

February 2024

London Luton Airport Expansion

Planning Inspectorate Scheme Ref: TR020001

Volume 8 Additional Submissions (Examination)

**8.193 Applicant's Response to Examining Authority's Rule
17 Request Dated 6 February 2024**

Infrastructure Planning (Examination Procedure) Rules 2010 Application

Document Ref: TR020001/APP/8.13



The Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

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

**8.193 Applicant's Response to Examining Authority's Rule 17
Request Dated 6 February 2024**

Deadline:	11
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Author:	Luton Rising

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1 INTRODUCTION

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 the Rule 17 request issued by the ExA on 6 February 2024 **[PD-024]** and provides the information requested from the Applicant for Deadline 11.

2 APPLICANT'S RESPONSE TO THE EXA'S RULE 17 REQUEST FOR DEADLINE 11

Table 2.1: Applicant's Response to the ExA's Rule 17 Request dated 6 February 2024

Ref	Information Requested by the ExA	Applicant's Response
1	<p>Cumulative effects assessment provided in the Applicant's Response to Examining Authority's Rule 17 Request dated 17 January 2024 – D9</p> <p>The Applicant's assessment [REP9-052] is noted to be somewhat contradictory. For example, in Table 2.1 the Applicant's air quality assessment states "<i>There is potential for construction activities to occur for both developments simultaneously in 2025</i>", whereas health and community and landscape and visual conclude that "<i>The Solar Farm would be substantially in place before construction of the Proposed Development and form part of the Future Baseline</i>" and noise and vibration states "<i>The Solar Farm would be constructed before construction of the Proposed Development commenced</i>". Other sections reference "<i>substantially constructed</i>". Provide an updated Table 2.1 and conclusions that provide clarity on the likely overlap in the projects, or further justification for these differing statements.</p>	<p>The document provided at Deadline 9 REP9-052] has been updated in response to this comment and re-submitted at Deadline 11.</p>
2	<p>Quota Counts and Green Controlled Growth (GCG)</p> <p>The Applicant's D7 submission [REP7-077] provides an explanation of the Applicant's approach to quota count noise controls and outlines how the Applicant would convert noise thresholds and limits into quota count controls. The GCG Framework revision 4 submitted at D10 only requires that level 2 thresholds and limits are</p>	<p>The Applicant's approach has not been amended, but when updates were made at to the GCG documents at Deadline 7, this part of the text was not updated. The Applicant thanks the ExA for bringing this to their attention and the GCG documents have been updated at Deadline 11 to clarify that it is not just Level 2 Thresholds but also Level 1 Thresholds that should be converted.</p>

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	<p>converted to quota counts. Provide an updated GCG Framework document including provision for level 1 quota counts or provide justification to explain why the approach outlined in [REP7-077] has been amended.</p>	
3	<p>LADACAN D10 submission – Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010</p> <p>LADACAN's D10 submission, which responds to the Rule 17 letter dated 31 January 2024 [PD-023] includes comments relating to the functioning of the compensation policies and the Noise Insulation Subcommittee of the Luton Airport Co-ordination Committee [REP9-032]. Noting that a subsequent revision to the policies has been provided at D10, respond to these comments. Provide a further update to the compensation policies, measures and community first document, and any additional DCO requirements to secure the policies in the event that the section (s)106 agreement is not signed.</p>	<p>Please refer to the Applicant's Response to Deadline 10 Submissions [TR020001/APP/8.192] where the Applicant addressed the points raised by LADACAN.</p> <p>The Compensation Policies, Measures and Community First [TR020001/APP/7.10] has been re-submitted at Deadline 11.</p>
4	<p>Fuel dumping complaint – outstanding information</p> <p>Further to the local authorities' comments at ISH8 [REP7-069] about a suspected fuel dumping incident and the response [REP6-066] at D6, provide an update on progress obtaining the information highlighted at ISH8 from the Civil Aviation Authority.</p>	<p>The Applicant confirms that neither it or the airport operator has any information regarding any such incident. As stated previously in the Applicant's Response to Written Representations from Member of the Public at Deadline 1 [REP2-034], page 62, the vast majority of commercial aircraft using the airport are physically not able to dump fuel in any event. Following the matter being raised at Issue Specific Hearing 5, the Applicant sought information from National Air Traffic Services (NATS) at the airport to ascertain whether there was any record of such incidents in the vicinity of the</p>

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		<p>airport. NATS referred the query onto the Civil Aviation Authority (CAA).</p> <p>The Applicant has been in contact with the CAA regarding the specific alleged incident referred to the North Hertfordshire Council at Issue Specific Hearing 8 [REP6-093] page 7. The CAA has only recently responded and confirmed that the only source of such data would be the Mandatory Occurrence Reporting (MOR) system that requires all safety related incidents to be reported. However, access to the data reported is strictly controlled and the rules covering the use of MOR data, as set out in UK Regulation 376/2014, are very specific that details of MORs (including whether they exist) can only be used 'to maintain or improve aviation safety'.</p> <p>The CAA is clear (https://www.caa.co.uk/our-work/make-a-report-or-complaint/report-something/mor/occurrence-reporting/) that such data is not available to the public or to the media, including in response to Freedom of Information Act (FOIA) requests.</p> <p>The Applicant does not consider that a request for such information in relation to the application for development consent would be considered to be for the purpose of maintaining or improving aviation safety and so has not made an application for disclosure.</p>
5	<p>Funding elements in the National Landscape</p> <p>The Hertfordshire Host Authorities' Further Response to the Examining Authority's Rule 17 Letter (Dated 25 January 2024) refers to the potential for funding in</p>	<p>The Applicant is fully committed to tackling deprivation and to local decarbonisation projects as the eligible themes for Community First grants during its first review period and wishes to ensure maximum support for these twin themes, which mirror the central themes of its shareholder's Luton 2040</p>

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	<p>respect of adverse effects on the Chilterns National Landscape. Confirm whether the definitions of projects eligible for community first funds could be extended to offset such effects or whether an alternative funding mechanism would be available.</p>	<p>Vision. Consequently, the Applicant has no desire to consider alternative themes which would dilute the effectiveness of Community First grants during that period, especially as during this period the fund will generate relatively modest amounts of money in comparison to future opportunities as the airport, and as a result the fund, grows more significantly.</p> <p>The Applicant is not aware of an appropriate alternative mechanism to provide funds for the stated purpose, especially as it is the Applicant's position that mitigation through funding would not be effective in respect of effects on the Chilterns National Landscape.</p> <p>The Applicant notes that, as part of the built in Community First review process, it is possible that a theme which would allow for a more direct link with matters more closely related to those of relevance to the Chilterns National Landscape could be agreed as part of a future review.</p>
6	<p>Agricultural holdings</p> <p>The agricultural tenancy at Winch Hill was terminated in 2020 [REP9-057]. This land is subject to a temporary agricultural tenancy '<i>which will expire prior to construction</i>' [REP9-009, paragraph 6.7.35], although the ExA note that this is potentially, at least for Phase 1, contradicted in paragraph 6.9.22 [REP9-009]. The implication of this is that if construction does not take place, the temporary agricultural tenancy would continue. The result would be that an agricultural tenancy would be lost if the development occurs. A tenant farm may be of low sensitivity [REP9-009, Table 6.12] but if the loss of the land farmed is more than 20% then this would still</p>	<p>At the time of assessment, The Pilkington Farm Partnership (PFP) holding included approximately 1214 ha (3000 acres) on the Kings Waldon Estate. PFP had a tenancy agreement for approximately 115 ha at Winch Hill that was terminated in 2020. Therefore, if this were to be considered lost because of the Proposed Development it would equate to 9.5% of the total area of the holding.</p> <p>Using the criteria described in Table 6.9 [REP9-009] at between 5% and 10% of the total area farmed this would be a Low magnitude impact on a Low sensitivity receptor (as defined in Table 6.12 [REP9-009]) which would result in a</p>

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	<p>result in a significant adverse effect [REP9-009, Table 6.13].</p> <p>Please confirm how much of the land farmed at this holding would be lost in the context of Table 6.9 [REP9-009] so that a full assessment of the potential effects of the Proposed Development can be made. Alternatively, clearly explain why the agricultural tenancy would not continue in some form if the Proposed Development does not go ahead.</p>	<p>Minor adverse effect, which is not significant (as defined in Table 6.13 [REP9-009]).</p>
7	<p>Conservation Area Character Appraisals</p> <p>Confirm whether consideration was given to any conservation area character appraisals in the assessment findings in ES Chapter 10 [AS-077]. If so, explain how this has informed the findings in the assessment and if not, explain why not.</p>	<p>As set out in Section 10.5 of Chapter 10 of the ES [AS-077], the respective Local Authority websites were accessed for information relating to conservation areas. This included a review of the Conservation Area appraisals which are only available for Bendish, Hitchin and Hitchin Hill Path Conservation Areas.</p> <p>The description of each conservation area including aspects which contribute to its heritage significance (value), was developed utilising the available conservation area appraisals, and is provided in the Desk Based Assessment (DBA) provided as Appendix 10.1 to the ES [APP-072].</p> <p>The DBA identified the potential for impacts as a result of the Proposed Development and set out which conservation areas were taken forward for assessment in the ES.</p>