



Hertfordshire Host Authorities

HERTFORDSHIRE HOST AUTHORITIES' FURTHER RESPONSE TO THE EXAMINING AUTHORITY'S RULE 17 LETTER (DATED 25 JANUARY 2024)

London Luton Airport Expansion



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1 INTRODUCTION

1.1 PURPOSE OF THIS DOCUMENT

- 1.1.1. This document has been prepared jointly by Hertfordshire County Council (“HCC”), Dacorum Borough Council (“DBC”) and North Herts Council (“NHC”), in collaboration with their technical consultants, together referred to as the “the Hertfordshire Host Authorities”. The Examining Authority published a Request for further information and written comments under The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 17 on 25 January 2024. The purpose of this document is to provide the Hertfordshire Host Authorities’ response to those requests on 25 January 2024.
- 1.1.2. This document should be read alongside separate documents also submitted at Deadline 10, these include:
- Hertfordshire Host Authorities' Comments on Any Further Information and Submissions received by Deadline 9;
 - Hertfordshire Host Authorities' Response to the Examining Authority’s Rule 17 Letter (dated 25 January 2024); and
 - Hertfordshire Host Authorities' Response to the Examining Authority’s Rule 17 Letter (dated 31 January 2024).



2 HERTFORDSHIRE HOST AUTHORITIES' FURTHER RESPONSE TO THE EXAMINING AUTHORITY'S RULE 17 LETTER (DATED 25 JANUARY 2024)

Table 2-1 – Hertfordshire Host Authorities Further Response to the Examining Authority's Rule 17 Letter (Dated 25 January 2024)

Examining Authority's Request	Hertfordshire Host Authorities' Response
<p>Applicant, all Relevant Planning Authorities, CCB and NE</p> <p><i>The ExA requests comments at D10 regarding the compliance of the Proposed Development with both national and development plan AONB policies and any comments on the legislative provisions in Section 85 of the Countryside and Rights of Way Act 2000.</i></p>	<p>The Hertfordshire Host Authorities refer the Applicant to their response in relation to [PED 1.31] (Unacceptable Levels of Harm) submitted at Deadline 7 in their Comments on Any Further Information / Submissions received by Deadline 6 [REP7-085].</p> <p>Please refer to the Hertfordshire Host Authorities response in relation to Implications of Section 245 of the Levelling-up and Regeneration Act 2023, which will amend Section 85 of the Countryside and Rights of Way Act 2000 submitted at Deadline 6 in their ISH Post-Hearing Submission [REP6-093].</p> <p>The Hertfordshire Host Authorities do not believe that the Proposed Development is compliant with either national or local policy as it will cause permanent, residual harm to the Area of Outstanding Natural Beauty (AONB) (as identified in the Landscape and Visual Impact Assessment (LVIA)). The Hertfordshire Host Authorities also believe that the level and extent of harm identified is underrepresented in both the LVIA and the AONB Special Qualities Assessment (SQA).</p> <p><u>National and Local Policy Compliance</u></p> <p>The UK is a signatory to the European Landscape Convention, which promotes the protection, management, and planning of landscapes. Its signatory States have declared themselves “concerned to achieve sustainable development based on a balanced and harmonious relationship between social needs, economic activity and the environment.” <i>The Preamble of the Convention states that the landscape “...is a key element of individual and social well-being and ... its protection, management and planning entail rights and responsibilities for everyone”.</i> The Hertfordshire Host Authorities do not believe that the Proposed Development demonstrates adequate protection of the AONB.</p> <p>Paragraph 180 of the National Planning Policy Framework (NPPF) states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.</p> <p>Paragraph 182 of the NPPF in particular states that “<i>Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues.</i>” It also identifies that development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas. In <i>Monkhill Ltd v Secretary of State for Housing, Communities and Local Government & Anor (Rev 1) [2021]</i> the Court of Appeal case confirmed that the ‘<i>great weight</i>’ to be given to conserving AONBs under paragraph 172 of the NPPF could be considered a “<i>clear reason for refusing</i>” planning permission under paragraph 11(d)(i) of the NPPF.</p> <p>Paragraph 183 of the NPPF states that applications for development within AONBs should include assessment of the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and the extent to which detrimental effects on the environment, the landscape and recreational opportunities could be moderated.</p> <p>The Applicant has stated that there is no mitigation available for increases in overflights over the AONB and therefore the adverse impacts of this cannot be moderated.</p> <p>Government Policy relating to AONBs was strengthened in December 2023 through its Amendment to the Levelling Up and Regeneration Bill 2023 which updates Section 85 of the CROW Act (2000), strengthening protection for ‘National Landscapes’ (the new name coming in for AONBs). Whilst this has not materially altered the requirements placed upon the Applicant, it places greater weight on the conservation and enhancement of AONBs.</p>



Examining Authority's Request	Hertfordshire Host Authorities' Response
	<p>The LVIA acknowledges significant adverse effects on the AONB as a result of the Proposed Development and as such, the Proposed Development is not consistent with the Levelling-up and Regeneration Act 2023 (LURA) amendment to Section 85 of the Countryside and Rights of Way Act 2000, in relation to impacts on the Chilterns AONB.</p> <p>The Proposed Development, in causing harm to the AONB, is also considered by the Hertfordshire Host Authorities to be contrary to local policy, including Dacorum Adopted Core Strategy Policy (CS24); and North Hertfordshire Local Plan Policy (NE3).</p> <p>North Hertfordshire Local Plan Policy (NE3): The Chilterns Area of Outstanding Natural Beauty AONB identifies 6 provisions that have to be met for planning permission for any proposal within the AONB, or affecting the setting of the AONB, including the following 3 provisions (provisions b, d and f) of particular relevance: b) Conserves and where possible enhances the Chilterns AONB's special qualities, distinctive character and biodiversity, tranquillity and remoteness in accordance with national planning policy and the overall purpose of the AONB designation; d) Has regard to the statutory Chilterns AONB Management Plan, making practical and financial contributions towards management plan delivery as appropriate; and f) Avoids adverse impacts from individual proposals (including their cumulative effects) unless these can be satisfactorily mitigated.</p> <p>The Hertfordshire Host Authorities agree with the Applicants LVIA conclusions that significant residual harm will occur to the AONB as a result of the Proposed Development and it therefore does not comply with North Hertfordshire Local Plan Policy (NE3) parts (b) to conserve and enhance the AONB, or (f) to avoid adverse impacts on the AONB. Determining whether the Proposed Development 'conserves and enhances' the AONB, consideration needs to be given to the Chilterns AONB's special qualities which include those outlined in North Hertfordshire Local Plan Paragraph 11.14 such as: '<i>...tranquil valleys... the scope for enhancing and restoring those parts of the landscape which are previously developed, degraded or subject to existing intrusive developments, utilities or infrastructure... visually sensitive skylines... important views and visual amenity...</i>' and '<i>Tranquillity, dark skies and remoteness and the need to avoid intrusion from light pollution, noise, and motion...</i>' The Proposed Development does not contribute or comply with any of these criteria. The Hertfordshire Host Authorities are also not aware of any discussion in relation to Local Plan Policy (NE3) part (d) relating to committed funding of any element in the AONB or outside Wigmore Valley Park and Replacement open space.</p> <p>The Dacorum Adopted Core Strategy Policy (CS24): The Chilterns Area of Outstanding Natural Beauty states that the special qualities of the Chilterns Area of AONB will be conserved; the scarp slope will be protected from development that would have a negative impact upon its skyline; and development will have regard to the policies and actions set out in the Chilterns Conservation Board's (CCB) Management Plan and support the principles set out within the Chilterns Buildings Design Guide and associated technical notes.</p> <p>Given the LVIA concludes that there will be permanent, significant residual harm to the AONB, the Hertfordshire Host Authorities do not consider the Proposed Development to be complying with Policy (CS24) as it fails to conserve the special qualities of the AONB. It also fails to comply with the CCBs Management Plan, whose strategic objectives include D01: ensure planning decisions put the conservation and enhancement of the AONB first; and D02: ensure that where development happens, it leaves the AONB better than it was before.</p> <p><u>Underrepresentation of Extent and Significance of Effects</u></p> <p>The Hertfordshire Host Authorities believe that the level and extent of harm identified in relation to the AONB is underrepresented in both the LVIA and the AONB SQA.</p> <p>The presence of additional large scale-built development, including use of solar panels on numerous buildings, potentially with associated glint and glare, is anticipated to result in a deterioration of the special qualities of the AONB, including in its long-distance views. However, mitigation of impacts from the built form is largely limited to blocking long-distance views by hedgerow planting. The Applicant identifies no mitigation for overflights, nor has it identified any funding in relation to AONB enhancement or management.</p>



Examining Authority's Request	Hertfordshire Host Authorities' Response
	<p>The AONB SQA and LVIA do not consider the effects of transient lighting or aircraft movements on the AONB.</p> <p>It is disappointing that there remains no known update since the Hertfordshire Host Authorities request in their Written Representations [REP1-069] for submission of a night-time assessment that is compliant with the third edition of Guidelines for Landscape and Visual Impact Assessment (GLVIA3) to appropriately consider impacts of lighting, including within the AONB. A GLVIA3-compliant assessment would take into consideration the effects of transient lighting such as aircraft landing lights. The Lighting Obtrusion Assessment cannot be relied on to understand the impacts of lighting on the AONB or on landscape and visual receptors. As such, the Hertfordshire Host Authorities consider that adverse impacts already identified are likely to be more widespread, or more significant, than the LVIA or AONB SQA currently suggests.</p> <p>An intelligent narrative summary of the existing baseline, informed by published information (such as tranquillity mapping from the Campaign to Protect Rural England (CPRE)) supplemented by information collected during site visits, should be provided to understand the baseline environment in relation to tranquillity, and the perception of tranquillity and 'remoteness' in the AONB. Such narrative should discuss all affected areas within the AONB.</p> <p>Additional flight movements across the AONB (both day and night-time) will increase significantly in some areas, but discussion within the AONB SQA on such impacts is limited to 7 viewpoints located in areas with lower levels of overflight increases. Impacts on the AONB may be consequently more extensive, and potentially more significant, than presented in either the AONB SQA or the LVIA as a result.</p> <p>When considering sensitivity, the Hertfordshire Host Authorities consider that the capacity of the baseline environment to absorb more overflying aircraft (both day and night-time) is crucial to the assessment in relation to receptor susceptibility and should be identified. This has not been taken into consideration and as such, the assessment of effects in the LVIA and AONB SQA are considered to be incomplete.</p> <p>The Applicant's assessment of impact on the AONB and its special qualities in both the LVIA and AONB SQA is considered to be incomplete and inaccurate as they do not adequately justify their conclusions and fail to take into account all relevant aspects that could influence susceptibility, magnitude of change and significance.</p> <p>The Proposed Development is considered to be in conflict with national and local AONB policy, given that the LVIA already identifies significant residual harm will be done to the Nationally protected Chilterns AONB. The Hertfordshire Host Authorities believe these impacts are likely to be more significant and more extensive than is presented in either the AONB SQA or the LVIA, resulting in further divergence from policy.</p>

