

Jo Dowling
Lead Member of the Examining Authority
The Planning Inspectorate

Our Ref
TGH/TGH/165993.0001
Date
25 January 2024

By Email

Dear Ms Dowling

Application by London Luton Airport Limited for an Order granting Development Consent ("DCO") for the proposed London Luton Airport Expansion Project

Applicant's request for amendment of the examination timetable for submission of certain documents

We write on behalf of Luton Rising ("the Applicant"), promoter of the London Luton Airport Expansion Project. The Applicant would like to seek the Examining Authority's ("ExA's") agreement to five matters which would involve a departure from the published examination timetable.

In making this request, the Applicant fully understands that any variation to the timetable cannot provide for the submission of 'new' evidence which would not provide Interested Parties with the opportunity to respond. The Applicant believes that its proposals do not prejudice this principle. The Applicant considers these adjustments to the submission timetable will benefit all parties in the final two weeks of the examination, and assist the ExA during the recommendation stage. The five matters are:

1. Section 106 Agreement

In recent days significant progress has been made, with the agreement close to completion, though it has not proved possible to conclude the agreement by Deadline 9. The Applicant's preference remains to secure obligations by agreement, and it considers this still to be a realistic outcome before the end of the examination. In view of this, the Applicant is requesting additional time to allow the process to conclude. For Deadline 9, the Applicant proposes to submit to the ExA:

- (a) the Applicant's proposed final form of s.106 agreement (as offered to the local authorities for signature); and
- (b) the Applicant's draft form of unilateral undertaking, and proposed additional DCO Requirements – which would secure the necessary obligations, should the agreement not be signed.

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Submission of the draft final documents under (a) and (b) at Deadline 9 would still allow Interested Parties an opportunity to comment on the proposals prior to conclusion of the Examination. The Applicant would then ensure one of options (a) or (b) is secured prior to the end of the examination, and provide the necessary confirmation / documentation to the ExA.

2. Statements of Common Ground

As mentioned in its Deadline 8 covering letter, the Applicant expects that discussions on some of the more involved, complicated, Statements of Common Ground (“SoCGs”) will unfortunately not be finalised by Deadline 9. Discussions are still ongoing with some of the host local authorities and any additional time the ExA can allow will help both parties submit, if not final, then a more complete picture of issues recorded in the SoCG.

Equally, some of the SoCGs contain ‘issues’ that will be resolved if third party agreements are finalised. Most agreements are close to being signed or are in the process of being signed such that many of the matters in SoCGs will become ‘agreed’ at that point. Again, an extension to submission of certain SoCGs will help provide a clearer picture to the ExA. Accordingly, the Applicant would propose:

- (i) to submit as many completed SoCGs by Deadline 9 as it can;
- (ii) rather than submitting draft SoCGs, defer submission of those documents to Deadline 10 (or by 9 Feb if the ExA is prepared to set a later deadline);
- (iii) submit an SoCG update at Deadline 9 confirming the position of all outstanding SoCGs and proposed submission date;
- (iv) submit at Deadline 10 (or later if agreed) final agreed SoCGs; and
- (v) submit a final Statement of Commonality along with the final submitted SoCGs.

3. Draft DCO and Validation (plus Explanatory Memorandum and Schedule of Changes to DCO)

The Applicant confirms that it will submit a Deadline 9 version of the draft DCO, along with the Explanatory Memorandum and Schedule of Changes. The Applicant is aware, however, from early sight of some of the Deadline 8 submissions that certain Interested Parties may be submitting further comments on the draft DCO at Deadline 9, once they have digested the Applicant’s response to the ExA’s commentary.

It would therefore be helpful if the Applicant could submit its preferred final form of the draft DCO at Deadline 10 so that the Applicant can reflect, if necessary, feedback received at Deadline 9. If the ExA agrees with this approach, then the Applicant would propose to submit at Deadline 10 a DCO validation report, rather than at Deadline 9.

4. Schedule of Negotiations

Again, the Applicant is ready to submit this document at Deadline 9 but it seems to the Applicant that it would be helpful to the ExA if this document could be submitted at Deadline 10 (or even by 9 February) so that the ExA is presented with as complete an update as possible.



5. Applicant's Closing Submissions

The Applicant is intending to submit a 'closing submissions' document at the end of the examination, an approach commonly taken by promoters of DCO applications. This is intended to pull together, and provide a narrative across, existing submission documents to assist the ExA and the Secretary of State in their reporting and decision-making functions. It is not intended to introduce new evidence.

Given that attention is naturally focussed at the current time on Deadline 9 and 10 deliverables, the Applicant is planning to submit its closing submissions document on the final working day of the examination, being Friday 9 February. With this in mind, the Applicant would welcome confirmation from the ExA that the examination will not close until after 11:59 on Friday 9 February.

We look forward to hearing from you.

Yours sincerely

Tom Henderson
Partner
For and on behalf of BDB Pitmans LLP

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M [REDACTED]
E [REDACTED]