA as it is only London Luton Airport operated car parks that will be monitored through ANPR cameras. This means that the airport trips associated with the Proposed Development, that are on the highway network and contributing to congestion in the Hertfordshire towns but have a destination at an off-site location, evade the trip monitoring proposals. These trips could be contributing to a local impact that requires mitigation however this will not be assessed through the monitoring plan and further clarity on how these trips will be monitored is requested. It is understood that assumptions have been made in the modelling to account for these trips which leads to a disconnect between the modelling and the monitoring</p>	<p>Please refer to the Applicant's response to comment #13 in Applicant's Response to Deadline 6 Submissions - Appendix G - Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council [REP7-070].</p> <p>Please also refer to the Applicant's response to Written Question TT.2.21 [REP7-061].</p>

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22	The Hertfordshire Authorities	[REP7-085] Page 20 ISH Action 33	<p>Figure 1.1 shows the relationship between the Green Controlled Growth Framework [REP5-022], Framework Travel Plan [REP4-044] and Transport Related Impacts Monitoring and Mitigation Approach (TRIMMA) (an Outline of which was submitted with the application [REP5-041]). Produced in response to requests by both the Examining Authority and Interested Parties at Issue Specific Hearings 7 and 9 for information about how the three control frameworks interact, from pre-consent through to recurring activities as part of the operation of the expanded London Luton Airport.</p> <p>ISH9 Post Hearing Submission from the Applicant [REP6-067] states the following: “7.5.2 GCG acts as a headline control mechanism to ensure impacts do not exceed the assessed reasonable worst case. GCG monitoring in line with the GCG Surface access Monitoring Plan will be carried out and reported to the surface access Technical Panel and ESG, and any mitigation that is required is pursuant to an approved Level 2 Plan or Mitigation Plan would need to be funded separately by the operator, in line with the GCG Requirement that these plans need to demonstrate that the relevant effect will be reduced below the Limit as soon as reasonably practicable.”</p> <p>It is helpful to understand how the three control frameworks for surface access monitoring and mitigation relate to each other and that the Green Control Growth (GCG) is considered as separate and additional to the sustainable transport and highway mitigation in terms of funding source, but would be likely to draw on the toolbox of travel plan measures if limits and Thresholds are exceeded.</p> <p>Could the Applicant confirm that this is the correct understanding in relation to the funding and how this will be managed to ensure that the funding is additional to the STF, particularly in relation to for example pump-priming bus services and the period over which this would be implanted under GCG additional funding rather than STF? ISH9 Post Hearing Submission from the Applicant [REP6-067] states the following: “7.5.8 The Applicant noted that the GCG Framework is deliberately not prescriptive about what mitigation measures would be implemented as part of a Level 2 Plan or Mitigation Plan given the length of time over which the Proposed Development will take place. However, there is likely to be significant overlap between the ‘toolbox’ of measures that could be used for mitigation under GCG and those that could be used in the Travel Plan.” It would be helpful if the Applicant could confirm the types of mitigation</p>	<p>The Applicant would direct the Hertfordshire Authorities to the following responses provided at Deadline 7, which have addressed these points:</p> <ul style="list-style-type: none"> • The Applicant’s response to the Examining Authority’s Written Question TT.2.12 sets out how the funding of mitigation required where a GCG Limit or Threshold is breached would be secured – see Applicant’s Response to Written Questions -Traffic and Transport [REP7-061]; • ID 15 of Table 1.2 of the Applicant’s Response to Deadline 6 Submissions Appendix D – Central Bedfordshire Council [REP7-067] responds to a similar query from CBC relating to the management of different funding streams, in particular where mitigation is required under GCG; • The Deadline 7 submission of the STF [REP7-042] sets out how bus routes could be ‘pump primed’; and • ID 16 of Table 1.2 of the Applicant’s Response to Deadline 6 Submissions Appendix – F CBC, DBC, HCC, LBC, NHDC [REP7-069] responds to the point previously raised at Deadline 5 regarding the toolkit of measures and the types of mitigation to be provided under GCG if required.

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>that are envisaged to be provided under the GCG mechanism, independently of the FTP toolkit. It is understood that the measures identified and associated with the GCG will be funded directly via the operator and not draw on any of the other funding streams: Sustainable Transport Fund (STF) or Residual Impacts Fund (RIF). In reality the GCG will act as a 'back-stop' if the implementation of the locally monitored sustainable transport measures are not resulting in sufficient modal shift at a more strategic level. The Toolkit table of sustainable measures in the FTP could be usefully split to separate measure that will be:</p> <ul style="list-style-type: none"> • Delivered as part of the application; • Implemented by the Applicant if the GCG Level 1 Threshold for Surface Access is breached; • Available to the ATF to implement using the STF. 	
23	Holiday Extras Limited	[REP7-102] Para. 3.05 Page 6	<p>A figure of 16,000 short, mid and long-stay car parking spaces provided on-airport at a throughput of 32mppa, has been derived from a baseline of 10,550 on-airport car parking spaces in 2019 at a throughput of 18mppa. The manner in which on-airport passenger car parking provision over the duration of the DCO application has been calculated is not provided in a way which enables either the Executive Authority, or Interested Parties to obtain a clear explanation of the processes involved, or to be able to assess the selected methodology. On the contrary, the response from the Applicant is decidedly vague as Document REP6-053 confirms.</p>	<p>The comment regarding the methodology used to derive the future year on-site passenger car parking was addressed at ID 2 of the Applicant's Response to Deadline 5 Submissions [REP6-053].</p>
24	Holiday Extras Limited	[REP7-102] Paras. 3.12 – 3.13 – 3.14 Page. 8	<p>The fact that the 2023 passenger figures in the above table are approximately 10% lower than 2019 is not surprising given the intervening Covid-19 pandemic. What perhaps is worth noting is the speed at which passenger figures have recovered over a very short period, to the extent that average daily peak utilisation during the period January to August 2023 is approximately 80% of capacity, with the car parks being full at the busiest times.</p> <p>These figures have taken no account of the lawfulness of certain long term off-airport car parking sites, with the site situated to the rear of Eden Brae Business Park, Dunstable Road, Caddington LU1 4FF having been the subject of three refusals of planning permission, each of which was subsequently dismissed at appeal. Furthermore, given that on-airport passenger car parks are already operating at capacity during peak periods, the same figures point to the</p>	<p>Please refer to the Applicant's response provided at ID 13 in Applicant's Response to Deadline 6 Submissions - Appendix G – Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council [REP7-070].</p> <p>Please also refer to the Applicant's response to Written Question TT.2.21 [REP7-061].</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>need to ensure that future long term off-airport car parking provision is made available at the earliest opportunity.</p> <p>In this way, sufficient headroom should be provided in order to take into account various future growth scenarios involving the airport; the reduction in capacity on-airport due to the Terminal 2 Car Park fire; the loss of 791 spaces due to the construction of the DART; along with the expressed intention that the airport is only planning for an additional 5,450 on-airport car parking spaces throughout the entire DCO application period to 2043. The implications of not having sufficient headroom, seen from the perspective of indiscriminate parking in residential streets, is a matter already experienced by both local authorities and their communities.</p>	
25	Holiday Extras Limited	<p>[REP7-102] Para. 3.20 Page. 10</p>	<p>It is my client's view that the total combined parking capacity figure of 15,321 car parking spaces available in 2019 at the time of the "called in" inquiry does not reflect Table 8.2 of Document AS-123 which reveals that at the point when the airport reached the permitted capacity of 18mppa in 2019, there was a total of 10,550 on-airport passenger car parking spaces devoted to short, mid and long stay, and not a figure of 9,055 spaces as outlined at the time of the "called-in" application</p>	<p>Chapter 5 of the Transport Assessment [AS-123] acknowledges that the car parking had been reduced from 10,550 to 9,055 spaces, reflecting a loss of parking at the mid stay car park due to the construction of Luton DART.</p>
26	LADACAN	<p>[REP7-104] Table 1 ID 5 Page. 7</p>	<p>This response does not allay our concerns. Further clarity is likely to be provided were the ExA to request sight of an unredacted copy of the Business Case for the DART. In any case the alignment of the DART is clearly such that it would naturally extend towards Terminal 2, rather than ending more conveniently beside Terminal 1. On the matter of whether the Access Road was due to be started before the DCO Application, the minutes of the pre-application meeting between the Applicant and PINS are clear: "The Applicant confirmed that, for the proposed link road for New Century Park, Luton Borough Council had resolved to grant Town and Country Planning Act (TCPA) permission subject to completion of a section 106 agreement. It is anticipated that Phase 1 (western end) of that approval would be under construction at the time of submission of the DCO application." (our underline) (TR020001-Advice-00006-1-190815_TR020001_Project update meeting_FINAL.pdf, page 2, para 2) It appears however that the Planning Permission Notice for the Century Park Access Road is due to expire on 30 Jun 2024, reference 17/02300/EIA on the LBC planning portal.</p>	<p>Please see the Applicant's updated Rail Impacts Summary [TR020001/APP/8.121] submitted at Deadline 8.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
27	Peter White	[REP7-109]	<p>Response to points raised by applicant in reply to LADACAN (REP6-054).</p> <p>I.D 5 Surface Access Planning.</p> <p>The applicant makes the following statement:- "To reiterate, DART was constructed to serve Terminal 1, and whilst it is possible to extend the route to connect with Terminal 2, it is incorrect to state that it is a facilitating work to enable the provision of Terminal 2. Similarly, the assertion that the 'link road' was due to be started before the DCO application is incorrect."</p> <p>In 2020, I asked Luton Borough Council (LBC), for access to the final business case for DART, under a Freedom of Information request. LBC refused as they said it was commercially sensitive. I escalated my request to the Information Commissioners Office, and in early 2021, they agreed that I should be able to access that business case.</p> <p>I was forwarded a heavily redacted document, which I will forward to you with the accompanying email, to vouch for the authenticity of that document.</p> <p>Page 17 of the DART Business Case refers twice to future extension of the system:- "Given the specifics of the Luton project the advantages of a self-propelled system's higher speeds and relative ease of expansion, are unlikely to convey significant benefit and therefore justify the additional expenditure"</p> <p>"3.3 Preferred Route Alignment</p> <ul style="list-style-type: none"> The position of the terminus and the alignment at the CTA enables the system to be extended in the future." <p>Could the applicant please provide the Panel with an unredacted copy of this business case to demonstrate whether or not there are more references to extension on to Terminal 2?</p> <p>Regarding the statements made on Page 17, could the applicant please provide details of where the "relative ease of expansion" would be to, if not to Terminal 2, and indeed why at the time of proposal any potential future expansion of the DART was felt to be required?</p> <p>Could the applicant please provide background demonstrating that if DART was only proposed to serve the Terminal 1, why it was not built so that the station was incorporated within Terminal 1, or as near to it as possible, rather than positioning the current terminus so it just</p>	<p>Please see the Applicant's updated Rail Impacts Summary [TR020001/APP/8.121] submitted at Deadline 8.</p> <p>In considering the design of the Luton DART the Applicant was of course mindful that future expansion of the airport was always a possibility that should be considered, even if at that time specific plans had not been developed or considered. It was therefore prudent to design the Luton DART such that it allowed for possible future extension which would minimise likely future disruption to the operation of the airport. The fact that the Luton DART system was specifically designed to be future-proofed for possible unspecified future extension, does not follow that it must therefore be early facilitating works for a future second terminal as indicated by Mr White. On the contrary, it shows that it could not be considered as a facilitating work as no location for future extension had been identified at that stage. The Applicant further notes that, notwithstanding its clear position that the Luton DART was not a facilitating work for future expansion, even if it had been such, that would have no effect on the current application for development consent.</p> <p>In respect of Mr White's comments relating to [then named] New Century Park and the Century Park Access Road, the Applicant yet again notes that that application, and its content, does not form part of the proposals subject to the current examination. Notwithstanding this, the Applicant notes that the material referenced via the Hitchin Forum website is from a pre-application consultation on the New Century Park proposals undertaken several months before the application was submitted. The application subsequently submitted in December 2017 included the Eaton Green Road link, the Transport Assessment and all other relevant information relating to that application was submitted at the same time and set out, amongst other matters, the justification for the link. There is no attempt to 're-write' history as suggested; all the relevant information has been in the public domain throughout.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>happens to directly line up with the now-proposed extension into Terminal 2, and involves an outside walk for passengers to Terminal 1?</p> <p>As the ExA is aware, the DART already fulfils its remit as it links the existing Terminal 1 to Luton Parkway Station. It cannot be extended at the Parkway end, therefore the only potential for extension is at the airport end, and the only reason for that is to accommodate another Terminal.</p> <p>It seems to us clear that the installation of DART, and its routing, was always intended to be a facilitating work for Terminal 2. Such facilitation has been funded by public money (airport revenue and loans from the public purse) and was developed ahead of permission for Terminal 2. Furthermore, in the statement from the Applicant in REP6-054, it states that the assertion that the New Century Park Access Road (NCPAR) link road was due to be started before this application, is incorrect.</p> <p>In 2017 the Applicant presented its plans for New Century Park to the Hitchin Forum, and these can be downloaded from this URL: https://www.hitchinforum.org.uk/wp-content/uploads/2017/05/New-Century-Park-proposals-publicexhibition.pdf The Masterplan on Page 4 shows a map of the New Century Park development.</p> <p>This map clearly shows that the Eaton Green link road was not part of the development at that time. Could the Applicant therefore be asked to provide the data, modelling and reasoning, which led to the conclusion that a link road was subsequently required for the New Century Park development?</p> <p>For the benefit of the ExA, I believe this shows that the Applicant is seeking to rewrite the background case for the NCPAR. They have created a narrative that this road is coincidental to access the site for this DCO. The site for New Century Park already has road access, Percival Way and President Way, so any case for such a considerable investment in a new road system has to bring with it a considerable question of doubt to what the actual reasoning for it is?</p>	

2.18 TOWN PLANNING

Table 2.18 provides a response to matters the Applicant considers need to be responded to.

Table 2.18 Applicant's Response to Deadline 7 Submissions – Town Planning

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	Central Bedfordshire Council	<p>[REP7-083]</p> <p>Pages. 04 and 05</p>	<p>CBC notes that Paragraph 020 of the Historic Environment Planning Practice Guidance (PPG) states that “public benefits should flow from the proposed development”.</p> <p>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.</p> <p>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”.</p>	<p>There is no policy requirement for “public heritage benefits” to be provided to mitigate or offset any identified residual harm to heritage assets. Rather, ANPS paragraph 5.205 sets out that where the proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. These public benefits can be economic, social and environmental in nature and do not need to be heritage specific to accord with the ANPS. The Planning Statement [REP5-016] considers the benefits of the Proposed Development in detail and concludes that these clearly and demonstrably outweigh the harms that would arise with the proposed suite of mitigation measures in place. The less-than-substantial-harm to heritage assets are factored into the harms weighed in that planning balance.</p>
2	Central Bedfordshire Council	<p>[REP7-084]</p> <p>BCG.2.3</p>	<p>The NPPF was updated in December 2023 and places significant emphasis on beautiful design. This should be reflected in the Design Principles document. There are no other changes to the NPPF that are considered applicable to the proposed development that would alter CBCs previous policy assessment.</p> <p>Noise response: Government indicated within the Overarching Aviation Noise Policy (March 2023) that it is their intention to publish a noise policy paper later this year in 2023.</p> <p>CBC consider it is likely to incorporate the changes set out in Appendix 30: Response to ExQ1 PED.1.2 - Aviation 2050 The Future of UK Aviation [REP4 -156], which are:</p> <ul style="list-style-type: none"> • setting a new objective to limit, and where possible, reduce total adverse effects on health and quality of life from aviation noise. • developing a new national indicator to track the long -term performance of the sector in reducing noise. • routinely setting noise caps as part of planning approvals (for increase in passengers or flights). • requiring all major airports to set out a plan which commits to future noise reduction, and to review this periodically. <p>The Overarching Aviation Noise Policy issued in March 2023 maintains the commitment to noise reduction, through reference</p>	<p>The comments on the NPPF are noted.</p> <p>With regard to no noise reduction at night-time, as taken from the Noise response above and as noted in response to Written Question NO.2.4 [REP7-056], the Applicant considers the approach to Noise Violation Limits (NVLs) is appropriate and the Air Noise Management Plan [REP7-044] has been updated to include secured reductions in both the daytime and night-time NVLs from 2028.</p> <p>The Written Question response further notes that paragraph 1.1.4 of the Air Noise Management Plan [REP7-044] has been updated to specify that the plan, including NVLs, can be updated and must be reviewed every five years in line with the Noise Action Plan cycle.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			to ICAO's Balanced Approach to Aircraft Noise Management, which aims to reduce aircraft noise in a variety of ways. There is not expected to be any support for the Applicant's position that no reduction in night-time noise is acceptable.	
3	Central Bedfordshire Council	[REP7-084] BCG.2.4	CBC have confirmed that a proposed solar farm to the south of the runway constitutes permitted development by virtue of Class F of Part 8 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), (CBC ref. CB/23/03617/OAC). This is part of a solar farm that would also extend into the administrative area of LBC (reference 23/01314/GDPOP).	This is noted however does not form part of this application for Development Consent.
4	Friends of Wigmore Park (Alan Craig)	[REP7-099] Para. 41	Added to all of this will be the huge differences in the amenity values between the existing Park and the new park. They will not be comparable in any way at all.	The replacement open space will provide amenity value with a focus on replacing habitats i.e. orchids as well as creating a mosaic landscape of varied habitats and biodiversity. This will differ in character to the more formal parkland retained within WVP and provide a transition into the wider countryside beyond the Park.
5	Hertfordshire Host Authorities 1	[REP7-085] ISH 8 Agenda Item 9: Landscape & visual Paragraph 10.3.5 Action Point 46	The Hertfordshire Host Authorities maintain that the proposed AONB Extension Area should be considered as a 'valued landscape', but limited weight should be given to it. Refer to the Hertfordshire Host Authorities comments made in the post-hearing submission for Issue Specific Hearing 8 [REP6-093], in relation to the Agenda Item covering the proposed AONB Extension Area, the suitability of the Sensitivity Test [APP107] and the weighting to be given to the proposed AONB Extension Area in the assessment of the Proposed Development.	The Applicant continues to engage on landscape matters.
6	Hertfordshire Host Authorities 2	[REP7-087] BCG.2.4	Updates on applications for planning permission / prior approval: The response to this question is provided by the Hertfordshire Host Authorities in their capacities as local planning authorities and highways authorities. Although the Applicant is best placed to be able to identify in the first instance scope and assessment triggers and would be better placed and resourced to undertake a public planning register review and update, the Hertfordshire Host Authorities have sought to take a pragmatic approach in seeking to assist the Examining Authority. Therefore, the Hertfordshire Host Authorities consider that the following elements of the application are most likely to be relevant as they provide spatial intelligence relating to the scope of the highways network simulated and various environmental zones of influence. • Chapter 21 In-Combination and Cumulative Effects Core Zone of Influence [APP-164] Figure 21.1 – the Hertfordshire Host	The Applicant notes this question was directed at the local authorities and has no further comment.

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			<p>Authorities consider that the Air Noise Zone of Influence to be the most important).</p> <ul style="list-style-type: none"> • Environmental Statement and Related Documents Chapter 18 Traffic and Transportation Figures [AS-044] Figure 18.3 Simulation Network. However: • The outer limits of these cover an extensive area of Hertfordshire (the air noise Zone of Influence, for example, extends right the way across Hertfordshire to Buntingford). • Within the time available and without committing considerable resources, Hertfordshire Host Authorities are not able to tailor this exercise to identify those applications / permissions contained within the simulation network or various different types of Zone of Influence. <p>In light of the above, the Hertfordshire Host Authorities have taken the view that a pragmatic approach would be to restrict the assessment to applications / permissions:</p> <ul style="list-style-type: none"> u. Within the five local authority areas covered by the policy analysis within their Local Impact Report – representing a reasonable arc of influence around the airport – Dacorum, City and District of St Albans, North Hertfordshire, Stevenage and Welwyn and Hatfield. ii. For residential development of 10 or more dwellings; iii. Together with a broad brush question to the five local planning authorities - 'are there any big proposals'? The results (excluding reserved matters/variation applications/permissions) of the analysis for ii. follows from Dacorum, North Hertfordshire and Stevenage. No intelligence has been forthcoming from the City and District of St Albans and Welwyn and Hatfield Council at the time of the deadline for submission. Dacorum Applications: <ul style="list-style-type: none"> • 23/02580/MFA - External alterations comprising the installation of new windows and doors and the recladding of the external walls of the building, internal subdivisions, provision of balustrades and balconies and three storey extension to front of the side alley entrance to facilitate the change of use of first and second floor from indoor recreation to 18 dwellings, office, gym and ancillary storage for retail. 78 - 185 Marlowes, Hemel Hempstead. North Hertfordshire Applications: • 23/02417/FP – Erection of 10 residential dwellings (1 x 2-bed, 7 x 3-bed, 1 x 4-bed and 1 x 5-bed) 	

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			<p>including creation of vehicular access, parking, landscaping, and associated works following demolition of dwelling and outbuildings. Tussocks, The Causeway, Therfield, SG8 9PP:</p> <ul style="list-style-type: none"> • 23/02630/PNMA (Prior approval Class MA) - Conversion to 29 self-contained 1-bed residential units with associated cycle and refuse/recycling provisions. The Exchange, Queen Street, Hitchin. Stevenage Applications: • The Oval (23/00954/FPM) – 250 dwellings – Pending consideration. • 58 - 90 Queensway And Forum Chambers (23/00502/FPM) – 71 dwellings – pending consideration. Kings Court, London Road (19/00684/FPM) – 49 dwellings – Pending consideration. <p>Permissions:</p> <ul style="list-style-type: none"> • West Stevenage (21/00356/FPM) – 1500 dwellings – Resolution to grant subject to completion of S.106 agreement. • 224-230 Bedwell Crescent (22/00965/FPM) – 57 dwellings – Resolution to grant subject to completion of S.106 agreement. • Stewart House, Primett Road (22/00377/FPM) – 21 dwellings - Resolution to grant subject to completion of S.106 agreement. • North Car Park, Six Hills House (21/01283/FPM) – 94 dwellings - Resolution to grant subject to completion of S.106 agreement. • 10A And 10B Burwell Road (22/00437/FPM) – 20 dwellings – Resolution to grant subject to completion of S.106 agreement. Brent Court (22/00963/FPM) – 96 dwellings - Resolution to grant subject to completion of S.106 agreement. <p>In relation to iii.: In contributing to responding to BCG.1.4 [REP4-126], Stevenage Borough Council highlighted the proposal for 1,500 dwellings to West Stevenage (21/00356/FPM). Since ExQ1 that proposal now has resolution to grant, subject to completion of S.106 agreement. In terms of the three questions:</p> <ul style="list-style-type: none"> i. Are there any applications/permissions which impact upon the proposed development? It is highly unlikely that any of the proposed developments identified would individually or collectively, impact upon the proposed development as there is no apparent direct physical overlap or direct interaction. 	

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>ii. Are there any applications/permissions which might be impacted by the proposed development? Of the applications / permissions listed above, those underlined thus appear to be within the Environmental Statement and Related Documents Chapter 18 Traffic and Transportation Figures [AS044] (Figure 18.3 Simulation Network) and those in italics thus appear to be within Chapter 21 InCombination and Cumulative Effects Core Zone of Influence [APP-164] (Figure 21.1). Applications / permissions underlined and in italics thus appear to be within both. Whilst a number of the applications / permissions identified above are within the Simulation Network, it is considered highly unlikely that they would experience any discernible impact from the Proposed Development. It is reasonable to assume those applications / permissions within the Air Noise Zone of Influence would be impacted by the proposed development.</p> <p>iii. Do i. and ii, impact upon the ES conclusions? The Hertfordshire Host Authorities consider that this is a matter principally for the Applicant to review and assess at least by sensitivity test and provide necessary environmental information as necessary to ensure adequate assessment including cumulative assessment. Particularly, the Hertfordshire Host Authorities' response to BCG.1.4 [REP4-126] identified 21/00356/FPM , as being a substantive proposal within the Air Noise Zone of Influence and within the LAeq,T and other noise metrics of the Environmental Statement. Since ExQ1 that proposal now has a resolution to grant subject to completion of s106 agreement.</p> <p>Updates on:</p> <p>1. Wandon End Solar Farm – (Ref 22/03231/FP) The LPA received amended plans with updates to supporting technical work and addendum to the ES on 30/11/2023. The amendments seek to address objections and comments from statutory consultees, namely: Natural England, Lead Local Flood Authority (LLFA); HCC Highway Authority; HCC Archaeology; NHC Conservation Officer and NHC landscape consultant (TLP). The LPA is currently undertaking public re-consultation on the application which started on 08/12/2023 and ends 15/01/2024. Responses will be reviewed, and a recommendation will be submitted to the Planning Control Committee in March 2024.</p> <p>2. East of Luton Planning Application by Bloor Homes (Ref: 17/00830/1; 22/02905/FP; 22/02904/FP) The applications</p>	

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>have agreed extensions in time to the end of March 2024, and are likely to require further extension following progression with a Masterplan as required by Policy SP9: Design and Sustainability in the adopted North Hertfordshire Local Plan 2011-2031. The Masterplan is progressing to preferred options, with a preferred option Masterplan to be reviewed, before being authorised and considered suitable by NHC for public consultation. Subject to an agreed Masterplan, only then will the planning applications be determined, the earliest being second half of 2024. Both of these proposals should be fully taken into account in the assessment by the Applicant in terms of the DCO and the EIA.</p>	
7	LADACAN	[REP7-104] ID 5	<p>This response does not allay our concerns. Further clarity is likely to be provided were the ExA to request sight of an unredacted copy of the Business Case for the DART. In any case the alignment of the DART is clearly such that it would naturally extend towards Terminal 2, rather than ending more conveniently beside Terminal 1. On the matter of whether the Access Road was due to be started before the DCO Application, the minutes of the pre-application meeting between the Applicant and PINS are clear: "The Applicant confirmed that, for the proposed link road for New Century Park, Luton Borough Council had resolved to grant Town and Country Planning Act (TCPA) permission subject to completion of a section 106 agreement. It is anticipated that Phase 1 (western end) of that approval would be under construction at the time of submission of the DCO application." (our underline) (TR020001-Advice-00006-1-190815_TR020001_Project update meeting_FINAL.pdf, page 2, para 2) It appears however that the Planning Permission Notice for the Century Park Access Road is due to expire on 30 Jun 2024, reference 17/02300/EIA on the LBC planning portal.</p>	<p>The Airport Access Road will be delivered under the DCO. Please refer to the plans for the Airport Access Road contained within Airport Access Road and Luton DART Long Section Plans [APP-027].</p>
8	Luton Borough Council	[REP7-090] BCG.2.4	<p>There have been no planning applications submitted that would affect the Proposed Development or be affected by the DCO since the first set of written questions. A consultation under Schedule 2, Part 8, Class F of the Town and Country Planning (General Permitted Development) Order 2015 was submitted by the airport operator to LBC to determine whether the creation of a solar farm to the south of the runway was permitted development. LBC confirmed that the proposal constituted permitted development on 13 December (ref: 23/01314/GPDOPD). The solar farm will generate up to 10 Megawatts of electricity for use on the airport and will increase the renewable energy generated on site to at least 25% of the airport's direct energy needs. With regard to the cross boundary application for the 1.46km of underground cables (under Eaton Green Road) to connect to the proposed 106 hectare solar farm in North Hertfordshire (ref: 22/01657/FUL), that application is yet to be determined, though it</p>	<p>This is noted, however does not form part of this application for Development Consent.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>is likely that it will be reported to LBC's Development Management Committee on 20 March 2023.</p>	
9	Luton Borough Council	<p>[REP7-089] Section 4.5</p>	<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. 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).</p> <p>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.</p>	<p>As taken from the Noise response above, the Overarching Aviation Noise Policy Statement Policy Paper (Ref 9) states:</p> <p><i>"We consider that "limit, and where possible reduce" remains appropriate wording. An overall reduction in total adverse effects is desirable, but in the context of sustainable growth an increase in total adverse effects may be offset by an increase in economic and consumer benefits. In circumstances where there is an increase in total adverse effects, "limit" would mean to mitigate and minimise adverse effects, in line with the Noise Policy Statement for England."</i></p> <p>This language does not specify that "an increase in total adverse effects" is only in relation to a do-something vs do-minimum increase. The Proposed Development, with its increase in economic and consumer benefits, complies with this policy wording which is an evolution and clarification of the wording in the Aviation Policy Framework (Ref 10), see Commentary on the Overarching Aviation Noise Policy Statement [REP1-012].</p> <p>In the situation where an increase in total adverse effects occurs (in relation to a do-something vs do-minimum increase or an increase by comparison to a historic baseline), the policy wording is clear that "limit" means to "mitigate and minimise adverse effects, in line with the Noise Policy Statement for England". As previously noted by the Applicant, the Noise Policy Statement England (Ref 11) objectives are explicitly in the context of Government policy on sustainable development.</p> <p>The Applicant disagrees that the noise assessment remains outside the planning balance. The Planning Statement [REP5-016] provides a clear quantification of the planning balance, taking into account the economic benefit and the adverse noise effects of the Proposed Development.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
10	Stop Luton Airport Expansion (SLAE)	[REP7-114] Pages 8 and 9	<p>SLAE Response Factually incorrect as the land is not owned by the applicant it is owned by Luton Borough Council. Is this further evidence that Luton Rising and Luton Borough Council are one entity all but in legal definition?</p> <p>1.3.3 The main elements of the Proposed Development include the following: (h) Landscaping and ecology improvements, including the replacement of existing and planned public open space and amenities.</p> <p>SLAE Response Factually incorrect as planned public open space is not a replacement.</p>	<p>The Applicant is clearly a distinct entity from LBC.</p> <p>The Proposed Development comprises works to existing open space (the existing WVP) as well as to the Replacement Open Space (the land to become part of WVP).</p>

2.19 WATER ENVIRONMENT

Table 2.19 provides a response to matters the Applicant considers need to be responded to.

Table 2.19 Applicant's Response to Deadline 7 Submissions – Water Environment

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	Environment Agency	[REP7-091]	<p>‘ExQ2: WE.2.1 Following ongoing discussions with the applicant we are now at a stage where we would not refuse in principle the reserve option if it were implemented. We do believe the reserve option would be harder to implement and is not our preference as it creates an unnecessary risk to ground water quality, however, such risks associated with the reserve option could be mitigated through engineering solutions. We are happy that the current documents secured by the DCO will ensure that we are able to assess the detailed design once it comes forwards, following the DCO.’</p>	<p>The Applicant acknowledges the Environment Agency's response.</p>
2	Environment Agency	[REP7-091]	<p>ExQ2: WE.2.2 The information referenced is not required prior to the close of the examination and can be submitted at the detailed design stage. We are still working with the applicants to ensure that the design principles document captures all of our concerns and ensures we are able to assess the documents that will be required later on at the detailed design stage.</p>	<p>The Applicant continues to engage with the Environment Agency weekly on the Design Principles. The EA is currently reviewing the updates to the Design Principles submitted at Deadline 7 [REP7-034].</p>
3	Luton Borough Council	[REP7-090]	<p>ExQ2: WE.2.3 LBC has a meeting with the Applicant post Deadline 7 to discuss the outstanding issue in relation to the drainage improvements that were to be secured in association with Project Curium (18mppa) and also has a meeting with the Applicant in the same week to discuss the draft DCO (and the implications of Article 44 for this outstanding</p>	<p>The Applicant has updated article 44 of the Draft DCO [REP7-003] at the Deadline 7 submission. The update to article 44 enables specified conditions (including drainage) to remain in effect after serving of notice and to continue to have effect in</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
		Section 11, page 53	<p>element of Project Curium). LBC is also in discussion with the airport operator and is aware that the airport operator has submitted a water discharge activity permit to the Environment Agency (EA) in August 2023, this has yet to be allocated to a permitting officer due to the complexity of the permit and a national level backlog of undetermined applications.</p> <p>The issue with a potential gap in the drainage improvements remains unresolved and it is LBC's view that historic drainage infrastructure issues should be remedied expediently by the DCO and not left until Phase 2 (should they not have already been undertaken by the airport operator when the notice is served).</p>	<p>relation until the condition is discharged, or LBC certifies in writing that the condition has been superseded by an equivalent obligation under the DCO.</p>
4	Stop Luton Airport Expansion (SLAE)	<p>[REP7-114]</p> <p>page 2</p>	<p>Hydrogeological.</p> <p>SLAE comment: There are a lot of estimates and assumptions in the Hydrogeological documents, awaiting a detailed design and based upon literature value. This is too late for the Examiners and Interested parties to review in this process.</p>	<p>It is acknowledged that further works are required on the drainage design, hydrogeological characterisation and assessment of impacts</p> <p>To address this, Requirement 13 of Schedule 2 of the updated Draft DCO [TR020001/APP/2.01] states that <i>'No part of the authorised development may commence until for that part written details of a surface and foul water drainage plan, including means of pollution control and monitoring, have been submitted and approved in writing by the relevant planning authority following consultation with the Environment Agency, the lead local flood authority and the relevant water and sewerage undertakers, on matters related to their functions.'</i></p> <p>In addition, the Applicant has worked with statutory stakeholders to agree the secured Drainage Design Principles [REP7-035] that need to be implemented in the detailed design.</p>
5	Stop Luton Airport Expansion (SLAE)	[REP7-114]	<p>TR020001-002162-5.02 Environmental Statement Appendix 20.6 Hydrogeological Risk Assessment Report - Drainage Rev1</p> <p><i>2.2.3 Surface runoff from the new aprons will discharge into the existing central soakaway. Live monitoring of contaminants within the drainage system is proposed and any contaminated water will be diverted to the attenuation tanks. Water stored in the tanks will be discharged into the TW foul sewer at an agreed discharge rate.</i></p> <p>SLAE response SLAE ask for further details of the proposed 'live monitoring' system, process and hours / days of monitoring? Live monitoring suggests a 24/7 operation with a person watching and able to react real time. Where will the results be reported and will these be publicly available and when? What happens if contaminated water cannot be diverted to the attenuation tanks? What if an 'agreed discharge rate' is not agreed with TW?</p>	<p>The details of the live monitoring system will be confirmed at the detailed design stage in line with the Drainage Design Principles [REP7-035] (see DDS.60) and any permits/consents from relevant stakeholders (the EA or TW).</p> <p>Monitoring would be continuous and automated. The monitoring results would not be publicly available, but monitoring data would be provided to the relevant stakeholders to demonstrate compliance with the consent/permit conditions. The diversion of contaminated water would be automated with contingency methods in place.</p> <p>The Applicant is engaging with Thames Water on its preferred option of Thames Water accepting contaminated surface water discharge, however the reserve option of treating onsite and discharging to ground remains.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
6	Stop Luton Airport Expansion (SLAE)	[REP7-114]	<p>2.8.3 Where there is a possibility of de-icing, the strategy below will be used:</p> <p>c. Any residual fluids resulting from the de-icing of aircraft and hard surfaces, would be collected by vacuum sweeper or collected by the drainage system, stored in the polluted storage tank, and discharged to the proposed water treatment plant. Monitoring within the drainage system will divert flow to the polluted storage tanks or water treatment plant when glycols are detected;</p> <p>d. The aforementioned TOC monitor will be integral in diverting any remaining glycol that has been dissolved in rainwater runoff away from the clean water system.</p> <p>SLAE response SLAE ask for further details of the proposed 'monitoring', process and operational hours / days of monitoring? Live monitoring suggests a 24/7 operation with a person watching and able to react real time. Where will the monitoring results be reported and will these be publicly available and when? What happens if the flow to the polluted storage tanks or water treatment plant when glycols are detected doesn't work? What if the TOC fails?</p>	<p>The details of the live monitoring system will be confirmed at the detailed design stage in line with the Drainage Design Principles [REP7-035] and any permits/consents from relevant stakeholders (the EA or TW).</p> <p>Monitoring would be continuous and automated. The monitoring results would not be publicly available, but monitoring data would be provided to the relevant stakeholders to demonstrate compliance with the consent/permit conditions.</p> <p>The diversion of contaminated water would be automated with contingency methods in place for monitoring system(s)/sensor failure.</p>
7	Stop Luton Airport Expansion (SLAE)	[REP7-114]	<p>2.8.4 An automated water quality monitoring system will be installed within the drainage infrastructure upstream of the WTP. The system will allow any water which contains elevated levels of contaminants to be diverted to the WTP rather than being discharged directly to Infiltration Tank 2.</p> <p>SLAE Response It is assumed that there will be two different monitoring system installed, automated and non-automated. Is this assumption correct and if not, then the application paragraphs should clearly make this clear.</p>	<p>The details of the monitoring will be confirmed at the detailed design stage in line with the Drainage Design Principles [REP7-035] and any permits/consents from relevant stakeholders (the EA or TW).</p> <p>It is assumed that there will be automated monitoring systems installed to divert contaminated water, together with non-automated monitoring.</p>
8	Stop Luton Airport Expansion (SLAE)	[REP7-114]	<p>2.8.5 The automated monitoring system will include continuous TOC monitoring (for de-icer contaminated and other organics runoff detection) and a sensor to detect any floating pollutants (such as oil).</p> <p>SLAE Response How often will the automated monitoring system be maintained and what mechanisms are in place to identify when there is an issue, such as a failed sensor?</p>	<p>The details of the live monitoring system including maintenance and automated systems to identify potential faults will be confirmed at the detailed design stage in line with the Drainage Design Principles [REP7-035] and any permits/consents from relevant stakeholders (the EA or TW).</p>
9	Stop Luton Airport Expansion (SLAE)	[REP7-114]	<p>2.9.1 A preliminary assessment of the drainage water quality has been developed based on limited existing airport water quality monitoring data and an understanding of typical drainage systems from other sites.</p> <p>SLAE Response</p>	<p>The Applicant has worked with statutory stakeholders to agree the secured Drainage Design Principles [REP7-035] that need to be implemented in the detailed design. This includes further characterisation of drainage streams and updated assessments.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			What is the ratio of assessment of limited existing airport water and typical drainage systems from other sites. Can this be broken down by Luton airport and each site named / identified? Percentages can be used.	
10	Stop Luton Airport Expansion (SLAE)	[REP7-114]	<p>2.9.4 Detailed information of the surface water quality in the existing airport drainage is not available. During detailed design, baseline monitoring will be undertaken to characterise the chemical components in the surface water runoff and determine the specific treatment processes that will be required.</p> <p>SLAE Response Why is detailed information of surface water quality not available? It would have been known over 5 years ago that this would be required?</p>	The Applicant has worked with statutory stakeholders to agree the secured Drainage Design Principles [REP7-035] that need to be implemented in the detailed design. This includes further characterisation of drainage streams and updated assessments.
11	Stop Luton Airport Expansion (SLAE)	[REP7-114]	<p>2.9.12 Significant concentrations of fuels and oils, anticipated to predominantly comprise BTEX and naphthalene, will not be present in the discharge to Infiltration Tank 2 as the monitoring system (TOC and product) and Class 1 separators (<5 mg/l) in the drainage are considered sufficient to divert these to the contaminated water system.</p> <p>SLAE Response Who has made the assumption that the Class 1 separators in the drainage are considered sufficient?</p>	TOC monitoring systems and Class 1 oil separators are a standard drainage mitigation implemented at airports throughout the UK to prevent discharge of polluted water to the environment.
12	Stop Luton Airport Expansion (SLAE)	[REP7-114]	<p>The Ref 16 EPA Office of Environmental (2012). Guidance on the setting of trigger values for storm water discharges to off-site surface waters at epa ippc and waste licensed facilities. Issue No. 1. Ireland. (Accessed 10 October 2022). Available at: https://www.epa.ie/publications/licensing--permitting/wastewater/Licensee-Guidance-on-the-setting-of-trigger-values---Final-.pdf</p> <p>SLAE Response This reference is not available and returns an Error 404 (date 06/01/2023). Why is an Irish reference used? Why not an European or UK reference?</p>	This reference (Ref 12) was used in this instance as there was no UK or European equivalent reference for this matter.
13	Stop Luton Airport Expansion (SLAE)	[REP7-114]	<p>TR020001-002138-5.02 Environmental Statement Appendix 20.3 Hydrogeological Characterisation Report Rev 2</p> <p>1.1.3 The report has been prepared based on the hydrological and hydrogeological data available at this time and should be considered, and if required revisited, during detailed design and prior to commencement of construction activities.</p> <p>SLAE Response Which phases will a detailed design prior to the commencement of construction.</p>	Requirement 13 of Schedule 2 of the Draft DCO [REP7-003] states that 'No part of the authorised development may commence until for that part written details of a surface and foul water drainage plan, including means of pollution control and monitoring, have been submitted and approved in writing by the relevant planning authority following consultation with the Environment Agency, the lead local flood authority and the relevant water and sewerage undertakers, on matters related to their functions.'
14	Stop Luton Airport Expansion (SLAE)	[REP7-114]	<p>1 This is a Government target, for which the precise definition will be subject to further consultation following the Jet Zero Strategy, and which will require further mitigations beyond those secured under the Development Consent Order.15</p>	The target referred to is set in Jet Zero Strategy and is/will be applicable to the airport. The further definition relates to which activities are included under the final definition of 'airport ground operations' under Jet Zero. The Applicant has committed to consider this in the development and ongoing review of the full Greenhouse Gas Action Plan, required in accordance with the Outline

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>SLAE Response SLAE ask that any further mitigations be allowed to be applied retrospectively.</p>	<p>Greenhouse Gas Action Plan [APP-081] which will allow further mitigation to be applied</p>
15	Stop Luton Airport Expansion (SLAE)	[REP7-114]	<p><i>2.3.1 Monthly rainfall records have been obtained from the nearby Runley Wood Pumping Station over the period from January 1989 to July 2022 (Ref. 1). These are shown in Figure 2 in Appendix A to this report. Rainfall varies significantly from month-to-month and year-to-year but is generally observed to be highest during winter months and lower during summer months. Monthly rainfall values from this Station range from 1.2mm (June 2018) to 176.4mm (May 2007).</i></p> <p>SLAE Response Like LR's definition of 'local' etc, How far is 'nearby'? LU1 1UB, Runley Wood is 4.9 miles away and near Dallow Road. This questions the monthly rainfall values as Runley Wood is on a plateau and Luton Airport is on the top of a Hill. It would be more accurate to measure like for like.</p>	<p>Runley Wood Pumping Station is the most proximal EA rainfall gauge to the site, so has been included in the baseline.</p> <p>It is noted that other rainfall datasets have been reviewed in the development of the drainage design, and will be reviewed again during the detailed design.</p>
16	Stop Luton Airport Expansion (SLAE)	[REP7-114]	<p><i>5.7.4 The groundwater levels recorded under the landfill from January 2018 to December 2018 show a maximum seasonal variation of 10.94m, this was observed in borehole LF-BH04 between January and June 2018. This is due to a high groundwater level reading taken in June 2018 that is dissimilar to all other readings at this location and is considered to be an anomalous reading. However, this should be confirmed with further groundwater monitoring. The next highest seasonal variation observed is 7.6m within LF-BH05.</i></p> <p>SLAE Response Have further tests been carried out? It might be wise to undertake further tests following the recent rainfall since November, December (2023) and January (2024) that has been experienced, to confirm if the reading is anomalous?</p>	<p>Selected groundwater monitoring has continued throughout the DCO process, with additional monitoring required as part of the detailed design and secured by Design Principles [REP7-034].</p>
17	Stop Luton Airport Expansion (SLAE)	[REP7-114]	<p><i>5.10.2 Trends in the recent past have shown that the UK climate is continuing to warm. The UK Climate Impact Programme 2018 (UKCP18) (Ref. 27) provides the most recent climate predictions, which are as follows:</i></p> <p><i>a. average summer temperatures are estimated to increase by 5oC, whilst the average winter temperatures are estimated to increase by 3.4oC (both 50th percentile);</i></p> <p><i>b. the average summer rainfall rate is estimated to decrease by 30%, whereas the average winter rainfall rate is estimated to increase by 31% (both 50th percentile); and</i></p> <p><i>c. an overall increase in extreme weather events</i></p>	<p>A Flood Risk Assessment [REP4-038] has been undertaken to identify flood risk to and from the Proposed Development, taking into consideration climate impacts.</p> <p>The Flood Risk Assessment does not assess flooding of existing infrastructure, where that is not directly affected as a result of the Proposed Development.</p>

I.D.	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>SLAE Response Will the tunnel under the taxiway on the approach to the airport cope with these increases as it has a history of flooding? Will the route of the DART be going from the existing terminal to the proposed Terminal 2 cope?</p>	
18	Stop Luton Airport Expansion (SLAE)	[REP7-114]	<p><i>6.2.32 However, the risk of the Main Application Site affecting conditions at Kimpton could increase if there is an accelerated dispersal rate. This could occur if a significant fracture flow pathway becomes active, although there is no indication that this pathway exists at the Main Application Site. However, additional site investigation works are proposed in advance of construction to assess this risk further and allow mitigation to be deployed if required.</i></p> <p>SLAE Response What mitigation measures would be deployed? does this mean Kimpton could become flooded? Recent heavy rain, has it changed any of the models, flows and pathways?</p>	<p>The drainage Design Principles [REP7-035] include a number of measures to prevent an increase in flood risk to Kimpton from the Proposed Development. These include additional site characterisation and further mounding assessments. Exact mitigation measures, if required, would be dependent on the encountered conditions but could include measures such as ground treatment.</p> <p>The recent wet weather does not impact the findings of our assessment. The historical high levels experienced in 2001 which led to flooding at Kimpton have not been reached.</p>

2.20 WIGMORE VALLEY PARK

Table 2.20 provides a response to matters the Applicant considers need to be responded to.

Table 2.20 Applicant's Response to Deadline 7 Submissions – Wigmore Valley Park

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	Friends of Wigmore Park	[REP7-099]	<ol style="list-style-type: none"> 1. General discourse regarding walking routes and use of the existing countryside (ROS area) for walking, mostly dog walking already. 2. Concerns that <i>'the loss of the Park will disadvantage two groups of Luton residents. The new park will not be accessible for those who are wheelchair bound, those with walking difficulties, those who have infants in prams and young children in tow, and by older children whose parents will not allow them to be so far from home, as the new park will be'</i>. 3. Concerns over the amenity value lost and that which will be provided in the ROS. 4. Concerns regarding the establishment of the ROS. 	<ol style="list-style-type: none"> 1. The land has a number of public rights of ways that has allowed the use of these routes as part of the connections to the wider countryside; this does not confer rights across the whole of this land which has been previously managed for arable agricultural purposes and more recently has been taken out of arable production. See Table 2.4 of this document for a detailed response from the Applicant on any "rights" over the Replacement Open Space. 2. The proposals consented by Green Horizons Park (GHP) including new play area, skate park and refurbished pavilion adjacent to existing car park in the northern part of the park, and improved paths are still capable of being delivered, and the Applicant is making separate arrangements to bring this work forwards. The area of WVP that is to be removed does not provide inclusive access currently. The Replacement Open Space (ROS) will provide new footpaths and surfaced routes. Inclusive design and access for all will be key to the detailed design to meet Requirement 9 of the DCO. 3. The ROS will provide amenity value with a focus on replacing habitats i.e.g.orchids, as well as creating a mosaic landscape of varied habitats and biodiversity. This will differ in character to the more formal parkland retained within WVP and provide a transition into the wider countryside beyond the Park. 4. The ROS will be open to the public once preparation works are practically complete and will feature an establishing mosaic of different

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
				<p>landscape typologies. Existing retained vegetation will provide character and maturity whilst the new planting areas bed in and mature, it will not be barren and as identified in previous responses there are a number of ways greater maturity can be secured via Requirement 9.</p>
2	Friends of Wigmore Park	[REP7-100]	<p>Claim that the countryside to be used as the Replacement Open Space is already designated open space or at least used as such. General comment on the recently erected signage.</p>	<p>See Table 2.4 of this document for a detailed response from the Applicant on any "rights" over the Replacement Open Space.</p>
3	Richard Choppin	[REP7-110]	<p>Main concerns is that the ROS will not provide inclusive access. Submission also queries the rights of ways identified in the Rights of Way Plans.</p>	<p>The GHP planning permission includes a new play area, skate park and reconditioned pavilion adjacent to existing car park as well as a network of surfaced paths in the existing WVP. The area of WVP that is to be removed does not provide inclusive access currently. The ROS will provide new footpaths and surfaced routes. Inclusive design and access for all will be key to the detailed design to meet Requirement 9 of the DCO.</p> <p>With regard the Rights of Ways Plans, these were based upon the definitive rights of way map. See Table 2.4 of this document for a detailed response from the Applicant on any "rights" over the Replacement Open Space.</p>

REFERENCES

- Ref 1 Department for Transport (2023) TAG unit A5-2 aviation appraisal
Ref 2 LUC prepared for Central Bedfordshire Council (2022), Central Bedfordshire Tranquillity Strategy
Ref 3 Civil Aviation Authority (2019), CAP1731 Aviation Strategy – Noise Forecast and Analyses
Ref 4 Department for Transport (2023), Policy Paper: Overarching Aviation Noise Policy
Ref 5 Night flight restrictions at Heathrow, Gatwick and Stansted: Annex F Guidelines on Dispensations, Department for Transport, July 2014
Ref 6 Her Majesty's Stationery Office (2013), The Aviation Policy Framework.
Ref 7 Department for Environment Food and Rural Affairs (2010), Noise Policy Statement for England
Ref 8 World Health Organisation (2018), Environmental Noise Guidelines for the European Region.
Ref 9 Department for Transport (2023), Policy Paper: Overarching Aviation Noise Policy
Ref 10 Her Majesty's Stationery Office (2013), The Aviation Policy Framework.
Ref 11 Department for Environment Food and Rural Affairs (2010), Noise Policy Statement for England
Ref 12 Environmental Protection Agency (2012), Guidance on the Setting of Trigger Values for Storm Water Discharges to Off-Site Surface Waters at EPA IPPC and Waste Licensed Facilities

APPENDIX A



The Farm Office
Hoo Farm
Offley
Hertfordshire SG5 3ED

Telephone: 01462 769302
Email: info@pilkingtonfarms.com

23 January 2024

Mr Alex Fryc
Property & Acquisition Manager
Luton Borough Council
Luton Rising

Dear Alex

Re: Wandon End Land

As per our discussion, this is just to confirm Pilkington Farms Partnership and prior to that The Trustees of Richard Pilkington, farmed the land shown on the attached plan as part of the wider agricultural operation on a rotational basis growing mainly cereal crops.

This activity ceased in May 2019 and, at no point before that time, was the land used for recreational purposes.

I hope this helps in resolving this matter.

Yours sincerely,


Tom Dumin BSC. FRAV
CEO

Enc: Map

0.3556908,1371m/dats+3em11tc37entry-thu

AD England LBC Rent Travel booking

