



## Hertfordshire Host Authorities

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# HERTFORDSHIRE HOST AUTHORITIES' RESPONSE TO THE RULE 17 LETTER

London Luton Airport Expansion



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# 1 INTRODUCTION

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## 1.1 PURPOSE OF THIS DOCUMENT

- 1.1.1. This document has been prepared jointly by Hertfordshire County Council (“HCC”), Dacorum Borough Council (“DBC”) and North Herts Council (“NHC”), in collaboration with their technical consultants, referred to together as the “the Hertfordshire Host Authorities”. The Examining Authority published a Request for further information and written comments under The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 17 on 25 January 2024. The purpose of this document is to provide the Hertfordshire Host Authorities’ response to those requests.



## 2 THE HERTFORDSHIRE HOST AUTHORITIES' RESPONSES TO THE EXAMINING AUTHORITIES RULE 17 LETTER

Table 2-1 – Hertfordshire Host Authorities Responses to the Examining Authorities Rule 17 Letter

Examining Authority Request	Hertfordshire Host Authorities' Response
<p><b>All Relevant Planning Authorities, Chilterns Conservation Board (CCB) and Natural England (NE)</b></p> <p><i>Please provide your comments on the suitability of the SQA assessment findings, taking into account the Applicant's response to D7 submissions.</i></p>	<p>The Hertfordshire Host Authorities welcome the inclusion of the Special Qualities Assessment (SQA) [REP7-046] but do not consider that the assessment is suitably robust to enable full agreement of its findings.</p> <p>A number of points made in the Hertfordshire Host Authorities Comments on any Further Information / Submissions Received by Deadline 6 - Appendix 1 [REP7-085] remain outstanding. Key areas of concern that contribute to the conclusion that the SQA is not robust and that its findings cannot be relied upon include:</p> <ul style="list-style-type: none"> <li>• The appropriate establishment of baseline tranquillity is still required – a written narrative should be included outlining the tranquillity experienced within the Area of Outstanding Natural Beauty (AONB), particularly within the area affected. Understanding of tranquillity in the AONB should not rely on the reader having to interpret the mapping to gain an understanding.</li> <li>• Appropriate baseline narrative covering tranquillity and dark skies within the AONB – particularly within the area affected - is still required in order to understand and justify the assessment and conclusions in a robust manner.</li> <li>• Identification of the capacity of the baseline landscape – particularly within the area affected - to absorb more overflying aircraft is still required.</li> <li>• Impacts on features that contribute to the AONBs Special Qualities (SQs) such as distinctive buildings; attractiveness and setting of villages, places and features.</li> </ul> <p>'Susceptibility' in relation to tranquillity is anticipated to be higher than 'medium', given the importance of this designation. The Applicant should consider whether aircraft movements directly over the AONB are already at the AONB's 'capacity' to absorb such movements and therefore whether any further increase (however small or incremental) will result in a situation where the SQs become fundamentally compromised. This has still not been considered, and therefore the baseline environment has not been fully identified or factored into the assessment. A landscape at capacity to absorb further increases would have a much higher susceptibility.</p> <p>In relation to tranquillity and dark skies, a more detailed narrative description regarding the areas / receptors which would be affected and details regarding the change they would experience should be provided.</p> <p>The Hertfordshire Host Authorities maintains its position that the Lighting Obtrusion Assessment [APP-052] and [APP-053] fails to adequately identify likely significant effects in relation to landscape and visual impacts and maintains the need for an appropriate assessment of night-time effects. Night-time impacts should be considered within the SQA and include transient lighting impacts as part of the baseline narrative and assessment.</p> <p>The SQA bases its conclusions on consideration of 7 viewpoints, only 2 of which fall within overflight contours greater than 10 overflights per day. There is no consideration of impacts on the AONB where overflights are greater than 50, for example. The assessment therefore appears to take an 'average' in determining its conclusions, particularly in relation to susceptibility. With no consideration of the baseline capacity to absorb more aircraft, the conclusion that increases in aircraft movements are 'incremental' or that the baseline environment is already 'compromised' and therefore increases are not significant, is considered to be flawed. Further compromising the SQs would not result in a 'very low' magnitude of impact, particularly where it is already at capacity to absorb more overflights, nor would over 200 additional aircraft flights a day result in 'very low' magnitude of impact on that part of the AONB. Impact on a part of the AONB is impact on the AONB (e.g., Monkhill Ltd v Secretary of State for Housing, Communities and Local Government &amp; Anor (Rev 1) [2021]*), it's harm to natural beauty in that location, which is grounds in itself for refusing the development under paragraph 11(d)(i) of the NPPF. The SQA should therefore not be considering impacts based on an 'average' area of overflights (in this instance 10). There are areas of the AONB experiencing 200 additional overflights per day – the impact of this on the SQs in these locations therefore needs consideration and assessment, given that such an area would represent a 'worst-case' scenario in relation to harm to the AONB.</p>



Examining Authority Request	Hertfordshire Host Authorities' Response
	<p>The conclusions of the SQA are therefore considered to be flawed, given that they do not consider all potential impacts on the AONB's SQs, nor identify critical elements in the baseline, such as capacity to absorb additional overflights that has a significant bearing on susceptibility.</p> <p>*Paragraph 172 of the NPPF allows a council to reject a planning application because of an adverse impact on an AONB. Paragraph 172 of the NPPF provides that '<i>great weight</i>' should be given to conserving and enhancing landscape and scenic beauty in AONBs. In <i>Monkhill Ltd v Secretary of State for Housing, Communities and Local Government &amp; Anor (Rev 1)</i> [2021] the planning application was rejected (and upheld) because of the harm of 29 proposed houses would have on the AONB. The judgment also affirmed the pragmatic approach required with interpretation of planning policy.</p>