



National Infrastructure Planning
Temple Quay House
2 The Square
Bristol, BS1 6PN

Customer Services:
e-mail: 0303 444 5000
LutonAirport@planninginspectorate.gov.uk

The Applicant, Affinity Water Ltd, Network Rail Infrastructure Ltd, Thames Water Utilities Ltd, National Highways, UK Power Networks and Eastern Power Networks, LADACAN and the relevant planning authorities

Your Ref:

Our Ref: TR020001

Date: 31 January 2024

Dear Sir/ Madam

**Planning Act 2008 (as amended) Section 89
The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) –
Rule 17**

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

Request for further information and written comments

The Examining Authority (ExA) writes to the parties listed above, under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010, following Deadline (D) 9 on Tuesday 30 January 2024. Having reviewed the documents submitted at this deadline the ExA request the following further information and clarifications.

Please note that due to the limited time available this letter has been published in advance of the Examination Library (EL) being updated to include documents submitted at D9. As a result, references to submissions made at D9 do not include an EL reference. The ExA will reissue this letter once the EL has been updated.

Preferred Protective Provisions

As requested at D9 the Applicant has submitted a section (s) 127/ 138 case and an updated draft Development Consent Order (DCO). The s127/ 138 case sets out the objections received from Statutory Undertakers (SUs) and how these have been addressed by the protective provisions contained within Schedule 8 of the draft DCO.

Applicant: The s127/ 138 case does not include reference to National Highways who at D8 had outstanding objections to the proposed protective provisions (part 5). Can you update the s127/ 138 case to include reference to National Highways and the situation with regards to negotiations or signpost where in the application documentation this is set out.

SUs: Where you have requested the insertion of a bespoke Protective Provision in the draft DCO and it is currently not included, if you have not done so already provide your preferred form of drafting.

Section 135 Crown land

Can the Applicant provide an update with regards to the status of negotiations for the outstanding crown land plot (2-46) and whether consent under s135 will be obtained before the close of the Examination. If Crown Consent will not be obtained then as, per action point 22 of Compulsory Acquisition Hearing 1 [EV5-007], submit a s135 case by **D11**.

Prospect House Day Nursery

Luton Borough Council: Considering the ES conclusion that loss of Prospect House Day Nursery would be a major adverse significant effect on mental health and wellbeing, explain how the Applicant's proposal in the draft s106 of reviewing the need for the nursery in future would satisfy the requirement to mitigate likely significant health and community effects.

Noise Insulation Delivery Programme [REP4-079]

[REP4-079] stated that: "*The Applicant has also commenced a process to market test the availability both of contractors with appropriate skills, and of access to the specialist glass and other products used for insulating against noise. This exercise is ongoing, and the Applicant intends to share the results and an analysis of the results prior to the close of the examination.*"

Can the Applicant confirm whether more detailed information is intended to be presented to the Examination or whether the Applicant's summary in response to NO.2.15 is intended to address this point.

Noise insulation delivery programme

LADACAN's D9 and D8 submissions [REP8-075] suggest that an increased rate of noise insulation must be secured for it to be relied on as noise mitigation or compensation. The Applicant references back to [REP4-079] and [REP7-056] suggesting that these documents address the '*reality of this challenge*'. These submissions explain how accelerated roll out could be achieved within a four-year period. The updated Compensation policies, measures and communities document does not commit to a timetable, instead referring to taking '*all reasonable steps*' to ensure delivery of insulation in an '*efficient and effective manner*'.

Applicant: explain whether a specific commitment to a four-year timescale could be secured by the DCO and if not, how the DCO would ensure timely avoidance of any significant adverse noise effects.

LADACAN and Relevant Planning Authorities: confirm whether the revised wording in [REP7-036] satisfies concerns relating to speed of roll out and if not, what alternative provision would be required to secure it in the DCO.

Accurate Visual Representations – 10B, 13, 14, 17, 17A [REP8-017]

The ExA queries the annotation to 'Work 4q (01) Car Park P11 – New Long Stay Car Park' which is shown in block form beside and at a similar height to 'Work 3b(01) New Terminal 2'. Proposed Car Park P11 would be a surface car park which paragraph 7 in schedule 2 of the draft DCO, submitted at D9, states would have a maximum height of 5 metres and proposed Terminal 2 would have a maximum height of 26.5 metres.

Applicant: Please confirm if the annotation is correct and if so, what the block form represents. If not, the ExA requests the visualisation is updated and a final review of all

annotations in the accurate visualisations is undertaken to ensure that all works are correctly annotated and provide any necessary updates.

Habitats Regulations Assessment No Significant Effects Report [APP-171]

This report concludes that the Proposed Development would not be hydraulically linked to the Lee Valley Special Protection Area (SPA)/ Ramsar site and that there is no pathway for effect on the qualifying species. At D9, Natural England imply that the sites could be hydraulically linked because the River Lee flows into the SPA/ Ramsar site. We acknowledge that Natural England are content that there would not be adverse effects if drainage to a Water Treatment Plant or the sewer network is secured. However, the potential presence of a previously unidentified pathway may have implications for the conclusions of the 'No Significant Effects Report' and the scope of the Habitats Regulations Assessment that must be undertaken by the Competent Authority.

Applicant: Review the conclusions of the Habitats Regulations Assessment No Significant Effects Report [APP-171] in the context of Natural England's D9 comments. If it is maintained that a hydraulic pathway between the Proposed Development and the Lee Valley SPA/ Ramsar site does not exist, please provide reasons for this. If it is concluded that this pathway of effect should be included, please update the Report and undertake any additional work required for the Habitats Regulations Assessment.

The ExA requires responses by **Deadline 10, Monday 5 February 2024** unless otherwise indicated in the request.

Should you have any queries regarding the content of the letter, please contact the case team using the details at the top of this letter.

Yours faithfully

Jo Dowling

Lead Member of the Examining Authority

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