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London Luton Airport Expansion

Planning Inspectorate Scheme Ref: TR020001

Volume 8 Additional Submissions (Examination)

8.177 Applicant's Response to Deadline 8 Submissions

Infrastructure Planning (Examination Procedure) Rules 2010

Application Document Ref: TR020001/APP/8.177

The Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

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

8.177 APPLICANT'S RESPONSE TO DEADLINE 8 SUBMISSIONS

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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 8 submissions by Interested Parties (IPs). 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 are reflected in the final SoCG documents.

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. The Applicant's **Closing Submissions**, to be submitted at Deadline 11, will provide a summary of the Applicant's final position in respect of the principal matters considered during the course of the Examination.

1.1.3 In instances where the Applicant considers that no relevant 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.

1.2 Structure of document

1.2.1 Where possible, the Applicant has responded to Deadline 8 submissions in Tables 2.1-2.13. This includes responses to the following submissions:

- a. Buckinghamshire Council [REP8-046, REP8-047 & REP8-048]
- b. Caldecote Ward – South Cambridgeshire District Council [REP8-049]
- c. Central Bedfordshire Council [REP8-050, REP8-051 & REP8-052]
- d. Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire District Council 'the Hertfordshire Host Authorities' [REP8-054, REP8-055, REP8-056]
- e. Luton Borough Council [REP8-057 & REP8-058]
- f. Affinity Water Limited [REP8-061]
- g. Environment Agency [REP8-062]
- h. National Highways [REP8-065, REP8-066 & REP8-067]
- i. Andrew Mills-Baker [REP8-068]
- j. Bourn Parish Council [REP8-069]
- k. David Shipley [REP8-070]
- l. Friends of Wigmore Park [REP8-071]
- m. HarpendenSky.com [REP8-072]
- n. Holiday Extras Ltd [REP8-073]

- o. John A Smith [REP8-074]
- p. LADACAN [REP8-075 & REP8-076]
- q. Marilyn Whittle [REP8-077]
- r. Michael Reddington [REP8-078 & REP8-079]
- s. Peter White [REP8-080]
- t. Ron Taylor [REP8-081]
- u. Sandra Lawes [REP8-082]
- v. St Albans Aircraft Noise Defence [REP8-083]
- w. St Albans Quieter Skies (STAQS) [REP8-084]
- x. Stop Low Flights From Luton [REP8-085]
- y. Mr B. Strutt [REP8-086]
- z. The Harpenden Society [REP8-087]
- aa. Wheathampstead & District Preservation Society [REP8-089]

1.2.2 The Applicant's response to the above Deadline 8 submissions are outlined in the below tables, arranged by the relevant topic.

- a. Table 2.1 Climate Change and Greenhouse Gases
- b. Table 2.2 Compensation (including noise insulation)
- c. Table 2.3 Compulsory Acquisition and Temporary Possession of Land and Rights
- d. Table 2.4 Design
- e. Table 2.5 Draft Development Consent Order
- f. Table 2.6 Funding Statement
- g. Table 2.7 Green Controlled Growth
- h. Table 2.8 Need Case (includes Employment and Economics, Fleetmix & Flightpaths)
- i. Table 2.9 Noise and Vibration
- j. Table 2.10 Section 106 Agreement
- k. Table 2.11 Surface Access
- l. Table 2.12 Town Planning
- m. Table 2.13 Water Environment

2 APPLICANT'S RESPONSE TO DEADLINE 8 SUBMISSIONS

2.1 CLIMATE CHANGE & GREENHOUSE GASES

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

Table 2.1 Applicant's Response to Deadline 8 Submissions – Climate Change and Greenhouse Gases

I.D	Interested Party	Reference	Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	Ron Taylor	[REP8-081] page. 1	Have Luton Rising assessed the realistic potential of sustainable aviation fuel in their claims for reduced emission on next generation aircraft?	<p>For the purposes of the GHG assessment presented in Chapter 12 Greenhouse Gases [REP3-007] of the Environmental Statement (ES), the assumption of the overall emissions reduction from the use of SAFs is taken directly from the Jet Zero illustrative scenarios and sensitivities published by the UK Government to accompany the Jet Zero Strategy.</p> <p>The assessment applies the 67% emissions reduction figure relative to the use of kerosene, i.e. the most cautious end of the range supplied by the UK Government and therefore a reasonable assumption to adopt for the use of SAFs. This relates to the use of SAFs by current and new generation aircraft and does not relate to next generation aircraft specifically, which are those expected to use fuels other than kerosene/SAFs or a blend between the two.</p>
2	LADACAN	[REP8-075] page. 12	<p>As the Applicant's response implies, there are currently no binding targets for aviation emissions, nor any binding targets which will cap growth in the sector, either in the Jet Zero strategy or elsewhere.</p> <p>The Jet Zero One Year On 2023 update refers to targets, but these are for airport operations and surface access strategies (see for example JZ-OYO, page 23, top right and page 31).</p> <p>Policy is not yet clear on whether Government or industry or both will be expected to take action to ensure the hoped-for emissions reduction trajectory is met, or what remedial action will be taken if emissions are off-track.</p> <p>As we noted previously, ETS only covers emissions only relating to flights to and from European destinations. Long haul flights, which generate more emissions on a per-flight basis (and are responsible for a larger share of national UK aviation emissions) will not be addressed by the scheme, but instead be covered by the weaker offsetting mechanism, CORSIA, which does not apply any sectoral caps.</p> <p>Therefore our original concern still stands.</p>	<p>The Applicant does not agree that there are no measures in that will limit aviation emissions. The Jet Zero Strategy (Ref 1) at page 12 is clear that the Government has set a clear trajectory for the reduction of carbon emissions from aviation and that it will monitor progress against this. The Government is clear that it will monitor progress annually, with a major review of the Strategy every 5 years, and that <i>"If we find that the sector is not meeting the emissions reductions trajectory, we will consider what further measures may be needed to ensure that the sector maximises in-sector reductions to meet the UK's overall 2050 net zero target."</i></p> <p>The Government has made clear its intention to ensure compliance with the trajectory of carbon reduction identified by the introduction of further measures if necessary, which would include long haul flights as well as flights covered by the UK Emissions Trading Scheme (ETS).</p>

2.2 COMPENSATION (INCLUDING NOISE INSULATION)

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

Table 2.2 Applicant's Response to Deadline 8 Submissions - Compensation

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1.	Michael Reddington	[REP8- 078] Table 2 ID 1	Could the Applicant please confirm if these lands were procured after the initial public consultation for this DCO	Most of the land referred to was already held by the Applicant prior to the public consultation for the DCO.
2	Michael Reddington	[REP8-078] , Table 2 ID 6	Cut-off date is a major point of disagreement. The Applicant has responded in REP6-067 Item #35. The reasoning against this position were set out in Appendix B of REP6-154 (attached as Appendix C for reference).	The Applicant has reflected the previous representations on this point and made changes in the policy. See para 6.1.16 Compensation Polices, Measures and Community First [TR020001/APP/7.10]
3	Michael Reddington	[REP8-078] , Table 2 ID 10	Suggest replace 'public' by 'Community'	This change has been made.
4	Michael Reddington	[REP8-078] , Table 2 ID 13	The Applicant is Luton Rising but the Scheme will be implemented by the Airport Operator. The Applicant needs to set the budget for each year, and how this is to be done. The Airport Operator must not be allowed to control these issues	The Applicant has made provision to agree a rollout plan with the relevant planning authority and rather than an annual budget be set the Applicant has committed to deliver noise insulation in accordance with the approved rollout plan.
5	Michael Reddington	[REP8-078] , Table 2 ID 14	There has to be some remedy if the Scheme fails to insulate properties within specified timescales. Needs to be spelled out.	The Applicant can commit to delivering the noise insulation in accordance with the rollout plan and has explained that the ability to maintain its proposed programme will also depend on speed of take up, promptness of acceptance and timing of access to carry out the work.
6	Michael Reddington	[REP8-078] , Table 2 ID 16	This is a welcome addition and expands upon the current NIS remit. Further details are needed. For example: 1. What parties constitute the NIS and of them, who would have decision-making powers and who would attend for information purposes only 2. What constitutes a quorum for the NIS 3. Who sets the annual budget and how 4. How does the NIS now sit within the LLACC 5 Key Performance Indicators (KPIs) for the NIS.	The Applicant has made further changes to the Terms of Reference for the NIS sub-committee of LLACC as now set out in Compensation Polices, Measures and Community First [TR020001/APP/7.10] .
7	Michael Reddington	[REP8-078] , Table 2 ID 17	consider and comment..'. Means nothing. The NIS must be able to intervene, and with remedy, if enough members consider that the Scheme is not being run effectively or if funding has not been made available either for insulation (Applicant) or for testing (LLAOL).	The Applicant has made further changes to the Terms of Reference for the NIS sub-committee of LLACC as now set out in Compensation Polices, Measures and Community First [TR020001/APP/7.10] .
8	Michael Reddington	[REP8-078] , Table 2 ID 18	Suggest this is changed to 'Receive an annual report from the Airport Operator who will be the executor of the insulation Scheme, to include as a minimum: (i) List of all properties eligible for all forms of insulation -air, ground, traffic. (ii) Status of each eligible property for example, when approached, if agreed and when, insulated and when, tested and when. If not agreed: the reason why - positive rejection or timed-out. (ii) Date 'rejected' eligible property to be approached again.	The Applicant has made further changes to the Terms of Reference for the NIS sub-committee of LLACC as now set out in Compensation Polices, Measures and Community First [TR020001/APP/7.10] .

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
9.	Michael Reddington	[REP8-078] ISH9 - AP37 page. 16	However this response is limited to Air Noise Schemes 1- 5 compensation and not Ground Noise which attracts a further set of charges. Secondly it is not possible to determine if Non-residential properties are included and whether there would be any impact on funding potentially extensive works. Furthermore the figures quoted against each Scheme 1-5 are incorrect with respect to Compensation Policies [REP7-037] Table 1.1: Scheme 1 – unlimited for all habitable rooms; Scheme 2 – up to £20,000; Scheme 3 – Unlimited for bedrooms Scheme 4: Up to £6,000; Scheme 5: Up to £4,000.	<p>The Applicants response addressed the breakdown of the provisions made in the Funding Statement which was prepared and submitted with the DCO application documentation.</p> <p>At the time there was no ground noise scheme included in the proposed policy so this could not have been included in the breakdown. The threshold grant levels are not incorrect although it is acknowledged that the figures set out here do not align with the figures in the breakdown. For example, for Scheme 2 where the cost is stated to be 'up to' £20,000, a figure of £18,000 was used because the Applicant does not expect every grant under Scheme 2 to be made at the maximum level. This is considered to be a reasonable assumption for budgeting purposes.</p> <p>The non residential properties make up a very small number of cases currently estimated at 11, and whilst the maximum grant of £250,000 is high, the Applicant does not expect all applications to hit this level and therefore the contingency sums provided in the Funding Statement will be sufficient to cover the eventual cost of the non residential property applications.</p>
10	Michael Reddington	[REP8-078] Table 2 ID 7	The current Scheme has an Air Noise as well as a Ground Noise contour, and also a limit of 90dB SEL at least once per night.	As requested by the ExA, the Applicant has responded to this submission in the Applicant's Response to Examining Authority's Rule 17 Request dated 17 January 2024 [TR020001/APP/8.179] .

2.3 COMPULSORY ACQUISITION & TEMPORARY POSSESSION OF LAND AND RIGHTS

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

Table 2.3 Applicant's Response to Deadline 8 Submissions – Compulsory Acquisition and Temporary Possession of Land and Rights

I.D	Interested Party	Reference	Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	Dacorum Borough Council, Hertfordshire County Council and North Hertfordshire District Council	[REP8-056] page. 33	<p>There are a number of land interests held by the Hertfordshire Host Authorities which would be subject to powers of compulsory acquisition and / or temporary possession under the DCO.</p> <p>Further engagement is needed with the Applicant to understand the necessity for and acceptability of these proposals.</p>	<p>The Applicant notes that this matter remains in the PADSS at Deadline 9.</p> <p>The proposed land use has been the subject of consultation and engagement since the pre-application stage, and in respect of the relevant plots, the Land Plans have not changed. The Statement of Reasons [AS-071] sets out the justification and necessity for the land use of these plots in detail.</p> <p>The Applicant would highlight that the land in which the Hertfordshire Host Authorities are the freehold owners is required in connection with highway works which have been the subject of detailed engagement. The Applicant notes that those plots are subject to temporary possession only, and their use for the proposed highway works is regulated necessarily by the approval required under paragraph 6 of Schedule 2 to the draft DCO and the Protective Provisions for Local Highway Authorities.</p>

I.D	Interested Party	Reference	Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
				The Applicant would request that the Hertfordshire Host Authorities particularise any concerns they have so that the Applicant can assist the local authorities further.

2.4 DESIGN

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

Table 2.4 Applicant's Response to Deadline 8 Submissions - Design

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
Design principles				
1	Dacorum Borough Council. Hertfordshire County Council, North Hertfordshire District Council	[REP8-055] para. 1.1.3(a), page. 6	<p>The Hertfordshire Host Authorities are of the view that the revised Design Principles document [REP7-034] will not secure 'good design' at the Detailed Design Stage.</p> <p>The Hertfordshire Host Authorities are not aware of any narrative relating to landform and built form considerations that have informed the outline design but would welcome signposting to such. Such narrative should be complimented by the requirements set out in the Design Principles [REP7- 034] document to ensure that such considerations are carried through to detailed design.</p> <p>The inclusion of Landscape-specific Design Principles LAND.14 and LAND.15 are welcomed. However, the Hertfordshire Host Authorities do not believe that these principles are sufficient to ensure 'good design' at detailed design stage, particularly in relation to built form, as no meaningful principles are outlined.</p>	<p>The Design Principles [REP8-022] were up-dated at Deadline 8 to include the Terms of Reference for the Independent Design Review process which provides a further important mechanism for securing good design. The Designs Principles should be read in conjunction with Strategic Landscape Masterplan [APP-172] and Appendix 8.2 Outline Landscape and Biodiversity Management Plan of the ES [AS-029]. These documents are secured by Requirements 6 & 9 of the draft DCO updated at Deadline 8 [REP8-003].</p> <p>Landscape and visual impact were included as a consideration throughout the Sift process with all alternative options assessed against a specific Sift criteria and five sub-criteria. The preferred option was identified as performing best against the Sift criteria overall including S14 Landscape and Visual Impact and Environmental Land Use as set out in the Sift Reports [APP-209, APP-210 and APP-211].</p> <p>The Design and Access Statement Volume II [AS-124] section 5 (in particular, 5.4 and 5.6) describes the relationship between the airfield and building layouts (notably Terminal 2). It explains that the airfield needs to be at similar levels to the existing runway to comply with the relevant international standards and interface with the proposed terminal building and existing surface access notably the Luton DART. Both aspects influence the need to establish an essentially flat platform at a higher level. In addition, the siting of the terminal and associated buildings is significantly influenced by the location of the Eaton Green Landfill as set out in section 5.8 of the Design and Access Statement Volume II [AS-124].</p> <p>The massing and height of Terminal 2 and other supporting buildings are influenced by the Airport Planning Model as described in the Principles of Good Design in response to Action Point 33 [REP5-043] and define the maximum parameters for those parts of the Proposed Development.</p>
2	Dacorum Borough Council. Hertfordshire County Council,	[REP8-055] para. 1.1.3(a), page. 6	The Hertfordshire Host Authorities welcome the Applicants commitment to a Design Review and the ongoing discussions with regard to the proposed scope of works proposed to be encompassed by Review but maintain its requirement for the	The Applicant has added section 1.3 to the Design Principles [REP8-022] , to explain how the expected programme of works will be communicated to the wider community by the Applicant and airport operator publishing the

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
	North Hertfordshire District Council		<p>Operator to engage in on-going Masterplan discussions with the Hertfordshire Host Authorities, stakeholders and the community throughout detailed design to ensure each "part" of the development realises 'good design' and as part of a holistic Masterplan.</p> <p>The new paragraph 5(6) inserted in Schedule 2 of the Draft DCO submitted at Deadline 7 [REP7-003] committing the undertaker to providing 'specified authorities' with an expected programme of works for the initial five-year period and, on a five year basis thereafter. Whilst this is welcomed, it does not satisfy the Hertfordshire Host Authorities on the need for a rather more wide-ranging engagement process.</p>	information on their respective websites for the initial five-year period and updated on a five yearly basis.
3	Central Bedfordshire Council	[REP8-051] para. 1.3 page. 3	The updated Design Principles document provides suitable clarification regarding lighting but there is still insufficient information in terms of the smoke reduction measures. The Applicant provides some clarification in REP7-067 but this information should be included in the Design Principles document.	<p>Refer to Statement of Common Ground between London Luton Airport Limited and Central Bedfordshire Council [TR020001/APP/8.14] for further description of the smoke reduction measures that could be applied at detailed design. The final SoCG will be submitted at Deadline 11. The Design Principle AF.19 within Design Principles [REP8-022] commits the detailed design to including smoke reducing measures.</p> <p>The new Fire Training Ground will be designed with smoke reducing facilities and seek to minimise the impact of smoke on the operation of the airport and adjacent heritage assets as far as possible.</p>
4	Luton Borough Council	[REP8-058] page. 7	<p>The updates to the design principles for the terminal works in Tables 4-3, 4-4 and 4-5 reflect comments made to the Applicant by LBC and are supported. LBC considers that comments incorporated into tables relating to the terminal works, covering user experience, quality of space, contribution to local distinctiveness, context and identity could also be incorporated into Table 2-1 for the overall quality of design.</p> <p>We note in our response to the ExA's Rule 17 letter, that the design principles for the Terminal 2 DART station (T.64 - T.66) should include reference to the design reflecting and complementing that of the Terminal 1 DART station.</p>	<p>The Applicant met with LBC on 25 January 2024 to discuss the Design Principles [REP8-022] and has received feedback from LBC that there are some areas of duplication (T.49 and T.63 for example) which the Applicant is reviewing for Deadline 9. It was note by LBC that the Design Principles [REP8-022] now includes stronger principles on design, place, identity, user experience, and the commitment to design review.</p> <p>It is noted in the meeting that the Design Principle for Terminal 2 Luton DART station (T.64) was updated at Deadline 8 to reflect LBC's comments in relation to it complementing and continuing the Terminal 1 Station design principles.</p> <p>It is noted that LBC has agreed all Design matters within the SoCG [TR020001/APP/8.13] to be submitted at Deadline 11.</p>
5	Ron Taylor	[REP8-081] page. 1	<p>Firstly on the need for an eco friendly environment within the new Terminal 2 to help generate a calming and healthy atmosphere in what is a stressful location pre boarding.</p> <p>Secondly have Luton Rising assessed the realistic potential of sustainable aviation fuel in their claims for reducing emissions on next generation aircraft?</p>	<p>T.30 and T.31 of the Design Principles [REP8-022] address this comment on creating a calming and healthy environment within Terminal 2.</p> <p>The Applicant has considered alternative fuels including sustainable aviation fuel as described in section 5.22 of the Design and Access Statement Volume II [AS-124]. Also refer to Table 2.1 ID 1 which also addresses this response.</p>
Design Review				

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
6	Luton Borough Council	[REP8-058] page. 6	<p>The Applicant has responded to LBC's representations and provided information in relation to the design review process which is welcomed by the Council.</p> <p>LBC considers that the process that the Applicant outlines, involving the setting up of a Design Review Body to then appoint a Design Review Panel, in consultation with LBC and the Applicant, is too complicated.</p> <p>On major developments such as this, LBC would appoint a Design Review Panel (as noted by the Applicant the Council currently engages with Design South East). After an initial preliminary meeting between LBC, the Panel Chair and the Applicant, where the scope of the project is discussed, the Panel chair in consultation with LBC and the Applicant would recommend members with specific specialisms (appropriate to the project) to be on the Design Review Panel. It is usual for there to be two design review meetings/workshops as the scheme develops, one at an early state and a subsequent one as the scheme develops (prior to submission). This does not appear to be recognised in the description of the process. Additionally, the cost of the design review process is to be met by the Applicant (this will be captured in the S106 agreement).</p>	<p>The Applicant met with Luton Borough Council (LBC) on 25 January 2024 to discuss the design review process and the draft Terms of Reference included as an appendix to the Design Principles [REP8-022].</p> <p>At this meeting the Applicant agreed to a rewording of the draft terms of reference for the appointment of a review panel within the Design Principles document. This updated document is submitted at Deadline 9 for consideration [TR020001/APP/7.09].</p> <p>The Applicant has had further discussions with LBC regarding the section 106 and the Draft Section 106 Agreement [TR020001/APP/8.167] submitted at Deadline 9 includes an obligation on the Applicant to meet the reasonable costs of LBC's participation on the Design Review Panel and the reasonable costs of the Panel.</p>
7	Dacorum Borough Council. Hertfordshire County Council, North Hertfordshire District Council	[REP8-054] Table 2-1 page. 2	<p>The Hertfordshire Host Authorities are of the view that the more substantive and public facing aspect of the proposal would benefit from independent design review and the proposed Terminal 1 extensions (Work No. 3a), car park P12 (Work No. 4r), Coach Station (Work No. 3d) and Direct Air-Rail Transit Terminal 2 Station (Work No. 3g) would fall within that category. However, the Hertfordshire Host Authorities are content for the scope of independent design review to be progressed by Luton Borough Council as the relevant planning authority.</p>	<p>The Applicant has included the Coach Station (Work No. 3d) and Direct Air-Rail Transit Terminal 2 Station (Work No. 3g) within the detailed design review process included as an appendix to the Design Principles [REP8-022].</p> <p>The reasons for not including the MSCP (P12, Work No.4r) are set out in the Applicant's Response to Examining Authority's Rule 17 Request dated 17 January 2024 [REP8-040], ID.7.</p> <p>The Applicant would highlight Design Principles T.01 to T.13 [REP8-022] which are written for the Terminal 1 extensions (Work No. 3a (01-05).</p> <p>The Applicant does not consider the proposed Terminal 1 extensions would benefit from a design review as these are minor extensions to the existing terminal substantially driven by operational requirements and technical standards and therefore the Applicant does not believe there is scope for a Design Review Panel to add enough value to justify the process.</p>
8	Central Bedfordshire Council	[REP8-050] page. 2-3	<p>In light of the concerns that CBC have raised in terms of the Fire Training Ground and Car Park P1 on Someries Castle and Luton RPG, respectively, it is deemed appropriate for the following works to be subject to design review: Work No. 2d – Fire Training Ground Work No. 4g – Car Park P1</p>	<p>The Applicant met with Central Bedfordshire Council (CBC) on 25 January 2024 to discuss the design review process as set out in the draft Terms of Reference included as an appendix to the Design Principles [REP8-022].</p> <p>The Applicant explained that the design of the Fire Training Ground will be substantially driven by operational requirements and technical and safety standards and therefore the Applicant does not think there is scope for a detailed Design Review process to justify inclusion of the process.</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
				<p>The Applicant referenced the Design Council's 10 Principles of Design Review in the draft Terms of Reference for Design Review [REP8-022], which includes a principle about designs being proportionate. For these reasons the Applicant does not consider the Fire Training Ground should be subject to design review.</p> <p>The Applicant understands the underlying concerns raised by CBC are in relation to the visual impacts on Luton Hoo Registered Park and Garden. To address these concerns the Applicant has written two additional Design Principles ASF.24 and ASF.25 (added to the Design Principles issued at Deadline 9) which consider the design of the facade and solar panels of P1 multi-storey car park with regard to the setting of Luton Hoo.</p>
9	Luton Borough Council	[REP8-057] page. 3	<p>At Issue Specific Hearing 10, LBC indicated the buildings that it thought should be subject to design review [REP6-095] and advised that a meeting was scheduled for 12 December 2023. An update on Action Point 53 was provided in our submission Response to ExA Written Questions ExQ2 [REP7-090], with the Applicant in their revised Design Principles submission [REP7-034] taking on board LBC's comments from the 12 December meeting in relation to the design review panel (section 1.2), with more detail provided in relation to the design principles associated with key buildings (Tables 4.3, 4.4 and 4.5). Following review of the latest iteration of the Design Principles [REP7-034], LBC has provided the Applicant with further comments at a design meeting on 16 January 2024. These comments included reference to:</p> <ul style="list-style-type: none"> i) The DART Terminal 2 station (Work No. 3g) – suggesting that it should complement and reflect the DART Terminal 1 station design. Thus, the design principles from the Terminal 1 station should be carried forward; and ii) The multi-storey car park (MSCP) to the north of Terminal 2 (P12 in Work No. 4r) dominates views from the terminal and views of the terminal on arrival, and it is not clear as to how much of a sense of arrival or identity one would have at Terminal 2. <p>Further comment is provided below in response to the ExA's subsequent question</p>	<p>The Applicant met with LBC on 25 January 2024 to discuss the design review process as set out in the draft Terms of Reference included as an appendix to the Design Principles [REP8-023]. The Applicant set out the five elements of the Proposed Development that the design review process would cover and the reasons for not including the MSCP (P12, Work No.4r) in the Applicant's response to Examining Authority's Rule 17 Request [REP8-040], ID.7.</p> <p>The Applicant has taken on board the concerns raised by LBC and has strengthened the Design Principles in relation to MSCP P12 (ASF.16. ASF.17) issued at Deadline 9 [TR020001/APP/7.09].</p>
10	Luton Borough Council	[REP8-057] page. 4	<p>As noted above, in meeting with the Applicant, LBC advocated that more attention should be given to both the DART Terminal 2 station and the MSCP (P12). LBC supports the inclusion of the proposed MSCP (P12) and the coach station within the design review process. With regard to the Terminal 2 DART station, LBC would be content for Table 4-5: Terminal 2 and associated works design principles, to be updated at points T.64-T.66 to include reference to the Terminal 2 DART station reflecting and complementing the design of the Terminal 1 DART station.</p>	<p>Please see the Applicant's response provided above at ID 9.</p>

2.5 DRAFT DEVELOPMENT CONSENT ORDER

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

Table 2.5 Applicant's Response to Deadline 8 Submissions – Draft Development Consent Order

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	'The Host Authorities' (Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire District Council)	[REP8-052] para. 3.1 page. 1	Article 8(4)(j) could be further clarified by amending it to read "in relation to a transfer or a grant of any works within a highway, the relevant highway authority responsible for those works within the highway." This amendment would remove the need to directly reference National Highways on the face of this provision by incorporating the newly defined term.	The Applicant has amended article 8(4)(j) to address the Host Authorities' comments and this change is shown in the draft DCO submitted at Deadline 9 [TR020001/APP/2.01]. Although the amendments made do not directly reflect the suggested wording, the Applicant considers that the amendments do now provide sufficient clarity.
2	'The Host Authorities' (Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire District Council)	[REP8-052] para. 7.2-7.3 page. 2	The Host Authorities note the ExA's proposed changes would require the exercise of these powers to be subject to approval of the schemes required under requirements 8 and 9. By requiring approval under both requirements it would limit the exercise of the power to the narrowest of the two requirements i.e. requirement 8 which relates only to parts of the authorised development containing landscaping mitigation. The Host Authorities consider that they would have sufficient oversight if the references to "paragraphs 8 and 9 of Schedule 2" were changed to "paragraphs 8 or 9 of Schedule 2".	The Applicant confirms that the draft DCO submitted at Deadline 8 [REP8-003] contains this amendment in sub-paragraph (2).
3	'The Host Authorities' (Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire District Council)	[REP8-052] para. 8.3-8.7 page. 3	In terms of the proposed drafting changes, the Host Authorities refer back to their answer to the ExA's written question DCO.1.6 ([REP5-067]). In that response the Host Authorities outlined their concerns that as drafted article 35 merely requires certification of receipt of a scheme for the replacement land, and thereafter for the that scheme to be implemented by the undertaker. The concern with this approach is that it does not afford a clear discretion to the relevant planning authority to certify (i) that the replacement land scheme is appropriate (i.e. it achieves its aims in terms of being no less advantageous) and (ii) that the replacement has as a matter of fact been laid out so as to be no less advantageous. The Examining Authority propose two changes to this article. The first is to introduce an obligation on the undertaker to ensure that the replacement land scheme is to include a "clear statement of when the replacement land will have been laid out to the extent that it is no less advantageous to the public.". This formulation is a little unclear in that it seeks to relate to both the timing and the quality of the replacement land. The more concerning issue is that it continues to leave limited discretion to the relevant planning authority to apply its judgement and local expertise to determine whether in fact the replacement land scheme would achieve that end satisfactorily and in an appropriate timescale.	The Host Authorities' response analyses article 35 in isolation, which overlooks the raft of other measures secured in the draft DCO relating to replacement land provision, which must be considered in their totality. The Host Authorities are directed to the Applicant's Response to the Examining Authority's Commentary on the Draft DCO [REP8-036] at pages 7 to 10, which comprehensively address this matter. The "scheme" referred to in article 35 will require approval from the relevant planning authority under paragraphs 6, 9 and 10 of Schedule 2 to the draft DCO. Furthermore, the Code of Construction Practice [REP8-013] , secured by paragraph 8 of Schedule 2, provides a commitment at paragraph 12.1.1(f) to maintaining access to, and not commencing construction works on, the existing Wigmore Valley Park until the replacement open space is accessible to the public. These measures provide the framework to ensure that a replacement land scheme will be delivered which is no less advantageous compared to the special category land it is replacing. Nevertheless, in view of the Host Authorities' comments on this matter, the Applicant is content to amend article 35(1) so that it refers to certification of a "satisfactory" scheme. This change has been made to the draft DCO submitted at Deadline 9. The Applicant's Response to the Examining Authority's Commentary on the Draft DCO [REP8-036] at pages 7 to 10 explains why it does not consider it necessary or appropriate to import the "no less advantageous" wording into the drafting of article 35.

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>In the face of a simple statement to that end included in the replacement land scheme, however unrealistic, the relevant planning authority would potentially be bound to certify that it has "received" such a document. It must be born in mind that it is on the certification of receipt of such a scheme, however unsatisfactory it may be, that the existing rights, trusts and incidents over the special category are extinguished. That is to say, the public harm of the loss of the open space occurs on receipt of a scheme. This public loss is effectively traded for the undertaker's promise to layout the replacement land in accordance with that scheme. In that vein it is critical that the relevant planning authority is in a position to certify "its satisfaction" with replacement land scheme.</p> <p>The second change seeks to amend article 35(3), the provision that would transfer the "rights, trusts and incidents" that previously resided in the special category to the replacement land (now that it has been corrected by the Applicant). It does so by qualifying the date that the rights, trusts and incidents that previously existed over the special category land will vest in the replacement land. The Host Authorities note that the effect of this drafting, should the laying out of the replacement land not prove to be "no less advantageous" is that the rights, trust and incidents would not vest; further disadvantaging those persons previously entitled to exercise them.</p> <p>The Host Authorities remain of the view, as set out in its response to the Applicant's answer to written question DCO.1.6. ([REP5-067]) that article 35(1) ought to be amended such that the relevant planning authority is to certify that it is "satisfied" with the replacement land scheme it has received. This could be achieved by amending article 35(1) as follows:</p> <p>"On the exercise by the undertaker of the Order rights, the special category land is not to vest in the undertaker (or any specified person), and the undertaker may not acquire any rights over the special category land, until the replacement land has been acquired in the undertaker's name or is otherwise in the name of persons who owned the special category land on the date those powers are exercised and the relevant planning authority has certified that a satisfactory scheme for the provision in a manner that is no less advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, of the replacement land including a timetable for the implementation of the scheme has been received from the undertaker.</p>	

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
4	'The Host Authorities' (Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire District Council)	[REP8-052] para. 9.1-9.3 page. 4	<p>The Host Authorities refer back to and re-emphasise their Post Hearing Submissions (including written summary of oral case) for Issue Specific Hearing 10 [REP6-095] on page 7, in response to Action Point 3, that there are no ordinary watercourses within the Order limits and therefore the disapplication of the provisions of the Land Drainage Act 1991 referred to in article 43(1) are wholly unnecessary, cannot be justified and therefore ought to be removed from the draft DCO.</p> <p>In any event, section 23 of the Land Drainage Act 1991 is a consent prescribed for the purposes of section 150 of the Planning Act 2008 (see Part 1 of Schedule 2 to the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 and as such may only be disapplied with the consent of the relevant bodies.</p> <p>Given that the disapplications are manifestly unnecessary, the Host Authorities that are lead local flood authorities will not grant their consent to disapplication and it would therefore be ultra vires for the DCO to include such a disapplication in these circumstances.</p>	<p>On the basis that the Host Authorities have confirmed that no ordinary watercourses are within the Order Limits, the Applicant agrees with the Host Authorities on this matter.</p> <p>The Applicant confirms that in the draft DCO submitted for Deadline 9, [TR020001/APP/2.01] it has updated article 43 to remove reference to the provisions of the Land Drainage Act 1991. Schedule 8, Part 7 has also been deleted consequently as provisions for the protection of drainage authorities are not necessary.</p>
5	'The Host Authorities' (Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire District Council)	[REP8-052] para. 11.2-11.3 page 4	<p>The Host Authorities also welcome the addition by the Applicant of the new paragraph (5) and the amendment to paragraph (2)(c). When taken together these amendments ensure that the provisions of this article operate on 'inconsistencies' only when they arise and not when the authorised development has 'begun' and places an obligation on the undertaker when it identifies an 'inconsistency' to notify the relevant planning authority. Paragraph (5) could be improved by requiring that notice to expressly set out the undertaker's view as to which consenting regime ought to apply in the circumstances. However, despite these improvements the Host Authorities do continue to have some reservations with the drafting of article 45. These concerns were set out in detail in Luton Borough Council's response to the ExA Question DCO.2.2 [REP7-090]. In summary, the Host Authorities are concerned that the technical meaning which the Applicant is using the term "inconsistent" is not clearly defined in article 45 which risks it applying in a wider range of circumstances than would be the case were the Hillside rule to be applied. As such, it would benefit from being defined in more narrow terms. The second area of concern is the breadth of the 'yardstick' by which inconsistency is to be measured i.e. the references to "any power or right exercised under this Order". Given that the rule in Hillside is concerned with overlapping planning permissions applying the provisions of article 45 to the far wide "any power or right exercised under this Order", which can include the exercise of general powers or the acquisition of rights, should not factor in the determination inconsistency. Ultimately, article 45 ought to be</p>	<p>The Applicant reiterates its appreciation to the Host Authorities for confirming that they welcome further amendments to article 45, and also that they consider the provision helpful. The Applicant agrees with the position put forward that the ExA's proposed deletion of article 45(2) to (6) "<i>may give rise to other issues. In particular, it is likely to give rise to a degree of uncertainty in terms of how the authorised development and other planning permissions, in particular the Green Horizons Park permission, are to co-exist.</i>"</p> <p>The Applicant considers that a removal of the provisions would be detrimental, lead to uncertainty and ambiguity about the relevant enforcement regime. The Applicant has set out its position on article 45 in the Applicant's Response to the Examining Authority's Commentary on the Draft DCO [REP8-036].</p> <p>In relation to the two outstanding matters raised by the Host Authorities, the Applicant has made two further amendments to article 45 at Deadline 9:</p> <ol style="list-style-type: none"> 1. The Applicant has removed reference to "<i>any power or right exercised under this Order</i>" in article 45. The Applicant is unpersuaded by the Host Authorities suggestion that this amendment was necessary because an "<i>inconsistency</i>" could not arise by virtue of the provisions cited (e.g., compulsory acquisition powers). Nonetheless, the Applicant has made the change to assure the Host Authorities that the scope of the provision is intended to deal with conflicts between the development authorised under the DCO and any other planning permissions. 2. Whilst the Host Authorities did not provide their preferred definition, they suggested that "<i>inconsistency</i>" was capable of being interpreted widely. The

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			restricted to interaction between “the authorised development” and another planning permission.	<p>Applicant has inserted a definition of “<i>inconsistency</i>”. This defines inconsistency by way of reference to physical conflicts or incompatibilities which prevent the relevant development from being carried out.</p> <p>The Applicant considers that the substantive concerns of the Host Authorities has now therefore been addressed in relation to article 45 and would welcome confirmation that terms are now agreed.</p>
6	‘The Host Authorities’ (Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire District Council)	[REP8-052] para. 22.2–22.4 page. 8	<p>While the Host Authorities welcome the intention underlying the addition of proposed new sub-paragraph (2)(g) to require the landscaping scheme to include a statement setting out how the landscape design would ensure that the replacement land would be no less advantageous than the land that it is replacing, the Host Authorities consider that it would be more appropriate to amend article 35 so as to require the relevant planning authority’s satisfaction at the replacement land scheme and its timetable, see the comments on that article above.</p> <p>The Host Authorities consider it to be preferable to address the quality of the replacement land in the article that deals with its replacement, rather than it being subject to a requirement elsewhere in the draft Order. This would also ensure that there is no potential for the two “schemes” (under article 35 and under this requirement) to differ from one another, and ties to the satisfaction with the quality of the replacement land scheme to the provisions that would transfer the interests.</p>	<p>As noted above in response to ID 3, the Applicant has now amended article 35(1) to require a “satisfactory” scheme.</p> <p>The Applicant agrees with the Host Authorities that this requirement should not include the ExA’s proposed sub-paragraph 2(g).</p>
7	‘The Host Authorities’ (Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire District Council)	[REP8-052] para. 23.2 page 8	To ensure landscaping is appropriately maintained the Examining Authority and the Applicant may wish to consider amending requirement 9(3) so that it reads “The authorised development must be carried out and maintained in accordance with the landscaping and biodiversity management plan referred to in sub-paragraph (1).”	The Applicant confirms that this amendment has been made in the draft DCO submitted for Deadline 9 [TR020001/APP/2.01] .
8	‘The Host Authorities’ (Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire District Council)	[REP8-052] para. 40.1 page. 12	The Host Authority’s welcome the Applicant’s extension of time for the determination of the applications relating to approval under requirement 5 for the key “gateway” aspects of the authorised development. However, they retain concerns at the overall brevity of the determination periods for other requirements.	<p>On the point of “brevity”, the Applicant has considered again the timescales of other large DCO projects, and remains of the view that 8 weeks is a reasonable determination period for requirements (other than the “gateway” works under requirement 5). The Applicant highlights the Southampton to London Pipeline DCO (6 weeks) and the A585 Windy Harbour to Skippool Highway DCO, Sizewell C DCO, Silvertown Tunnel DCO and Port of Tilbury (Expansion) DCO (all 8 weeks) as relevant benchmarks.</p> <p>A period of 8 weeks in this case appropriately balances the interests of the discharging authority and the Applicant, noting that the proposals will have been through a rigorous examination process.</p> <p>The statutory time limit for applications for planning permission are set out in article 34 of the Town and Country Planning (Development Management</p>

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				<p>Procedure (England) Order 2015 (as amended) and 8 weeks is in line with the time limit set for all other types of development.</p> <p>Moreover, the Applicant highlights that most planning applications are decided within 8 weeks, unless they are unusually large or complex, in which case the time limit is extended to 13 weeks (which aligns with the Applicant's extended period for "gateway" works).</p> <p>The Applicant emphasises that the "clock" resets for the determination period if further information is requested, a further accommodation made in favour of the discharging authority.</p>
9	'The Host Authorities' (Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire District Council)	[REP8-052] para. 42.2-42.3 page. 13	The Host Authorities continue to be concerned by the provision in sub-paragraph (4) that states that the discharging authority "is deemed to have sufficient information". The Host Authorities concerns were articulated in their Post Hearing Submission (including written summary of oral submissions) [REP6-095] in relation to Action Point 14. In summary, the concern is that this deeming language could have adverse cost implications where the discharging authority is deemed to possess information that it does not in fact possess. While the increase to the periods for consultation appreciably reduce the risk, the issue could be addressed entirely by removing the "is deemed to have sufficient information" wording.	<p>As noted above, the Applicant has incorporated a process under which discharging authorities and consultation bodies can request further information about an application to discharge, and in circumstances where this happens the Applicant has accepted that the "clock" is re-set in terms of the period for deciding the application. The Applicant has not limited the number of times a "further information" request can be submitted.</p> <p>In recognition of this reasonable concession, it is fair that the period for requesting such information has some checks and balances, in order to prevent the delivery of the project being frustrated by "late" information requests which could seriously delay implementation. The "deeming of sufficient information" is reasonable in this context, since it incentivises timely requests for any further information.</p> <p>On the cost concerns expressed by the Host Authorities in [REP6-095], the Applicant understands that this relates to the discharging authority refusing an application due to an absence of information, but then losing an appeal to the Secretary of State under paragraph 39 on the basis it had been deemed to have sufficient information to consider the application.</p> <p>The Applicant considers these concerns to be overstated and not an inevitable outcome of any such appeal, noting the generality of the cost provisions in paragraph 39(13). It is expected (in line with guidance and normal practice) that parties would meet their own costs, provided both had behaved reasonably. In this context it is relevant to note that there is no limitation on the scope of the discharging authority's decision on an application, notwithstanding it may be deemed to have sufficient information to consider that application.</p> <p>Furthermore, the appeal process is likely to take at least three months and potentially longer. The Applicant would clearly need to weigh up the merits of this against the option of agreeing with the discharging body (as permitted by paragraph 36(4)) acceptance of a "late" information request, which may well lead to a swifter resolution. But it is reasonable that the Applicant has this choice, in the face of a request for information outside of the time periods provided for in paragraph 37.</p>

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10	'The Host Authorities' (Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire District Council)	[REP8-052] para. 44.3 page. 14	The requirement should be tied to when the authorised development "begins" rather than when it is "commenced" because it is the act of the authorised development "beginning" that stops the clock on the 5 year time limit in requirement 4, not the "commencement". This change would ensure that once the authorised development 'begins' the undertaker would be under an ongoing obligation to keep the relevant planning authority up to date in relation to its proposals to implement the development consent.	<p>New requirement 5 (Phasing of authorised development) is explicitly drafted to allow the undertaker to carry out the specified pre-commencement activities listed in requirement 1, before discharging this requirement, consistent with the discharging of other requirements.</p> <p>The exclusion of these works is considered proportionate given that they are minor in nature. Furthermore, the Code of Construction Practice [REP8-013] (CoCP) applies prior to "commencement", and so pre-commencement works must still be carried out in accordance with the CoCP. The approach taken by the Applicant is heavily precedented and allows site preparation works to get under way whilst requirements are being discharged.</p> <p>It is therefore not considered necessary to include such works within the scope of the phasing requirement (requirement 5), since they would have no material impact on the phasing of development in any event.</p>
11	'The Host Authorities' (Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire District Council)	[REP8-052] para. 53.1 page. 15	The Host Authorities welcome the inclusion of this provision to address the ongoing uncertainties in relation to how such technical details will be managed. The Host Authorities would anticipate that such a provision would be best located in Part 3 of Schedule 2 (green controlled growth) and that the trigger wording "No increase in passenger capacity may occur until..." ought to be replaced with wording that would ensure that the detail of monitoring is to be approved prior to that monitoring being carried out and that it is clarified that the air quality monitoring in question is that required to be carried out under requirement 20.	<p>The Applicant has updated the Outline Operational Air Quality Plan [TR020001/APP/5.02] submitted at Deadline 9 to include a requirement to use reasonable endeavours to ensure that 6 months of baseline data is available. The Applicant has used the phrase "reasonable endeavours" in this context as the installation of the monitors is in most cases subject to local authority, or landowner, approval. The Applicant therefore wishes to avoid a scenario in which the ability to serve a notice is frustrated. The outline Operational Air Quality Monitoring Plan is considered to be the appropriate securing mechanism as it ensures that the commitment bites at the relevant time. The Monitoring Plans have legal effect following the service of the article 44(1) notice, whereas the Outline Operational Air Quality Plan already deals with air quality monitoring prior to the service of the notice.</p> <p>As the substantive request has been acceded to, the Applicant considers no further drafting amendments are necessary to the dDCO.</p>
12	'The Host Authorities' (Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire District Council)	[REP8-052] para. 56.1-56.2 page 16	<p>The Host Authorities that are also local highway authorities are particularly disappointed that the Applicant has not meaningfully engaged with the issues with the local highway authority protective provisions set out in the Host Authorities Post Hearing Submission (including written summary of oral case) for ISH 10 [REP6-095]. No changes have been made to the protective provisions in Part 6 of Schedule 8 to the Applicant's revised draft DCO. The Applicant's response to the Host Authorities detailed submissions on this topic, contained in [REP7-062] (paragraphs 25 to 32), do not meaningfully engage with the issues raised and largely amount to bare assertions that the proposed provisions are "precedented and proportionate".</p> <p>The Host Authorities do not understand how the Applicant has arrived at that conclusion, particularly when it is born in mind that in essence all that the local highway authorities are seeking are provisions equivalent to what the Applicant has included in the</p>	<p>The Applicant was clear in its submissions in Applicant's Response to Comments on the Draft Development Consent Order at Deadline 6 [REP7-062] that it was considering the requests of the Host Authorities and would provide an update at Deadline 8.</p> <p>The Applicant duly made amendments to the local highway authority protective provisions in the draft DCO at Deadline 8 [REP8-003], which substantially enhance the position in relation to the Host Authorities and take into consideration comments submitted at ISH10. In particular, the amendments at Deadline 8 made provision for:</p> <ul style="list-style-type: none"> - detailed design approval; - enhanced specification for works, including with reference to DMRB; - full road safety audit; - defect notices and step-in rights;

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>DCO for another highway authority (National Highways) and which align with what would be expected of any other private developer proceeding under conventional consenting regimes for aspects of projects that seek to interfere with the public highway and affect a public authority's financial and safety liabilities.</p>	<ul style="list-style-type: none"> - payment of reasonable costs incurred by local highway authorities; - enhanced certification procedures; - payment of commuted sums; - insurance; and - indemnity. <p>The amended form of local highway authority protective provisions does not preclude the parties from entering into future agreements, should this be appropriate at the point of delivery of specific works under the TRIMMA process.</p> <p>The Applicant emphasises that the protective provisions must also be read alongside the controls and approvals required in respect of local highway works in:</p> <ul style="list-style-type: none"> - article 9 (application of the New Roads and Street Works Act 1991, and permitting schemes); - article 11 (power to alter layout of streets); - article 12 (construction etc. of new streets); - article 13 (temporary closure and restriction of streets); - article 15 (access to works); and - article 16 (traffic regulation). <p>The Applicant notes that the local highway authorities have not provided a preferred form of protective provisions, nor have they provided any specific drafting amendments to the Applicant's proposed protective provisions during the examination period.</p> <p>The Applicant will consider any final drafting amendments from the Host Authorities if received sufficiently in advance of Deadline 10, but in any event the Applicant's position is that the proposals affecting local highway authorities entail relatively minor modifications to the local road network, and the form of protective provisions now contained in the draft DCO provide proportionate and necessary controls bearing in mind the scale of the proposed modifications.</p> <p>The Applicant considers that local highway authority protective provisions are the most appropriate and efficient vehicle for securing detailed local highway commitments at this stage, rather than individual section 278 agreements – given the number of parties and locations involved, the timing and adaptive nature of interventions under the TRIMMA, and the fact that no detailed designs exist at this stage.</p>
13	Affinity Water Limited	[REP8-061] ID. 3 page. 5	<p>AW is pleased with the amendments to the draft DCO and notes the draft DCO requires the relevant planning authority (i.e. not the Applicant) to consult with AW. AW understands an updated CoCP will be submitted at Deadline 8 which incorporates AW's</p>	<p>The CoCP [REP8-013] submitted by the Applicant at Deadline 8 includes an obligation on the lead contractor to consult with Affinity Water in respect of the three control plans identified by Affinity Water.</p>

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			<p>consultation role for the construction surface water management strategy, pollution incident control plan and dust management plan, which will be prepared in accordance with paragraph 7(2)(c),(g) and (h) of Schedule 2 of the draft DCO.</p>	
14	Central Bedfordshire Council	<p>[REP8-051] 3.3.17 page. 3</p>	<p>3.3.17 – On the same basis, there are no specific controls on development should the measures covered within TRIMMA not be delivered in accordance with the timings agreed through the TRIMMA process (which in itself is subject to agreement between the two parties and dependent upon their respective work programmes). The related requirement (29 (4)) within the DCO require the undertaker to implement any mitigation scheme as approved, but without reference to this being required within a specified timeframe, or the implications should the works not be delivered.</p>	<p>The OTRIMMA [REP8-043] clearly sets out the principles and timings that must be adhered to (including the delivery of mitigation works before the impacts they are designed to mitigate are realised) and the final TRIMMA will be approved in advance of the Applicant issuing the airport's notice to grow beyond its extant capacity (article 44(1)). The final TRIMMA must be substantially in accordance with the OTRIMMA.</p>
15	Central Bedfordshire Council	<p>[REP8-051] section. 4 page. 5</p>	<p>It is noted that the Provisions for the Protection of Local Highway Authorities have not been updated in the most recent iteration of the Draft DCO (Rep 7-003). As such CBC remain of the view that the provisions remain wholly inadequate, and expose the Local Highway Authorities to unacceptable risks, costs, and liabilities. It is noted that the Provisions for the Protection of National Highways provide a far more comprehensive, appropriate, and binding set of provisions, allowing for a structured approvals process, payment of reasonable costs, adherence to design standards, conformity with Road Space Booking protocols, transfers of warranties and other elements that would generally be covered by Section 278 agreements.</p> <p>Based upon this CBC are strongly of the view that a clause requiring the applicant to enter a Section 278 agreement should be included within any Section 106, along with a clause requiring the applicant to work with and adhere to, the appropriate Road Space Booking processes, as these would address otherwise significant areas of unaddressed concern within the current Draft DCO, whilst also providing parity between the provisions currently proposed for National Highways with those for the Local Highway Authorities.</p>	<p>The Applicant was clear in its submissions in Applicant's Response to Comments on the Draft Development Consent Order at Deadline 6 [REP7-062] that it was considering the requests of the Host Authorities and would provide an update at Deadline 8.</p> <p>The Applicant duly made amendments to the local highway authority protective provisions in the draft DCO at Deadline 8 [REP8-003], which substantially enhance the position in relation to the Host Authorities and take into consideration comments submitted at ISH10. In particular, the amendments at Deadline 8 made provision for:</p> <ul style="list-style-type: none"> - detailed design approval; - enhanced specification for works, including with reference to DMRB; - full road safety audit; - defect notices and step-in rights; - payment of reasonable costs incurred by local highway authorities; - enhanced certification procedures; - payment of commuted sums; - insurance; and - indemnity. <p>The amended form of local highway authority protective provisions does not preclude the parties from entering into future agreements, should this be appropriate at the point of delivery of specific works under the TRIMMA process.</p> <p>The Applicant emphasises that the protective provisions must also be read alongside the controls and approvals required in respect of local highway works in:</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
				<ul style="list-style-type: none"> - article 9 (application of the New Roads and Street Works Act 1991, and permitting schemes); - article 11 (power to alter layout of streets); - article 12 (construction etc. of new streets); - article 13 (temporary closure and restriction of streets); - article 15 (access to works); and - article 16 (traffic regulation). <p>The Applicant notes that the local highway authorities have not provided a preferred form of protective provisions, nor have they provided any specific drafting amendments to the Applicant's proposed protective provisions during the examination period.</p> <p>The Applicant will consider any final drafting amendments from the Host Authorities if received sufficiently in advance of Deadline 10, but in any event the Applicant's position is that the proposals affecting local highway authorities entail relatively minor modifications to the local road network, and the form of protective provisions now contained in the draft DCO provide proportionate and necessary controls bearing in mind the scale of the proposed modifications.</p> <p>The Applicant considers that local highway authority protective provisions are the most appropriate and efficient vehicle for securing detailed local highway commitments at this stage, rather than individual section 278 agreements – given the number of parties and locations involved, the timing and adaptive nature of interventions under the TRIMMA, and the fact that no detailed designs exist at this stage.</p>
16	Dacorum Borough Council, Hertfordshire County Council and North Hertfordshire District Council	[REP8-056] page. 33	<p>The DCO as currently drafted provides for various 'deemed consent' mechanisms, whereby should a response to an application for consent / approval not be received from an authority within a certain time limit, that consent / approval is deemed to be approved. Given resource constraints and the uncertainty of the programme, the Hertfordshire Host Authorities consider there is a risk that consent / approvals could be deemed to be granted inappropriately, even where there has been no wilful or unreasonable inaction from the Hertfordshire Host Authorities.</p> <p>The Applicant should seek to build in appropriate resourcing and flexibility to these mechanisms, to ensure consents and approvals are not 'waved through', where the Hertfordshire Host Authorities have not wilfully or unreasonably not responded to an application for a consent or approval under the DCO.</p>	<p>For the reasons set out in the Applicant's Response to the Examining Authority's Commentary on the Draft DCO [REP8-036] at pages 87-88, the Applicant's position is that the "deemed consent" provisions are precedented generally, and necessary and justified in the case of this application, balancing the interests of the Applicant and the approving bodies.</p> <p>In recognition of the comments made by the Hertfordshire Host Authorities, the Applicant has included in the Deadline 9 version of the draft DCO [TR020001/APP/2.01] a new provision at article 2(12) which provides that any deemed consent provision in the Order is only effective where the application for that consent contains a statement notifying the effect of that deemed consent provision.</p> <p>This drafting is commonplace in precedent DCOs which include deemed consent provisions and ensures that approving bodies are "on notice" of the effect of the provision. It must always be remembered that a deemed consent provision does <i>not</i> prevent the approving body refusing an application.</p>
17	Dacorum Borough Council, Hertfordshire	[REP8-056] page. 34	The DCO appears to potentially introduce a regulatory 'gap' whereby controls under the existing planning permission fall away under Article 44, prior to any DCO controls being triggered.	The Applicant notes that this unparticularised comment remains in the PADSS, but does not consider it to be correct in the context of article 44

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
	County Council and North Hertfordshire District Council		While progress has been made in relation to the provisions of Articles 44 and 45 concerns remain, particularly in relation to the breadth of what could be considered to be "inconsistent". A more focussed definition of "inconsistent" that aligns with the judgement in Hillside is required together with a narrow range of factors that could give rise to such inconsistency i.e. only the physical "authorised development". Further safeguards are required to ensure that there are not circumstances where inappropriate development cannot be enforced against under both 1990 Act and the 2008 Act.	<p>which leaves no "regulatory gaps" in respect of permissions governing the airport.</p> <p>The Applicant has made further comments above in respect of article 45, and has included further drafting amendments at Deadline 9 in response to the Host Authorities comments.</p>
18	Environment Agency	[REP8-062] page. 1	Could additional wording be inserted into the draft DCO to ensure that there would not be deterioration of the water bodies? If so, please provide some suggested drafting.	<p>To address comments received from the Environment Agency at Deadline 8, the Applicant has amended the DDS.03 which will be submitted at Deadline 9 [TR020001/APP/7.09]. This is an agreed approach between the Environment Agency and the Applicant to address concerns regarding the class deterioration of the Water Framework Directive status.</p> <p>There are additional controls within the draft DCO that mitigate deterioration of water bodies including requirement 12 (Previously unidentified land contamination and contaminated groundwater) and requirement 13 (Surface and foul water drainage).</p> <p>The Applicant has also evidenced compliance with the Water Framework Directive (WFD) (Standards and Classification) Directions (England and Wales) 2015, the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 and the Groundwater (Water Framework Directive) England Direction 2016 in Water Framework Directive (Ref. 20.1) (WFD) Compliance Assessment (Appendix 20.2 of the ES [TR020001/APP/5.02]).</p> <p>The Applicant considers additional drafting to control for water body deterioration is not required considering the above.</p>
19	National Highways	[REP8-067] <u>page. 2</u>	The monitoring regime needs to provide us with an ability to protect the SRN from unsafe conditions. It also needs to incorporate additional locations to those included in the DCO that are at risk from adverse impacts as the airport grows. We do not consider that the Outline TRIMMA (Transport Related Impacts Monitoring and Mitigation Approach) in its current form achieves these requirements and that these need to be secured as part of the DCO.	<p>Schedule 1 of the draft DCO includes mitigation that is shown to mitigate the highways impacts of the Proposed Development. Any issues arising for other reasons, such as background traffic growth, are not for the Applicant to mitigate.</p> <p>The TRIMMA will ensure that the mitigation in Schedule 1 of the draft DCO is brought forward at an appropriate time in accordance with locationally-specific thresholds to be agreed in each case with the relevant highway authority (i.e. National Highways in respect of the SRN), and set so as to enable delivery of mitigation in advance of the realisation of adverse impacts due to the Proposed Development. The revised OTRIMMA [TR020001/APP/8.97] provides further clarity on this process.</p>
20	National Highways	[REP8-065] Table 1 Requirement 18	<u>Requirement 18:</u> <u>Proposed Amendment:</u>	The Applicant's response to National Highways' comments in respect of the ESG generally are contained in the Applicant's Response to Deadline 6 Submissions, Appendix B [REP7-065] .

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>(4) The ESG must operate, meet and make decisions in accordance with its terms of reference unless otherwise agreed by the ESG and the undertaker, in accordance with the process set out in its terms of reference <u>save that for matters of surface access relevant to the strategic road network, any decision made by the ESG must have the written approval of National Highways.</u></p> <p><u>Comment:</u> The additional text proposed is required as it is not acceptable to National Highways that members of the ESG are able to make decisions which impact the strategic road network without its approval. This goes to matters of safety. In every other circumstance in which works or impacts are proposed to the SRN (e.g. physical works or interventions to be carried out to the SRN or works which may impact on mode share affecting the SRN), National Highways is entitled to a control via the protective provisions – currently being negotiated with the Applicant. The ESG should be no different. Without this drafting, the Applicant has no legally binding restrictions that National Highways may rely on to control the Applicant's ability to introduce changes which impact on the SRN.</p>	<p>As explained in the Applicant's Response to Comments on the draft DCO at Deadline 6 [REP7-062], the Applicant's position is that the proposed text is not necessary or appropriate.</p>
21	National Highways	<p>[REP8-065] Table 1 Requirement 28</p>	<p><u>Requirement 28:</u> <u>Proposed Amendment:</u> (1) Notice in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order must not be served until a transport related impacts monitoring and mitigation approach for the operation of the airport above the passenger cap permitted by the LLAOL planning permission has been submitted to and approved in writing by the relevant planning authority, following consultation with the relevant highway authority on matters related to its function.</p> <p>(2) The approach submitted under sub -paragraph (1) must be substantially in accordance with the outline transport related impacts monitoring and mitigation approach.</p> <p>(3) Without prejudice to the generality of sub -paragraph (2) of this requirement, the approach must specify: <u>(a) the phase of the development to which any mitigation or monitoring to which it refers will apply; and</u> <u>(b) the thresholds that apply to the provision of mitigation for each phase.</u></p> <p>(4) From the date notice is served in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order the undertaker must carry out monitoring in accordance with the approach approved under sub -paragraph (1) and where this</p>	<p>The Applicant's position is that National Highways' proposed amendment to sub-paragraph (3) is not necessary or appropriate, and the assurance that sub-paragraph (2) provides in ensuring that the approach is substantially in accordance with the OTRIMMA, is sufficient.</p> <p>The TRIMMA will ensure that the mitigation in Schedule 1 of the draft DCO is brought forward at an appropriate time in accordance with locationally-specific thresholds to be agreed in each case with the relevant highway authority (i.e. National Highways in respect of the SRN), and set so as to enable delivery of mitigation in advance of the realisation of adverse impacts due to the Proposed Development.</p> <p>Requirement 30 (Offsite highway works) has been amended in the draft DCO [REP8-003] submitted at Deadline 8 and addresses National Highways' proposed amendment to sub-paragraph (4) in respect of written approval of the mitigation scheme.</p> <p>Requirement 30 now states that the undertaker must implement and comply with the TRIMMA, which secures the approval processes contained in the TRIMMA.</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>monitoring identifies that mitigation is required in accordance with the approach, the undertaker must submit a mitigation scheme to the relevant planning authority for approval in writing, following consultation with the relevant highway authority and, in respect of National Highways accompanied by written approval of the mitigation scheme, on matters related to its function.</p> <p>(4) The undertaker must implement any mitigation scheme approved under sub-paragraph (3).</p> <p><u>Comment:</u> Without the proposed drafting, National Highways has no certainty as to how the TRIMMA will relate to the phasing strategy. In particular, when each relevant phase is commenced, to which phase the monitoring and mitigation pursuant to the TRIMMA is related and the relevant thresholds that apply to the provision of mitigation for each phase. This is information we have been asking for since the early part of the Examination and is still not forthcoming. This information is essential to understand the implications of the TRIMMA to the operation of the SRN.</p>	
22	National Highways	[REP8-065] Table 1 New Requirement	<p><u>New Requirement – Modelling and Monitoring</u></p> <p>(1) No part of the authorised development may commence until a report containing updated highway modelling for the potential impacts of the authorised development on the M1 Motorway including M1 Junction 10, M1 Junction 9 and the M1 itself has been submitted to and approved by the relevant planning authority and National Highways. The modelling will address the baseline, the opening year and the design year ten years after opening of the authorised development or phases of the authorised development described in the report;</p> <p>(2) Where the results of the updated highway modelling identify a potential material impact on the operation of the strategic road network as a result of the authorised development, no part of the authorised development may commence until a scheme of monitoring the impacts of the authorised development on the M1 Motorway has been submitted to and approved by the relevant planning authority and National Highways.</p> <p>(3) The approved monitoring scheme will set out the intended triggers for the implementation of mitigation to the M1 Motorway and the constraints upon development that will apply until the relevant mitigation works are complete and open to traffic.</p> <p>(4) The approved monitoring scheme will be implemented by the undertaker in carrying out the authorised development and the constraints upon the authorised development will apply in accordance with those contained in the approved report.</p>	<p>The Applicant disagrees that the OTRIMMA does not provide sufficient certainty in respect of monitoring and mitigation commitments and refers to the updated version of the OTRIMMA submitted at Deadline 8 [REP8-043].</p> <p>Schedule 1 of the draft DCO includes mitigation that is shown to mitigate the highways impacts of the Proposed Development. Any issues arising for other reasons, such as background traffic growth, are not for the Applicant to mitigate.</p> <p>The TRIMMA will ensure that the mitigation in Schedule 1 of the draft DCO is brought forward at an appropriate time in accordance with locationally-specific thresholds to be agreed in each case with the relevant highway authority (i.e. National Highways in respect of the SRN), and set so as to enable delivery of mitigation in advance of the realisation of adverse impacts due to the Proposed Development.</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>(5) This requirement may be enforced by National Highways as if it was a relevant planning authority.</p> <p><u>Comment:</u> This requirement is necessary in the absence of sufficient certainty in the updated COVID-19 modelling the monitoring commitments provided in the OTRIMMA. Without this requirement, National Highways has no ability determine the extent of impact to the strategic road network.</p>	
23	National Highways	<p>[REP8-065] Table 1 New Requirement</p>	<p><u>New Requirement – Mitigation</u></p> <p>(1) Without prejudice to the general provisions of requirement 33, any mitigation identified in a monitoring scheme shall include provision whereby:</p> <p>(a) If an intended trigger for implementation of works is reached on either the southbound merge and/or northbound diverge to the M1 Junction 10, no authorised development may continue until a scheme of mitigation works is approved by National Highways.</p> <p>(b) The throughput of the authorised development must not exceed 21 million passengers per annum until the mitigation comprised of works to the M1 Junction 10 southbound merge are complete and open to traffic.</p> <p>(c) The throughput of the authorised development must not exceed 27 million passengers per annum until the mitigation comprised of works to the M1 Junction 10 northbound diverge are complete and open to traffic.</p> <p>(3) Any scheme of works to the southbound merge must include changing the merge layout type from 'Layout B – parallel merge' to a higher capacity 'Layout C – ghost island merge' or any alternative scheme approved by National Highways.</p> <p>(4) Any scheme of works to the northbound merge must include changing the diverge layout type from 'Layout B option 2 – Twolane auxillary diverge' to a higher capacity 'Layout B option 1 – ghost island lane drop' or any alternative scheme approved by National Highways.</p> <p>(5) This requirement may be enforced by National Highways as if it was a relevant planning authority.</p> <p><u>Comment:</u> This requirement is necessary to guarantee that impacts to the strategic road network, resultant from the authorised development, are suitably mitigated at appropriate trigger points and underpinned by detailed modelling. Without this requirement,</p>	<p>The Applicant does not agree that this proposed requirement is necessary or appropriate. The Applicant considers that the impacts of the Proposed Development on the road network including the SRN are mitigated by the proposed mitigation secured through the TRIMMA process and requirement 30 (offsite highway works) and that other impacts arising from background traffic growth are for National Highways to address.</p> <p>Schedule 1 of the draft DCO includes mitigation that is shown to mitigate the highways impacts of the Proposed Development. The TRIMMA will ensure that the mitigation in Schedule 1 of the draft DCO is brought forward at an appropriate time in accordance with locationally-specific thresholds to be agreed in each case with the relevant highway authority (i.e. National Highways in respect of the SRN), and set so as to enable delivery of mitigation in advance of the realisation of adverse impacts due to the Proposed Development.</p> <p>Any issues arising for other reasons, such as background traffic growth, are not for the Applicant to mitigate.</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			National Highways has no certainty on the type of mitigation to be provided, when it will be provided or when it will be required.	

2.6 FUNDING STATEMENT

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

Table 2.6 Applicant's Response to Deadline 8 Submissions – Funding Statement

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	The Harpenden Society	[REP8-087] page. 1	3) In the light of the almost total uncertainty in relation to Phase 2's capital costs funding, we respectfully ask the ExA to require LR to provide a similar guarantee in relation to Phase 2's capital costs as set out in article 53 before land is compulsorily acquired.	Phase 2 capital costs have been robustly estimated as set out in the Funding Statement [REP5-009] . The Applicant has demonstrated a range of credible funding options for Phase 2. New article 53 is concerned only with compensation payable as a result of the exercise of compulsory acquisition powers, in direct response to the relevant tests in legislation and guidance and aligned with substantial DCO drafting precedent. There is no basis in planning law, policy or guidance which justifies a guarantee provision in a DCO in respect of capital costs, and the proposal is strongly opposed by the Applicant. Further, article 53 applies to each phase of the proposed development.
2	Peter White	[REP8-080] page. 1-2	The submission states that Luton has the second largest gap in the country between public spending and relative needs, in both percentage and monetary term, £278 per person below the level of need. Could the applicant provide a figure for how much per person in Luton has been spent on the following:- <ul style="list-style-type: none"> • Development Consent Order Application? Property/ land acquisition for the DCO? • DART Direct-Air Rail Transit? • The acquisition and refurbishment of Morton House? • The concession fee funds retained by the airport operator due to force majeure payments due to Covid-19? For the benefit of the ExA, I ask this question to ensure that the financial feasibility of this project is actually achievable and sustainable?	The Funding Statement [REP5-009] confirms that, based on the cost and revenue projections, the Proposed Development is capable of being funded from the net income derived from operating the airport. Hence, the Applicant confirms that the Proposed Development is financially feasible, achievable and sustainable.
3	Peter White	[REP8-080] page. 1-2	Could the applicant provide data of the year on year income from the airport to council budgets since 2007? Please do not include interest on loans or any other payments to the council, purely the amount from the concession fee income stream in the form of the dividend.	The dividend payments from Luton Rising to Luton Borough Council for the financial years 2006/07 to 2021/22 are shown in the following Table. Dividend payments from Luton Rising to Luton Borough Council (£m)

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response																																		
			<p>For the benefit of the ExA, I ask this question because I believe it shows that a growing airport does not directly coincide with growing income into council budgets.</p> <p>Unless cast iron guarantees are included in any DCO approval on that dividend payment, I believe that the majority of extra income will be spent on servicing the applicant's debts/development costs, rather than improving life chances in Luton</p>	<table border="1" data-bbox="1706 226 2736 449"> <thead> <tr> <th>2006-07</th> <th>2007-08</th> <th>2008-09</th> <th>2009-10</th> <th>2010-11</th> <th>2011-12</th> <th>2012-13</th> <th>2013-14</th> <th>2014-15</th> <th>2015-16</th> <th>2016-17</th> <th>2017-18</th> <th>2018-19</th> <th>2019-20</th> <th>2020-21</th> <th>2021-22</th> <th>TOTAL</th> </tr> </thead> <tbody> <tr> <td>7.2</td> <td>5.1</td> <td>5.3</td> <td>5.5</td> <td>5.0</td> <td>6.7</td> <td>6.3</td> <td>11.0</td> <td>1.3</td> <td>6.0</td> <td>17.8</td> <td>19.5</td> <td>20.2</td> <td>0</td> <td>0</td> <td>0</td> <td>116.9</td> </tr> </tbody> </table> <p>The above shows there was a general trend of increasing dividend payments as passenger numbers grew, and this was most noticeable in the period between 2016 and 2019. Note that no dividend was paid in the Covid affected years between 2020-22.</p> <p>The Applicant notes that, whilst there are variances from year to year due to specific factors relating to those years, it is clear that the general trend in the amount of dividend that has been paid has increased substantially as a result of the growth in passenger numbers over time. These figures are taken from the company's accounts which are in the public domain.</p> <p>Notwithstanding the above, it is tendentious to focus solely on dividend payments as a measure of benefit to the people of Luton and the surrounding area. The benefits of airport expansion are much wider than fiscal contributions to the local authority and, as set out throughout the Applicant's case, include but are not limited to additional jobs, investment in transport infrastructure, investment in skills and training and additional direct contributions to the local voluntary sector. The Applicant therefore firmly disagrees with Mr White if his position is that such matters are not beneficial to the life chances of people living in Luton.</p>	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	TOTAL	7.2	5.1	5.3	5.5	5.0	6.7	6.3	11.0	1.3	6.0	17.8	19.5	20.2	0	0	0	116.9
2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	TOTAL																						
7.2	5.1	5.3	5.5	5.0	6.7	6.3	11.0	1.3	6.0	17.8	19.5	20.2	0	0	0	116.9																						
4	David Shipley	[REP8-070] page. 1-2	<p>This last paragraph indicates that the applicant and its parent entity Luton Borough Council consider using debt funding a realistic means of covering some or all of the total project cost of at least \$2.7 billion.</p> <p>According to the unaudited Luton Borough Council 2022-23 accounts total debt (borrowing plus creditors) at 31 March 2023 was £1,029 million gross, or £867 million net of short term debtors. This equates to £4577 gross or £3856 net per inhabitant.</p> <p>On 17 January this year, the BBC Shared Data Unit published a listing of some 380 local authorities showing their overall debt both in total and per capita. This table is available at their website to download, sort and filter. In it, Luton Borough Council's debt is shown as a lower figure of £712 million, but even at that level it ranks 20th out of 380 authorities for indebtedness per capita. It would rank 13th using the net debt figure from the accounts.</p> <p>If any or all of the estimated cost of this DCO were to be funded by debt, because of consolidation the additional debt would be</p>	<p>As confirmed on numerous occasions, it is not the intention that Luton Borough Council would consider using debt finance to support the Proposed Development.</p> <p>The Applicant's response to CAH2-WQ6 of the Applicant's Response to Written Questions - Arising from Hearings [REP7-048], confirms:</p> <p>"Whilst the Funding Statement [REP5-009] notes at paragraph 4.3.1.c that Council borrowing is a possibility for the Phase 1 works, it is not the Applicant's preferred or intended approach and there is no intention that the Council will borrow in order to finance this Phase of the Proposed Development. The Applicant also notes that the Council is not involved in the securing of finances by the airport operator for these works.....</p> <p>As for Phase 2, whilst Option 4.4.1.c is for the Applicant to become responsible for the ongoing operation of the airport, drawing upon a Technical Services Agreement (TSA) with an aviation expert and "raising money from the private markets or through commercial arrangements determined by its shareholder LBC" in paragraph</p>																																		

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response																																											
			<p>shown in full on Luton Borough Council's balance sheet. As my spreadsheet shows, based on the BBC's lower figures, the per capita debt would rise as follows, making Luton one of a handful of the most severely indebted Local Authorities in the UK.:</p> <table border="1" data-bbox="834 411 1590 569"> <thead> <tr> <th>% project cost as debt</th> <th>Per capita debt £</th> <th>Ranking out of 380 LAs</th> </tr> </thead> <tbody> <tr> <td>25%</td> <td>6170</td> <td>6</td> </tr> <tr> <td>50%</td> <td>9173</td> <td>3</td> </tr> <tr> <td>75%</td> <td>12175</td> <td>2*</td> </tr> <tr> <td>100%</td> <td>15177</td> <td>2*</td> </tr> </tbody> </table> <p>Behind only Woking which is subject to an S114 notice.</p> <p>I contend that this indicates that it is not a viable option to use debt to fund more than a very small proportion of the project cost.</p> <p>Luton Borough Council total debt as at 31.3.2023</p> <table border="1" data-bbox="807 894 1679 1591"> <thead> <tr> <th colspan="2">All figures in £000</th> </tr> </thead> <tbody> <tr> <td>Short term borrowing</td> <td>43,691</td> </tr> <tr> <td>Short term creditors</td> <td>174,937</td> </tr> <tr> <td>Long term creditors</td> <td>92,734</td> </tr> <tr> <td>Long term borrowing</td> <td>717,931</td> </tr> <tr> <td>Total values</td> <td></td> </tr> <tr> <td>- Total short term</td> <td>218,628</td> </tr> <tr> <td>- Total long term</td> <td>810,665</td> </tr> <tr> <td>- Total borrowing</td> <td>761,622</td> </tr> <tr> <td>- Total creditors</td> <td>267,671</td> </tr> <tr> <td>Net debt</td> <td></td> </tr> <tr> <td>Total debt</td> <td>1,029,293</td> </tr> <tr> <td>less short-term debtors if recoverable</td> <td>(-162,269)</td> </tr> <tr> <td>Net debt</td> <td>867,024</td> </tr> </tbody> </table> <p>Source: Luton Borough Council unaudited accounts 2022-23 pages 44-45</p>	% project cost as debt	Per capita debt £	Ranking out of 380 LAs	25%	6170	6	50%	9173	3	75%	12175	2*	100%	15177	2*	All figures in £000		Short term borrowing	43,691	Short term creditors	174,937	Long term creditors	92,734	Long term borrowing	717,931	Total values		- Total short term	218,628	- Total long term	810,665	- Total borrowing	761,622	- Total creditors	267,671	Net debt		Total debt	1,029,293	less short-term debtors if recoverable	(-162,269)	Net debt	867,024	<p>4.4.1 of the Funding Statement the Applicant makes it clear that there "...is no intention for LBC to finance the Phase 2 expansion."</p>
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less short-term debtors if recoverable	(-162,269)																																														
Net debt	867,024																																														
5	Andrew Mills-Baker	[REP8-068] page. 1	<p>Further WR deadline 8</p> <p>Unfortunately, the Applicant has provided no information to support their contention that "more than adequate information has been provided...". As an example of what should be provided, more information on both costs and confirmation of the availability</p>	<p>The Funding Statement [REP5-009] is comprehensive and clear, addressing the requests made at CAH1 by the Examining Authority and meeting the requirements of relevant guidance.</p>																																											

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			of funding is set out in the Manston Airport DCO Funding Statement (APP 013 3.2)	
6	Andrew Mills-Baker	[REP8-068] page. 1	The audited accounts of the Applicant for the year ended 31 March 2023 are required to be filed within 9 months of the year end, i.e by 31 December 2023. The accounts have not been filed and are now overdue. This means it is currently not possible to assess the financial performance for the most recently completed business year. The audited accounts for the previous year were filed nearly 6 months late and showed a net loss of £232m on top of a loss for the previous year of £110m. In the context of such losses, and the required funding for such a significant project, late filing of statutory accounts is, in my view, unacceptable.	The Applicant sought and has received approval from Companies House to delay submission of its 2022/23 accounts by up to three months as it was not expected that the accounts would be fully signed off by the auditors in time to meet the 31 December deadline. This year's delay is unrelated to previous late submissions. Delays to publication of accounts are not uncommon and no malpractice should or can be inferred from this.
7	Andrew Mills-Baker	[REP8-068] page. 2	The audited accounts of the Applicant for the year ended 31 March 2022 indicated that loans to LBC amounted to £409m at 31 March 2022. The draft unaudited accounts of LBC for the year ended 31 March 2023 have been published and indicate that loans to the Applicant increased by £83m to £492m. What is the position now? How will these loans be repaid during the currency of the DCO, if permission is granted. What is the impact of these loans on the ability of the Applicant to secure third party funding?	As stated in the Applicant's response to ID 2.1 of the Applicant's Response to Deadline 6 Submissions [REP7-063] , "by 2033 concession fees alone are projected to be well in excess of £100m per annum." This sum of money is considerably more than the interest on Luton Borough Council's loan notes to the Applicant, the Applicant's operating costs, its charitable donations, and monies to be set aside for Phase 2 compensation.
8	Andrew Mills-Baker	[REP8-068] page. 3	<p>There are concerns about the lack of profitability of the Applicant, as this indicates a lack of internal resources to meet project costs. There are continued concerns about the availability of funds from third parties. The LR response refers to the "strong letter of support" from the current concessionaire, set out in Appendix C of the Funding Statement. This is not a strong letter of support, it is conditional, it states the following: "provided an appropriate commercial agreement can be reached with the Applicant, LLAOL is committed to the financing and delivery of the Phase 1 works". The letter discloses that the arrangement being discussed with the Applicant is an amendment and extension of the Concession Agreement. The letter concludes "on the basis that we can reach agreement on commercial terms with the Applicant, we are confident in being able to finance and deliver Phase 1 of the DCO, as well as working together to progress Phase 2 of the development."</p> <p>It is clear from this that there is no firm commitment from either party at this time and therefore no certainty that funding will be available. LLAOL indicate in their letter that they plan to provide a further update in January 2024. Given the size of the project, and the impact on local communities there should be certainty that funding is available.</p>	The Applicant's response to ID 8.5 in the Applicant's Response to Deadline 6 Submissions [REP7-063] , gives the latest position on negotiations between the existing concessionaire and the Applicant. Both parties are confident on reaching an agreement.

2.7 GREEN CONTROLLED GROWTH

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

Table 2.7 Applicant's Response to Deadline 8 Submissions – Green Controlled Growth

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
Green Controlled Growth Sanctions				
1	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire District Council Luton Borough Council	<p>[REP8-054] page. 2-3</p> <p>[REP8-057] page. 4-5</p>	<p>It is difficult at this stage for LBC to set out in any detail what is considered an appropriate penalty scale and period. This is primarily because the Green Controlled Growth (GCG) Framework is a novel concept. Ultimately, LBC considers any mechanism put in place needs to, as previously submitted, act as a proportionate incentive for the Applicant to pursue growth on a precautionary basis, whilst equally acknowledging that growth should not be constrained where it can be achieved sustainably.</p> <p>In terms of the scale, LBC notes that the ExA have suggested that the Secretary of State could be responsible for setting the framework for any sanctions regime for persistent breaches. LBC would support this in principle, as ultimately, LBC is not expert in these sorts of matter. It is also important to recognise that while it is useful to use the language of “fines”, “sanctions” and “penalties” as a short hand, payments of this nature must be seen for what they are which is an obligation to pay compensation to the communities affected adversely by the authorised development persistently operating in breach of environmental Limits.</p> <p>However, if it assists the ExA, it may be helpful to consider analogous scenarios at other airports. For example, Brussels Airport’s owner was fined €6million + €20k per day whilst an environmental limit breach continued. As set out above, any penalty must be sufficiently high to render the financial benefits of persistently breaching the limit unwarranted. Guidance is therefore also drawn from applicable sanctions under the data protection regime, which can be up to 4% of total global turnover or €20million; these values are taken to be within a comparable ballpark to those applied at Brussels Airport.</p> <p>Specifically in terms of period, LBC does not have a strong view – per day or per month (or even per quarter) would be equally acceptable but should, it is submitted, tie into the relevant monitoring periods under the GCG Framework and any relevant Monitoring and Mitigation Plan, to ensure that the Applicant is not subject to any penalty for a period for which it is not in breach and vice versa. It is important to note that any noise contour limit breach can only be applied over a penalty time period of the 92-day summer period, as the limit applies to this period, rather than days or smaller periods within this.</p>	<p>The Applicant refers to the Applicant’s Position Statement on Financial Penalties [TR020001/APP/8.187] submitted at Deadline 9, alongside this submission.</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>Taking noise as a specific example, noise contour area limits are introduced to provide communities with certainty, so the act of persistently breaching the limit should automatically lead to a lump sum being applied, with a scaling factor per dB increase above the limit also applying.</p> <p>Any financial payments should be paid into the Community Fund as proposed to be secured by the section 106 agreement to ensure use of any sums for the benefit of the communities affected by the breaches.</p>	
2	Central Bedfordshire Council	[REP8-050] page. 3	<p>CBC would view an appropriate penalty scale for breaches of noise contour limits to be similar to those apportioned to Brussels Airport for their misuse of runways. Brussels Airport's owner was fined €6million + €20k per day of the continuing issue occurring and is taken to be the most similar example where fines have been applied to an airport. Any penalty must be sufficiently high to render the financial benefits of persistently breaching the limit unwarranted. Guidance is therefore also drawn from GDPR fines, which can be up to 4% of total global turnover or €20million; these values are taken to be within a comparable ballpark to those applied at Brussels Airport.</p> <p>Any noise contour limit breach can only be applied over a penalty time period of the 92-day summer period, as the limit applies to this period, rather than days or smaller periods within this.</p> <p>Noise contour area limits are introduced to provide communities with certainty, so the act of persistently breaching the limit should automatically lead to a lump sum being applied, with a scaling factor per dB increase above the limit also applying. Applying this thinking to the Brussels Airport example would lead to an initial fine in the region of £5million plus £1million per dB increase above the limit.</p> <p>The £5million is derived from converting euros into GBP. The £1million scaling factor is derived by approximately taking the €20k per day and pro-rating over a 92-day period and again converting euros into GBP; a strict conversion at current rates would place this figure at £1.5million, which would also be acceptable.</p> <p>Any fines should be paid into the Community Fund or otherwise used by the Host Authorities for the benefit of the communities affected by the breaches</p>	<p>The Applicant refers to the Applicant's Position Statement on Financial Penalties [TR020001/APP/8.187] submitted at Deadline 9, alongside this submission.</p>
ESG and Technical Panels Host Authority Representation, Composition and Funding				

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
3	Buckinghamshire Council	[REP8-048] I.D. 2.11.4	The Council is concerned that as currently drafted Schedule 5 of the S106 does not provide a route for new members of the Noise Technical Panel (as a result of future changes to the noise contours) to access funding to undertake their role.	The Applicant would anticipate that if a new member were to join, that discussions around funding would be addressed at that time. The Applicant anticipates and commits to providing funding should that eventuality arise, but given it is a mere potential at this stage, does not consider that a commitment would be appropriate at this juncture.
4	Luton Borough Council	[REP8-058] Table 7 page. 5 Table 8 page. 5-6	<p>LBC has seen the ExA's commentary on the dDCO, in particular in relation to Requirement 19, and a separate response has been submitted in the 'Host Authorities' Response at Deadline 8 to DCO Matters'. LBC considers that reference to a "suitably qualified senior planning professional" is unduly onerous and that wording along the lines of the ExA's suggestion, namely, "suitably qualified person, who is not an elected representative", is more appropriate. The nomination of a suitably qualified person should rest with the Council and not the Chair of the ESG.</p> <p>LBC consider that the choice of representative for the Technical Panels should rest with the Council and the suitability of a representative should not be at the discretion of the chair.</p>	<p>As per the Applicant's Response to the Examining Authority's Commentary on the Draft DCO [REP8-036], the Applicant has accepted the ExA's proposed amendments to Paragraph 17 of the draft DCO [REP8-003] at Deadline 8. This places a requirement on the airport operator to ensure that a 'competent person' prepares a Monitoring Report, to ensure that reliance can be placed on the monitoring and reporting process.</p> <p>The Applicant considers that a similar requirement should apply to the representative of a local authority on the ESG, so that the airport operator can place reliance on the decisions made by that body. As such, the Applicant has made amendments to the Green Controlled Growth Explanatory Note [TR020001/APP/7.07] and Green Controlled Growth Framework Appendix A: ESG Terms of Reference [TR020001/APP/7.08] changing the reference from "suitably qualified senior planning professional" to "competent officer" for consistency across different aspects of the GCG process.</p> <p>The Applicant considers it entirely appropriate that the chair of the ESG should be able to decide upon matters of competence in this context, and that an independent chair will be capable of making an objective determination of whether an individual meets this requirement.</p>
Transition Period, Timing of Monitoring and Air Quality Baseline Data				
5	Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, Luton Borough Council and North Hertfordshire Council (the 'Host Authorities')	[REP8-052] para. 34.1 page. 11	The Host Authorities welcome the ExA's proposed amendments to this article which would ensure that across each of the four GCG monitoring topics at least one year of baseline data would be available prior to the service of article 44(1) notice ensuring an accurate baseline for the operational regime under the DCO.	<p>The Applicant has been progressing separate discussions with the Host Authorities on Statement of Common Ground issues, in parallel with preparation of written submissions to the examination. From the latest version of the SoCGs submitted by the Hertfordshire Host Authorities, it is understood that the current position is that whilst a period of baseline monitoring of one year is sought, a shorter six month period would be acceptable. It is also understood that this monitoring would need to take place prior to the commencement of GCG monitoring, rather than the service of notice.</p> <p>On this basis, the Applicant has updated the Outline Operational Air Quality Plan [TR020001/APP/5.02] submitted at Deadline 9 to include a requirement to use reasonable endeavours to ensure that 6 months of baseline data is available. The Applicant has used the phrase "reasonable endeavours" in this context as the installation of the monitors is in most cases subject to local authority, or landowner, approval. The Applicant therefore wishes to avoid a scenario in which the ability to serve a notice is frustrated. The outline Operational Air Quality Monitoring Plan is considered to be the appropriate securing mechanism as it ensures that the commitment bites at the relevant time. The Monitoring Plans have legal effect following the service of the article 44(1) notice, whereas the Outline Operational Air Quality Plan already deals with air quality monitoring prior to the service of the notice.</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
Greenhouse Gas Limits				
6	Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, Luton Borough Council and North Hertfordshire District Council (the 'Host Authorities')	[REP8-055] sections 2-3 page. 2-3	<p>The limits and thresholds for Phase 2b operational emissions have been increased by approximately 20%, as per Table 5.1 of 7.08 Green Controlled Growth Framework [REP7-030] and Table 3.7 of 7.07 Green Controlled Growth Explanatory Note [REP7-018]. The following Phase 2b operational scope 1 and 2 emissions increases have been proposed:</p> <ul style="list-style-type: none"> • Scope 1 and 2 emissions limit increase from 236 to 280 tCO₂e/year; • Scope 1 and 2 emissions Level 2 Threshold increase from 224 to 266 tCO₂e/year; • Scope 1 and 2 Level 1 Threshold increase from 212 to 252 tCO₂e/year. <p>The Applicant does not appear to have provided justification for these proposed Phase 2b operational emissions increases, which, according to the Green Controlled Growth Framework, are to align with the Jet Zero Strategy ambition of net zero airport operation emissions by 2040. Justification for the proposed emissions increases and alignment with the Jet Zero Strategy is therefore requested.</p>	<p>The amendments identified by the Host Authorities were to correct an error that was identified during the preparation of the Applicant's Response to Issue Specific Hearing 9 Action 27 - Note on GHG Limits [REP7-078]. As set out in paragraph 3.1.16 of the Green Controlled Growth Explanatory Note [TR020001/APP/7.07], the value of the GCG Limits between each Phase are set according to the highest level of forecast environmental effect, either associated with the assessment year preceding or the assessment year following a given point. In error, the Phase 2b Limits and Thresholds had been set based on the lower Phase 2a forecast rather than the slightly higher Phase 2b forecast. These changes therefore align the Limits and Thresholds with the Phase 2b forecast.</p> <p>It is acknowledged at paragraph 3.4.40 that the current Limits and Thresholds for GHGs do not currently reflect the Jet Zero Strategy ambition of net zero airport operation emissions by 2040 due to the current uncertainty around the definitions used for the target. It is on this basis that the GCG Framework includes a commitment to undertake a review of both the definition of 'airport operations' and the associated Limits from 2040 onwards within three months of government clarifying the scope and pathway to achieving this policy ambition. On this basis, it is highly likely that the Phase 2b Limits and Thresholds will have been reviewed and amended before passenger throughput increases to a level where they are in place.</p>

2.8 NEED CASE (INCLUDES EMPLOYMENT & ECONOMICS, FLEETMIX, FLIGHTPATHS)

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

Table 2.8 Applicant's Response to Deadline 8 Submissions – Need Case

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
Shoulder Period Movement Limits				
1	Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, Luton Borough Council and North Hertfordshire District Council (the 'Host Authorities')	[REP8-050] page. 4-5	<p>The Applicant has proposed 13,000 ATMs in the shoulder periods for a throughput of 32 mppa. While all airports are different and have their own characteristics and features, CBC consider that Stansted Airport may provide some guidance in determining an appropriate figure for an aircraft movement limit in the morning Shoulder period of 6 to 7 am. Like Luton, Stansted has a high proportion of its passenger traffic carried by Low Cost Carriers with significant numbers of aircraft based at the airport. Stansted also handles a significant volume of air freight most of which is flown on pure freighter aircraft which also operate in the early morning period. Stansted is currently handling some 28 mppa, and may therefore act as an analogue for what might be achieved</p>	<p>The Applicant has addressed this fully in the paper on the Applicant's Position on Noise Contour and Movement Limits [TR020001/APP/8.184].</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>at a 32 mppa Luton Airport. In the current winter season and the forthcoming Summer 24 season, Airport Co-ordination Limited (ACL) has approved slots for both airports: at these airports, all aircraft movements require a slot from ACL to operate legally. At Stansted, 5.0% of slots were in the period between 6 am and 7 am, whereas at Luton the figure was 5.9%. This shows that a busier airport can operate with a lower proportion of flights in this hour, perhaps illustrating that there has been some peak spreading as traffic levels have increased. Applying this lower proportion to LR's passenger ATM forecasts for a 32 mppa Luton (177,110 per annum) points to a Shoulder period limit at Luton of 8,829 movements per annum. Freighter aircraft generally operate at a lower utilisation (viz. flying hours per day) so should not be too inconvenienced by having operations delayed until after 7 am. The Authorities also note that while LR's passenger ATM forecast was regarded as reasonable for assessment purposes they were also advised that it was likely to be an over-estimation, which in turn would suggest a shoulder period cap below the 8,829 figure derived above.</p>	
Demand Forecasts				
2	<p>Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, Luton Borough Council and North Hertfordshire District Council (the 'Host Authorities')</p>	<p>[REP8-051] page. 7-8 [REP8-058] page. 11-13 [REP8-055] page. 16-17</p>	<p>NE.2.1 Revised GDP Forecasts CBC Response: Passenger forecasts are generally one of the first products of a forecasting exercise and form the basis of most other forecasts that need to be considered in an airport's expansion plans. Therefore, it is often necessary to persist with the initial forecast for practical and economic reasons. One approach to handling this difficulty is to assume that the timing for other forecasts moves forward or backward but their values are not altered. In this application, the lower GDP forecasts of the OBR in November 2023 would be likely to result in lower passenger forecasts with other forecasts moving later in time. The impact on the forecasts for London Luton Airport though as noted previously can be overwhelmed by the assumptions made about the passenger handling capacities of Heathrow and Gatwick. The Applicant has presented the performance of previous Government forecasts against actual outcome, and draws attention to the DfT's forecasts for 2011 and 2013. The data presented for those two years appears to correspond with the forecasts given in the original documents for those two years. However, The PDF version of the DfT's 2011 forecast currently available online shows lower forecasts, with some 520 mppa in 2050 in the Central Case (c.f. nearly 600 mppa in Figure 1 of the LR document). The ExA should note that a systematic (though unacknowledged) error in the DfT's modelling approach (pointed out to the DfT by CSACL) resulted in a change in the DfT's approach applied to all later forecasts from 2013 onwards. The 2011 forecast gives at Para 8.3, a forecast of 345 mppa in 2030, some 40 mppa lower than that believed to be in the original 2011 document itself and which would be in agreement with the data presented in LR (York's) Figure 1. It</p>	<p>The Host Authorities have provided further comment from Dr Chris Smith (CSACL) on the Applicant's responses to the ExA's WQ2 NE.2.2-NE.2.5. These comments all relate to CSACL's contentions that the application of updated GDP projections and an assumption that there could be higher throughput attained at Gatwick, and also Heathrow, in the absence of additional runways capacity being provided at these airports would necessarily result in lower demand projections for London Luton Airport. This has been addressed in full in the additional forecast sensitivity analysis set out in Applicant's Response to Written Questions NE.2.1 and NE.2.2 – Demand Forecasts [REP8-037].</p> <p>In relation to GDP, this detailed analysis shows that the adoption of the most up-to-date economic projections actually results in faster growth being projected over the longer term, albeit with some slight slowing of growth in the near term. In so far as the additional comments from CSACL in response to NE.2.1 relate to the Department for Transport's historic air passenger forecasts, these are of no direct relevance to the case here. The key point remains that forecasts can vary as economic inputs vary and that it is not appropriate to update longer term forecasts every time there are variations in short-term economic projections.</p> <p>Although the Applicant does not agree with CSACL (HA's response to NE.2.2) that it is necessarily realistic to assume that Gatwick will be able to increase its passenger throughput to 67 mppa with only a single runway in use for the reasons already set out in response to NE.2.2, the Applicant has tested the effect of such an assumption on the assessment Cases for the Proposed Development and set out the results in [REP8-037]. Given that the assessment Cases are derived from combinations of underlying demand scenarios and reflect the timing over which additional capacity is assumed to</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>would seem that the DfT has retrospectively corrected its 2011 forecasts: it would be unreasonable to expect York to be aware of this. If Figure 1 of the LR document were re-drawn using the corrected (and lower) 2011 DfT forecasts, different conclusions might be drawn about whether forecasts "...produced during periods of strong economic growth can lead to an overstatement of long term demand...". Passenger traffic at UK airports in the 12 months to the end of November 2023 was 269.5 mppa based on the addition of data in CAA monthly airport statistics. Calendar year 2023 traffic is likely to be some 272 mppa, compared to a 2019 total of 296.8 mppa.</p> <p>NE.2.2 Forecasting with Gatwick: The Applicant's response to the ExA's first question concerning the difference in capacity assumptions is that they come from different sources, the Applicant using a DfT assumption from 2017 and the Joint Host Authorities using those of Gatwick Airport's management. In a more recent document, the DfT has not given a passenger capacity assumption for Gatwick (or Heathrow) in acknowledgement that passenger handling capacities may increase with a given/capped number of aircraft movements CBC Comments on Deadline 7 Submissions Deadline 8 – 23 January 2024 8 as a consequence of increases in passengers per ATM (DfT jet-zero-further-technical-consultation-dataset, March 2023, Airport Capacity tab). The DfT now allows capacity to be determined by the number of aircraft movements allowed. Gatwick's own forecast of being able to handle 67 mppa in 2047 is based on greater use of the runway during both the quieter winter months and some less busy hours of the day to allow some 326,000 ATMs to be operated. It would in essence become more like Heathrow in having flatter diurnal and seasonal ATM profiles. This assumed capacities would require an average of 206 passengers per ATM – some short haul flights from Gatwick will already be operating today with passenger loads equal to or greater than this, with both easyJet and WizzAir operating their A321 neos with some 235 seats. In the 12 months to the end of November 2023 this parameter at Gatwick had recovered to 158 passengers per ATM. From this base, passengers per ATM would need to increase at an average rate of 1.1% per annum over the 23 year period. This may be compared with an historic achieved average rate of 1.4% per annum over the 20 years between 1999 and 2019. Without resort to modelling it is clear that an extra 14 mppa capacity at Gatwick would mean fewer passengers at London Luton. The heat chart in LR's Need Case (Need Case Figure 6.6) showing the forecast growth rates in Luton's catchment area is hottest in areas south of the Thames meaning that many of these passengers are likely to find Gatwick a more convenient airport. This chart shows growth rates rather than actual incremental passengers at Luton, so analysis would clearly</p>	<p>be delivered at the airport, the effect of Gatwick being assumed to be able to attain higher capacity with only a single runway has no effect on the assessment cases, except in the event of the slowest underlying growth rate when a higher throughput would be less likely at Gatwick in any event as overall air passenger demand would be lower across the UK.</p> <p>The Applicant does not consider that the further comments from CSACL give rise to the need to vary its position as set out in [REP8-037] that the assessment Cases for the Proposed Development remain robust. It has clearly been demonstrated that the adoption of different assumptions, as put forward by the Host Authorities, still results in the timing when the airport would reach 32 mppa being within the range set out between the Core Planning, Faster and Slower Growth Cases.</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>be required. However, given that the total growth forecast by LR for Luton Airport over the next 25 years or so is only some 14 mppa, an additional capacity at Gatwick of a similar magnitude would clearly lead to lower forecasts at London Luton.</p> <p>NE.2.3 Load Factors CBC Response: The Applicant's response adds little to support its contention. All airlines seek to maximise their load factors and it is very doubtful if any airline restricts its sales to accommodate requests for late changes of flights by holders of flexible tickets: if there happen to be seats available, then the passenger may change flights. In any event, many airlines have an over-booking policy in anticipation of 'no-shows': if more booked passengers turn up at departure than there are seats available, an airline will accommodate its most important commercial passengers first before deciding which passengers will not fly. easyJet carries most passengers at Gatwick Airport, and is expected to account for 45% of seat availability in the forthcoming summer season, verses British Airways' 12%.</p> <p>NE.2.4 Load Factors and Average Seats per Flight Passengers per Passenger ATM at Luton had reached 165.5 over the 12 months to the end of November 2023, exceeding 2019's 164.6, even though passenger numbers were only at 89% of 2019 levels. The Applicant's response to the third question states that forecasts for other airports are based on passenger preferences limited only by any passenger cap. While Heathrow and Gatwick have no legal passenger caps, it is believed that York's modelling applies a de facto cap by limiting those airports' passenger capacities based CBC Comments on Deadline 7 Submissions Deadline 8 – 23 January 2024 9 on outdated DfT capacity assumptions derived from application of a passenger per movement assumption applied to annual ATM limits (either legal or practical).</p>	
3	LADACAN	[REP8-075] page. 15	<p>The Applicant's argument appears flawed. We agree that the carbon cost which 'trends upwards from the historic ETS price to the longer-term BEIS appraisal value' is used in Jet Zero to model both emissions and passenger demand.</p> <p>The impact of the carbon price on demand and emissions is significant, and in the Jet Zero 'High Ambition' scenario it accounts for 27% of the emissions reduction in 2050 through higher air fares and the consequential impact this has on demand for air travel.</p> <p>In Jet Zero the assumed carbon price is taken as a proxy for decarbonisation costs. It is evident, therefore, that if the actual ETS price is lower or higher than the assumed ETS price, there will be a consequence for both emissions</p>	<p>As stated in Applicant's Response to Deadline 6 Submissions Appendix C – LADACAN [REP7-066] (Response to REP6-136, 2), the carbon costs used in the demand forecasts, as set out in Appendix B to the Need Case [APP-214] trend upwards from the current traded carbon price or CORSIA to the BEIS appraisal values precisely to ensure that they reflect that the rising costs of carbon or its abatement in future. The fact that current prices are below this level reflects the ongoing recovery of many industries post-pandemic.</p> <p>Even if prices are lower in the short-term than assumed in the Jet Zero High Ambition scenario, the amount of carbon emitted by the aviation sector will be subject to 5-yearly review by the Government (Ref 2) and action taken to ensure that the sector is on track to meet carbon targets.</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>and demand. Current prices, and trends out to at least 2027, are considerably lower than the assumed ETS price, suggesting that emissions (and demand) are likely to be higher than predicted. There are two implications of having lower prices: (1) weaker carbon prices won't help to accelerate the uptake of alternative fuels and technology, and (2) lower carbon prices, when fed through to ticket prices, will lessen demand reduction. Both have a direct impact on emissions, and we raised the issue to show why the Jet Zero strategy is already off course to deliver.</p>	<p>Hence, the Applicant does not consider that there is any risk to the demand forecasts nor to the carbon emissions projected in the ES for the Proposed Development [TRO20001/APP/5.01].</p>

Night Period Movements

4	The Harpenden Society	[REP8-087] section. 14-16	<table border="1" data-bbox="816 751 1469 1228"> <caption>Air traffic movements Luton airport from Annual Noise Monitoring/Sustainability reports</caption> <thead> <tr> <th>Year</th> <th>Total</th> <th>Day 07:00-23:00</th> <th>Night 23:00-07:00</th> <th>Night quota 23:30:06:00</th> <th>Early morning 06:00-07:00</th> <th>Late shoulder 23:00-23:30</th> </tr> </thead> <tbody> <tr> <td colspan="7" style="text-align: center;">Night period detail</td> </tr> <tr><td>2015</td><td>116,412</td><td>103,220</td><td>13,192</td><td>6,844</td><td>4,778</td><td>1,570</td></tr> <tr><td>2016</td><td>131,435</td><td>116,686</td><td>14,749</td><td>7,503</td><td>5,161</td><td>2,085</td></tr> <tr><td>2017</td><td>135,518</td><td>119,462</td><td>16,056</td><td>7,982</td><td>5,962</td><td>2,112</td></tr> <tr><td>2018</td><td>136,270</td><td>119,937</td><td>16,333</td><td>8,487</td><td>5,794</td><td>2,052</td></tr> <tr><td>2019</td><td>141,481</td><td>124,306</td><td>17,175</td><td>8,844</td><td>5,968</td><td>2,363</td></tr> <tr><td>2020</td><td>63,593</td><td>55,929</td><td>7,664</td><td>4,250</td><td>2,525</td><td>889</td></tr> <tr><td>2021</td><td>61,560</td><td>54,647</td><td>6,913</td><td>3,479</td><td>2,423</td><td>1,011</td></tr> <tr><td>2022</td><td>118,060</td><td>102,101</td><td>15,959</td><td>9,157</td><td>4,666</td><td>2,136</td></tr> <tr> <td>Change on previous year</td> <td></td> <td>Daytime</td> <td>Night</td> <td>Night quota</td> <td>Early morning</td> <td>Late shoulder</td> </tr> <tr><td>2016</td><td></td><td>13,466</td><td>1,557</td><td>659</td><td>383</td><td>515</td></tr> <tr><td>2017</td><td></td><td>2,776</td><td>1,307</td><td>479</td><td>801</td><td>27</td></tr> <tr><td>2018</td><td></td><td>475</td><td>277</td><td>505</td><td>(168)</td><td>(60)</td></tr> <tr><td>2019</td><td></td><td>4,369</td><td>842</td><td>357</td><td>174</td><td>311</td></tr> <tr><td>2020</td><td></td><td>(68,377)</td><td>(9,511)</td><td>(4,594)</td><td>(3,443)</td><td>(1,474)</td></tr> <tr><td>2021</td><td></td><td>(1,282)</td><td>(751)</td><td>(771)</td><td>(102)</td><td>122</td></tr> <tr><td>2022</td><td></td><td>47,454</td><td>9,046</td><td>5,678</td><td>2,243</td><td>1,125</td></tr> </tbody> </table> <p data-bbox="816 1270 1676 1896"> 14 Total growth in daytime and night period aircraft movements between 2015 and 2019 were 21,086 and 3,983 respectively but the night period limits were not tested. We're aware of restrictions applied by LLAOL to try to keep within the night period noise contour but night period flights continued to increase pre-Covid. Limited apron space may have prevented overnight parking of aircraft and limited night period growth. Clearly, there are a number of competing factors that determined the pattern of night period flights at Luton airport. 15 However, in 2019 low cost airlines increased the number of daytime flights significantly to meet passenger demand. Those additional 4,369 daytime flights accounted for the bulk of Luton airport's passenger growth that year. We do not know which of the factors in 14 were material to decisions not to fly in the night period but, evidently, the low cost airlines adapted to the conditions they were faced with to meet demand. 16 Thus, where there are night period constraints, low cost airlines will utilise daytime slots to earn a profit. They might prefer 24 hour flying but they clearly don't need it. 17 There is, therefore, scope for LR to reduce private jet air traffic movements and shift growth in commercial traffic to the daytime so that </p>	Year	Total	Day 07:00-23:00	Night 23:00-07:00	Night quota 23:30:06:00	Early morning 06:00-07:00	Late shoulder 23:00-23:30	Night period detail							2015	116,412	103,220	13,192	6,844	4,778	1,570	2016	131,435	116,686	14,749	7,503	5,161	2,085	2017	135,518	119,462	16,056	7,982	5,962	2,112	2018	136,270	119,937	16,333	8,487	5,794	2,052	2019	141,481	124,306	17,175	8,844	5,968	2,363	2020	63,593	55,929	7,664	4,250	2,525	889	2021	61,560	54,647	6,913	3,479	2,423	1,011	2022	118,060	102,101	15,959	9,157	4,666	2,136	Change on previous year		Daytime	Night	Night quota	Early morning	Late shoulder	2016		13,466	1,557	659	383	515	2017		2,776	1,307	479	801	27	2018		475	277	505	(168)	(60)	2019		4,369	842	357	174	311	2020		(68,377)	(9,511)	(4,594)	(3,443)	(1,474)	2021		(1,282)	(751)	(771)	(102)	122	2022		47,454	9,046	5,678	2,243	1,125	<p>The Applicant notes the Harpenden Society's analysis of the pattern of day and night-time flying at the airport over the period 2015-2019 but, contrary to what is claimed by the Harpenden Society, cannot identify that there has been any fundamental change in the pattern of daytime and night-time flying; both grew roughly pro-rata. Hence, it is not correct to imply that low cost airlines fly in the daytime to make a profit and do not need to fly at night. In any event, these airlines do not tend to operate through the night but seek to optimise the utilisation of their aircraft over the day, which may result in some aircraft operating the final leg of a flight during the night period. The Applicant considers it has correctly assessed the balance of day and night-time movements for future years within the Proposed Development.</p>
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			<p>noise reductions are achieved throughout the life of the DCO in the daytime and night period.</p> <p>18 We respectfully request the ExA to ask LR what reduction in the number of private flights Luton airport are required so that the long term day and night noise contours provided at the P19 Inquiry, at least, are achieved but preferably lowered to provide communities with even a modest overall reduction in noise.</p>																																										
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5	Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, Luton Borough Council and North Hertfordshire District Council (the 'Host Authorities')	<p>[REP8-051] page. 9</p> <p>(The same text is provided across the Host Authorities' Deadline 8 submissions)</p>	<p>NO.2.2 Fleet Forecasts CBC response: There are long order books for both Airbus A320-family neos and Boeing-MAX aircraft as well as there being other concerns about the MAX. A cautious view about the rate of transition is justified, especially as this would be unlikely to lead to an under-estimation of the environmental consequences of their use. In a faster growth scenario, it is plausible that there would be greater global demand for the Airbus neos, which considered against a finite build-capacity for new aircraft could result in delayed retirements of existing older generation aircraft. However, in the faster growth case the absolute number (rather than relative proportion) of neos should not be fewer than assumed in the Core Case. It would be reasonable to assume that such a position would be temporary (lasting a few years) while Airbus expands its manufacturing capability.</p>	<p>This point appears to be part of a broader submission in relation to the use of the Faster Growth Case as the basis for setting the noise limits. It has been addressed in the Applicant's Position on Noise Contour and Movement Limits [TR020001/APP/8.184].</p>																																									
6	The Harpenden Society	<p>[REP8-087] page. 2</p>	<p>Fleet transition relative to Gatwick</p> <p>1 The central case fleet transition sees the Gatwick fleet modernise at a rate that is broadly consistent with fleet modernisation in the core growth case at Luton (but nonetheless slower than LLAOL predicted at the P19 inquiry), as set out in the table below. That was what we were referring to at OFH3. We'd noted that, in the slower fleet transition case, Gatwick noise levels would initially increase but discounted this because the host authorities and interested parties at the Gatwick DCO will undoubtedly argue strongly that the noise limits should be set according to the central case as it represents the reality of fleet modernisation.</p> <table border="1" data-bbox="813 1514 1368 1675"> <caption>Gatwick and Luton modernisation %'s</caption> <thead> <tr> <th colspan="2">Gatwick</th> <th colspan="2">Luton</th> <th colspan="2">P19 Inquiry</th> </tr> <tr> <th>Date</th> <th>Central Case fleet</th> <th>Slower transition case fleet</th> <th>Date</th> <th>Core growth</th> <th>Date</th> <th>from ESA4 table 8B.1</th> </tr> </thead> <tbody> <tr> <td>2019</td> <td>13%</td> <td>13%</td> <td>2019</td> <td>6%</td> <td>2028</td> <td>6%</td> </tr> <tr> <td>2029</td> <td>59%</td> <td>40%</td> <td>2027</td> <td>69%</td> <td>2028</td> <td>88%</td> </tr> <tr> <td>2032</td> <td>82%</td> <td>50%</td> <td>No data</td> <td>No data</td> <td>2031</td> <td>100%</td> </tr> <tr> <td>2038</td> <td>100%</td> <td>82%</td> <td>2039</td> <td>97%</td> <td>2039</td> <td>100%</td> </tr> </tbody> </table>	Gatwick		Luton		P19 Inquiry		Date	Central Case fleet	Slower transition case fleet	Date	Core growth	Date	from ESA4 table 8B.1	2019	13%	13%	2019	6%	2028	6%	2029	59%	40%	2027	69%	2028	88%	2032	82%	50%	No data	No data	2031	100%	2038	100%	82%	2039	97%	2039	100%	<p>The Harpenden Society has presented further details of the proposed fleet transition at Gatwick Airport under its DCO. This shows a substantially slower fleet transition to new generation aircraft is assumed at Gatwick than for the Proposed Development at London Luton Airport, albeit by the late 2030s the position at the two airports converges, with Gatwick indicating 100% new generation aircraft in 2038 and compared to 98% in the Core Case for London Luton Airport in 2039. In contrast, the Faster Growth (slower transition) Case for London Luton Airport shows 97% transition by 2039 compared to 80% assumed at Gatwick in its slower transition case. Gatwick, like the Applicant, is currently proposing that its Noise Envelope be set by reference to its slower fleet transition case (Gatwick ES Appendix 14.9.5, paragraph 3.2.15). Hence, the Applicant is unsure as to the point that the Harpenden Society is seeking to make. The matter of the rate of fleet transition in the Faster Growth Case is further considered in the Applicant's Position on Noise Contour and Movement Limits [TR020001/APP/8.184].</p>
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7	Andrew Mills Baker	<p>[REP8-068], page. 3</p>	<p>The Applicant has not responded to the point about current connectivity and the apparent alignment they suggest of Luton Airport to the cities of Oxford and Cambridge. The position is that there are no direct road and rail links from either city to Luton Airport. Cambridge has direct connections by road and rail to Stansted and Oxford has a frequent direct bus service to</p>	<p>The Applicant's Response to Deadline 6 Submissions [REP7-063] (page 30)], referred England's Economic Heartland's position, which covers to the whole of the Oxford to Cambridge Arc rather than the cities of Oxford or Cambridge specifically. It remains the case that London Luton Airport is the only airport located within the Arc and serves the central area between the two cities. The Applicant has not suggested that London Luton provides an</p>																																									

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			Heathrow. Luton Airport is and cannot be a complete substitute for either airport.	alternative to the use of Heathrow by passengers originating in or destined for Oxford or an alternative to Stansted for passengers originating in or destined for Cambridge but it is the most conveniently located airport for much of the Arc.
Employment				
8	Friends of Wigmore Valley Park	[REP8-071], page. 4	The applicant in its reply has not stated that an expanded airport will alleviate poverty. The applicant has ignored the fact that airport expansion basically involves a new terminal, aprons and car parks as the main sources of employment. Companies like Easyjet that have a HQ at Luton operate to 155 airports in 36 countries flying 1,024 routes using many UK and foreign bases. They are unlikely to employ more staff at its HQ due to Luton expansion. Easyjet's terminal and apron operation is operated by a third party handling agent to reduce costs to a minimum. https://corporate.easyjet.com/about/what-we-do/ (URL checked 19th January 2024) The applicant also focuses on the airport operator, who makes up a small proportion of the terminal workforce while ignoring all the other companies that operate out of the existing terminal or provide services on the apron or car parks. It is also to be noted that the airport operator also outsources work out to third parties to avoid paying the living wage.	The beneficial employment impacts of the Proposed Development are set out in the Oxford Economics Report at Appendix 11.1 to the ES [APP-079] . Appendix 1 to this report sets out the methodology used to produce the forecasts of on-site employment. This makes clear, at page 61, that account is taken separately of all categories of employment and appropriate growth multipliers applied. easyJet's head office employment was assumed to grow at 1.5% per annum, in line with the expectations for UK head office employment as a whole. This was distinct from the growth assumptions applied to the airline's operational staff and air crew based at the airport. Contrary to the views expressed by the Friends of Wigmore Valley Park, the employment estimates for the Proposed Development include all categories of employment, not just those of the airport operator. As shown in Figure 10 of the Oxford Economics Report, average wages earned by those working at the airport across the full range of employers are higher than the average for other workers in each of the relevant districts and study areas. This highlights the extent to which growth in employment at the airport has the potential to contribute to alleviating poverty by both providing entry level jobs and pathways to higher wage employment.
2019 Baseline				
9	LADACAN	[REP8-075], page. 13	To avoid repetition, we simply ask the ExA to ensure that the modelling of other environmental impact baselines does take account of the fact that in 2019, LLA was not properly entitled to fly 18 million passengers, since to do so breached its noise limits. Therefore some 20% less than that number of passengers would have caused other impacts, such as those on the surface transport network, so those baselines should also be modelled as lower than their 2019 actuals.	For the reasons set out in the Applicant's Response to Deadline 6 Submissions Appendix C - LADACAN [REP7-066] , the Applicant does not consider it necessary to model the impacts of the Proposed Development against a baseline of less than 18 mppa. This would not alter the assessment of the impacts between the With and Without Development Cases. The Without Development Case is compliant with the consented baseline in all assessment years.

2.9 NOISE & VIBRATION

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

Table 2.9 Applicant's Response to Deadline 8 Submissions – Noise and Vibration

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
Host Local Authorities				
1	Central Bedfordshire Council, Hertfordshire	[REP8-051] page. 9 [REP8-055]	The total number of aircraft movements forecast in 2043 the Applicant's Need Case is 209,410 (Core Development, summation of Tables 6.12, 6.15 and 6.16), 85% (or 177,110) of	The Applicant has addressed the topic of annual movement limits and has responded to the alternative limit put forwards by the Host Authorities in

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
	Host Authorities and Luton Borough Council	page. 19 [REP8-058] page. 16	<p>which are Passenger ATMs. Of the balance, a further 2,300 are cargo ATMs, while there are 30,000 Business Aviation movements, some of which will be classified as ATMs operated by air taxi firms, but others will not be ATMs as they are operated by private and executive jets. In 2019, CAA statistics did not show a single air taxi movement at LTN, but recorded 27,813 Business Aviation movements, that is they were not ATMs. This position for air taxi movements was unchanged in 2022. It is improbable that there were zero air taxi operations at LTN, so there is likely to be a reporting issue. Hence, it is not possible for the Host Authorities to suggest how many of the forecast 30,000 Business Aviation movements might be ATMs. If a cap is to be imposed, it may be preferable for it to govern aircraft movements rather than ATMs.</p> <p>Notwithstanding this point, the Applicant's suggestion for a cap of 225,000 movements is 15,000 movements more than its own forecasts. The bulk of these movements are Passenger ATMs, which the CSACL review of the Need Case for the Host Authorities considered to be an over-estimation although reasonable for assessment purposes (Para 2.10).</p> <p>The Applicant has in effect suggested that it does not know if its forecasts are correct in seeking to justify a higher movement limit. The advice to the CBC from CSACL has been that the Passenger ATM forecasts are likely to be over-estimated in view of the cautious assumptions made by York in their derivation. CSACL has also questioned the likely extent of long haul services. Should some long haul services not materialise as forecast by York, then CSACL has accepted that they might be substituted by passengers on short haul flights. CSACL has now estimated that this could lead to fewer than 1,000 extra flights per annum with 32 mppa. When combined with the likely over-estimation of the base Passenger ATM figure, any cap should be set at 210,000 annual aircraft movements. Setting the cap at a higher level would likely result in incompatible annual restrictions.</p>	<p>Applicant's Position on Noise Contour and Movement Limits [TR020001/APP/8.184] at Deadline 9.</p>
2	Central Bedfordshire Council, Hertfordshire Host Authorities and Luton Borough Council	[REP8-051] page. 10 [REP8-055] page. 20 [REP8-057] page. 7	<p>The Applicant's states in their response to this question, "The controls proposed represent the most restrictive noise controls in UK aviation."</p> <p>The controls proposed are viewed by the Host Authorities as less restrictive than those currently in place at Luton, as can be seen from the (only) table in Appendix 1 (noise control benchmarking) in Applicant's Response to Issue Specific Hearing 9 Actions 8, 19 and 20 - Quota Count Noise Controls [REP7-077]. CBC note that the QC budgets marked within the summer and winter limits columns are not controls, as these only assist in planning for the noise contour limits.</p>	<p>The Applicant did not intend 'most restrictive' to mean 'the greatest number of restrictions' but rather to refer to the strength and effectiveness of the suite of noise controls for the Proposed Development. The Applicant believes that the independently scrutinised framework of contour area limits and QC budgets in the Noise Envelope, combined with the movement limits and QC limits that apply during the Night Quota Period, and the extensive noise insulation scheme, represent the best practice in terms of effective airport noise control and restrictions.</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>Taking Stansted Airport as a reasonable comparison to London Luton Airport, the table in Appendix 1 also shows that Stansted is subject to more noise controls than London Luton Airport is proposing, and so the basis of the Applicant's stated position is questioned. Manchester and Bristol Airports are also taken as having similar levels of noise control placed on them, demonstrating that Luton is not being subject to excessive controls and that the inclusion of an early morning limit would be appropriate (as the question pertains).</p>	
	<p>Central Bedfordshire Council, Hertfordshire Host Authorities and Luton Borough Council</p>	<p>[REP8-051] page. 10 [REP8-055] page. 20 [REP8-057] page. 7</p>	<p>Within the same question response, the Applicant also puts forward an annual aircraft movement limit in the morning shoulder period of 0600-0700 of 13,000 movements. This value is not accepted; no justification has been provided for this figure nor is it demonstrated whether the noise assessment undertaken by the Applicant can accommodate this figure.</p> <p>Provision of the morning shoulder period (0600-0700) limit would in effect provide a proxy limit on the evening shoulder period (2300-2330), noting that there is already a core night period movement limit (2330-0600), the night-time summer contour and the potential annual 24-hour movement limit, all of which envelop this period. For the avoidance of doubt, the full night period is 2300-0700.</p> <p>CBC take the view that given the very sensitive nature of the shoulder periods the operator should be required to provide an evidenced assessment of the lowest possible number of movements that ATMs could be restricted to in order to facilitate the proposal. That would then be available for all parties to review and comment.</p> <p>The Applicant has proposed 13,000 ATMs in the shoulder periods for a throughput of 32 mppa.</p> <p>While all airports are different and have their own characteristics and features, CBC consider that Stansted Airport may provide some guidance in determining an appropriate figure for an aircraft movement limit in the morning Shoulder period of 6 to 7 am. Like Luton, Stansted has a high proportion of its passenger traffic carried by Low Cost Carriers with significant numbers of aircraft based at the airport. Stansted also handles a significant volume of air freight most of which is flown on pure freighter aircraft which also operate in the early morning period. Stansted is currently handling some 28 mppa, and may therefore act as an analogue for what might be achieved at a 32 mppa Luton Airport.</p>	<p>The Applicant has addressed the topic of shoulder period movement limits and has responded to the alternative limit put forwards by the Host Authorities in Applicant's Position on Noise Contour and Movement Limits [TR020001/APP/8.184].</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>In the current winter season and the forthcoming Summer 24 season, Airport Co-ordination Limited (ACL) has approved slots for both airports: at these airports, all aircraft movements require a slot from ACL to operate legally. At Stansted, 5.0% of slots were in the period between 6 am and 7 am, whereas at Luton the figure was 5.9%. This shows that a busier airport can operate with a lower proportion of flights in this hour, perhaps illustrating that there has been some peak spreading as traffic levels have increased.</p> <p>Applying this lower proportion to LR's passenger ATM forecasts for a 32 mppa Luton (177,110 per annum) points to a Shoulder period limit at Luton of 8,829 movements per annum. Freighter aircraft generally operate at a lower utilisation (viz. flying hours per day) so should not be too inconvenienced by having operations delayed until after 7 am. The Authorities also note that while LR's passenger ATM forecast was regarded as reasonable for assessment purposes they were also advised that it was likely to be an over-estimation, which in turn would suggest a shoulder period cap below the 8,829 figure derived above.</p>	
LADACAN				
3	LADACAN	[REP8-075] page. 6	<p>LLAOL has only recently started to dispense flights: it has not been custom and practice hitherto.</p> <p>The change was announced in the 2023 Q3 Quarterly Monitoring Report:</p> <p>"In March 2023, LLA started to dispense movements in line with the Section 106 agreement. LLA submitted a Dispensation Policy to the Local Planning Authority that was approved. This was to dispense (remove) movements from the night-time movement limit, night time QC limit and early morning movement limit."</p> <p>Given its history of contempt for planning conditions, finding ways to avoid flights being counted towards noise impacts has not gone down well with communities.</p> <p>The matter has been discussed at both LLACC and its Noise and Track Sub-Committee, and community disquiet over the high number of dispensations has been minuted.</p> <p>The sentiments were expressed that if passengers choose to fly with low-cost airlines and those flights are delayed due to over-ambitious scheduling, and passengers have to stay overnight in hotels, that is a matter for them to take up with the airlines. It certainly does not eradicate the local noise impacts of their flights,</p>	<p>Delays due to over-ambitious scheduling have not been used as a reason for dispensation. The reasons for historic dispensation are reported in the airport operator's quarterly monitoring reports as per the below extracts. 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>Quarter 1</p>

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			<p>and should not be used as a reason to dispense those flights from any assessment of the noise impacts of LLA.</p>	<p>The table below shows the number of movements dispensed in March 2023, there were no movements dispensed in January and February 2023. These have not been reported in the table in section 1.4.3.</p> <table border="1" data-bbox="1715 310 2653 474"> <thead> <tr> <th></th> <th>Night Dispersations</th> </tr> </thead> <tbody> <tr> <td>January 2023</td> <td>0</td> </tr> <tr> <td>February 2023</td> <td>0</td> </tr> <tr> <td>March 2023</td> <td>143</td> </tr> <tr> <td>Total</td> <td>143</td> </tr> </tbody> </table> <p>The table below also show the reasons for the dispensation, in line with the S106 list of acceptable reasons for dispensation. In March, weather (snow) and Air Traffic Disruption (ATC strikes in France) were reasons for dispensations.</p> <table border="1" data-bbox="1715 617 2653 848"> <thead> <tr> <th>Reason for Dispensation</th> <th>Number of Dispersations</th> </tr> </thead> <tbody> <tr> <td>Weather</td> <td>18</td> </tr> <tr> <td>Passenger Hardship</td> <td>118</td> </tr> <tr> <td>Air Traffic Disruption</td> <td>5</td> </tr> <tr> <td>Diversions</td> <td>0</td> </tr> <tr> <td>Emergencies</td> <td>2</td> </tr> <tr> <td>Total</td> <td>143</td> </tr> </tbody> </table> <p>Quarter 2</p> <p>The table below shows the number of movements dispensed in April-June 2023. These have not been reported in the table in section 1.4.3.</p> <table border="1" data-bbox="1715 1037 2653 1201"> <thead> <tr> <th></th> <th>Night Dispersations</th> </tr> </thead> <tbody> <tr> <td>April 2023</td> <td>144</td> </tr> <tr> <td>May 2023</td> <td>181</td> </tr> <tr> <td>June 2023</td> <td>270</td> </tr> <tr> <td>Total</td> <td>595</td> </tr> </tbody> </table> <p>The table below also show the reasons for the dispensation, in line with the S106 list of acceptable reasons for dispensation. In June, there was a NATO exercise in German airspace (known as Air Defender 2023), this resulted in air traffic disruption across Europe which led to delays.</p> <table border="1" data-bbox="1715 1369 2653 1638"> <thead> <tr> <th>Reason for Dispensation</th> <th>Number of Dispersations</th> </tr> </thead> <tbody> <tr> <td>Weather</td> <td>122</td> </tr> <tr> <td>Passenger Hardship</td> <td>411</td> </tr> <tr> <td>Air Traffic Disruption</td> <td>49</td> </tr> <tr> <td>Diversions</td> <td>2</td> </tr> <tr> <td>Emergencies</td> <td>4</td> </tr> <tr> <td>NATO Air Defender Exercise</td> <td>7</td> </tr> <tr> <td>Total</td> <td>595</td> </tr> </tbody> </table> <p>Quarter 3</p>		Night Dispersations	January 2023	0	February 2023	0	March 2023	143	Total	143	Reason for Dispensation	Number of Dispersations	Weather	18	Passenger Hardship	118	Air Traffic Disruption	5	Diversions	0	Emergencies	2	Total	143		Night Dispersations	April 2023	144	May 2023	181	June 2023	270	Total	595	Reason for Dispensation	Number of Dispersations	Weather	122	Passenger Hardship	411	Air Traffic Disruption	49	Diversions	2	Emergencies	4	NATO Air Defender Exercise	7	Total	595
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4	LADACAN	[REP8-075] page. 8	<p>The NEDG was not shown a draft of the letter from the Independent Chair which accompanied the Final Report prior to the letter being issued. The letter should not therefore purport to speak for the Group, and it seems possible that the sentence quoted was 'provided' or 'suggested' by the Applicant's advisers to cover off its own intention to disregard the work of the NEDG and set its own proposals in place instead.</p>	<p>The Applicant strongly opposes the suggestion that it attempted to influence the contents of the NEDG Independent Chair's Final Report letter.</p>																								
5	LADACAN	[REP8-075] page. 14	<p>We analysed the LLA 2019 noise measurement data which was disclosed to the 2022 Inquiry and compared the results to those quoted in the Applicant's REP7-013 Tables 6.4-6.7. Differences and anomalies were identified, some exceeding 0.5dB, and communicated to the Applicant's noise experts.</p> <p>It should be noted that although LLA is technically classed as a Category C Airport by the CAA's CAP 2091 "Minimum Standards for Noise Modelling", paragraph 4.10 states: "Some airports may already be providing noise modelling at a higher Category than the minimum required here. We would expect these arrangements to persist and so no airport (or other stakeholder) should do less in terms of its noise modelling than it did on or before January 2020, when we first consulted on this policy, or 8 February 2021, when it comes into force."</p> <p>Annexes A-C below detail and exemplify the validation standards already in place at LLA, and hence applicable.</p> <p>By that token, data should be cleaned to remove issues and the differences of 0.5dB or more we identified should be investigated and resolved to improve the model.</p>	<p>The Applicant has communicated with LADACAN regarding data used in the validation of the air noise model.</p> <p>LADACAN provided their 2019 92-day data for NMT01 and NMT02 and it was found that the SEL 50th percentile data was within 0.1dB of the Applicant's validation data. The exception to this was A321Neo departures measured at NMT01, which was within 0.3dB. As there were a small number of A321Neo data samples (approximately 80 samples in the validation dataset and 60 in LADACAN's 'cleaned' dataset) compared to other aircraft, it is not unexpected to have greater variance. However, a difference of 0.3dB is still immaterial in terms of noise validation so the comparison of SEL data showed a strong correlation.</p> <p>The Applicant has again reviewed the A321Neo validation dataset for departures at NMT01 and did not identify any measurements that were obviously anomalous and should be removed.</p> <p>Comparison of LADACAN's LASmax data with validation data also provided a strong correlation, with the biggest difference being 0.2dB.</p> <p>The very small differences in SEL were communicated to LADACAN and the strong correlation between the respective datasets was acknowledged. As such, it is unclear what LADACAN are referring to when they identify "differences of 0.5dB".</p>																								

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			Also, the model should be revalidated annually - in line with the commitment which has now been made during the Examination process. Hence it should be revalidated using the 2023 data now available, and that update used at the very least to update the contours for Core Growth and the Limits and Thresholds of the Noise Envelope.	The DCO air noise model was validated using 2019 data, which is the DCO baseline year. There is a commitment to yearly validation of the air noise model in the Aircraft Noise Monitoring Plan [REP7-026] .
6	LADACAN	[REP8-076] page. 1	Based on the feedback from people who responded to our survey, taken together with the representations from people in communities particularly affected by the noise of overflights and aircraft on the ground, we respectfully ask the ExA to request the Applicant to limit the total cap on shoulder period movements annually to a value of 10,000 at most, by finding alternative space for additional flights in the proposed daytime schedule. This would be on grounds of limiting the health harms of the proposed development, but is without prejudice to our overall position of rejecting it.	The Applicant has addressed the topic of shoulder period movement limits in Applicant's Position on Noise Contour & Movement Limits [TR020001/APP/8.184] .
St. Albans Aircraft Noise Defence				
7	St. Albans Aircraft Noise Defence	[REP8-083] page. 1	STAND strongly opposes increases in environmental noise impacts during the night, and believes that a cap of 7,000 in a wider early morning period 05:00-07:00 and a cap of 2,500 in the evening shoulder period 11pm – 11:30pm should be applied in the draft Development Consent Order.	The Applicant has addressed the topic of shoulder period movement limits in Applicant's Position on Noise Contour & Movement Limits [TR020001/APP/8.184] .
The Harpenden Society				
8	The Harpenden Society	[REP8-087] section. 5	LR chose only to respond to the paragraph about Gatwick's noise limits reducing compared to 2019 levels. They ignored the overarching concerns we have about LR's noise proposals: a. Considerably more people are affected by noise at Luton compared to other London airports at the same contour levels (due to the proximity of the runway to residential buildings in South Luton); b. There is no sharing of technology benefits as those benefits have already been secured in either the 2014 or P19 planning permission; c. Noise limits do not reduce over time to below the lowest limit of either the 2014 or P19 planning permissions; d. Noise initially decreases but then increases again in the LR DCO under every growth scenario which is not the case at Gatwick under the central case fleet transition ¹ , where noise falls consistently. Furthermore, whilst LR's noise does fall a little compared to 2019's levels, the proportionate fall compared to Gatwick is less. And, compared to the noise levels in 2013 (the year before Project Curium kicked off) for daytime and 2016 (for the night period as that's the earliest data we could lay our hands on for Gatwick) LR's noise levels increase whereas Gatwick's fall.	Applicant's Response to Deadline 6 Submissions [REP7-063] is clear that <i>"To avoid unnecessary repetition of information, the Applicant has only provided responses to new matters raised in submissions, i.e., the Applicant has not responded to matters that it considers have already been addressed in previous submissions."</i> It is therefore not the case that overarching concerns have been ignored, it is simply that they have been addressed in previous submissions. In response to the latest submission: a. This is not true. Table 1 from the Civil Aviation Authority (Ref 3) shows that Luton Airport has a smaller population exposed to the Lowest Observable Adverse Effect Level (LOAEL) contour than all London airports (Heathrow, Gatwick and London City) other than Stansted, with which it is equivalent. The same table shows that Luton Airport has a smaller population exposed above the Significant Observed Adverse Effect Level (SOAEL) contour than Heathrow, and is equivalent to London City. b. The Applicant has addressed the concept of 'sharing the benefits' in many submissions, for example see Section 3.3 of Appendix 16.1 of the ES [TR020001/APP/5.02f]

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				<p>c. The Applicant has addressed the setting of noise limits and their reduction over time in many submissions, for example see Applicant's ISH9 post hearing submission [REP6-067]</p> <p>d. The proposed Gatwick expansion and the proposed London Luton Airport expansion are not directly comparable due to the proposed increase in aircraft movements and the timings of when the increase in movement would happen. Gatwick's proposed expansion would result in an increase in ATMs during the 92-day summer period of 27% during the daytime and 8% during the night-time when compared with the 2019 baseline. This increase is forecast to be reached in 2029, from which point increases in movements are marginal and noise benefits of new generation aircraft coming into the fleet would result in noise contour areas steadily decreasing. In Gatwick's DCO, they assess a 'slower transition fleet', which is the basis for their Noise Envelope contour limits and their noise insulation scheme. The slower transition case results in an increase in noise contour area in 2029 when compared to the 2019 baseline. The noise contour areas are below the 2019 baseline in their next assessment year of 2038.</p>
9	The Harpenden Society	[REP8-087] section. 18	We respectfully request the ExA to ask LR what reduction in the number of private flights Luton airport are required so that the long term day and night noise contours provided at the P19 Inquiry, at least, are achieved but preferably lowered to provide communities with even a modest overall reduction in noise.	Removing business aviation from the 2027 Core Case fleet reduces the daytime 57dB _{L_{Aeq,16h}} contour from to 16.4km ² to 14.8 km ² . The 48dB _{L_{Aeq,8h}} night-time noise contour area reduces from 42.2km ² to 42.0km ² as business aviation make up a small number of night-time movements. The reduction in contour area is less pronounced in future assessment years as business aviation make up a smaller proportion of the fleet as the numbers remain fixed whereas commercial aircraft movements increase. As such, removing business aviation movements would provide limited benefit in terms of noise reduction of noise contour area but would be detrimental to the Applicant's business case as well as being contrary to policy, which supports growth in business aviation activity (see <i>Flightpath to the Future</i> (Ref 4, page 21).
Michael Reddington				
10	Michael Reddington	[REP8-078] page. 3	<p>In REP7-013 the Applicant compares Ground Noise for 'DS' against that of 'DM' for 2027 (Table 8.3), 2038 (Table 8.4) and 2043 (Table 8.5).</p> <p>In every case the increase in Ground Noise between the 'DM' and 'DS' case is typically less than 1 dB - and even in some cases the ground noise for 'DS' is actually less than for 'DM'.</p> <p>This does not make sense as there will be little difference in the type of aircraft utilised over the period whether 'DS' or 'DM' yet there will be typically a 50% increase in ATMs for 'DS'.</p>	<p>Ground noise is not just influenced by the type of aircraft in the fleet, but the locations of ground noise sources and screening provided.</p> <p>In Phase 1 there are very minor differences with the baseline scenario; however, in Phase 2a there is substantial screening introduced by the raised platform, Terminal 2 buildings, acoustic barriers and the engine run-up bay. Screening is enhanced in Phase 2b when Terminal 2 is completed. Consequently, there are noise improvements for some sensitive receptor locations in the DS scenario when compared to the DM scenario.</p>
11	Michael Reddington	[REP8-078] page. 5	The Applicant has only considered Crawley Green Road, but Wigmore Lane will also be subject to vastly increased traffic between the junctions with Ashcroft Road (traffic leaving/joining the A505) and Eaton Green Road (traffic entering/leaving Terminal 2)	It is not the case that the Applicant has only considered Crawley Green Road. Noise from increased traffic on Wigmore Lane and Eaton Green Road has been fully assessed and no significant effects have been identified. This is reported in Chapter 16 of the ES [TR020001/APP/5.01] .

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12	Michael Reddington	[REP8-079] page. 4	(7) Furthermore the Applicant ignores the fact that the 'Do Minimum' ('DM') scenario produces less noise per annum than the 'Do Something' ('DS') scenario. Therefore, promises to 'reduce noise in the future are empty, as a 'DM' scenario would also offer a noise reduction through the use of improved aircraft fleet. This is another example of 'smoke and mirrors'	The Applicant does not ignore the 'Do-Minimum' scenario and the fact that it has lower noise levels. The Applicant has fully considered the comparison between the Do-Minimum and the Do-Something scenario in the identification of adverse likely significant effects in Chapter 16 of the ES [TR020001/APP/5.01] .
13	Michael Reddington	[REP8-079] page. 6	The Applicant states in response to 4.13.12 above: f. Furthermore, in line with the OANPS, the total adverse effects of noise are counterbalanced by increased economic and consumer benefits. Can the Applicant please explain how this conclusion can be so confidently stated ? For example what is the base level of 'adverse effects' and how are 'adverse affects' costed ?.	The methodology for identifying adverse effects is set out in section 16.5 of Chapter 16 of the ES [TR020001/APP/5.01] and adverse effects are reported in sections 16.9 and 16.14 of the same chapter. It is not necessary nor standard practice for adverse effects to be costed for them to be considered in the planning balance.
Other interested parties				
14	Wheathampstead & District Preservation Society, Marilyn Whittle, Stop Low Flights From Luton, Bourn Parish Council, Sandra Lawes, Mr B. Strutt, St Albans Quieter Skies (STAQS), Caldecote Ward – South Cambridgeshire District Council, HarpendenSky.com	[REP8-089] [REP8-077] [REP8-085] [REP8-069] [REP8-082] [REP8-086] [REP8-084] [REP8-049] [REP8-072]	[This entry is not verbatim] Multiple interested parties provided submissions at Deadline 8 relating to the shoulder period movement limits and expressing concern at increases in numbers of flights during this period.	The Applicant has addressed the topic of shoulder period movement limits in Applicant's position on noise contour and movement limits [TR020001/APP/8.184] .

2.10 SECTION 106 AGREEMENT

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

Table 2.10 Applicant's Response to Deadline 8 Submissions – Section 106 Agreement

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	Luton Borough Council	[REP8-058] page. 19-20	The draft of the S106 agreement [REP7- 074] submitted at Deadline 7 had not been provided to the Host Authorities in advance of submission. However, it was pleasing to note that the draft had been revised in part to take into account various comments from LBC. Subsequent to LBC having sight of the draft, comments were provided to the Applicant and a meeting was held on 12 January	Discussions on the section 106 agreement between the Applicant and the Host Authorities have been progressing positively and further meetings have been held on 22 and 27 January 2024 to close down drafting matters. An unsigned version of the agreement is being submitted by the Applicant at Deadline 9, Draft Section 106 Agreement [TR020001/APP/8.167] , which the Applicant has shared with the Host Authorities and which the Applicant considers to be substantially ready for signature. It remains the Applicant's intention to procure and submit a signed version at new Deadline 11 on 8

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			<p>2024, with a subsequent meeting held on 19 January 2024. These meetings were positive and it is considered that good progress is being made on the draft agreement.</p> <p>However, it appears highly unlikely that by Deadline 9 agreed and completed versions of the agreement will be able to be submitted. This is in part down to various items outstanding (pending further discussion) and in part down to the governance requirements of the Host Authorities. Indeed, this latter issue means having agreed and completed agreements in place by the end of the Examination could be challenging.</p> <p>However, based on discussions to date, LBC is optimistic that agreement can be reached, at the very least, on the form of the Section 106 Agreement by the end of the Examination. If this is achieved, the Host Authorities will work with the Applicant to seek to complete the agreement as soon as possible, albeit (as stated) this may not be before the end of the Examination.</p> <p>LBC will provide an update to the ExA on the status of discussions on the Section 106 Agreement at Deadline 9.</p>	<p>February 2024. Clearly this is dependent on the Host Authorities agreeing to, and signing, a finalised form of the agreement. In the absence of this, the Applicant will secure unilateral forms of the necessary obligations contained in the agreement. See further the Applicant's document Alternative Mechanisms for Section 106 Agreement [TR020001/APP/8.185].</p>
2	<p>Luton Borough Council</p> <p>Dacorum Borough Council, Hertfordshire County Council and North Hertfordshire District Council</p>	<p>[REP8-058] page. 20</p> <p>[REP8-055] page. 28</p>	<p>[The Authorities] note the Applicant's proposals (contained in its Deadline 7 Cover Letter – REP7-001) for dealing with the various items proposed to be secured in the S106 agreement, should agreement not be reached by the end of the Examination.</p> <p>[The Authorities] consider that those proposals introduce unnecessary complexity, with many items still requiring to be secured by some form of agreement between the Applicant and the Host Authorities, with other items spread across the DCO and a Unilateral Undertaking. As such, [the Authorities] remain of the view (as set out in the response to the ExA's further written questions - BCG.2.12 [REP7-090]) that the simplest (and [the Authorities]'s preferred) solution is to secure an agreement to be entered into by a certain trigger date by way of a DCO requirement. This also allows the [the Authorities] to have an element of control as to what the commitments from the Applicant amount to.</p>	<p>The Applicant strongly disagrees with the Authorities on the matter – the alternative route to securing obligations is neither complex, nor do “many items” require some form of further agreement. The vast majority of obligations can be secured either by a new DCO requirement, or a unilateral undertaking.</p> <p>The only two matters that would require agreement are:</p> <ul style="list-style-type: none"> - the proposed Wigmore Valley Park community trust – which is not required to deliver the replacement land and mitigation secured by the DCO, with those obligations falling on the undertaker in the absence of an agreement. The form of agreement is simple and there is no reason to expect that the undertaker and Luton Borough Council wouldn't expeditiously reach agreement, given both parties support the same outcome and the principles are agreed; and - the Community Fund operated by LLAOL – again, LLAOL support this (as evidenced by the draft section 106 agreement) and it should be remembered this entails the continuation of an existing scheme. So there is no reason to doubt the expeditious completion of what would be a simple agreement between the Applicant and LLAOL. <p>These matters are set out in more detail in the Applicant's document Alternative Mechanisms for Section 106 Agreement [TR020001/APP/8.185] which is being submitted at Deadline 9. This document responds to the Examining Authority's procedural decision [PD-022] and explains how the Applicant will be securing necessary obligations at</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
				<p>Deadline 11, should it not prove possible to settle an agreement with the Host Authorities.</p> <p>In view of the above, the request of the Host Authorities for a Grampian-style condition in the draft DCO, which prevents the development from commencing until a section 106 agreement is concluded, is wholly unmerited given that agreement by the Host Authorities is entirely out of the Applicant's control.</p>
3	Buckinghamshire Council	<p>[REP8-047] para. 2.52.1 page. 13-14</p>	<p>The draft S106 Agreement provided at Deadline 7 was updated by the Applicant's Solicitor on 19 January 2024. The Council has provided comments to the Applicant on this version of the Agreement; these are summarised as follows:</p> <ul style="list-style-type: none"> • As both the express bus route from Aylesbury to Luton and the reinstatement of bus route 61 from Aylesbury to Luton are not specified for funding, this will become a matter for the Airport Transport Forum Steering Group to consider in the future through the allocation of the Sustainable Transport Fund. As a member of the Airport Transport Forum Buckinghamshire Council will be able to make representations at the appropriate time. It is vital that the Council's membership of the ATF is secured through the S106 Agreement. Furthermore, the Framework Travel Plan should require updates to the Bus and Coach Study with specific consideration of the bus route requirements between Aylesbury and Luton. • The priority junction improvement at the B489 and B488 Ivinghoe should it be required to mitigate future impacts (type 2 mitigation) will be a matter for the ATF Steering Group to allocate funds through the TRIMMA. This re- inforces the point about the DCO ensuring Buckinghamshire Council's membership of the ATF. Buckinghamshire Council considers the TRIMMA fund to be insufficient and must be indexed linked. Lastly, Buckinghamshire Council should be named as a 'relevant Highway Authority'. • Definition of 'Local Area' – this only refers to the 'Aylesbury Vale area of Buckinghamshire Council'. The Council considers that to align with the Local Procurement Protocol, the Employment & Training Strategy and the Community Fund area that this definition should refer to the 'administrative area of Buckinghamshire Council'. • Buckinghamshire Council will be invited to be a Member of the Noise Technical Panel should noise contour changes affect Buckinghamshire as a result of airspace changes. As such, Schedule 5 ('Green Controlled Growth Funding Elements') must enable funding to be provided to Buckinghamshire Council. 	<p>In the Initial Statement of Common Ground (SoCG) between London Luton Airport Limited (trading as Luton Rising) and Buckinghamshire Council [TR020001/APP/8.18], the Applicant has responded to the comments that Buckinghamshire Council has raised in relation to the draft section 106 agreement provided at Deadline 7 that was updated by the Applicant's Solicitor on 19 January 2024. The Applicant has signposted the references to these responses below for Buckinghamshire Council's ease of reference:</p> <ul style="list-style-type: none"> • Buckinghamshire Council's request concerning an update to the Bus and Coach Study has been responded in the Applicant's position under SoCG ID: 3.2.5 in relation to "Local bus routes in Buckinghamshire – route 61". Furthermore, Buckinghamshire's Council's concerns about their membership of the Airport Transport Forum (ATF) and further information on the Sustainable Transport Fund (STF) is within the updated STF Topic Paper and draft section 106 agreement. • The TRIMMA [REP5-041] provides further information on how traffic impacts will be mitigated, including how residual impacts, such as those on the Ivinghoe junction, may be mitigated. Buckinghamshire Council's further concern on this have been responded to in the Applicant's position under SoCG ID: 3.2.1d in relation to "Impacts of airport traffic on Buckinghamshire communities – rural villages on B488/B489". Buckinghamshire Council's request to be named as a 'relevant Highway Authority' has been responded to in the Applicant's position under SoCG ID: 3.9.12 in relation to "Schedule 2, Part 2". • In response to the request to amend the definition of the Local Area in the section 106 agreement, this definition is linked to the obligation relating to the Community Fund. This obligation and the definition of Local Area has been lifted directly from the P19 section 106 agreement. The fund it relates to is an existing fund which has already been established by LLAOL and it is included in the DCO section 106 agreement so that this fund will continue following the abrogation of the P19 section 106 agreement under the DCO. • Buckinghamshire Council's claim that they should (in future) be invited to be a Member of the Noise Technical Panel if certain conditions are met does not correspond with the Applicant's detailed explanation of the Noise Limit Review process flagged in the Applicant's position under SoCG ID: 3.3.3 in relation to "Overflight of the Chilterns AONB –

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>• In terms of Schedule 9 ('Sustainable Transport Fund') Buckinghamshire Council considers that the Applicant's 'Draft Compensation Policies & Measures and Community First' document should be appended to the S106 Agreement. Furthermore, in order to ensure an equitable distribution of the Community Fund, Buckinghamshire Council considers that the S106 Agreement should secure a commitment to spend at least a 40% commitment of the Community Fund on projects outside of the administrative area of Luton Borough Council.</p>	<p>mechanism for assessment and control" and under SoCG ID: 3.5.1 in relation to "Environmental Scrutiny Group Membership".</p> <ul style="list-style-type: none"> Buckinghamshire Council's request for an additional appendix to the draft section 106 agreement is responded to under SoCG 3.2.8 in relation to "Sustainable Transport Fund – benchmarking of funding". The Applicant's position on the level of funding for the Community First Fund is set out under SoCG ID: 3.7.3.
4	National Highways	[REP8-065] para. 2.1	<p>As set out in Technical Note dealing with National Highways' views of the OTRIMMA submitted at deadline 8, the inter-relationship between the S106 and the OTRIMMA in securing the Residual Impact Fund is crucial to giving National Highways the confidence it needs to withdraw its objection. This is because the Residual Impact Fund would be a source of funding for impacts to the Strategic Road Network. At present, neither the S106 or the OTRIMMA provides sufficient clarity as to how the finite budget available will be managed across the various stakeholders and what happens in the event of a shortfall. National Highways considers that this detail ought to be provided in the OTRIMMA and consequently is dealt with more particularly in the Technical Note concerning the OTRIMMA submitted at deadline 8.</p>	<p>Decisions on how the Residual Impact Fund (RIF) will be allocated will be taken by the ATF Steering Group (of which National Highways will be a member) in accordance with the TRIMMA. The OTRIMMA contains outline terms of use for the RIF as well as outline Terms of Reference for the ATF Steering Group.</p>
5	National Highways	[REP8-065] Section 2	<p>National Highways also has concerns in relation to the way that the S106 is drafted and its operation under the law. These are matters as to which the ExA and the Secretary of State should assure themselves or the S106 and OTRIMMA can only be given limited weight. These concerns are addressed below.</p> <p>A Section 106 Agreement may only normally be made between and enforced by a local planning authority in whose area the land that is bound by the obligation is situated. As such, National Highways and also other relevant highway authorities whose area does not contain land bound by the obligations, cannot be parties to or enforce the provisions of the agreement. This might include Buckinghamshire County Council, for example. Further, a local planning authority that is a party can only enforce the Section 106 Agreement insofar as it relates to land in its own area on behalf of other parties to the S106 – the power to enforce is not a general power. This means that the power of enforcement is largely reliant on Luton Borough Council.</p> <p>Given that the local planning authority with the preponderant enforcement power is the sole shareholder of the Applicant, National Highways has limited confidence that enforcement powers would be utilised in its best interests were such an intervention necessary for the protection of the strategic road network if that conflicted with the position of Luton Borough Council.</p>	<p>The Applicant appreciates that National Highways may be a recipient of funds from the Residual Impacts Fund ("RIF") set up pursuant to the final version of the TRIMMA. The RIF is intended to be set at £1,000,000 to be provided by the Applicant. As its name suggests, the RIF is to provide funding for mitigation measures to deal with residual airport related traffic impacts of the authorised development (if any) yet to be identified and described in the OTRIMMA as "Mitigation Type 2".</p> <p>As explained in the OTRIMMA it will be for the ATF Steering Group to allocate funds from the RIF on the basis of proposals brought forward by the members of the steering group. The group will be chaired by the airport operator and the relevant highway authorities will be invited to be members of it, including National Highways. Accordingly National Highways will have a direct say in the use of the RIF.</p> <p>Further, the final version of the TRIMMA must be approved under requirement 30 of the draft DCO ("Offsite highways works") in which National Highways is named as a consultee. In so far as the final version of the TRIMMA needs to provide more clarity on these matters then that is a matter for resolution at the stage that a final version of the TRIMMA is submitted for approval. However, the way in which funds from the RIF will be allocated in due course cannot be settled at this stage and in any event the allocation of funds is for the steering group to decide.</p> <p>As regards the drafting of the section 106 agreement, the limitations of s106 of the Town and Country Planning Act are appreciated. As is common</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>However, solutions to the problem posed by the limits upon the enforcement powers of National Highways and the other highway authorities are available and include:</p> <ul style="list-style-type: none"> (i) Making all of the other highway authorities parties to the s106 agreement as a matter of bare contract; (ii) Providing at paragraph 17 that the other highway authorities are able to enforce the agreement as if they were planning authorities in relation to specific terms under the Contract (Rights of Third Parties) Act 1999; or (iii) Using the proposed DCO to amend s106 Town and Country Planning Act 1990 to address these items; <p>Paragraph 5.1 of the S106 is not a Development Consent Obligation under s106 Town and Country Planning Act 1990. The invocation of s111 of the Local Government Act 1972 is not sufficient to address this and other lacuna. The inclusion of the power is not an act of the Local Authority in each or any of the identified authorities' cases. It is a provision included for the benefit of the Applicant. Therefore, s111 does not assist in remedying the problems identified even if referenced in the S106 agreement.</p> <p>Paragraph 1.1 of Schedule 8 to the S106 is unlawful. Under s106(1)(d) a payment in a Section 106 Agreement can only be made to the local planning authority in whose area the land is located. This is ordinarily addressed by a negative wording under s106(1)(a), but that would only be enforceable by the host local planning authority and that affords no protection or control to National Highways. We require that the drafting be amended so as to be negatively worded and for provision to be made as explained in paragraph 2.5 (above).</p> <p>Paragraph 1.1 of Schedule 8 of the S106 is also unlawful in that, insofar as it relies on s106(1A)(c), the S106 does not relate to "the payment of a specified sum or an amount determined by the instrument by which the obligation is entered into." The OTRIMMA and/or the S106 Agreement do not do this. Indeed, the OTRIMMA does not include any obligations – it is only an outline document. The S106 Agreement does not specify or provide for determination of a sum. The final TRIMMA does not exist and hence cannot specify a sum and is not in existence to determine the amount since it will not be in final form as at the date of the S106 – the "instrument by which the obligation is entered into" does not determine the sum or amount. Even the OTRIMMA does not specify or allow determination of sums (and it is not referenced in the S106 Agreement).</p>	<p>practice the proposed agreement would be made under section 106 as well as the very broad powers in section 111 of the Local Government Act 1972 and "all other powers so enabling" which could include, for example, section 1 of the Localism Act 2011 (Local authority's general power of competence). Not all of the land bound is within Luton Borough Council's area, as specified in the draft agreement submitted at Deadline 9, Draft Section 106 Agreement [TR020001/APP/8.167]. In any event the purpose of the agreement being made under powers other than section 106 is to allow it to accommodate arrangements which are not section 106 obligations or where there is doubt about whether something falls within section 106 or not.</p> <p>Of course, the Applicant has no wish to deny National Highways (or any other highway authority) funds to which it is entitled from the RIF under these arrangements. Nor is there any reason to suppose that Luton Borough Council would not act as a responsible planning authority in enforcing these arrangements notwithstanding its ownership of the Applicant company.</p> <p>However, the Applicant is considering including a provision in the agreement, as suggested by National Highways, that National Highways and Buckinghamshire Council, as prospective members of the ATF Steering Group, can enforce the agreement as regards the RIF funding pursuant to the TRIMMA under the Contracts (Rights of Third Parties) Act 1999.</p> <p>In addition, the undertaker will be required to adhere to requirement 30 under which the final version of the TRIMMA falls to be approved and so any breach of that requirement would be enforceable, as an offence, at large. An alternative possibility, therefore, is for the provision of the RIF funding to be a matter required by reference to the DCO and the TRIMMA as approved thereunder, rather than the section 106 agreement.</p> <p>The Applicant is inviting the views of the local authorities that are party to the draft section 106 agreement upon these possibilities since both, it appears, would meet National Highways' concerns on this issue. The Applicant will present its finalised position on this matter at Deadline 11.</p>

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			<p>The disputes provision under the S106 is not available to National Highways, which is not a party to the agreement. As such, National Highways has no protection in the event that the measures secured in the Residual Impact Fund through the S106 are not agreed.</p> <p>For these reasons, the weight that can be ascribed to the S106 and the OTRIMMA is limited (at best) unless and until these issues can be resolved.</p>	

2.11 SURFACE ACCESS

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

Table 2.11 Applicant's Response to Deadline 8 Submissions – Surface Access

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
Highway monitoring and mitigation				
1	Luton Borough Council	[REP8-058] para. 1.2.2 page. 8	It is understood that the OTRIMMA acts as the basis for the final TRIMMA which must be substantially in accordance with the OTRIMMA. What is not clear is whether the final TRIMMA will be issued as part of the DCO process, whether host authorities will be able to comment on it and the associated mechanism for signing-off decisions. It is noted that the terms of reference for the Airport Transport Forum (ATF) will be contained in the final TRIMMA.	<p>The final TRIMMA will not be issued during the DCO Examination, but the OTRIMMA will be a document certified by the Secretary of State under the DCO. The Applicant will consult with relevant highway authorities on the contents of the final TRIMMA; LBC will approve the final TRIMMA. approval will occur after the DCO examination period but is secured by a requirement of the DCO.</p> <p>Outline terms of reference for the ATF Steering Group are contained in Appendix A of the OTRIMMA submitted at Deadline 8 [REP8-043].</p>
2	Luton Borough Council	[REP8-058] page. 8	LBC agree that the ATF should have delegated authority to agree any mitigation works associated with Type 2 mitigation. However, in the absence of terms of reference underpinning the decision making process that will govern the ATF, LBC is unsure of the process that will be followed to consider the allocation of RIF funding for a proposed intervention.	This information is contained in the Deadline 8 version of the OTRIMMA [REP8-043] .
3	National Highways	[REP8-066]	Further to National Highways' representation at deadlines 5 (REP5-09) and 6 (REP6-118), National Highways remains concerned that there is insufficient detail contained within the Outline Transport Related Impacts Monitoring and Mitigation Approach (OTRIMMA) provided at deadline 7 (REP7-040) to give sufficient assurance that the monitoring regime will be robust and that the thresholds at which mitigation is intended to be delivered are at a satisfactory level of detail and confidence. Detailed matters relating to the OTRIMMA are proposed to be determined following approval of the DCO, which means that they will not be secured by the DCO, creating uncertainty and risk for National Highways and the strategic road network (SRN).	<p>The OTRIMMA [REP8-043] states any thresholds will be agreed by the relevant highway authorities and clarifies that mitigation will be delivered before the impacts the mitigation is designed to mitigate are realised. The Applicant is therefore confident that, when National Highways agree proposed thresholds, the thresholds will be set at a level which provides National Highways with sufficient assurance.</p> <p>It is not true that detailed matters relating to monitoring of highway impacts and the delivery of associated mitigation will not be secured by the DCO. Please refer to sections 1.2.2 and 3.3.12 of the OTRIMMA [REP8-043]. These sections clearly illustrate a link between the OTRIMMA, the final TRIMMA (which will be secured as a requirement of the DCO) and the agreement of thresholds.</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
4	National Highways	[REP8-066]	National Highways has a number of concerns in relation to the proposed contents of the OTRIMMA, which it has raised in discussion with the Applicant as well as formally through the Examination. It is critical to National Highways as the physical mitigation proposed by the Applicant is supposed to be delivered under the terms of the OTRIMMA, meaning that there is a specific concern that it should be effective in delivering the mitigation in question in a timely manner. There is also an issue in that the OTRIMMA does not secure mitigation or monitoring of all potentially affected parts of the SRN or mitigation for impacts on those links and junctions.	The physical mitigations (at Junction 10 of the M1) are proposed to be delivered under the terms of the final TRIMMA. Regarding the timely delivery of mitigation, please refer to section 3.3.12-3.3.15 of the OTRIMMA [REP8-043] . Mitigation Type 1 of the TRIMMA is limited to locations where the Applicant has identified impacts as set out in the Transport Assessment [APP-203, AS-123, APP-205, APP-206] (including Junction 10 of the M1). 'Mitigation Type 2' sets out the means by which mitigation for 'residual' traffic-related impacts at other locations may occur subject to the processes set out in the OTRIMMA [REP8-043] .
5	National Highways	[REP8-066]	There are three levels of monitoring proposed. ML0 is the baseline monitoring and will establish the baseline against which traffic volumes will be compared. Total trips starting and/or ending at airport sites will be counted yearly, using data collected from existing data sources within the airport (ML1). Whilst this approach is supported by National Highways, traffic volumes alone will be insufficient to confirm the baseline capacity on M1 Junction 10. Additional information relating to the operational performance of the junction is required to form an accurate picture. Consequently, an accurate baseline of the junction's performance is not included within the monitoring regime (refer to Section 2.3.1 of this Technical Note for further details on the metrics that National Highways believe should be captured) as part of the OTRIMMA.	Table 3-2 of the OTRIMMA [REP8-043] details the aim of ML0 which is not to consider junction capacity because this is not necessary at this stage of the process. To monitor and mitigate the impacts of the Proposed Development, 'further junction-specific monitoring/assessment (over and above the monitoring undertaken in ML2) will not be required until ML3; this will be pursuant to section 3.3.15 (a) of the OTRIMMA [REP8-043] .
6	National Highways	[REP8-066]	ML1 provides ongoing monitoring of traffic entering and exiting the airport site which will enable all airport traffic to be measured. If cumulative airport traffic exceeds the maximum equivalent value from a previous year since the approval of the final OTRIMMA, ML2 will be triggered. However, impacts might be experienced even if overall volumes are static – for instance where congestion causes redistribution of trips towards the SRN.	The Applicant does not agree that impacts might arise if overall [airport traffic] volumes are static'; in this case any impacts would not have arisen as a result of the Proposed Development.
7	National Highways	[REP8-066]	ML2 rely on a quinquennial survey. It will consist of a spreadsheet tool which will assign the airport traffic to the public highway network, based on the most recent information derived from the preceding quinquennial traffic distribution survey. If airport traffic reaches a pre-determined threshold of the modelled airport traffic for a particular movement/approach, ML3 will be triggered. M1 Junctions 9 and 10 are congested in the forecast baseline (2027) and will be sensitive to any future additional or redistributed traffic, which is likely to result in significant congestion and safety issues at this key location on the SRN. The OTRIMMA indicates that monitoring (ML2) will take place at specific locations only if it exceeds ML1 thresholds and that this will take place every five years. Therefore, since ML2 is not	Please refer to the OTRIMMA [REP8-043] . ML1 will take place annually, apart from when monitoring has been paused/ceased in accordance with the TRIMMA. ML2 will take place if airport traffic – measured at ML1 – increases relative to the value measured at ML0 or at previous ML1s; the distribution of flows at ML2 will be derived from the most recent quinquennial distribution survey. If ML2 is not triggered, impacts will not have arisen as a result of the Proposed Development. There can only be a maximum delay of one year between an impact, resulting from the Proposed Development, being observed and monitoring (ML3) being triggered; it is unlikely that delays of this length materialise, and the time lag between impact occurrence and monitoring will in practice, be much less.

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			implemented immediately, there may be a delay of some years between an impact and monitoring being initiated with an up-to-date quinquennial survey.	
8	National Highways	[REP8-066]	A two-week survey conducted during a neutral month every five years is currently proposed at ML2. The survey is proposed to be repeated every five years, at ML2, so that the distribution of airport related trips can be updated. Carrying out surveys for two weeks in a neutral month poses a significant risk to the usefulness of data collection. In practice, much richer data is required if survey data is to be relied upon. There can be significant fluctuations in traffic levels week by week (train strikes, broken ATC loops/ANPR cameras/weather conditions/road closures etc). Given National Highways' concerns about capacity at this junction and its lack of resilience, it is considered that for ML2 a minimum of four weeks of monitoring would need to take place at each location at ML2, with annual monitoring being preferable, however National Highways would accept monitoring being undertaken every two years as a minimum, once ML2 is triggered.	<p>The quinquennial survey will not occur "at ML2"; it will occur outside of the monitoring process but will inform the quinquennial update of the spreadsheet tool. ML1 will take place annually, apart from when monitoring has been paused/ceased in accordance with the provisions of the TRIMMA. ML2 will take place if airport traffic – measured at ML1 – increases relative to the value measured at ML0 or at previous ML1s; the distribution of flows at ML2 will be derived from the most recent quinquennial distribution survey.</p> <p>The quinquennial survey will measure the distribution of airport traffic only, so that sufficient monitoring can be undertaken; it is not aimed at acquiring information associated with overall traffic levels or associated fluctuations as this is not necessary to undertake the monitoring which is required to realise the objectives of the TRIMMA.</p> <p>The Applicant is, however, committed to ensuring that all surveys occur at a reasonable time and to agreeing the scope of surveys with relevant highway authorities; please refer to Table 3-2 of the OTRIMMA [REP8-043]. A two-week survey conducted at a time representative of the time modelled in the traffic modelling to support the DCO application (the traffic modelling was based on a typical busy day in October) is proposed, the scope of which will be agreed with relevant highway authorities. Best practice will be ensured and periods of school/bank holidays, relevant industrial action or major road closures in the area will be avoided.</p>
9	National Highways	[REP8-066]	Monitoring every five years at ML2 means that there is an assumption by the Applicant that the distribution impacts of the Proposed Development and/or cumulative events on the SRN will not change within a five-year period. As previously indicated M1 Junctions 9 and 10 are congested in the baseline and are therefore sensitive to changes such as changes in traffic distributions due to congested conditions and mitigation on the Local Road Network (LRN) providing additional capacity, which will impact on the distribution of trips on the SRN. Only confirming that the distribution on the SRN has not changed every five years is not frequent enough to give National Highways confidence in the monitoring results. National Highways considers that monitoring must be undertaken preferably on an annual basis, with monitoring being undertaken every two years as a minimum at ML2.	As set out above, there is not an assumption by the Applicant that the distribution impacts of the Proposed Development and/or cumulative events on the SRN will not change within a five-year period. It is proposed that the distribution of airport traffic be updated on a quinquennial basis so that monitoring of airport traffic on the public highway represents a more current distribution that that which was used in the Transport Assessment.
10	National Highways	[REP8-066]	It is noted that where the airport does not show an increase in volume of traffic, monitoring will be paused at ML2 and 3. National Highways considers that the Applicant's proposal to pause monitoring if the airport is not growing (Section 3.2), is not	The Applicant notes this consideration and points National Highways towards the GCG mechanism which will monitor mode shares; GCG will ensure traffic remains within Limits set for sustainable mode share. This will mitigate

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			an appropriate approach. Even if the airport throughput does not increase, there is still a requirement to monitor the impact of the airport in case there is a modal shift over time which would trigger the need for additional mitigation.	against an increase in traffic which results in the impacts described by National Highways.
11	National Highways	[REP8-066]	It is indicated in the updated OTRIMMA that any off-site car park, which is any car park not under the ownership or operation of the airport, is not considered an 'airport site', and is therefore excluded from the monitoring. However, this means that the number of airport related trips is underestimated at ML2 as the Applicant will only be monitoring the shuttlebus movements at the airport without considering the number of individual cars that have driven to the off-site car parks and via both the LRN and SRN to access them. Therefore, in the current approach this would mean that these trips are assumed to be background growth, when they are actually airport related trips, and won't be included in the monitoring at ML2. Consequently, National Highways reconfirms its position that either monitoring of the off-site airport car parks is required or a multiplier (for average shuttle bus occupancy) is required to be applied to give an accurate representation of the number of airport related trips using the offsite car parks.	<p>Airport trips are considered to be trips to or from airport sites. The Applicant will be including all passengers arriving at the Airport, including those from off-site car parks in this data.</p> <p>The Applicant cannot monitor the activities of private enterprises and therefore will not monitor the flow of private vehicles arriving and departing from off-site car parks.</p>
12	National Highways	[REP8-066]	If ML3 is triggered for any junction at an MT1 location, the Applicant and applicable highway authority will agree the scope of any further junction-specific monitoring/assessment to be undertaken by the Applicant. This approach at ML3 is welcomed by National Highways; however, as set out in Section 2.3.1 National Highways requires more junction specific monitoring takes place at ML0 and ML2, as well as ML3. National Highways notes that including a further level of monitoring before mitigation itself is triggered would further delay the provision of mitigation. National Highways considers that it is necessary to elide early Monitoring Levels to avoid this.	The OTRIMMA allows for sufficient further monitoring/assessment to be undertaken such that there would be no delay in the provision of mitigation; section 3.3.13 states that "The definition of thresholds shall enable the mitigation to be delivered in advance of the realisation of adverse impacts due to the Proposed Development". It is not necessary for such activities to occur before ML3.
13	National Highways	[REP8-066]	National Highways considers that further details of the type of monitoring that will take place at ML0, ML2 and ML3 is required. It is important that National Highways be engaged in the finalisation of the monitoring proposals. At present the OTRIMMA only sets out that junction specific type of monitoring will take place at ML3. National Highways' view is that more detail concerning the junction performance, for example queue lengths, delays and journey times is required, given the complexity of movements and potential patterns of congestion at the junction. Traffic volumes alone will be insufficient to confirm whether the capacity has been exceeded and whether the junction performance has deteriorated. National Highways' view is that further details concerning the metrics that will be used to monitor the airport impacts at ML0, ML2 and ML3 are required to give	<p>The OTRIMMA allows for sufficient further monitoring/assessment to be undertaken such that there would be no delay in the provision of mitigation; section 3.3.13 states that "The definition of thresholds shall enable the mitigation to be delivered in advance of the realisation of adverse impacts due to the Proposed Development". It is not necessary for such activities to occur before ML3 and it is not considered necessary or appropriate to agree individual thresholds or metrics at this stage</p> <p>For further detail on the type of monitoring, please refer to the associated parts of section 3.3 of the OTRIMMA [REP8-043].</p> <p>Regarding engagement on the finalisation of monitoring proposals, further detail is provided in sections 1.2.2 and 3.3.15 of the OTRIMMA [REP8-043].</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			National Highways appropriate assurance of the data that will be collected. These requirements should be stated now.	
14	National Highways	[REP8-066]	A change in the background traffic on the SRN and its relationship with airport traffic (cumulative impact) may result in a need for mitigation so that even a constant level of airport throughput needs to be managed. The DfT Circular 01/2022, Strategic Road Network and the delivery of sustainable development, Para 51, states the Secretary of State's policy that; "Where a transport assessment indicates that a development would have an unacceptable safety impact or the residual cumulative impacts on the SRN would be severe, the developer must identify when, in relation to the occupation of the development, transport improvements become necessary."	The approach described in the OTRIMMA [REP8-043] is consistent with this. Section 3.3.13 of the OTRIMMA [REP8-043] states that "the definition of thresholds shall enable the mitigation to be delivered in advance of the realisation of adverse impacts due to the Proposed Development."
15	National Highways	[REP8-066]	Further, paragraph 111 of the National Planning Policy Framework (NPPF) (dated 20 January 2021), which is an important and relevant consideration under the Planning Act 2008 ¹ , states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".	The impacts of the Proposed Development have been considered in the Transport Assessment [APP-203, AS-123, APP-205, APP-206] and the off-site highway works in Schedule 1 of the DCO mitigates the impact of the Proposed Development. The role of the TRIMMA is to ensure that the identified mitigation is delivered at the appropriate time and includes procedures, not least the agreement by National Highways of junction-specific thresholds to ensure mitigation is delivered in advance of adverse impacts.
16	National Highways	[REP8-066]	The Residual Impact Fund (RIF) proposed in the OTRIMMA is a finite fund for the mitigation of residual airport-related traffic impacts. This fund will be secured in the section 106 agreement, a draft of which has been provided at Deadline 7 [REP7-074] . Neither the updated OTRIMMA nor the draft section 106 agreement clarify how the RIF will operate in practice and be allocated (Section 4.1).	Please refer to section 4.2 of the OTRIMMA [REP8-043] which sets out outline terms of use for the RIF, considers costs and funding and decision-making of the ATF Steering Group, and Appendix A which contains outline Terms of Reference for the ATF Steering Group
17	National Highways	[REP8-066]	The RIF will be a finite fund for the mitigation of residual airport-related traffic impacts, but it is unclear how this fund will be allocated. As the fund is finite, it is not clear what would happen: if further mitigation was required for any additional link or junction that had not previously been identified; what would occur if the anticipated cost of any mitigation exceeded the budgeted expenditure under the fund or if a cost overrun occurred in relation to any element and this required even a little more than anticipated in terms of a financial contribution. It is not clear how this would be managed if mitigation used up a higher proportion of the fund and left limited funding available for mitigation at other times or locations. Particularly where funding decisions are made on a voting basis, each stakeholder will have their own priorities and such that the RIF could result in an unbalanced allocation of	Please refer to section 4.2 of the OTRIMMA [REP8-043] which sets out outline terms of use for the RIF, considers costs and funding and decision-making of the ATF Steering Group, and Appendix A which contains outline Terms of Reference for the ATF Steering Group. The Applicant considers that the size of the RIF is appropriate and proportionate.

¹ The attention of the Examining Authority is specifically drawn to SECTION 104(2)(d) of the Planning Act 2008.

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			funding, with insufficient available to meet all needs and in particular the need for mitigation on the SRN.	
18	National Highways	[REP8-066]	National Highways is concerned that any voting system to determine funding priorities could undermine its ability to secure mitigation for the SRN, when the number of local authorities, which may reasonably seek different competing solutions, are collectively greater in number.	<p>Appendix A of the OTRIMMA [REP8-043] which contains outline Terms of Reference for the ATF Steering Group including a proposed voting system. However, in advance of the finalisation of the final TRIMMA, the Applicant welcomes discussion of alternative proposals for RIF decision-making. The Applicant does not view the relevant local highway authorities as a 'collective'.</p> <p>There is no provision in the OTRIMMA, the proposed DCO or in the s106 Agreement (refer to National Highways' Legal Submission provided at deadline 8) <i>that is available to National Highways in the event it disagrees with the administration of the monitoring and mitigation necessary for the protection of its asset.</i></p> <p>Please refer to section 3.3.12 of the OTRIMMA [REP8-043] regarding the agreement of ML2-ML3 thresholds by National Highways. Please also refer to section 3.3.15 regarding the role of highway authorities..</p>
19	National Highways	[REP8-066]	At present Junction 9 is not included within the updated OTRIMMA and it is not clear that the TRIMMA will monitor the south facing slips (the southbound merge and the lane drop from five to four lanes on the northbound diverge). It is not clear if this is envisaged to be addressed by the RIF.	<p>The Applicant has not identified any impacts of the Proposed Development on Junction 9 that require mitigation and as such monitoring is not considered necessary.</p> <p>The Applicant considers that the monitoring of the operation of the south facing slips (the southbound merge and the lane drop from five to four lanes on the northbound diverge) is a matter for National Highways given that this is related to concerns that National Highways have over forecast traffic even in the absence of the Proposed Development, though in any event isolating the impacts of the Proposed Development is not considered realistic. The Applicant considers that concerns over the operation of the south facing slips should also be considered by National Highways as part of their function however, the Applicant is working with National Highways on how it can support National Highways in managing the acknowledged historic, ongoing and forecast future baseline issues at this location.</p>
20	National Highways	[REP8-066]	Following National Highways review of the 'Accounting for Covid-19 in Transport Modelling' Report [TR020001/APP/8.148] , a concern has arisen that there is a risk of congestion materialising at Junction 9, due to rat-running towards/from Luton and the airport. In National Highways' representation at Deadline 7 [REP7-040] it was indicated that National Highways has concerns about the AM peak forecast flows on the west approach which has a volume to capacity ratio of 100% in all scenarios / forecast years. The updated OTRIMMA does not take into account that there are capacity issues on the M1 Junction 9 as there is no monitoring proposed of any junctions where mitigation within the DCO is not proposed. The implications of this could be that the traffic cannot get through Junction 9 and as such, large queues and delays are formed on the slip roads and mainline carriageway	The Applicant notes that there was an error in the Accounting for Covid-19 in Transport Modelling' Report [AS-159] . Further information has been provided in Section 5 of Applicant's Response to Comments From the Highway Authorities on the 'Accounting for Covid-19 in Transport Modelling Final Report' [REP8-039] which shows that there would be no future forecast issues at M1 Junction 9 affecting the operation of the SRN.

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			at Junction 9, which would be a safety concern to National Highways.	
21	National Highways	[REP8-066]	Furthermore, National Highways confirmed in its Deadline 7 representation that the updated VISSIM modelling still shows that there are some residual delays and queueing on the southbound on slip merge and that the VISSIM modelling shows that there are queues on the northbound mainline where there is a lane drop from five to four lanes. This gives National Highways safety concerns due to the queueing traffic in these locations. Due to the location of the cameras as set out in Figure 3.4 in the OTRIMMA it is unlikely that the cameras would be able to monitor the junction performance in these areas at Junction 10. National Highways requires that a mechanism for monitoring potential airport related and cumulative impacts at Junction 9 and on the south facing slips (the southbound merge and the lane drop from five to four lanes on the northbound diverge) is included with the OTRIMMA or a separate monitoring mechanism is included within the DCO.	As noted above, the Applicant considers the impacts of the Proposed Development on the SRN are mitigated. It is noted that the concerns that National Highways have with regard to the south facing slips are related to concerns that National Highways have over forecast traffic growth - even in the absence of the Proposed Development. Given that the majority of traffic is not airport related, the Applicant considers that it is unreasonable of National Highways to expect the Applicant to 'fix' baseline problems which are demonstrably not of the Applicant's making particularly where National Highways has no plans to address the concerns themselves.
22	National Highways	[REP8-066]	National Highways remains concerned about the robustness of the OTRIMMA in respect of monitoring and measuring critical airport-related traffic flows at M1 Junction 10. The submitted OTRIMMA is in outline form only and sets out the Applicant's proposed traffic monitoring regime, and is a standalone document which will be secured by the DCO. However, a more detailed TRIMMA with specific thresholds triggering the implementation and mitigation works is intended to be developed following approval of the DCO. The provision of a detailed TRIMMA outside of the DCO process does not provide National Highways with sufficient assurance that the monitoring regime will be sufficiently robust and that the thresholds to trigger each intervention will be at a satisfactory level. National Highways is concerned as to how the OTRIMMA and its funding is secured and the governance that applies to its administration and disputes under it, as well as to the funds to be paid in relation to it.	The final TRIMMA will set out a process for how the thresholds will be defined, this will include agreeing junction-specific implementation thresholds with the relevant highway authority (including National Highways for the SRN). Thresholds will be set at a level to deliver mitigation works before the impacts are realised. Please refer to section 3.3.12-3.3.15 of the OTRIMMA [REP8-043] . There are no specific funding requirements relating to MT1 since these works are secured by the DCO and as such are required to be funded by the Applicant. Funding for MT2 (the RIF) is described in the draft section 106 agreement [REP7-074] .
23	National Highways	[REP8-066]	In the absence of further details and amendment made to the OTRIMMA, National Highways is obliged to maintain its objection at the close of Examination and make representations to the Secretary of State on the impacts to the SRN. National Highways would like to stress that it is willing to discuss all alternative approaches with the Applicant to assist them to provide the necessary comfort and assurance on the various matters contained herein.	The Applicant welcomes this invitation. The Applicant and National Highways discussed many of these matters in a meeting on 12 th January 2024. The Applicant's responses in this document are consistent with the Applicant's explanations during this meeting. The Applicant will continue to discuss these matters with National Highways post examination.
24	Buckinghamshire Council	[REP8-047] para. 2.22.2	The Council remains concerned regarding the way in which the value of the fund has been set, however this has not been addressed within this document. In addition for the OTRIMMA	The Applicant has identified impacts as set out in the Transport Assessment [APP-203, AS-123, APP-205, APP-206] and is committed to mitigating these

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		page. 9	fund value, it is considered that it should be subject of an index linked mechanism; the Council considers that this is an omission in this regard in the latest draft S106 Agreement.	<p>impacts in accordance with the TRIMMA process, which commits to the funding for those works.</p> <p>The Applicant also acknowledges that, due to the scale and long build-out period of the Proposed Development, unforeseen impacts may occur. The Applicant has therefore proposed the establishment of the RIF, which is not a planning requirement, nor a mechanism typically offered by any proposed development.</p> <p>The process that can be followed by highway authorities to access the RIF is described in the OTRIMMA [REP8-043]. The RIF is not index-linked, but at Deadline 9 the Applicant has added a new commitment under which a proportion of any surplus STF revenues may be made available for the RIF.</p>
25	Friends of Wigmore Park	[REP8-071] Table 1.3 I.D 1	<p>The membership of the TRIMMA Steering Group will comprise relevant highway authorities (Luton Borough Council, Hertfordshire County Council, Central Bedfordshire Council, Buckinghamshire Council, National Highways), the Applicant and the airport operator.</p> <p>We cannot see how the TRIMMA could allocate funds if member Luton Borough Council follows Council policy by refusing to apply or accept any funding. The view of the Council is that local residents living close to the Luton Airport should not be given special treatment when residents living near the town's railway stations and hospital are given none. The fact that the Council owns the airport is not a consideration but FoWP see it as being the reason.</p> <p>Councillors at Luton Borough Council have consistently voted down all proposals that the airport should fund fly parking issues in residential areas close to the airport for political reasons including the fact that the ruling party has no serving councillors in the worst affected areas. They have made it clear in three votes that residents should pay for parking permits to combat airport parkers. The Directors of Luton Rising also took part in the first vote and voted against the airport funding any residential parking scheme before the Local Government Ombudsman intervened so preventing them in voting in other later votes.</p> <p>To follow council policy we suspect that Luton Borough Council will not even raise fly parking with this subcommittee, as being an issue, leaving local residents to pick up the bill for new parking controls while the Council spends their share of the pot of money on other projects.</p> <p>Due to the unlikely funding of residential parking schemes close to Luton Airport by TRIMMA, we would seek another method written into a Section 106 that guarantees funding if local residents wish for new parking schemes to combat an expanded airport.</p>	<p>It is not proposed that the Applicant be a member of the ATF Steering Group. The matter raised in this representation is a matter for Luton Borough Council.</p> <p>The Applicant has proposed a mechanism for mitigating fly-parking (the TRIMMA and the RIF) and will not be making further commitments in relation to this matter.</p>
26	Central Bedfordshire Council	[REP8-051] para. 3.3.13 page. 3	The addition of text requiring the agreement of thresholds with the relevant Highway Authority is welcomed, however it remains unclear what the implications would be should the thresholds not	The final TRIMMA will include a process for settling thresholds if they cannot be initially agreed between the Applicant and a highway authority (via

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			be agreed. It is also unclear what control or restriction, if any, there would be upon the development in such an eventuality.	arbitration in accordance with article 52 of the Order). This is documented in the version of the OTRIMMA [REP8-043] submitted at Deadline 8.
27	Central Bedfordshire Council	[REP8-051] para. 4.2.2 page. 3	Reference is made to the need for evidence to be provided that the incidence of an identified impact must be greater than the incidence at the time of the issuance of the notice to grow (with the exception of fly parking). Whilst the need to evidence base requests for funded works is understood, it is unclear how the authorities could be expected to provide evidence of levels of impact at the time of the issuance of the notice to grow, at locations which may not yet have been identified (as it is probable that no traffic data collection or other survey work would have been carried out at this, as yet, unidentified locations).	This is a matter for the relevant highway authorities who have a number of functions relating to management of highways that could lead them to identify a worsening of a given condition. The Applicant has identified impacts as set out in the Transport Assessment [APP-203, AS-123, APP-205, APP-206] and is committed to mitigating these impacts. The Applicant also acknowledges that, due to the scale and long build-out period of the Proposed Development, unforeseen impacts may occur at as-yet unknown locations. The Applicant has therefore proposed the establishment of the RIF, which is not a planning requirement, nor a mechanism typically offered by any proposed development.
28	Central Bedfordshire Council	[REP8-051] para. 4.2.4 page. 4	The reference to the reimbursement of costs incurred in the providing evidence for MT2 proposals is noted and considered a positive move, although CBC note that the terminology used is that the costs 'may' be reimbursed, rather than 'will'.	"Will" should be used in this case. This will be reflected in the final TRIMMA, in the section corresponding to section 4.2.3 of the OTRIMMA [REP8-043] .
29	Central Bedfordshire Council	[REP8-051] para. 4.2.6 page. 4	Notwithstanding the positive changes made, the view of CBC remains that, whilst the TRIMMA process may be more suited for the longer-term infrastructure commitments within the DCO, where there is greater uncertainty over future traffic flows and patterns, it would be more pragmatic, and provide a far greater degree of certainty to the process, for earlier phases of highways mitigation to be specifically tied to development triggers. At present there will need to be a considerable, time-consuming, and complex process undertaken to allow for the delivery of works which have already been acknowledged as being required by 2027, and for which it would be beneficial for detailed design work to commence as soon as possible after the granting of the DCO (if successful), rather than having to wait for the submission and agreement of the full TRIMMA, and for three subsequent stages of assessment and monitoring to be agreed and triggered.	The TRIMMA is designed to enable a similar outcome through the setting of particular thresholds. The Applicant will therefore not be changing the TRIMMA to tie the delivery of mitigation to development phases. Submission and agreement of the full TRIMMA will occur before the airport expands; this is a requirement of the DCO. As described in the OTRIMMA [REP8-043] ML1 and ML2 will be 'effectively automated'; thus, there will be little need to 'wait' for this monitoring to occur. The duration of ML3 will effectively be driven by the relevant highway authority, as described in section 3.3.15. For these three reasons, the Applicant disagrees that the TRIMMA should be deviated from in the manner suggested.
30	Buckinghamshire Council	[REP8-046] I.D. 3.7 page. 14	BC welcomes the changes to the OTRIMMA, and particularly the ability for local authority costs to be reasonably reimbursed. Concerns remain regarding the absolute value of the Residual Impact Fund. This Fund should be subject to being indexed link which should be secured through the S106 Agreement.	The Applicant has identified impacts as set out in the Transport Assessment [APP-203, AS-123, APP-205, APP-206] and is committed to mitigating these impacts. The Applicant also acknowledges that, due to the scale and long build-out period of the Proposed Development, unforeseen impacts may occur. The Applicant has therefore proposed the establishment of the RIF, which is not a planning requirement, nor a mechanism typically offered by any proposed development. The process that can be followed by highway authorities to access the RIF is described in the OTRIMMA [REP8-043] . The RIF is not index-linked, but at Deadline 9 the Applicant has added a new commitment under which a proportion of any surplus STF revenues may be made available for the RIF.
Sustainable Transport Fund				
31	Dacorum Borough Council, Hertfordshire County Council,	[REP8-055] page. 9	The Hertfordshire Host Authorities consider that there should be no cap on funding and that it should run in perpetuity to ensure that any ongoing impacts of London Luton Airport can continue to be managed and that the success of measures being implemented at the peak can be continued to support and	The Applicant has confirmed the cap on the Sustainable Transport Fund has been removed, and that the operator would continue to contribute to the STF after the completion of the Proposed Development. See the updated STF to be submitted at Deadline 9 [TR020001/APP/8.119] for further information.

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	North Hertfordshire District Council		<p>manage the airport growth. This could be periodically reviewed by the ATF Steering Group following London Luton Airport reaching full capacity. Were reviews to find there to be a reduced need for STF interventions the levy could be subject to a phased reduction and in time ceased, if appropriate.</p> <p>The Applicant has confirmed that a fund of up to £1m could be brought forward to pump-prime early schemes (not limited to bus services) if required and evidenced through the monitoring, with the provision for the money to be re-couped from the fund by the Applicant at a later stage. The Hertfordshire Host Authorities would like to see greater flexibility in the value assigned for any early pump-priming of schemes through the STF as the level of schemes and potential value is currently unknown and it cannot be confirmed that £1m would be sufficient. The early scheme pump-priming fund should be available for any schemes that are identified and backed through the ATF process, so flexibility in the value is therefore required to manage the risk that is introduced to the Hertfordshire Host Authorities through insufficient funding being available.</p>	
32	Buckinghamshire Council	[REP8-047] para. 2.24.1 page. 9	This submission has been reviewed. The Council is now satisfied that the fund has been increased to a suitable level to be able to provide funding for schemes that are likely to be required to meet the sustainable transport mode targets. However it is noted that no rationale has been provided for the determination of the fund size, rather only an explanation regarding the way the fund is to be amassed.	<p>The fund size was initially based on similar levies implemented at Stansted Airport to fund their Sustainable Transport Fund, at £0.25 per parking transaction and £0.10 per pick-up / drop-off transaction. The levies for London Luton Airport were then altered to £0.20 and £0.30 respectively in order to:</p> <ul style="list-style-type: none"> • Generate higher annual revenues of the fund, to give greater stakeholder confidence in the ability of the fund to achieve the ambitious targets to be set out in future Travel Plans, and • To reflect the fact that pick-up / drop-off movements typically require more vehicle journeys than parking movements, and as such should be levied at a higher rate to greater discourage vehicle journeys.
33	Buckinghamshire Council	[REP8-047] para. 2.24.2 page. 9	The Council also welcomes the introduction of the Pump Priming mechanism. It does note that this is a limited value fund of up to £1m and that this can be recouped from the STF, however, the Council is satisfied that it will enable the Applicant to bring forward some measures as the fund starts to build. It would be necessary that the recouping of the funds do not starve funds available in any given year.	Noted. This matter is addressed in section 1.7 of the updated STF to be submitted at Deadline 9 [TR020001/APP/8.119].
34	Buckinghamshire Council	[REP8-047] para. 2.24.3 page. 9	An updated draft S106 Agreement was provided to the Council on 19 January 2024, to rectify the omission to index linking. The latest draft S106 Agreement now refers to index linked payments being applied to the STF cap and levies referred to in Schedule 9 ('Sustainable Transport Fund').	Please refer to the updated STF to be submitted at Deadline 9 [TR020001/APP/8.119].
35	Central Bedfordshire Council	[REP8-051] page. 5	It is noted that the majority of wording related to the STF being focused on achieving mode share in excess of the minimums required to meet the Green Controlled Growth thresholds and limits has been removed in the most recent iteration of the document. For example, the deletion of the wording in paras. 2.4.1, 2.4.4, and 3.6.2-3.6.5.	Section 2.4 of the STF [TR020001/APP/8.119] sets out the principles that the ATF Steering Group must apply in making recommendations on the use of STF funds, one of which is that the purpose of the STF will be "to contribute towards realising the Surface Access Strategy [APP-228] vision, objectives and priority areas as set out in the successive Travel Plans". The Framework Travel Plan [REP8-024] establishes that Targets set in future TPs should strive to achieve higher levels of sustainable transport mode share than the

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			<p>These changes would appear to allow for STF monies to be spent on a wider range of areas than initially proposed, including addressing GCG threshold and limit breaches, funding the operator's business as usual practices, the funding of capital works which form part of the development (such as the extension of Dart to Terminal 2) and meeting the mandatory requirements of future planning applications, (with all of the aforementioned previously being specifically excluded from STF funding in the document REP5-056) submitted at Deadline 5, but with those exclusions deleted in the most recent iteration of the document).</p> <p>Whilst it is appreciated that it would not be feasible to fully disaggregate the impacts of some sustainable transport measures between meeting GCG targets and those of any site Travel Plan, CBC are concerned that the fund is now less directly focused on Sustainable Transport interventions and could theoretically be used, in part, to fund the business-as-usual transport requirements of the development, which was not the understood purpose of the fund. CBC are also concerned that the sustainable transport aspirations within the document appear to have been scaled back, despite the references to a greater amount of potential funding.</p>	<p>surface access Limits set out by CGC, to reflect the additional level of ambition of the Applicant and the operator as the airport grows, and in particular section 5.3.2 of the Surface Access Strategy [APP-228] states that the two headline Targets (non-sustainable passenger travel mode share and non-sustainable staff travel mode share) "will be set lower than the corresponding [GCG] Limits, to provide an additional level of ambition as the airport grows".</p> <p>[The updated STF to be submitted at Deadline 9 [TR020001/APP/8.119] will also make clear that funded projects must represent additional interventions beyond the operator's business as usual practices.]</p> <p>It is therefore clear that the STF has not been scaled back in its ambition as regards the sustainable transport aspirations of the Proposed Development. The concern with including the deleted words was that this might be read as preventing the ATF Steering Group from implementing STF funding if that could also be seen as contributing to meeting a GCG Limit. The amendment addresses this whilst leaving the discretion with the ATF Steering Group to make recommendations on specific interventions, in accordance with the principle set out above.</p>
Rail				
36	John A Smith	[REP8-074] I.D. 11.3 page. 1	<p>Luton Rising Statement: "The background demand forecast takes into account growth with 3.1% annual growth based on 2018/19 levels of rail demand. This was based on average demand growth prior to 2018."</p> <p>Comments and Questions: This is out-of-date, over 6 years' old and does not take into account the housing growth since then and also planned along the Thameslink and Midland Main Line routes and the additional passengers that will result. They have also completely ignored the additional passengers which will use the trains as a result of the new station which has opened, Brent Cross West (between Cricklewood and Hendon), nor the new stations planned at: Wixams (between Flitwick and Bedford), Ampthill (between Flitwick and Bedford), Clay Cross (between Chesterfield and Ambergate/Alferton), Irchester (Rushden Parkway, between Wellingborough and Bedford).</p>	<p>No further comment required – please see the response provided at ID 20.1 of Applicant's Response to Deadline 6 Submissions [REP7-063]. Please also see the updated Rail Impacts Summary [REP8-030] submitted at Deadline 8.</p>
Other				
37	Friends of Wigmore Park	[REP8-071] Table 1.2 I.D 2	<p>The rear of Percival Way is a vast area that extends from Proctor Way via Prospect Way to Provost Way and beyond, with some of it being used for non-airport related third party parking. The applicant has not provided a genuine reason why land off Percival Way cannot be used and has a mind-set of building on an award winning public park with its Country Wildlife Site rather than a large brown field site that has been semi derelict for 20 years.</p>	<p>The Applicant provided responses as to why areas of new parking would not be suitable in this location as part of Applicant's Response to Deadline 6 Submissions Appendix A - Friends of Wigmore Park, Table 1.2 ID 1 and Table 1.4 ID 8 [REP7-064].</p>
38	Holiday Extras Ltd	[REP8-073] page. 2-5	<p>Holiday Extras suggest that sustainable transport is not a solution to a shortage in off-site car parking where <i>there is no option, particularly where the passenger lives in a location which is not</i></p>	<p>The Applicant's approach to addressing a shortage in off-site car parking would be to firstly seek to encourage use of sustainable transport as opposed to the use of private cars. These measures would be brought forward through</p>

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			<p><i>readily accessible to a conveniently located transport hub offering frequent bus/rail services, or where the passenger is physically impaired; whilst the Applicant's answer takes no account of those factors which underpin a passenger's reliance on using the private car, namely convenience, speed and cheapness, compared with alternative access modes. In certain cases, for example, families with young children, large amounts of luggage may be involved, whilst there are certain passengers who harbour genuine concerns surrounding the reliability of public transport services, for what may be their main holiday.</i></p> <p><i>Holiday Extras suggest that where there is a need to mitigate fly-parking, the onus will be firmly placed on the particular local authority to fund and devote resources in preparing evidence to the Airport Transport Fund, in order to secure the necessary financial support through the TRIMMA. This process will involve a degree of uncertainty over whether the Airport Transport Fund Steering Group agrees to allocate Residual Impact Funding to mitigate the particular fly-parking problem, being dependent on the financial resources available as part of the Residual Impact Fund, irrespective of any thresholds agreed between highway authorities. It follows that at present a number of imponderables remain relating to the successful alleviation of future fly-parking, at a time when local authorities are having to confront challenging resource issues.</i></p> <p><i>Holiday Extras suggest that the option of considering additional on-site parking reinforces the point raised on behalf of Holiday Extras Ltd in earlier representations, namely there is and remains a general reluctance on the part of the Applicant to enter into discussions with my client, to ensure- that a shortfall in airport related car parking provision does not arise. The same option is required to be seen in the light of the fact that the Applicant considers it is not necessary for a contingency figure to be introduced to car parking supply. No indication is provided by the Applicant as to where any potential additional car parking may be provided, despite earlier detailed car parking appraisals having been carried out as part of the Alternatives in Design Evolution Chapter of the Environmental Statement. [Document AS-026]. The fact that the Applicant has felt it appropriate to suggest an option of providing additional on-site parking is the telling point</i></p> <p><i>Holiday Extras state that the bus and coach study does not seek to provide an exhaustive list and other interventions can be considered in the future, but no specific new/improved bus services have been committed as part of the Future Travel Plan, with the initial bus and coach study looking at possible new routes to improve accessibility to the airport. It is therefore difficult to evaluate in the light of a number of unknown factors, the extent to</i></p>	<p>the five-yearly Travel Plans and would be funded from the Sustainable Transport Fund. If the overall supply of parking is still considered to be insufficient, as a result of less off-site parking capacity coming forward than is assumed, the Applicant could consider the option of providing additional on-site parking and seeking planning approval to do so.</p> <p>It would not be reasonable for the Residual Impacts Fund (RIF) to be used for exploratory monitoring of matters such as potential instances of fly-parking. The process proposed in the OTRIMMA [REP8-043] is reasonable in that no baseline information would be required (for evidencing an instance of fly-parking) and any monitoring costs would be reimbursed if it were agreed by the ATF Steering Group that the process for delivering mitigation should commence. The Applicant does not anticipate that monitoring for potential fly-parking will be onerous, nor that there would need to be a significant level of resource devotion. Thresholds are also not relevant to the matter of fly-parking.</p> <p>Relevant highway authorities will be aware of the remaining balance of the RIF through participation on the ATF Steering Group. As this would likely be considered by authorities when deciding whether to pursue monitoring of potential fly-parking, there is unlikely to be uncertainty over whether the ATF Steering Group agrees to allocate Residual Impact Funding to mitigate a subsequently demonstrated instance of fly-parking.</p> <p>The Applicant considers that the issue raised regarding engagement with Holiday Extras Ltd was answered within the Applicant's Response to Written Representations made by Members of the public at Deadline 1 Part 1b [REP2-034] page 100. As set out above, the Applicant's approach to addressing a shortage in off-site car parking would be to firstly seek to encourage use of sustainable transport. As a fall back option, if the overall supply of parking is still considered to be insufficient, the Applicant could consider the option of providing additional on-site parking and seeking planning approval to do so. There is space within the existing airport land to accommodate additional car parking.</p> <p>The Bus and Coach Study [REP8-032] will be used to inform the first Travel Plan issued post-consent alongside more granular monitoring of surface access for passengers and staff. It is premature to commit to bus and coach improvements prior to DCO approval.</p> <p>It is proposed that every five years post-consent, in alignment with the Travel Plan timescales, the Applicant will commission a market study of bus and coaches accessing the airport to ensure that opportunities for new and improved bus and coach services are identified and reported to the ATF and ATF Steering Group. This will gauge the interest and planned services for bus and coach operators, as well as the propensity of travel behaviour change for conurbations within the airport's catchment areas to drive mode shift in travel to and from the airport, as the Proposed Development progresses. Relevant authorities can bring proposals for new or improved routes to the ATF Steering Group for consideration of funding through the STF.</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p><i>which the £1million pump priming fund, along with any Sustainable Transport Fund provisions considered by the Airport Transport Fund Steering Group, will result in tangible improvements in public transport provision to the airport, especially in the short term.</i></p>	
39	National Highways	[REP8-067] page. 2-3	<p>National Highways suggest that “... <i>the modelling also demonstrates that there is a risk of residual congestion and safety concerns on the M1 junction 10 southbound entry slip (merge) and on the northbound mainline carriageway, north of M1 junction 9, where five lanes reduce to four. The revised post-covid modelling also indicates a risk of severe congestion at junction 9, potentially as a result of rat-running due to congestion approaching junction 10.</i>”</p> <p>National Highways suggest that: “<i>In our view, the modelling is inconclusive as to the extent Luton Airport contributes to these issues because of a lack of a future modelled scenario with the airport traffic but without the proposed mitigation. It should also be acknowledged that the scenarios under consideration are up to twenty years into the future, which reduces the reliability of the results and increases risk. We therefore recognise that planning conditions that constrain the proposed development unless specific works are implemented at particular times may not be the most appropriate way to safeguard the SRN.</i>”</p> <p>National Highways suggest: “<i>Instead, we are open to a robust monitoring scheme which enables us to determine whether mitigation work is required and the appropriate timing for implementation. The monitoring regime needs to provide us with an ability to protect the SRN from unsafe conditions. It also needs to incorporate additional locations to those included in the DCO that are at risk from adverse impacts as the airport grows. We do not consider that the Outline TRIMMA (Transport Related Impacts Monitoring and Mitigation Approach) in its current form achieves these requirements and that these need to be secured as part of the DCO.</i>”</p> <p>National Highways suggest: “<i>DfT Circular 01/2022, Strategic Road Network and the delivery of sustainable development, Para 51, states that “Where a transport assessment indicates that a development would have an unacceptable safety impact or the residual cumulative impacts on the SRN would be severe, the developer must identify when, in relation to the occupation of the development, transport improvements become necessary.” Further, paragraph 111 of the National Planning Policy Framework (NPPF) (dated 20 January 2021) states that: ‘Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway</i></p>	<p>The Applicant has responded to the technical matters raised by National Highways at Deadline 8 [REP8-039]. The Applicant considers that the impacts of the Proposed Development have been robustly addressed.</p> <p>The Applicant agrees with National Highways that the residual concerns identified by National Highways relate to impacts sometime in the future and that restrictive planning conditions on the Application would not be a fair and proportionate way to proceed.</p> <p>The Applicant also agrees that any need for further works should be as a result of ongoing monitoring to enable both the effectiveness of the DCO proposed works to be considered as well as any residual effects. Given that any monitoring and mitigation strategy needs to take a holistic view of all demand, the Applicant considers that National Highways are the most appropriate party to undertake such monitoring and consider the needs of the networks in the context of National Highways overarching roles and responsibility for the network.</p> <p>The Applicant acknowledges that the Proposed Development contributes to the total forecast demand and is continuing to engage with National Highways on contributing to a mutually satisfactory approach and outcome.</p> <p>The Applicant is confident that the OTRIMMA provides sufficient reassurance to National Highways on the matters raised in this submission. The Applicant has responded to National Highways separate submission [REP8-066] earlier within this table.</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p><i>safety, or the residual cumulative impacts on the road network would be severe.' Therefore, the risk of residual congestion and associated safety concerns highlighted by the modelling is material in this instance. It is not appropriate to limit consideration of impacts and their mitigation to those of the proposed development alone."</i></p> <p>National Highways state: <i>"We are continuing to take a collaborative and constructive approach to find a mutually satisfactory solution that will enable the development to proceed, the intention would be to provide for a scheme for additional modelling and agreement of the method for monitoring of impacts as well as triggers for mitigation between the grant of development consent, if given, and the start of work. We do not consider that the draft TRIMMA currently does this. Such an approach would need to be bespoke to the SRN and we require that modelling, monitoring and mitigation needs to be approved directly by National Highways so as to enable us to manage the impacts on our assets."</i></p>	

2.12 TOWN PLANNING

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

Table 2.12 Applicant's Response to Deadline 8 Submissions – Town Planning

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	Michael Reddington	[REP8-079] para. 4.13.7 page. 3	Can the Applicant please explain the 'relevance' of the Luton Local Plan extending only to 2031. For example does that mean that Phase 2 cannot be commenced until a revised Local Plan is provided and the Phase 2 proposals are compliant ?	The currently adopted Local Plan period for Luton ends in 2031. The assessment phases refer to commencement and construction of the Proposed Development, these are not related to local planning policy timescales.
2	Michael Reddington	[REP8-079] para. 4.13.8-4.13.12 page. 3-4	<p>The Applicant's approach is typical of the 'smoke-and-mirrors'/'dice-and-slice' approach that in my view has been adopted throughout this DCO process.</p> <ul style="list-style-type: none"> (1) Project Curium increased the passenger throughput by 9mppa from 9mppa to 18mppa, a sleight of hand which meant that the project did not meet the 10mppa criterion of a Nationally Significant Infrastructure Project (NSIP). (2) Project Curium gave a timescale of 2028 by which <ul style="list-style-type: none"> (a) 18mppa would be achieved and (b) benefits such as quieter aircraft and additional funds would accrue to residents and communities. (3) The Airport Operator was incentivised (questionably perhaps) to accelerate growth so that 18mppa was achieved by 2019. 	Points (1)-(5) are outside the scope of this application for Development Consent.

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<p>(4) The Airport operator then proposed an increase of 1mppa from 18mppa to 19mppa which was called in by the Planning Inspectorate but eventually permitted. This is an example of 'dice and slice'.</p> <p>(5) From 2014 (to 2019 before Covid but expected to return by 2025) there has been a doubling of passenger numbers and a significant increase in noise – which has essentially been unmitigated because of the poor performance of the insulation programme and the lack of time within which carriers could provide larger, less noisy craft.</p>	
3	Michael Reddington	[REP8-079] page. 7	<p>Luton Local Plan LLP6 also states: "Proposals for development will only be supported where the following criteria are met, where applicable/appropriate having regard to the nature and scale of such proposals.." "(iii) are in accordance with an up-to-date Airport Master Plan published by the operators of London Luton Airport and adopted by the Borough Council";</p> <p>Can the Applicant please provide evidence that the latest Airport Master Plan includes for an extension to 32mppa and has been adopted by the Borough Council prior to the DCO application.</p>	<p>The policies contained within the Luton Local Plan, whilst are likely to be both important and relevant, are not the starting point for the consideration of a DCO.</p> <p>Policy LLP6 makes provision for the airport to respond positively to future growth (paragraph 4.51) which this application has demonstrated.</p> <p>Please see the Applicant's and LBCs responses to Written Question PED.1.2 at Deadline 4 which deals with this matter in detail.</p>

2.13 WATER ENVIRONMENT

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

Table 2.13 Applicant's Response to Deadline 8 Submissions – Water Environment

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
1	Environment Agency	[REP8-062] page. 1	<p>Compliance with the Drainage Design Statement does not specifically ensure that there is no within class deterioration of the Water Framework Directive status. Therefore, we have requested that the Design Principle document is amended. Following engagement with the applicants on the Design Principles we have requested the following amendments to principle DDS.03. Should this amendment (in bold and underlined) be carried out, we are satisfied that this principle which also includes the requirement to carry out an updated WFD assessment would achieve the protections required:</p> <p>DDS.03 The Water Framework Directive compliance assessment is to be updated based on the drainage detailed design and WFD status (at time of submission) and issued to the Environment Agency for review. <u>The updated WFD compliance assessment needs to demonstrate that the drainage design will not lead</u></p>	<p>The Design Principles document submitted at Deadline 9 [TR020001/APP/7.09] includes the requested change to DDS.03.</p>

I.D	Interested Party	Reference	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response
			<u>to deterioration (including within class deterioration) of the WFD status.</u>	

REFERENCES

¹ Department for Transport, Jet Zero Strategy, July 2022, page 8.

² Department for Transport, Jet Zero Strategy: one year on, July 2023, page 12.

³ Civil Aviation Authority (2021), CAP1506: Survey of Noise Attitudes 2014: Aircraft Noise and Annoyance, Second Edition

⁴ Department for Transport, Flightpath to the Future, May 2022, page 21.