

19<sup>th</sup> August 2024

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Your Ref: TR020001

Dear Sir/Madam

## **London Luton Airport Expansion Project (Reference Number TR020001)**

### **1. Response to Secretary of State letter published on the 2<sup>nd</sup> August 2024**

1.1 The Applicant is responding to the letter from the Secretary of State (SoS) published on the 2<sup>nd</sup> August 2024 requesting an update on several matters.

1.2 In this letter, the Applicant provides a response in relation to these matters in turn, using the numbered paragraphs in the Secretary of State's letter for reference and in some instances a response has been provided as an Appendix. Furthermore, it should be noted that in responding to these matters the following application documents have been amended and included with this response:

- a. Book of Reference **[TR020001/APP/3.02]**
- b. Draft Development Consent Order **[TR020001/APP/2.01]**
- c. Green Controlled Growth Framework **[TR020001/APP/7.08]**
- d. Green Controlled Growth Explanatory Note **[TR020001/APP/7.07]**
- e. Compensation Policies, Measures and Community First **[TR020001/APP/7.10]**
- f. Land Plans **[TR020001/APP/4.03]**
- g. Work Plans **[TR020001/APP/4.04]**

1.3 The minor amendments made to the above listed application documents are further explained within the main body of this letter.

### **2. Green Horizons Park (formerly New Century Park)**

2.1 It states within the Secretary of State's letter of 2<sup>nd</sup> August 2024 that:

*1. In June 2021, planning permission was approved by Luton Borough Council for a mixed-use business park known as Green Horizons Park (formerly New Century Park) to the east of London Luton Airport under the reference: 17/023000/EIA. It is acknowledged that planning consent for Green Horizons Park is due to expire in June 2024. The Applicant is requested to provide an update on the status of this permission and set out any implications that this may have.*

- 2.2 Hybrid planning permission 17/02300/EIA (the “Planning Permission”) (Ref 7) was granted on 29<sup>th</sup> June 2021. Condition 1 of the Planning Permission required the development to be begun no later than the expiration of three years from the date of the Planning Permission, i.e. by 29<sup>th</sup> June 2024.
- 2.3 The Applicant can confirm that the Planning Permission was lawfully implemented via the commencement of works on the 28<sup>th</sup> June 2024. The works that have commenced the Planning Permission comprise the construction of the new skate park in Wigmore Park which forms an element of the full part of the Planning Permission.
- 2.4 In addition, the first submission of matters reserved for the outline elements of the Planning Permission were duly made prior to the 29<sup>th</sup> June 2024 as required by Condition 2. Consequently, both the full and outline elements of the Planning Permission are extant.
- 2.5 As noted, the first phase of implementation comprises the works to build the new skate park and children’s play area within Wigmore Park. All the pre-commencement conditions relevant to the skate park and children’s play area were discharged prior to works commencing onsite, enabling the lawful implementation of the Planning Permission.
- 2.6 All pre-commencement conditions applicable to commencing development were either partially discharged, via a Discharge of Conditions application, or amended, through a Section 96A TCPA 1990 application, to exclude them from being pre-commencement conditions for the initial works (the skate park and children’s play area). The application references listed below have been approved by Luton Borough Council as Local Planning Authority:
- 24/00227/AMEND (Ref 8) - s96A Non-Material Amendment application to vary the wording of pre-commencement conditions 9, 23, 26, 28, 29 and 34 to be proportionate and relevant to the initial works.
  - 24/00389/DOC (Ref 9) - Discharge of Condition application to partially discharge conditions 6, 7, 11, 12, 14, 18, 19, 27 and 39 for the area affected by the initial works.
  - 24/00493/DOC (Ref 10) - Discharge of Condition application to partially discharge conditions 7 and 11 for the area affected by the initial works.
- 2.7 Further to detailed design development a s96A Non-Material Amendment application (Application Reference: 24/00513/AMEND) (Ref 11) was approved, amending Condition 4 and replacing approved plans for the children’s play area and skate park layout to accommodate minor changes to the layout.
- 2.8 To keep the outline elements of the Planning Permission extant, an application of reserved matters needed to be made by 29<sup>th</sup> June 2024. This application was made to Luton Borough Council Local Planning Authority on 21<sup>st</sup> June 2024 (Application Reference: 24/00764/REM) (Ref 12).
- 2.9 To enable a Reserved Matters Approval (RMA) application to be made, Condition 24 of the Planning Permission (requiring details of a design code to be submitted for specific site quarters prior to the submission of the details reserved) needed to be discharged. A partial discharge of Condition 24 was obtained following the submission of a Design Code for the ‘Light Industrial Quarter’ (LIQ) (Application Reference: 24/00440/DOC) (Ref 13).

- 2.10 A s96A Non-Material Amendment application (Application Reference: 24/00631/AMEND) (Ref 14) was also made prior to the first RMA application to vary the wording of Condition 2 to require matters reserved to be submitted for the first phase, sub-phase or building of the outline development, and subsequently an RMA application was made for one building within the LIQ.
- 2.11 The approval of the RMA application, currently being determined by Luton Borough Council, will maintain the ability to submit future RMA applications for the remaining buildings within the LIQ and other phases. Condition 2 requires applications for approval of all reserved matters relating to subsequent phases, sub-phase or building of the development to be made to the Local Planning Authority before the expiration of two years from the date of approval of the last of the reserved matters of the preceding phase.
- 2.12 The implementation of the Planning Permission does not have any implications for the DCO application. The relationship between the DCO application and Green Horizons Park remains unchanged. Until a decision is made on the DCO application, certain elements of the consented Green Horizons Park permission will be delivered, such as improvements to Wigmore Valley Park, in line with planning permission 17/02300/EIA. The Draft Development Consent Order **[TR020001/APP/2.01]** contains necessary provisions at article 45 for managing the interface for the implementation of the Green Horizons Park permission and the Proposed Development, to avoid inconsistency between the two permissions.

### **3. Air Quality**

- 3.1 The Secretary of State's letter of 2nd August 2024 states that:

*2. The Statements of Common Ground between the Applicant, Hertfordshire County Council and North Hertfordshire District Council confirm that, at the close of the Examination, discussions were ongoing regarding proposed changes to signalised junctions in the Hitchin area, including Hitchin Hill junction which is located in an Air Quality Management Area.*

*The Applicant, North Hertfordshire District Council and Hertfordshire County Council are requested to confirm whether an agreement has been reached regarding the final junction solutions/design at Hitchin; and if an agreement has been reached, the Applicant is asked to provide more information about the likely effect of the changes to the junction design on air quality, including any impact on the designated Air Quality Management Area; and North Hertfordshire District Council and Hertfordshire County Council are requested to confirm whether they consider that the proposed junction changes would comply with local policy requirements.*

*If agreement has not yet been reached, the Applicant, North Hertfordshire District Council and Hertfordshire County Council are invited to agree a position on this and provide an update accordingly. Where an agreed position cannot be reached, both parties are invited to set out their respective views on what is needed to resolve the concerns.*

- 3.2 During the Examination period there was engagement between the Applicant, North Hertfordshire District Council (NHDC) and Hertfordshire County Council (HCC) regarding the proposed solutions for highways design junctions in the Hitchin area and regarding the monitoring of traffic in rural villages in Hertfordshire. The

culmination of this engagement was the drafting of a proposed side agreement, which was submitted in February 2024 to relevant officers at HCC and NHDC.

- 3.3 No formal response was received from HCC and NHDC regarding the signing of this side agreement prior to the end of Examination and the agreement was not completed. Therefore, the approach to the Hitchin junctions has not changed from the position presented by the Applicant during the Examination. Further engagement was sought by the Applicant with officers at HCC on revised terms for the proposed side agreement in May 2024, however this was not progressed by HCC.
- 3.4 Subsequent to the publication of the letter from the Secretary of State for the Department for Transport, dialogue between parties has reconfirmed the respective positions of the parties as they were at May 2024, in that matters relating to the Hitchin junctions can be resolved via the process set out in the OTRIMMA (discussed further below) and that there is a route to agreement in respect of the monitoring of traffic in specified rural locations (see paragraphs 5.3-5.4 below).
- 3.5 The Applicant's position regarding the Hitchin junctions is that schemes have been designed to address the impacts of the Proposed Development, which in these locations relate to additional vehicle trips. The Applicant considers that the level of design undertaken is appropriate for a DCO application and was subject to a Stage 1 Road Safety Audit. The Applicant maintains its position that the junction designs are acceptable against relevant design standards. The Applicant also considers that the modelling has shown that the impacts of the Proposed Development would be mitigated by the proposed designs. Further discussions would take place with HCC and NHDC as part of the detailed design stage and changes can be secured during this process. The proposals do not preclude alternative proposals being brought forward; a mechanism for delivering alternative arrangements is described in the **Outline Traffic Related Impacts Monitoring and Mitigation Approach (OTRIMMA) [TR020001/APP/8.97]**, which is secured by Requirement 30 of the draft DCO **[TR020001/APP/2.01]**. The Applicant emphasises that it is not required to provide enhancements to a junction, it is required to mitigate the impacts of the Proposed Development. It is further highlighted that Part 6 of Schedule 8 to the draft DCO contains protective provisions for the benefit of local highway authorities, including approval of local highway design and construction matters.
- 3.6 As such, the Applicant's position is that, absent the side agreement, nothing further is required beyond the commitments already made in the draft DCO to address the concerns of HCC and NHDC. This position has been shared with HCC and NHDC.
- 3.7 As to the resulting impact on air quality, the Applicant considers the air quality assessment results for the construction and operational phases to be robust. The air quality assessment results for the construction and operational phases, including the results of the dispersion modelling of road traffic emissions at Air Quality Management Areas (AQMAs) in Hitchin are detailed in Section 7.9 of Chapter 7 Air Quality of the ES **[AS-076]** and Appendix 7.3 of the ES **[REP4- 013]**. A technical note summarising the results of the dispersion modelling of road traffic emissions at AQMAs in Hitchin was provided for NHDC to review **[REP6-074]**. That document concluded that all receptors in both of the Hitchin AQMAs are expected to have negligible impacts, and are below the air quality standard for annual mean for NO<sub>2</sub> and PM<sub>10</sub> concentrations. The results show that predicted concentrations of annual mean PM<sub>2.5</sub> concentrations are above the relevant air quality standard in all

assessment Phases (1, 2a and 2b) for receptor H188 located in NHDC AQMA Payne's Park in both with and without the Proposed Development scenarios, and impacts of the Proposed Development are predicted to be negligible. The results were discussed and agreed during Air Quality Technical Working Group meetings and the SoCG meetings with NHDC, and NHDC confirmed their agreement with the results of this assessment in the SoCG [REP11-097]. As no further changes to the designs for the Hitchin junctions have been agreed the Applicant consider that the assessment results remain valid and compliant with relevant policies and no further assessment is required. required.

#### 4. Chilterns National Landscape

4.1 The Secretary of State's letter of 2<sup>nd</sup> August 2024 states that:

*4. In their response to the ExA's Rule 17 letter dated 25 January 2024, Central Bedfordshire Council considered that the Applicant had not provided mitigation to reduce the impact from overflights over the Chilterns National Landscape [REP10-095]. The Secretary of State notes that the Applicant's proposed mitigation measures for the Chilterns National Landscape are limited to operational controls such as noise contour controls and future improvements in engine technology. Without prejudice to the final decision, the Applicant is invited to set out what, if any, further measures it considers could be brought forward, should it be decided further mitigation and compensation is necessary to offset amenity and tranquillity effects on the Chilterns National Landscape.*

*5. Noting the requirements of section 85 of the Countryside and Rights of Way Act 2000 as introduced by section 245 of the Levelling-Up and Regeneration Act 2023 and without prejudice to the final decision, the Applicant is invited to set out what, if any, further enhancement measures it considers could be brought forward, should it be considered necessary to assure compliance with the amended duty in relation to the Chilterns National Landscape.*

#### Q4. Mitigation and Compensation

4.2 In response to Q4, the Applicant does not consider that any further mitigation or compensation measures are capable of being brought forward to effectively reduce or offset the residual noise effects from aircraft overflights on amenity and tranquillity in part of the Chilterns National Landscape nor, indeed, does the Applicant consider that such further mitigation is necessary in planning terms.

4.3 With respect to noise, the principal mitigation measure of relevance to the Chilterns National Landscape is the Noise Envelope within the **Green Controlled Growth (GCG) Framework [TR020001/APP/7.08]** and the noise controls in the **Air Noise Management Plan [REP9-048 ]**.

4.4 The principles of the Noise Envelope, GCG and the Air Noise Management Plan are to limit and control the overall adverse impacts which means that there is no single receptor or area that is specifically addressed by the Noise Envelope in favour of any other receptor. This is in line with the Government's objective in the Overarching Aviation Noise Policy Statement (Ref 1) (emphasis added): "*The impact of aviation noise must be mitigated as much as is practicable and realistic to do so, limiting, and where possible reducing, the total adverse impacts on health and quality of life from aviation noise.*"

- 4.5 This is further consistent with Government guidance (Air Navigation Guidance, Ref 2) at paragraph 3.32 which notes “*Given the finite amount of airspace available, it will not always be possible to avoid overflying National Parks or AONB, and there are no legislative requirements to do so as this would be impractical. The Government’s policy continues to focus on limiting and, where possible, reducing the number of people in the UK adversely affected by aircraft noise and the impacts on health and quality of life associated with it.*”
- 4.6 Although this guidance predates the change to the duty introduced by the Levelling Up and Regeneration Act 2023 (see response to paragraph 5 below), there have been no indications that the guidance is intended to be updated and the Applicant’s position therefore remains valid.
- 4.7 The Chilterns National Landscape would benefit from the overall noise controls in the Noise Envelope but there is no mechanism for mitigating aircraft air noise at a specific location or receptor without a change to airspace design, which is not within the Applicant’s control. The Applicant therefore considers that there are no further measures which could mitigate the noise impact of the Proposed Development over the Chilterns National Landscape.
- 4.8 The Chilterns National Landscape is overflowed today and would continue to be overflowed by flights using the Proposed Development and other airports. Wider impacts to the Chilterns (i.e. new or different areas overflowed) could only occur through the Airspace Change Process (ACP). There are specific requirements and methodologies within the Civil Aviation Authority’s methodology for airspace change assessment (CAP1616, Ref 3) and Government guidance (Ref 2) which require the consideration of changes to overflights of National Landscapes as part of airspace change proposals. This is evidenced by the airport operator’s Initial Options Appraisal documentation (Ref 4) for its airspace change proposal which looks at the impact on the National Landscape for each potential design option.
- 4.9 As noted in **Relationship between the Development Consent Order Process and the Airspace Change Process [REP1-028]**, the airspace change process has a separate assessment and approval process. In line with paragraph 188 of the National Planning Policy Framework (Ref 5) and paragraph 4.54 of the Airports National Policy Statement (Ref 6), the DCO process should assume that the airspace change process will operate effectively and that the controls associated with airspace change should not be duplicated by the DCO. There will be further public consultation on the airport operator’s proposed airspace change at the next stage of the airspace change process (Stage 3), the timelines for which have yet to be announced by the Civil Aviation Authority. It is for this reason that the Applicant considers it would not be necessary or appropriate to make provision for compensation.

#### **Q5. Enhancement – section 85 of the Countryside and Rights of Way Act 2000**

- 4.10 In response to Q5, the Applicant’s position is that no further enhancement measures should be brought forward because the project already complies with the duty (as amended) under section 85 of the Countryside and Rights of Way Act 2000 (the 2000 Act). To demonstrate this, the Applicant considers it would be helpful to set out in full its interpretation of amended duty and how the project complies with it.
- 4.11 The changes to section 85 of the 2000 Act introduced by section 245 of the Levelling Up and Regeneration Act 2023 (LURA) establish an enhanced duty on relevant authorities to seek to further the purpose of conserving and enhancing the natural

beauty of the area of outstanding natural beauty (AONB). The enhanced duty reads as follows:

*“In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”* (our emphasis).

- 4.12 For the purposes of this duty, the Secretary of State (as decision-maker on the DCO application) is a relevant authority. Where (as here) the grant of a DCO would affect land (directly or indirectly) within an AONB (now National Landscapes), then the duty in section 85 of the 2000 Act will be engaged in relation to determination of the application. The Applicant notes, that contrary to the suggestion by Natural England in its response of 29<sup>th</sup> January 2024 **[REP9-074]**, the Applicant itself is not subject to the duty as a relevant authority, as while it is wholly owned by Luton Borough Council, it is not itself a public body or statutory undertaker for the purposes of the definition in section 85 of the 2000 Act.
- 4.13 This section of the response updates the submissions the Applicant made at Issue Specific Hearing 8 and subsequently in paragraph 10.4 of its ISH8 post-hearing submission **[REP6-066]** and provides the Applicant’s full position on the matter, so that it is consolidated into a single submission.
- 4.14 The Applicant recognises the strengthening of the duty to seek to further the purpose of conserving and enhancing the natural beauty of an AONB as reflected in the amendment to section 85. The enhanced duty was not in force during the pre-application stage of the DCO and came into force during the Examination stage on 26<sup>th</sup> December 2023.
- 4.15 The amendments to section 85 envisage that regulations will be made to assist in the application of the enhanced duty. No regulations have yet been produced. Similarly, no guidance has been issued by Defra on the interpretation of the duty.
- 4.16 In the absence of regulations or guidance, and in accordance with established principles of statutory interpretation, the Applicant considers that the words “seek to further” must be ascribed their ordinary and natural meaning. It is clear, therefore, that while the enhanced section 85 duty requires the relevant authority to “seek” to further the purpose of conserving and enhancing the natural beauty of the National Landscape, it does not require any particular outcome in the pursuit of that purpose. The duty, therefore, recognises that there may be other considerations that will inform an overall decision – here a planning decision – that may affect the natural beauty of a National Landscape.
- 4.17 In the context of a DCO application, the enhanced duty under section 85 applies to the Secretary of State’s determination of the application. In this context, the Applicant’s interpretation is as follows:
  - a. The enhanced duty requires that the Secretary of State must consider the extent to which an applicant’s proposals would further the purpose of conserving and enhancing the natural beauty of the National Landscape, and consider if other opportunities exist (in the context of the project and its specific objectives and constraints) to further that purpose.

- b. The enhanced duty goes beyond consideration of mere rectification of harm to a National Landscape, but this does not mean that the Secretary of State must adopt all measures that are theoretically available to further the purpose. The duty is subject always to other considerations, including what is reasonable and proportionate in the context of the project in question and its specific objectives and constraints.
- c. The Applicant's interpretation in paragraph b. above is further supported by the existence of other legal tests which (alongside and read together with section 85) establish a framework for the scope and extent of environmental commitments that may be imposed – by way of example:
  - i. section 120(1)-(2) of the Planning Act 2008 (2008 Act), and paragraph 4.9 of the ANPS, which provide that the Secretary of State should only impose requirements in relation to a development consent that are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects; and
  - ii. paragraph 4.10 of the ANPS, which provides that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms, directly related to the proposed development and fairly and reasonably related in scale and kind to the development.
- d. The Secretary of State in determining the DCO application will need to consider whether there is anything more that could reasonably and proportionately be done to further the purpose of conserving and enhancing the natural beauty of the National Landscape beyond that which is proposed. If there is not, then the Secretary of State as decision-maker will have fulfilled their enhanced duty to seek to further the purpose.

4.18 The Applicant considers the LURA amendment to section 85 effectively brings non-planning functions into line with national planning policies which already have the equivalent effect in relation to development affecting National Landscapes including the ANPS. Paragraph 176 of the NPPF and paragraph 5.219 of the ANPS both provide that “great weight” should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the “highest status of protection” in relation to these issues. Paragraph 5.222 of the ANPS continues that, “for projects outside of an AONB which may affect an AONB, the development should aim to avoid compromising the purposes of designation, and such projects should be designed sensitively given the various siting, operational, and other relevant constraints”. Taking these policies as a whole, the Applicant's conclusion is that they have the same effect as, and are consistent with, the enhanced section 85 duty. Accordingly, the ANPS effectively already obliges the Secretary of State to seek to further the relevant statutory purposes, which is now required under statute through the amendments made to section 85 by LURA.

4.19 It follows that a finding of compliance with the ANPS supports a conclusion that the enhanced section 85 duty has also been complied with. The Applicant has set out how the Proposed Development complies with national and local AONB policies in section 2.1 of its Response to Examining Authority's Rule 17 Request Dated 25 January 2024 – Deadline 10 **[REP10-046]**. As regards AONB impacts, the Applicant further highlights that:



- a. the Proposed Development does not involve any development within the Chilterns National Landscape.
  - b. moderate adverse effects are predicted for assessment Phase 2b due to an impact on the perceptual and aesthetic characteristics of the National Landscape due to increased aircraft overflight only and the resulting effects on noise and tranquillity;
  - c. as set out above, the Applicant has sought to mitigate noise as far as practicable through GCG and other noise measures, however it is not possible to mitigate or compensate for the identified effects any further at the scale of the development proposed, and nothing further can reasonably be done by the Applicant in terms of conserving and enhancing the Chilterns National Landscape.
  - d. additionally, as set out above, aircraft noise and overflight of the National Landscape is also a function of airspace management, which is not within the Applicant's control. The Applicant notes that in addition to the considerations set out in paragraph 4.7 above, the Civil Aviation Authority would be subject to the enhanced duty in section 85 when it is assessing and approving proposals as part of the Airspace Change Process.
  - e. in the context of the A66 Trans-Pennine Upgrade and the M3 Junction 9 DCO decisions, the Secretary of State consented both projects notwithstanding physical development in protected sites caught by the enhanced duty.
- 4.20 The Applicant's overarching position therefore, is that the Secretary of State may properly grant the application for development consent consistent with the enhanced duty in section 85 of the 2000 Act. For that reason, the Applicant's position is that further enhancement measures are not necessary or appropriate.

## **5. Side Agreements**

- 5.1 The Secretary of State's letter of 2<sup>nd</sup> August 2024 states that:

### *Traffic Calming in Hertfordshire*

*6. The Hertfordshire Host Authorities' closing position statement highlights concerns regarding the transport modelling underpinning the application and the risk this poses to the Hertfordshire highway network. This was an issue which remained outstanding at the end of the Examination. Accordingly the Applicant and Hertfordshire Host Authorities are requested to provide an update on their discussions; and if agreement has not yet been reached, the Applicant and Hertfordshire Host Authorities are requested to set out what, if any, amendments they agree could be made to the Development Consent Order to address this issue. Where an agreed position cannot be reached, the parties are invited to set out their respective views on what is needed to resolve the concerns.*

### *A1081 New Airport Way/Gypsy Lane Junction (Works Nos. 6e(b))*

*7. During the Examination, the Applicant and Central Bedfordshire Council agreed a side agreement securing the proposed highway mitigation works at the A1081 New Airport Way/Gypsy Lane Junction (Works Nos. 6e(b)). The Secretary of State requests that the Applicant and Central Bedfordshire Council confirm whether a side agreement has been successfully completed.*

### *Hitchin Junctions off-site Highway Mitigation (Works Nos. 6e (i, k and m))*

*8. At the close of the Examination, the Hertfordshire Host Authorities had outstanding concerns regarding the proposed off-site highway mitigation to the three Hitchin junctions. Accordingly the Applicant and the Hertfordshire Host Authorities are requested to provide an update on their discussions; and if agreement has not yet been reached, the Applicant and the Hertfordshire Host Authorities should seek to agree a position on this and, if an agreed position is possible, the parties are requested to set out what, if any, amendments they agree should be made to the Development Consent Order. Where an agreed position cannot be reached, both parties are invited to set out their respective views on what is needed to resolve the concerns.*

- 5.2 In response to Question 6, the Applicant and the Hertfordshire Host Authorities (HCC & NHDC) did not reach agreement regarding the transport modelling underpinning the application. The Applicant's position is that the transport modelling was extensive and robust and in accordance with all relevant policy and best practice. During the course of the Examination, the Applicant provided further modelling to address concerns raised by Interested Parties in respect of the modelling undertaken for the Transport Assessment (TA) **[APP-200 to APP-203, AS-123, APP-205 and APP-206]** and in response to the DfT issued guidance regarding the treatment of the Covid-19 pandemic in transport modelling, as reported in the Accounting for COVID-19 in Transport Modelling Final Report **[AS-159]**. This extensive modelling has continued to support the mitigation strategy set out in the TA **[APP-200 to APP-203, AS-123, APP-205 and APP-206]**, which has shown how the Proposed Development has been robustly tested and is compliant with the NPPF paragraph 104 (Ref 8.3) and ANPS (Ref 8.4) paragraph 5.10. The Applicant has sought to respond to all queries raised by HCC during the Examination as set out in Applicant responses to deadline submissions (specifically in **[TR020001/APP/8.176 8.176]** which comprises the Applicant's response to comments from the Highway Authorities on the 'Accounting for Covid-19 in Transport Modelling Final Report' **[AS-159]**). The strategic modelling was accepted by all the other relevant Highway Authorities as robust.
- 5.3 During the Examination the Applicant offered to respond to the concerns of HCC and NHDC by agreeing to undertake monitoring of traffic at certain rural villages, with precise locations to be agreed.
- 5.4 Since the publication of the Secretary of State's letter, the monitoring proposal set out in 5.3 has once again been offered to NHDC and HCC, and this could be secured through the drafting and signing of a side agreement, if this is something that the Host Authorities would still be keen to progress. If no agreement is reached the Applicant remains satisfied that any potential issues arising could be progressed through Mitigation Type 2 as set out in the OTRIMMA **[TR020001/APP/8.97]**.
- 5.5 In response to Question 7, during the Examination, discussions were held between the Applicant and Central Bedfordshire Council (CBC) regarding A1081 New Airport Way/Gypsy Lane. The Applicant can confirm that CBC signed a side agreement securing the proposed highway mitigation works at the A1081 New Airport Way/Gypsy Lane Junction (Works Nos. 6e(b)).
- 5.6 In response to Question 8, regarding the Hitchin Junctions off-site Highway Mitigation (Works Nos. 6e (i, k and m)) 8, the context and the progress to date of the discussions with NHDC and HCC is set out in section 3 and paragraphs 5.1 to 5.3 of this letter.
- 5.7 The Applicant's position regarding the Hitchin junctions is that schemes have been designed to address the impacts of the Proposed Development, which in these

locations relate to additional vehicle trips. The proposals do not preclude alternative proposals being brought forward and a mechanism for delivering alternative arrangements is described in the OTRIMMA [TR020001/APP/8.97], which is secured by Requirement 30 of the draft DCO [TR020001/APP/2.01]. The Applicant is not required to provide enhancements to a junction, it is required to mitigate the impacts of the Proposed Development. It is further highlighted that Part 6 of Schedule 8 to the draft DCO contains protective provisions for the benefit of local highway authorities, including approval of local highway design and construction matters.

5.8 As such, the Applicant's position is that there is nothing further necessary beyond the commitments already made in the DCO to address the concerns of HCC and NHDC.

## **6. Rail**

6.1 The Secretary of State's letter of 2<sup>nd</sup> August 2024 states that:

*9. It is noted that questions were raised by Network Rail regarding the station capacity at Luton Airport Parkway and its ability to accommodate the increased passenger numbers the Proposed Development would generate. The Applicant and Network Rail are invited to set out an agreed position regarding the information contained within the Applicant's Rail Impacts Summary and what if any further measures are necessary to address any issues. Where an agreed position cannot be reached, both parties are invited to set out their respective views on what is needed to resolve the concerns.*

*10. The Applicant is requested to confirm what engagement they have undertaken with Govia Thameslink and East Midlands Railways regarding the information on rail capacity contained within the Environmental Statement and Rail Impacts Summary and whether there is agreement between the parties on the conclusions.*

6.2 In response to Q9, with regards the information provided during the examination in relation to station capacity, the Applicant considered that its position had been confirmed in the Rail Impact Summary submitted [REP8-031]. Subsequent to receiving the letter from Secretary of State, the Applicant met with Network Rail on 13<sup>th</sup> August 2024, with the aim of setting out an agreed position between the parties regarding the information contained within the Applicant's Rail Impact Study and the questions raised by Network Rail in their submission to the Examination at Deadline 11 (ref: 231207 LTN DCO PSA tech note V3) [REP11-076].

6.3 In that meeting the Applicant sought to respond to a number of the items and questions contained within Network Rail's submission. The Applicant understands Network Rail requires further information from the Applicant on these matters, although this has not yet been formalised into a request from Network Rail – the Applicant will engage with Network Rail to understand what is specifically required. Pending further information and dialogue the Applicant understands that Network Rail is unable at this stage to agree to all of the conclusions set out in the Rail Impacts Study.

6.4 In order to resolve Network Rail's remaining concerns, the Applicant is committed to continuing the dialogue with it and the current Terms of Reference for the Airport Transport Forum (ATF) provides a route for Network Rail to become a member of the ATF, if it wishes to do so.

6.5 The Applicant is aware that Network Rail is an active member of other ATFs. If Network Rail were to become a member of the London Luton Airport ATF this would

allow Network Rail the opportunity to submit potential interventions to the ATF Steering Group (which has selected attendance, not including Network Rail) for its consideration, which will be responsible for allocating as appropriate, funding through the Sustainable Transport Fund, with Luton DART and rail being one of the six surface access priority areas. The Applicant understands that Network Rail is reviewing the extent to which becoming a member of ATF would address the concerns it has raised and is unable to comment further on this suggestion at this time.

- 6.6 If the Applicant will continue dialogue with Network Rail and will report back to the Secretary of State by 20 September 2024 confirming the position reached. If it is not possible to reach an agreed final position on all matters the Applicant will set out its position on any outstanding issues.
- 6.7 In response to Q10, the Applicant met with Govia Thameslink Railway on 15<sup>th</sup> August 2024 and has exchanged communication with East Midlands Railway, with the aim of setting out an agreed position between parties regarding the information contained within the Applicant's Environmental Statement and Rail Impact Study. The Applicant notes that Govia Thameslink Railway and East Midlands Railway did participate in the examination process as interested parties.
- 6.8 Productive dialogue has been held and the Applicant understands that in principle Govia Thameslink Railway and East Midlands Railway both broadly support the DCO proposals at the airport, but this is subject to further clarifications regarding the capacity assessment. The Applicant will seek to resolve these outstanding clarifications in the same timeframe as the Network Rail engagement and report by to the Secretary of State by 20 September 2024.
- 6.9 Govia Thameslink Railway is currently an active member of London Luton Airport's existing ATF, attending six-monthly meetings with the airport operator, and the Applicant is committed to further dialogue through this forum to resolve any further concerns where it is able to do so. Whilst East Midlands Railway are not a member of this forum, there is ongoing dialogue and an existing relationship with the operator. Similar to Network Rail the current Terms of Reference for the ATF provides a route for East Midlands Railway to become a member of the ATF, if they wish to do so.
- 6.10 The Applicant has shared the Sustainable Transport Fund **[TRO2001/APP/8.119]** document with both Govia Thameslink Railway and East Midlands Railway. That document sets out the future enhanced role of the ATF as part of this application for development consent and makes provision for ATF members to submit sustainable transport interventions to the ATF Steering Group for its consideration to provide funding for improvements to surface access at the airport where justified.

## **7. Noise**

- 7.1 The Secretary of State's letter of 2<sup>nd</sup> August 2024 states that:

*11. Central Bedfordshire Council, Luton and District Association for the Control of Aircraft Noise and other Interested Parties considered that aircraft noise contour limit controls should be imposed to provide a level of control and enforceability of noise limits over that provided in the Green Controlled Growth Framework ("GCG Framework"). While the Department is aware that the Applicant is opposed to securing noise contour limits on the face of the Development Consent Order, and without prejudice to the Secretary of State's final decision, the Applicant is requested to provide suggested wording for a requirement which would secure noise contour*

*limits on the face of the Development Consent Order. This requirement should be based on the core growth predictions in Tables 7.40, 7.43, 7.46, 7.49, 7.52 and 7.55 of Appendix 16.1 of the Environmental Statement Appendix 16.1 Noise and Vibration Information. The Applicant is also requested to provide amendments to the GCG Framework table 3.1 and Air Noise Management Plan (and any linked documents) to ensure compliance and support the monitoring and reporting with the proposed wording of the draft requirement to secure noise contour limits.*

*12. Luton Borough Council are asked to provide an update on the proposals and timescales for the delivery of the dualling of the A505 Vauxhall Way. The Applicant is invited to consider whether, given the likely delay to the delivery of the Vauxhall Way improvement works, the 17 properties on Eaton Green Road which are predicted to experience significant adverse noise effects should be included in the noise insulation scheme and if not, what the justification for this is.*

*13. It is noted that the Applicant identified community areas that would experience an adverse likely significant effect due to air noise increases [REP9-011 – Table 16.39, Table 16.46 and Table 16.53] and ground noise increases [REP9-011 - Table 16.56, ES Table 16.63, ES Table 16.68], but that no additional measures were identified in the Compensation Policies to address the impact of outdoor noise on amenity, including for community areas. Without prejudice to the final decision, the Applicant is invited to set out what, if any, further measures it considers could be brought forward, should it be decided that this is necessary.*

*14. The Applicant's delivery programme for its compensation policy for noise insulation [REP4-079] and [REP7-056] confirmed that schemes 1-3 could be delivered in four years. Without prejudice to the final decision, the Applicant is invited to set out what, if any, further measures it considers could be brought forward to mitigate the ground noise, surface access noise and aviation noise receptors would be exposed to until the noise insulation compensation delivery programme was complete, should it be decided further measures are necessary.*

*15. The Applicant is invited to propose any further measures that could be brought forward to further address the noise impacts resulting from the Proposed Development.*

7.2 A response to the matters raised in Q11-15 is provided separately in **Appendix A** of this letter.

## **8. Heritage Assets**

8.1 The Secretary of State's letter of 2<sup>nd</sup> August 2024 states that:

*16. The Applicant is invited to propose any further measures that could be brought forward to further address the impacts on Heritage Assets resulting from the Proposed Development.*

8.2 The Applicant considers that the measures submitted are sufficient to address all potential impacts to heritage assets arising from the Proposed Development.

8.3 The Cultural Heritage Management Plan (CHMP) **[REP8-015]**, was agreed with the Archaeology Advisors to the relevant LPAs, and recorded as with Historic England in the SoCG **[REP9-034]** 3.1.7, as the mechanism by which measures to mitigate impacts to heritage assets will be secured. These measures will mitigate impacts to buried archaeological remains through a programme of additional trial trenching,

detailed excavation and archaeological monitoring, and will also provide air quality information relating to Someries Castle scheduled monument. Further measures are not considered to be required.

- 8.4 Section 9.6 of the Closing Submissions document **[REP11-049]** provides further detail about how impacts on heritage assets have been, or will be, addressed in response to specific issues raised during Examination.

### **Someries Castle**

- 8.5 In terms of visual impacts from the Fire Training Ground (FTG), the Applicant reiterates that the visual representation images are modelled on the FTG's maximum design parameters. The FTG would be viewed alongside existing modern airport structures but as detailed in Chapter 10: Cultural Heritage of the ES **[AS-077]**, its presence would not result in change to the castle's architectural, archaeological or historic interest, which contributes to its heritage value.
- 8.6 In terms of impacts arising from change to the setting, Chapter 10: Cultural Heritage of the ES **[AS-077]** assesses that the landscape around the castle, including long-range views and its visual setting, do not make an important contribution to the understanding of its function and heritage value. Although the FTG would be visible in the castle's visual setting, its presence would represent minimal change resulting in a minor adverse effect, which is not significant.
- 8.7 The Applicant reiterates that the air quality model, which includes emissions from the operational FTG, as detailed in Chapter 7: Air Quality and Odour of the ES **[AS-076]**, predicts a negligible change in pollutant levels. As such, it is assessed in Chapter 10: Cultural Heritage of the ES **[AS-077]** that there would be no impact to the fabric of the castle and, therefore, no effect on its heritage value.
- 8.8 Despite there being no need for additional mitigation, the Applicant has agreed to commission a condition survey of Someries Castle, and to include it as an air quality receptor, as detailed in and secured by the CHMP **[REP8-015]**. Emissions at the asset's location will be reported on an annual basis as part of the continued air quality monitoring around the airport, as detailed in the Outline Operational Air Quality Plan **[REP9-013]**, which is secured by requirement 32 of the DCO.
- 8.9 Whilst recognising that any change to the castle's fabric from air quality could not be attributed directly to the Proposed Development, a mechanism to implement feasible remedial measures is provided by the Green Controlled Growth Framework **[TR020001/APP/7.08]** which allows for future review and implementation of additional measures. A commitment to share the air quality emissions data with the relevant LPA is detailed in section 10.2.15 the CHMP **[REP8-015]** and this data could be used to help inform future conservation management plans for the castle.

### **Luton Hoo**

- 8.10 Chapter 10 of the ES **[AS-077]**, confirms that the moderate adverse significant effect to Luton Hoo Registered Park and Garden, arising from noise from the increased frequency of flights, would apply only to the northern edge of the park, closest to the airport in assessment Phase 2b, as shown in Figure 10.8 **[APP-150]** i.e. the small area where the predicted increase is 2 to 2.9dB for the northern end of the park and within the above 63dBLAeq,16h contour **[AS-077]**, and the remaining areas of the park would experience effects which are not significant. There are no feasible or

appropriate mitigation responses to lessen noise impacts within a parkland setting and, as such, the residual effect is moderate adverse and significant.

- 8.11 The Applicant reiterates its position set out in the closing submissions document **[REP11-049]** that there is no justification to provide a financial contribution to the management of the park as a compensation measure, as this will not change the impact or any effect on the park's setting.

## 9. Compulsory Acquisition and Temporary Possession

- 9.1 Table 1 below sets out the updated position of the agreements identified in paragraphs 17 – 21 of the Secretary of State's letter of 2<sup>nd</sup> August 2024.

Name	Matters raised in letter dated 2 <sup>nd</sup> August 2024	Status of agreement
Bloor Homes Limited	The Secretary of State notes that at the close of the Examination, an agreement was being progressed by the Applicant regarding the permanent acquisition of plots 3-40, 3-42, 7-13, 7-14, 7-40, 7-43 and 7-46 in the Book of Reference. The Secretary of State requests that the Applicant and Bloor Homes Limited provide an update.	<p>A draft written assurance has already been provided to this party and this is now being formalised into a deed.</p> <p>Bloor Homes hold category 2 interests within the Order limits (benefit of an option over land). On 11<sup>th</sup> January 2024, the Applicant provided a draft assurance letter to Bloor Homes. This assurance letter was intended to address the concerns set out by Bloor Homes in its Relevant Representation <b>[RR-0153]</b>.</p> <p>The Applicant subsequently agreed to convert this draft assurance into a deed of assurance, and this is currently being negotiated between the parties. The latest version of the agreement was issued to Bloor Homes on 9<sup>th</sup> August 2024 and the Applicant is considering a response received on 14<sup>th</sup> August 2024. The key outstanding points include the timing of works by Bloor Homes and when the Applicant needs to carry out the hedgerow works.</p>

Name	Matters raised in letter dated 2 <sup>nd</sup> August 2024	Status of agreement
		The Applicant expects this agreement to conclude shortly.
Eldridge Family	<p>The Secretary of State notes that the representatives for the Eldridge-Family advised that the Applicant had confirmed that a right to manage the woodland in plot 6-04 in the Book of Reference would not be required for the purpose of Biodiversity Net Gain. The Applicant is therefore requested to confirm this position and if agreed, provide a letter of assurance and an amended land plan showing the reduction of land in plot 6-04.</p>	<p>The Applicant last wrote to the Eldridge Family on 2<sup>nd</sup> February 2024 and provided a letter of assurance to address the revised position referred to by the Secretary of State. The letter was signed on behalf of the Applicant and a request made that it be signed also by the Eldridge Family. To date no signed copy of the letter has been received from the family.</p> <p>The Applicant has now provided an updated land plan reducing the extent of plot 6-04 required so that it aligns with the pipeline. The Applicant has made a consequential amendment to the relevant work plan (Work Plans – Landscaping and Mitigation Works – Scheme Layout – Tile 06 (1 of 2) - Sheet 11 of 14) removing the landscaping works over plot 6-04. Consequential amendments have also been made to the draft DCO and Book of Reference.</p> <p>In order to provide further comfort to the Eldridge Family, the Applicant has amended article 27 of the draft DCO to ensure that the rights can only be exercised within the parameters set out in the assurance letter.</p>
Follett Property Holdings Limited (FPHL)	The Secretary of State notes that at the close of the Examination an agreement was being progressed by the Applicant regarding the permanent acquisition of	A written assurance has already been provided to this party and no further action is proposed.



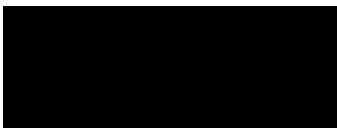
Name	Matters raised in letter dated 2 <sup>nd</sup> August 2024	Status of agreement
	<p>plots 1-72, 1-73, 1-89, 1-101, 1-102, 1-103, 1-104, 1-105, 1-106, 1-107, 1-109, 1-113, 1-120, 1-121, 1-123, 2-01, 2-02, 2-19, 2-26, 2-30, 2-38, 2-39, 2-40, 2-43, 2-44, 2-45, 2-46, 2-49, 2-53, 2-60, 2-115, 2-140, 2-149, 4-10, 4-11, 4-12 and temporary possession of plots 2-05, 2-16, 2-27, 2-67, 2-68, 2-113 as identified in the Book of Reference . The Secretary of State requests that the Applicant and Follett Property Holdings Limited provide an update.</p>	<p>FPHL hold category 2 interests within the Order limits. The Applicant is the freeholder of land in which FPHL have an interest, and is seeking acquisition and temporary possession of plots in which FPHL has rights. In accordance with article 28 (Private rights over land), it is proposed that those rights will be extinguished on commencement of any activity authorised by the Order which interferes with or breaches those rights.</p> <p>On 11th December 2023, the Applicant provided FPHL with a written assurance, addressing concerns set out by FPHL in its Relevant Representation <b>[RR-0461]</b>. Since that date, it has become apparent that the interest in Voyager House (the building referred to in FPHL's relevant representation) has been transferred to Jaison Property Development Company Limited (JPDCL). The Applicant is separately seeking an assurance deed with JPDCL (see below).</p>
<p>Jaison Property Development Company Limited (JPDCL)</p>	<p>The Secretary of State notes that at the close of the Examination an agreement was being progressed by the Applicant regarding the permanent acquisition of plots 2-10,2-29, 2-30, 2-38 and 2-39 and temporary possession of plots 2-09 and 2-27. The Secretary of State requests the Applicant and Jaison Property Development Company Limited to provide an update.</p>	<p>A written assurance has already been provided to this party and this is now being formalised into a deed.</p> <p>JPDCL are leaseholders of land, including Voyager House and Prospect House. The Applicant is the freeholder.</p> <p>A formal assurance letter was issued on 11<sup>th</sup></p>

Name	Matters raised in letter dated 2 <sup>nd</sup> August 2024	Status of agreement
		<p>December 2023 which sought to resolve the outstanding concerns set out in JPDCL's Relevant Representation <b>[RR-0603]</b>.</p> <p>The Applicant is currently negotiating an assurance deed with JPDCL. This deed re-confirms the commitments in the assurance letter. It is expected that an agreement will be reached shortly.</p>
<p>John Andrew Jason and Jana Ninot Jason</p>	<p>The Secretary of State notes that at the close of the Examination an agreement was being progressed by the Applicant regarding the permanent acquisition of plots 2-73, 2-74, 2-76, 2-78, 2-81, 2-83, 2-85, 2-86, 2-89, 2-91, 2-92, 2-94, 2-110, 2-136 and the temporary possession of plots 2-87 and 2-117 identified in the Book of Reference. The Secretary of State requests that the Applicant and John Andrew Jason and Jana Ninot Jason provide an update.</p>	<p>A written assurance has already been provided to this party and this is now being formalised into a deed.</p> <p>John Andrew Jason and Jana Ninot Jason have category 1 and 2 interests within the Order limits, including interests in Kensal House.</p> <p>A formal assurance letter was issued on 11<sup>th</sup> December 2023 which sought to resolve the outstanding concerns set out in the interest holders' Relevant Representation <b>[RR-0691]</b>.</p> <p>The Applicant is currently negotiating an assurance deed with these parties. This deed re-confirms the commitments in the assurance letter. It is expected that an agreement will be reached shortly. This matter is connected to the assurance deed with JPDCL and it is expected that they will complete at the same time.</p>

10.1 The Applicant notes the request for an update on Crown Land Consents for plot 2-46. At the close of the Examination the Applicant was still in discussions with the Crown Estate to obtain consent for its land interests within the Order limits. Crown consent has now been obtained and is confirmed by way of a letter dated 11<sup>th</sup> February 2024 from the Central Property Team at the Ministry of Justice. A copy of that letter is provided in **Appendix B** of this response.

Please do not hesitate to get in touch should you have any further comments or questions.

Yours sincerely,



Antony Aldridge  
Head of DCO Programme

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- Ref 3 Civil Aviation Authority, CAP1616: Airspace Change Process, January 2024 Available at <https://www.caa.co.uk/our-work/publications/documents/content/cap1616/> [Accessed 07 August 2024]
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## **APPENDIX A - Response to the Secretary of State for Transport Consultation Letter (Q11-15)**

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# Appendix A – Response to noise queries

## A1 Introduction

A1.1.1 This document forms an appendix to the Applicant’s response to the letter of the Secretary of State (SoS) published on 2<sup>nd</sup> August 2024. This appendix addresses the noise queries (paragraphs 11 to 15) raised in that letter.

A1.1.2 As each of the queries relates to noise control, mitigation and compensation, this appendix first summarises the overall approach to noise mitigation and compensation in the DCO, which provides important context to the responses to the queries that follow.

## A2 Summary of noise mitigation and compensation

A2.1.1 To provide context for the Applicant’s responses to the SoS letter, this section summarises the Applicant’s overall position on air noise controls. The purpose of this submission is to provide a restatement and summary of the positions that have been set out in various submissions and responses throughout the DCO application and Examination which are relevant to the Secretary of State’s questions.

### A2.2 Approach to noise mitigation and compensation

A2.2.1 To mitigate the effects of the Proposed Development, a range of measures are proposed as described in the following sub-sections. In line with overarching aviation policy (Ref 1, Ref 2), the Noise Policy Statement for England (NPSE, Ref 3), Planning Practice Guidance Noise (PPGN, Ref 4) and within the context of Governments policy on sustainable development, the Proposed Development includes noise mitigation measures to:

- a. mitigate aviation noise as much as is practicable and realistic to do so, limiting, and where possible reducing, the total adverse impacts on health and quality of life from aviation noise;
- b. prevent unacceptable adverse effects on health and quality of life from noise;
- c. avoid significant adverse effects on health and quality of life from noise;
- d. mitigate and minimise adverse effects on health and quality of life from noise;
- e. where possible contribute to improvements of health and quality of life from noise; and
- f. share the benefits of future technological improvements between the airport and its local communities to achieve a balance between growth and noise reduction.

A2.2.2 The policy aims in the NPSE (which are mirrored in the Airports National Policy Statement, Ref 5) are as follows:

- A2.2.3 *“Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:*
- i. *avoid significant adverse impacts on health and quality of life;*
  - ii. *mitigate and minimise adverse impacts on health and quality of life; and*
  - iii. *where possible, contribute to the improvement of health and quality of life.”*
- A2.2.4 The NPSE clarifies that the second aim of Government noise policy to ‘mitigate and minimise adverse effects<sup>1</sup> on health and quality of life’ relates to noise exposure above the Lowest Observed Adverse Effect Level (LOAEL) and below the Significant Observed Adverse Effect Level (SOAEL), i.e. where adverse effects could occur. In this situation, mitigation should be included (i.e. embedded) into the Proposed Development to minimise noise as far as reasonably practicable (i.e. all reasonable steps should be taken). This is described in the NPSE explanatory note as follows (at paragraph 2.24):
- A2.2.5 *“The second aim of the NPSE refers to the situation where the impact lies somewhere between LOAEL and SOAEL. It requires that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development (paragraph 1.8). This does not mean that such adverse effects cannot occur.”*
- A2.2.6 In line with noise policy all noise management measures are therefore defined as ‘embedded mitigation’ or are compensatory mitigation measures (noise insulation).
- A2.2.7 The noise management measures embedded into the Proposed Development collectively meet the second and third aims of Government noise policy (see para B2.2.3) to mitigate and minimise adverse effects on health and quality of life from noise and where possible contribute to improvements in health and quality of life from noise, and contribute to meeting the first aim, all within the context of Government policy on sustainable development.
- A2.2.8 The compensatory mitigation measures (see **Compensation Policies, Measures and Community First [REP11-025]**) have been developed so that in combination with the embedded noise management measures, together they meet the first aim of Government noise policy to avoid significant adverse effects on health and quality of life from noise. This is achieved through the noise insulation scheme which provides a full package of noise insulation where air noise exposure from the development exceeds the relevant SOAEL values. This conclusion is in line with previous airport DCO decisions (Manston Airport decision letter para 155, Ref 6) and planning appeal decisions (Heathrow airport easterly alternation decision letter para 16 and inspectors report para 1087, Ref 7).

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<sup>1</sup> The NPSE uses the term ‘impacts’ however, this has been changed to ‘effects’ to align with terminology used in national noise policy and Environmental Impact Assessment terminology



A2.2.9 It should also be noted that the noise insulation scheme was welcomed by the Host Authorities (Luton Borough Council, Central Bedfordshire Council, Hertfordshire County Council, North Hertfordshire District Council and Dacorum Borough Council) throughout the eExamination, and the planned pace of rollout of the scheme was commended (see [TR020001/APP/8.13-8.17] and [REP5-066]).

## A2.3 Noise mitigation and compensation hierarchy

A2.3.1 To meet the aims of Government noise policy, and to generally minimise noise as far as reasonably practicable, noise management and control measures have been embedded into the Proposed Development or defined in compensation policies in the following order:

- a. Mitigation at source: optimise the construction and masterplan to minimise noise 'at source' (e.g. the design and location of fixed plant noise sources and the location of taxiways and Engine Run Up Bay); and then
- b. Mitigation by intervention: measures used purely to control the path of noise from source to receiver (e.g. flight paths [noise preferential routes], noise barriers and bunds); and then
- c. Mitigation by compensation: through the provision of noise insulation for the receptor (residential and non-residential).

## A2.4 Summary of noise mitigation and compensation

A2.4.1 Noise mitigation and compensation measures are described in section 16.8 and 16.10 of **Chapter 16 of the ES [REP9-011]** and in the **Mitigation Route Map [REP10-023]** and include:

- a. measures within the **Code of Construction Practice [REP8-013]** to manage noise and vibration activities from construction activities;
- b. the Noise Envelope which is secured through the **Green Controlled Growth Framework [TR020001/APP/7.08]** and is a legally binding framework to monitor, manage and control aircraft noise, including a defined mechanism to share the noise reduction benefits of future technological improvements in aircraft between the airport and local communities. Following the updates to the Noise Envelope made during Examination and further technical discussions, the Host Authorities have agreed in their SoCG that the Noise Envelope has been demonstrated to be an effective noise control strategy [TR020001/APP/8.13-8.17];
- c. additional air noise controls secured in the **Air Noise Management Plan [REP9-047]**:
  - a. a movement limit of 9,650 during the Night Quota Period (23:30 – 06:00);
  - b. a Quota Count (QC) limit of 3,500 during the Night Quota Period (23:30 – 06:00);
  - c. a ban on QC2 aircraft or above during the full night period (23:00 – 07:00);

- d. track violation penalties; and
- e. departure Noise Violation Limits;
- d. a substantially improved noise insulation scheme covering air, ground and surface access noise (see **Compensation Policies Measures and Community First [REP11-025]**);
- e. the Proposed Development has been designed to reduce aircraft ground noise by providing additional taxiways and improving the use of airfield layout to reduce aircraft taxi time and queueing;
- f. an improved engine run-up bay for engine testing has been located within a specially designed facility with noise screening and noise barriers have been provided to reduce the impact of aircraft ground noise;
- g. additional ground noise controls as described in the **Outline Ground Noise Management Plan [REP11-043]** to secure the ground noise controls relating to:
  - a. ground running of aircraft propulsion engines;
  - b. preferential use of stands and taxiways;
  - c. use of Auxiliary Power Units and Ground Power Units; and
  - d. ground run tests at night and locations for ground run test during the day.
- h. the Proposed Development is committed to improving accessibility to the airport, particularly by public transport which will reduce the impacts from surface access road traffic noise. This is secured in the **Framework Travel Plan [REP11-027]**.
- i. the Airport Access Road will be constructed using a surfacing material designed to reduce noise (secured in the **Design Principles [REP9-030]**); and
- j. a requirement to design fixed plant (such as substations, fuel storage facilities and other building services) to meet a specified process defined in the **Fixed Plant Noise Management Plan [REP4-025]** to control noise and avoid significant effects at the nearest houses and sensitive receptors.

A2.4.2 This comprehensive and robust series of noise mitigation measures fully addresses the noise impacts of the Proposed Development and meets the aims of Government aviation and noise policy as described in Section B2.2. The noise mitigation measures were developed prior to Examination in consultation with the Noise Envelope Design Group (NEDG) in line with Government aviation policy relating to Noise Envelopes (see Section 3 of **Appendix 16.2 of the ES [REP10-019]**). The compliance of the Noise Envelope with the NEDG recommendations is set out in Section 2.4 of **Applicant's Position on Noise Contour and Movement Limits [REP9-058]**.

A2.4.3 Mitigation measures were further developed throughout Examination as part of ongoing engagement with the Host Authorities. The Host Authorities have agreed with the noise insulation scheme, the noise controls in the **Air Noise Management Plan [REP9-047]**, the effectiveness of the Noise Envelope, the

**Fixed Plant Noise Management Plan [REP4-025]** and the controls in the **Code of Construction Practice [REP8-013]** as recorded in the **Statements of Common Ground [TR020001/APP/8.13-8.17]**.

- A2.4.4 The only additional noise mitigation and compensation measures that the Host Authorities have sought are:
- a. annual movement limits (see the **Statements of Common Ground [TR020001/APP/8.13-8.17]**);
  - b. shoulder period movement limits (see the **Statements of Common Ground [TR020001/APP/8.13-8.17]**); and
  - c. the inclusion of a “back stop” provision that seeks to disincentivise a development from operating in exceedance of the Limits and which seeks to provide compensation when other efforts at mitigation have proven unsuccessful (see **[REP11-061]**).
- A2.4.5 On points a) and b), the Applicant’s position on these additional controls is set out in response to Written Question NO.2.5 and NO.2.6 **[REP7-056]** and in **Applicant’s Position on Noise Contour and Movement Limits [REP9-058]**. In summary, the Applicant has evidenced that movement limits are poorly correlated with noise impact metrics and provide no incentive for the adoption of quieter aircraft and are therefore an ineffective noise control when noise contour area limits and QC controls are already in place as in the case of the Proposed Development.
- A2.4.6 On point c), the Applicant’s position on a “back stop” provision and financial penalties is set out in the **Applicant’s Position Paper on Financial Penalties [REP9-058]**. In summary, the Applicant considers that the imposition of a “back stop” provision and financial penalties:
- a. is unnecessary and wholly unjustified in light of the robust and comprehensive GCG Framework the Applicant has put forward, which includes an implicit financial cost for failing to meet Limits through the direct linkage that GCG creates between environmental performance and ongoing growth until the breach had been resolved, irrespective of how many years this took to address the root cause;
  - b. is inappropriate given the existing enforcement mechanism endorsed by Parliament in the context of breaches of the DCO;
  - c. does not meet the relevant planning policy tests;
  - d. does not meet the specific tests which are relevant to the imposition of conditions;
  - e. is being proposed without a clear legal basis;
  - f. is unprecedented;
  - g. is being sought to be justified by reference to precedents which are wholly irrelevant;
  - h. assumes a function for the Department for Transport which it has hitherto not accepted or been consulted upon; and

- i. is not appropriate in the context of a single decision on a DCO application. This is because there is a likelihood of setting a precedent for future airport development, and this would require careful consideration and development of a proportionate framework for penalties which is not possible to achieve in the time left in the Examination or by reference to a single airport. Such a regime is more appropriate to be made on a national level, subject to its own consultation.

A2.4.7 Each of these points is expanded upon in the **Applicant’s Position Paper on Financial Penalties [REP9-058]**. In conclusion, for all the reasons described above, the Applicant does not consider that any further noise mitigation or compensation measures are necessary.

## **A2.5 Noise Envelope Limits and Faster Growth**

A2.5.1 At the time of DCO application, the Noise Envelope Limits and Thresholds were aligned with the ES Faster Growth Case (ESFG) to ensure that the noise effects are limited to, and will not exceed, the assessed ‘reasonable worst case’ in the ES.

A2.5.2 During the Examination, the Applicant updated the **Green Controlled Growth Framework [REP10-025]** to set lower noise lower contour area Limits and Thresholds based on an Updated Faster Growth Case (UFG). This reduction in noise contour area Limits will require airlines to adopt a faster fleet transition than was originally assumed in the ESFG to realise growth up to 23 mppa by 2027, further incentivising the adoption of quieter aircraft and providing a greater share of the benefits with the community, whilst still allowing the socio-economic benefits of Faster Growth to be realised.

A2.5.3 As noted in Section 12.3 of **Appendix 16.1 [REP9-017]**, the difference in effects between the ESFG and the Core Planning Case occur only in Phase 1, as the effects of the ESFG in assessment Phase 2a and assessment Phase 2b are the same as for the Core Planning Case, just occurring one year earlier. This is not changed by the UFG forecast.

A2.5.4 Significant effects on health and quality of life for the relatively small population exposed above SOAEL in the UFG case that are below the SOAEL in the Core Planning Case (300 total, as those above daytime SOAEL are also above night-time SOAEL) would be avoided by the provision of full cost of noise insulation secured by the **Compensation Policies, Measures and Community First [ref]**. It is also important to note that whilst the difference between the UFG scenario and Core Planning Case means that these 300 people move from marginally below SOAEL to marginally above SOAEL, the difference in noise levels for all assessment locations between these two scenarios ranges from only 0.3 – 0.4dB for daytime and 0.1 – 0.2dB for night-time. Despite this small and negligible (and likely imperceptible) change in noise, all properties above SOAEL (even marginally so) will be eligible for the full cost of noise insulation.

A2.5.5 In addition, as noise levels will be continually reducing in Phase 1, the difference between UFG and Core Planning Case noise levels will reduce as the UFG and Core Planning Cases converge towards Phase 2a, particularly for

night-time, as can be seen by comparing the solid and dashed black lines in Figure A1 and Figure A2.

Figure A: Daytime UFG Limits compared to Core Planning Case Limits

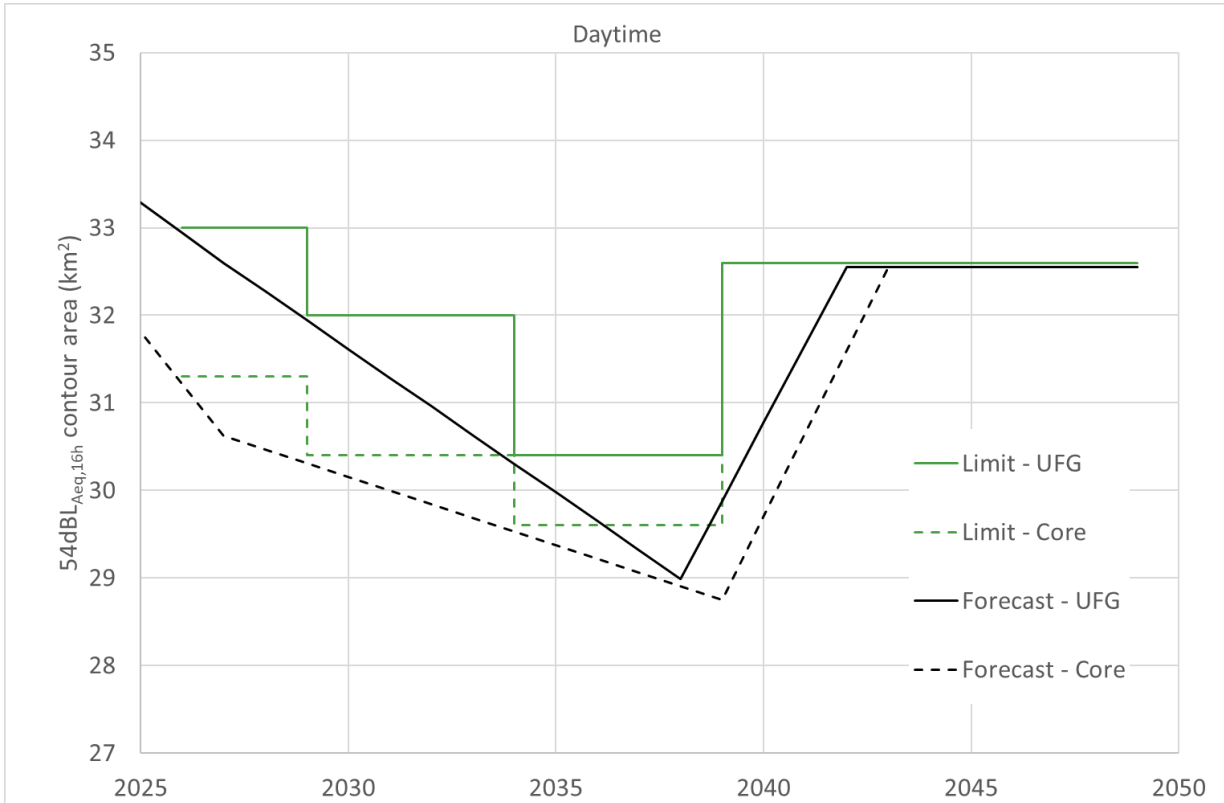
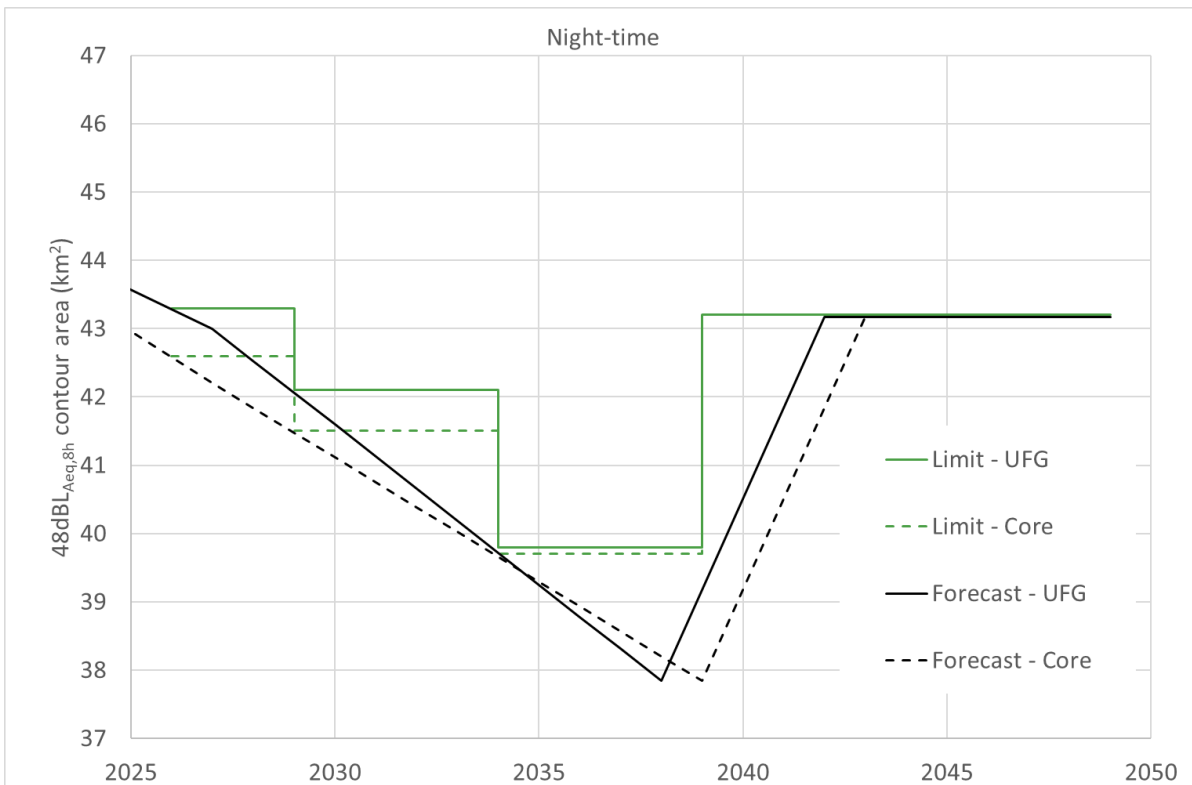


Figure A: Night-time UFG Limits compared to Core Planning Case Limits



### A3 Response to the Secretary of State’s noise queries

A3.1.1 The following sections respond specifically to the noise queries raised in the SoS letter of 2 August 2024, in the context of the information provided above. Please note that the response to paragraph 11 is provided at the end of this section.

#### A3.2 Paragraph 12

##### SoS query

A3.2.1 *Luton Borough Council are asked to provide an update on the proposals and timescales for the delivery of the dualling of the A505 Vauxhall Way. The Applicant is invited to consider whether, given the likely delay to the delivery of the Vauxhall Way improvement works, the 17 properties on Eaton Green Road which are predicted to experience significant adverse noise effects should be included in the noise insulation scheme and if not, what the justification for this is.*

##### Applicant response

A3.2.2 The Applicant does not consider that it is necessary, nor does it meet the noise policy requirement of being “within the context of Government policy on sustainable development”<sup>2</sup> for the 17 properties on Eaton Green Road to be included in the noise insulations scheme, in line with Government noise policy as set out below.

A3.2.3 An updated assessment of surface access noise effects was reported in **Accounting for Covid-19 in Transport Modelling – Environmental Appraisal** (Covid-19 Appraisal) [REP7-079] to account for the influence of Covid-19 on surface access noise forecasts. This was supplemented by the **Applicant’s Response to Examining Authority’s Rule 17 Request dated 17 January 2024** [REP8-040], which provided accompanying noise data tables for the updated assessment. In total, 17 residential buildings were identified as experiencing potential significant surface access noise effects in addition to those reported in **Chapter 16 of the ES** [REP9-011]. Noise level data for these properties are summarised in Table A1.

Table A1: Summary of noise assessment data for the 17 residential dwellings identified in [REP7-079]

Address	L <sub>Aeq,16h</sub> dB			L <sub>Aeq,8h</sub> dB		
	DM 2027	DS 2027	DS-DM Change	DM 2027	DS 2027	DS-DM Change
13B Eaton Green Road, Luton, LU2 9HE	62.8	63.8	1.0	54.8	55.7	0.9
18 Eaton Green Road, Luton, LU2 9HE	62.6	63.7	1.1	54.6	55.5	0.9

<sup>2</sup> In which the economic impact and adverse environmental effects must be considered together, see paragraph 2.17-2.18 of the NPSE Explanatory Note (Ref 3)

Address	L <sub>Aeq,16h</sub> dB			L <sub>Aeq,8h</sub> dB		
	DM 2027	DS 2027	DS-DM Change	DM 2027	DS 2027	DS-DM Change
17 Eaton Green Road, Luton, LU2 9HE	62.8	63.9	1.1	54.8	55.7	0.9
9 Eaton Green Road, Luton, LU2 9HB	62.0	63.0	1.0	54.0	55.0	1.0
Britannia Hall, Eaton Green Road, Luton, LU2 9HB	63.0	64.0	1.0	54.9	55.8	0.9
8 Eaton Green Road, Luton, LU2 9HB	62.2	63.3	1.1	54.3	55.2	0.9
16 Chertsey Close, Luton, LU2 9JD	63.1	64.1	1.0	55.0	55.9	0.9
7 Eaton Green Road, Luton, LU2 9HB	62.7	63.7	1.0	54.6	55.5	0.9
6 Eaton Green Road, Luton, LU2 9HB	63.0	64.0	1.0	54.9	55.8	0.9
16 Eaton Green Road, Luton, LU2 9HE	62.6	63.6	1.0	54.6	55.5	0.9
15 Chertsey Close, Luton, LU2 9JD	62.7	63.8	1.1	54.6	55.6	1.0
15 Eaton Green Road, Luton, LU2 9HE	62.3	63.4	1.1	54.3	55.3	1.0
14 Chertsey Close, Luton, LU2 9JD	62.4	63.6	1.2	54.4	55.5	1.1
17 Chertsey Close, Luton, LU2 9JD	63.5	64.5	1.0	55.4	56.3	0.9
5 Eaton Green Road, Luton, LU2 9HB	63.4	64.4	1.0	55.3	56.2	0.9
14A & 14B Eaton Green Road, Luton, LU2 9HE	62.1	63.2	1.1	54.1	55.1	1.0

- A3.2.4 The Applicant understands that the dualling of the A505 Vauxhall Way is due to be completed in 2028, rather than in 2027 as assumed in the ES. The Applicant is not aware of any further delays to this timescale. This timescale has already been taken into account in the updated assessment of surface access noise effects presented in the Covid-19 Traffic Modelling Update and Appraisal **[REP7-079]**, which noted that significant adverse effects would be temporary, until such time as the dualling of Vauxhall Way would be completed 1-2 years after the 2027 assessment year.
- A3.2.5 Furthermore, as noted in the Covid-19 Appraisal **[REP7-079]**, the Do-Something (DS) noise levels are only just in excess of the surface access noise Significant Observed Adverse Effect Level (SOAEL), with the majority of the properties being in excess of SOAEL by less than 1dB in the DS. In addition, the noise change criteria of 1.0dB increase or more is only just met (by as little as 0.1 – 0.3dB) for most receptors. Such noise level changes are likely to be imperceptible.
- A3.2.6 As described in Section B2.2 and in the **Covid-19 Appraisal [REP7-079]**, the Government noise policy aim in the NPSE (Ref 3) that adverse effects on health and quality of life from noise should be avoided is explicitly in the context of Government’s policy on sustainable development. The Applicant’s conclusion, therefore, remains as reported in **[REP7-079]** that the aims of Government

noise policy are met and providing noise insulation for these properties would not be sustainable given that:

- a. the effects are not due to physical changes to the road network brought about by the Proposed Development but are ‘indirect’ and due to intensification of road traffic on the existing network, combined with the delay of another project that is not being put forward by the Applicant (the dualling of A505 Vauxhall Way);
- b. the effects are temporary and are expected to last for only 1-2 years (the Applicant understands it is more likely to be only 1 year);
- c. the criteria (both in terms of noise level and noise change) are only just met by fractions of a dB; and
- d. commitments have been made to roll out the noise insulation schemes as fast as reasonably practicable, and adding these 17 properties to the early years of the insulation rollout would cause delays to the rollout for the prioritised air noise insulation schemes 1 to 3, which are mitigating effects that will occur over a much longer term.

A3.2.7 The Applicant understands that Luton Borough Council will report that it is still expecting to deliver the Vauxhall Way Improvements in 2028. The Applicant also understands that the Vauxhall Way project will undertake its own noise assessment and mitigate any effects of that scheme.

### **A3.3 Paragraph 13**

#### **SoS query**

A3.3.1 *It is noted that the Applicant identified community areas that would experience an adverse likely significant effect due to air noise increases [REP9-011 – Table 16.39, Table 16.46 and Table 16.53] and ground noise increases [REP9-011 - Table 16.56, ES Table 16.63, ES Table 16.68], but that no additional measures were identified in the Compensation Policies to address the impact of outdoor noise on amenity, including for community areas. Without prejudice to the final decision, the Applicant is invited to set out what, if any, further measures it considers could be brought forward, should it be decided that this is necessary.*

#### **Applicant response**

A3.3.2 The Applicant does not consider either that further measures are necessary, and, in any event, does not consider that there are any further practicable measures that would address the impact of outdoor noise on amenity, including for community areas. The noise mitigation measures in the DCO meet the aims of Government noise policy and are defined to minimise noise as far as reasonably practicable, for both indoor and outdoor spaces. Compensation is also available for community areas impacted by noise through the Community Fund. This is further explained below.

A3.3.3 The noise management hierarchy described in Section B2.3 is defined to meet the aims of Government noise policy, and to generally minimise noise as far as reasonably practicable. The hierarchy therefore starts with mitigation at source



and mitigation by intervention (which benefit both indoor and outdoor spaces) before mitigation by compensation (noise insulation) is provided.

- A3.3.4 A key mitigation measure for communities that would otherwise experience significant effects on health and quality of life from noise is a full package of noise insulation as described in **Section 16.10** of the **Environmental Statement (ES) [TR020001/APP/5.01]**. Whilst noise insulation will avoid the significant adverse effects on a community basis<sup>3</sup> (which considers the overall effects on people both inside and outside), the noise insulation itself can only reduce noise levels indoors. Other elements of the noise mitigation hierarchy (such as the Noise Envelope) are therefore relevant for outdoor space and will reduce outdoor air noise as far as reasonably practicable.
- A3.3.5 The Noise Envelope is relevant as a mitigation measure for outdoor spaces as its noise limits are based on noise contours representing external noise, meaning these limits are equally relevant externally as internally. The mechanism within the Noise Envelope for reducing noise limits in the future is also relevant as it could reduce the number of outdoor spaces that are exposed to aircraft noise in the future.
- A3.3.6 For ground noise, the ground noise mitigation measures described in Section B2.4 including those in the **Outline Ground Noise Management Plan [REP11-043]** will reduce outdoor ground noise as far as reasonably practicable.
- A3.3.7 As outdoor spaces are most typically used during the daytime, it is important to note that there are substantially fewer community areas that experience likely significant adverse effects from aircraft air and ground noise during the daytime period, as can be seen in the tables referred to in the SoS letter (Table 16.39, 16.46, 16.53, 16.56, 16.63 and 16.68 in **Chapter 16 of the ES [REP9-011]**). In particular, it should be noted that there are no daytime likely significant effects on communities from aircraft air noise in Phase 1 and the only daytime likely significant effects from ground noise are in Phase 2b and are for a small number of isolated properties on Dane Street.
- A3.3.8 The impact of noise in open spaces can be considered secondary to impact in homes because the average person spends substantially more time indoors than outdoors (various publications note that people spend 80-95% of the time indoors, e.g. Ref 8 and Ref 9) . Hence the noise impacts on people indoors is prioritised during the assessment (which is standard practice for noise assessment).
- A3.3.9 British Standard 8233 (Ref 10) states that development should not be prohibited where external noise levels exceed guideline values as follows:
- “The acoustic environment of external amenity areas that are an intrinsic part of the overall design should always be assessed and noise levels should ideally not be above the range 50-55 dB LAeq,16hr.*

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<sup>3</sup> As noted in **Chapter 16 of the ES [REP9-011]**, this is consistent with the Cranford Appeal Decision Letter (Department for Communities and Local Government (2017) APP/R5510/A/14/2225774) which concluded that noise insulation is sufficient to avoid significant observed adverse effects

*These guideline values may not be achievable in all circumstances where development might be desirable. In such a situation, development should be designed to achieve the lowest practicable noise levels in these external amenity spaces but should not be prohibited.”*

- A3.3.10 The Professional Practice Guidance on Planning and Noise (ProPG, Ref 11) contains recommended approaches to the management on noise within the planning system in England and is promoted by the Chartered Institute of Environmental Health (CIEH), the Institute of Acoustics (IoA) and the Association of Noise Consultants (ANC). ProPG also references the above paragraphs from BS8233 as a means of assessing the impact of noise on outdoor amenity.
- A3.3.11 Therefore, resulting noise levels outdoors are not a reason for refusal for the situation where levels are designed to be ‘as low as practicable’. As described above, the mitigation hierarchy for the DCO has been developed to reduce indoor and outdoor noise ‘as far as reasonably practicable’ and hence is in line with this guidance. This is in line with planning decision precedent (see for example Heathrow airport easterly alternation decision letter para 15 and inspectors report para 1113, Ref 7).
- A3.3.12 Following the mitigation hierarchy, once noise levels have been reduced as far as reasonably practicable, compensation is then provided. For community areas, as well as the noise insulation scheme which is compensatory mitigation and reduces noise whilst indoors, compensation is also provided through the Community Fund, secured through the signed **Section 106 agreement between the Applicant, the Airport Operator and the Host Authorities [REP11-108]**.
- A3.3.13 Schedule 8 of the **Section 106 agreement [REP11-108]** requires that the Airport Operator continues to operate and maintain the Community Fund, paying into the fund a minimum of £100,000 annually as well as any fines received from airlines as a result of the Track Violation Penalty System and the Departure Noise Violation Fine System (as defined in the **Air Noise Management Plan [REP9-047]**).
- A3.3.14 The Community Fund is used to fund community projects in the local area that meet objectives approved by Luton Borough Council. The current criteria focus areas for the Community Fund (currently known as the Community Trust Fund, Ref 12) are:
- a. a healthy today (decent standards of living, long and health lives); and
  - b. a skilled tomorrow of the communities affected by noise.
- A3.3.15 All the community areas identified as experiencing likely significant effects in **Chapter 16 of the ES [REP9-011]** are within the geographic area for the Community Fund eligibility.

## **A3.4 Paragraph 14**

### **SoS query**

A3.4.1 *The Applicant's delivery programme for its compensation policy for noise insulation [REP4-079] and [REP7-056] confirmed that schemes 1-3 could be delivered in four years. Without prejudice to the final decision, the Applicant is invited to set out what, if any, further measures it considers could be brought forward to mitigate the ground noise, surface access noise and aviation noise receptors would be exposed to until the noise insulation compensation delivery programme was complete, should it be decided further measures are necessary.*

**Applicant response**

A3.4.2 The Applicant does not consider that it is necessary or practicable to introduce further measures until such time as the noise insulation delivery program is complete. The noise insulation schemes have been designed to be delivered as soon as reasonably practicable and therefore meet the aims of Government noise policy as set out below.

A3.4.3 The noise insulation schemes for the Proposed Development are a substantial improvement on the current insulation scheme offered by the airport, both in terms of number of properties eligible and the financial contribution offered by the schemes (with the full cost of insulation provided above the daytime and night-time SOAEL).

A3.4.4 Throughout the Examination, several further enhancements were made to the noise insulation schemes to improve the pace of rollout, including:

- c. committing to adopt a proactive approach to delivery of the noise insulation scheme to ensure both knowledge and availability of the offer has been clearly and openly communicated. To assist homeowners the Applicant will make available an online 'look up' tool which homeowners can interact with to establish which scheme or schemes their property may be eligible for based on the latest applicable noise contours;
- d. supporting the offer to homeowners with a multi-stage programme that is designed to promote awareness of the scheme and encourage acceptance. Each recipient of the offer will be given 30 days to respond to the initial letter. There will be local publicity using a range of measures that may include door knocking, banners, leaflets etc.;
- e. to further support the promotion and administration of the scheme, tenants and occupiers will receive letters and be invited to initiate the application with implementation subject to landlord approval. Local letting agents will be contacted for them to contact property owners if they have eligible properties on file to ensure landlords are also made aware of the scheme;
- f. providing support for households who do not have English as a main language, have low literacy or where there are particular vulnerabilities due to age, disability or poor health. The process will include safeguarding and clear communication protocols for surveys and works in the homes of vulnerable persons;
- g. the preparation of a roll out plan setting out the timetable for operating the noise insulation scheme that will be developed in consultation with the Noise Insulation sub-committee of the London Luton Airport Consultative

Committee (LLACC) and approved by Luton Borough Council. The initial roll out plan will set out a target timetable for the delivery of the programme of insulation including the planned numbers of homes to be insulated each year. The plan will demonstrate how the Applicant intends to deliver insulation to all those eligible for air noise Schemes 1-3, who accept an offer, within four years of serving the article 44(1) notice<sup>4</sup>; and

- h. to monitor the effectiveness of the scheme the Applicant will provide the Noise Insulation Sub-Committee of LLACC with an annual report summarising the number of households invited to claim under the scheme, the number of formal acceptances in the preceding 12 months, the number of properties where the identified works have been approved and the number where those relevant approved works have been completed pursuant to the scheme. The report will also explain any delays that have been encountered, the reasons for them and steps proposed to be taken by the Applicant to minimise any future delays.

- A3.4.5 It is important to note that experience of the airports current noise insulation scheme and from market research with other similar insulation schemes suggests that the timescale for the delivery of the noise insulation scheme is generally dictated by the response time taken for the homeowner to respond and arrange visits from contractors when an offer under the noise insulation scheme is made. The steps set out above are, therefore, measures already committed to by the Applicant to speed up the delivery and be proactive in all the aspects of the insulation scheme that are within the Applicant’s control.
- A3.4.6 Whilst the Applicant will be required to demonstrate how they intend to deliver insulation to all those eligible for air noise Schemes 1-3, who accept an offer, within four years of serving the article 44(1) notice, the timescales for delivery of the insulation scheme will ultimately be dictated by the homeowner’s response to the offer.
- A3.4.7 It is important to note that the residential dwellings identified as experiencing continuing significant effects on health and quality of life from air and ground noise (due to exposure above the SOAEL) and the identified adverse likely significant effects (due to noise change) would all be eligible for insulation under air noise schemes 1-3. This is because all properties identified as experiencing adverse likely significant effects or ongoing significant effects on health and quality of life from ground noise would also be eligible for the prioritised air noise schemes 1 to 3.
- A3.4.8 For the properties eligible for the surface access noise insulation scheme, it is important to note that the relevant indirect significant effects due to intensification of road traffic on the existing network are not predicted to occur until assessment Phase 2a (assessment year 2039). The mechanism for identifying insulation eligibility, as set out in Section 6.2 of **Appendix 16.2 of the ES [REP10-019]**, involves predicting noise up to five years in the future

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<sup>4</sup> An update has been made to **Compensation Policies, Measures and Community First [TR020001/APP/7.10]** to clarify this four year time period was always intended to refer to the prioritised air noise schemes 1 – 3, as set out in **Applicant’s response to Issue Specific Hearing 3 Action 26: Noise Insulation Delivery Programme [REP4-079]**.

which will allow eligible properties to be identified before the significant effects occur. This, combined with the fact that the significant effects are anticipated to occur in 2039 and for a relatively small number of properties (approximately 55) means that it is highly likely that it will be possible to provide insulation for eligible properties (should they accept in a timely manner) before the significant effect occurs.

- A3.4.9 The only situation, therefore, in which there will be temporary likely significant effects and significant effects on health and quality of life until such time as insulation is provided to avoid those effects is during the four year period in which air noise schemes 1-3 are being delivered. It should be noted that during this four year period, noise levels will be falling and hence the number of significant effects reducing, as can be seen in Tables 5.3 and 5.4 in **Applicant's response to Issue Specific Hearing 3 Action 26: Noise Insulation Delivery Programme [REP4-079]**. Furthermore, there could be a lag of up to 18 months between the time of serving the article 44(1) notice (at which point the noise insulation scheme becomes active) and when the first additional flights occur, meaning that there will be a period in which insulation is being provided before the effects associated with the Proposed Developments occur. Importantly this means that the temporary adverse likely significant effects will not be experienced as a result of the Proposed Development for the entire duration of the four-year period to roll-out air noise schemes 1-3.
- A3.4.10 Despite this, the Applicant is committing to deliver the insulation schemes as fast as reasonably practicable during this period as set out in **[REP4-079]** and in **Compensation Policies, Measures and Community First [TR020001/APP/7.10]** and as summarised above.
- A3.4.11 This proactive and 'as fast as reasonably practicable' approach meets the aims of Government noise policy (Ref 3). The Applicant has previously set out how the noise insulation scheme rollout complies with Government noise policy and aviation policy in Section 7.3 of the **Applicant's ISH3 post hearing submission [REP3-050]** and Section 4.13 of the **Applicant's ISH9 post hearing submission [REP6-067]**.
- A3.4.12 These submissions set out how the three policy aims in the Airports National Policy Statement (Ref 13) and Noise Policy Statement for England (Ref 3) to avoid significant adverse impacts on health and quality of life from noise is explicitly in the context of sustainable development. The approach to meeting the second aim therefore is to offer and install noise insulation as proactively and as fast as is reasonably practicable, within the context of sustainable development. The approach to meeting the first aim is that the noise insulation scheme will prioritise, and provide the full cost of insulation, for properties exposed above SOAEL.
- A3.4.13 It should also be noted that the noise insulation scheme was welcomed by the Host Authorities throughout the Examination, and the planned pace of rollout of the scheme was commended (see **[TR020001/APP/8.13-8.17]** and **[REP5-066]**):

A3.4.14 *“This document sets out research undertaken by the Applicant into how to most effectively roll out [sic] their proposed Noise Insulation Scheme and is commended by the Host Authorities.*

A3.4.15 *The expected timeframes involved with rolling out the scheme and assuming a 100% take-up are positively received as they are materially faster than both the existing scheme and other comparable schemes.” [REP5-066]*

A3.4.16 In conclusion, considering all the aspects of the noise insulation schemes as described above, the Applicant does not consider that it is necessary or practicable to introduce further measures until such time as the noise insulation delivery program is complete.

### **A3.5 Paragraph 15**

#### **SoS query**

A3.5.1 *The Applicant is invited to propose any further measures that could be brought forward to further address the noise impacts resulting from the Proposed Development.*

#### **Applicant response**

A3.5.2 As set out in Section , and as further addressed in responses to paragraphs 12 to 14 of the SoS letter above, the Proposed Development includes a comprehensive and robust package of noise mitigation and compensation measures that collectively meet the aims of Government aviation and noise policy to:

- a. mitigate aviation noise as much as is practicable and realistic to do so, limiting, and where possible reducing, the total adverse impacts on health and quality of life from aviation noise;
- b. prevent unacceptable adverse effects on health and quality of life from noise;
- c. avoid significant adverse effects on health and quality of life from noise;
- d. mitigate and minimise adverse effects on health and quality of life from noise;
- e. where possible contribute to improvements of health and quality of life from noise; and
- f. share the benefits of future technological improvements between the airport and its local communities to achieve a balance between growth and noise reduction.

A3.5.3 The Applicant does not consider that any further noise mitigation or compensation measures are necessary or appropriate. This includes the consideration of annual movement limits, shoulder period movement limits and the inclusion of a “back stop” noise contour area Limit provision. The Applicant’s position on these particular points is summarised in Section B2.4 of this Appendix.

- A3.5.4 The consideration of a “back stop” noise contour area Limit provision is addressed in Section B3.6 of this Appendix.
- A3.5.5 Whilst the Applicant does not consider that shoulder period movement limits are appropriate, the Applicant is aware that there is a shoulder period movement limit in the airport’s current planning permission. The Applicant is also aware that Interested Parties have raised particular concerns about movements in the early morning shoulder period. Therefore, should the SoS disagree with the Applicant’s position on shoulder period movement limits, the SoS could amend the **Air Noise Management Plan [REP9-047]** through the use of article 50(2) of the draft Development Consent Order using the wording provided in Table A2 to include these limits. Given the potential delivery and commercial implications, and to meet the requirements of procedural fairness, the Applicant would welcome an opportunity to comment on revisions (if any) proposed by the Secretary of State.

Table A2: ‘Without prejudice’ wording for the **Air Noise Management Plan [REP9-047]**

<b>Draft wording</b>	<b>Explanatory notes</b>
<p><b>Shoulder period (06:00 – 07:00) movement limit</b></p> <p>Subject to the dispensed movements set out in Section 2.6 [of this Air Noise Management Plan], between the hours of 06:00 to 07:00, the maximum number of occasions on which aircraft may take-off or land is 12,460 over a rolling twelve-month period.</p>	<p>The Applicant’s position on shoulder period movement limits is set out in response to Written Question NO.2.6 [REP7-056] and in <b>Applicant’s Position on Noise Contour and Movement Limits [REP9-058]</b>. In summary, the Applicant has evidenced that movement limits, in the shoulder period or otherwise, are poorly correlated with noise impact metrics and provide no incentive for the adoption of quieter aircraft and are therefore an ineffective noise control when noise contour area limits and QC controls are already in place as in the Proposed Development.</p> <p>Should the SoS disagree with this position, the SoS could amend the <b>Air Noise Management Plan [REP9-047]</b> through the use of article 50(2) of the draft Development Consent Order using the wording provided in this table. Paragraphs 2.1.3 and 2.6.1 of the <b>Air Noise Management Plan [REP9-047]</b> which include information in dispensed movements would need to be updated to include cross-references to the new text section.</p> <p>Justification for the numerical values of the shoulder period movement limit is provided in Section 5 of <b>Applicant’s Position on Noise Contour and Movement Limits [REP9-058]</b>.</p>



## A3.6 Paragraph 11

### SoS Query

A3.6.1 *Central Bedfordshire Council, Luton and District Association for the Control of Aircraft Noise and other Interested Parties considered that aircraft noise contour limit controls should be imposed to provide a level of control and enforceability of noise limits over that provided in the Green Controlled Growth Framework (“GCG Framework”). While the Department is aware that the Applicant is opposed to securing noise contour limits on the face of the Development Consent Order, and without prejudice to the Secretary of State’s final decision, the Applicant is requested to provide suggested wording for a requirement which would secure noise contour limits on the face of the Development Consent Order. This requirement should be based on the core growth predictions in Tables 7.40, 7.43, 7.46, 7.49, 7.52 and 7.55 of Appendix 16.1 of the Environmental Statement Appendix 16.1 Noise and Vibration Information. The Applicant is also requested to provide amendments to the GCG Framework table 3.1 and Air Noise Management Plan (and any linked documents) to ensure compliance and support the monitoring and reporting with the proposed wording of the draft requirement to secure noise contour limits.*

### Applicant response

- A3.6.2 The Applicant’s response to this paragraph addresses the points referenced by the SoS:
- a. to provide suggested wording for a requirement which would secure noise contour limits on the face of the Development Consent Order; and
  - b. this requirement should be based on the core growth predictions in Tables 7.40, 7.43, 7.46, 7.49, 7.52 and 7.55 of Appendix 16.1 of the Environmental Statement Appendix 16.1 Noise and Vibration Information; and
  - c. to provide amendments to the GCG Framework table 3.1 and Air Noise Management Plan (and any linked documents) to ensure compliance and support the monitoring and reporting with the proposed wording of the draft requirement to secure noise contour limits.

A3.6.3 The second of these points is addressed first.

### Requirement based on core growth predictions

- A3.6.4 As explained in Section B2.5, the Limits in GCG are based on an updated Faster Growth scenario. As further explained in that section, the Applicant considers that this is appropriate because:
- d. the setting of the Limit using the Faster Growth scenario ensures that the noise effects are limited to, and will not exceed, the ‘reasonable worst case’ assessed in the Environmental Statement; whilst maximising the potential economic benefits from Phase 1 of the development. This is in line with Government aviation noise policy, including the Overarching Aviation Noise Policy Statement, as evidenced in **Commentary on the Overarching Aviation Noise Policy Statement [REP1-012]**;

- e. during the Examination at deadline 9, the Applicant updated the **GCG Framework [TR020001/APP/7.08]** to set lower noise contour area Limits and Thresholds based on an Updated Faster Growth Case (UFG). This reduction in noise contour area Limits will require airlines to adopt a faster fleet transition than was assumed in the ES, further incentivising the adoption of quieter aircraft and providing a greater share of the benefits with the community;
- f. the noise effects of Faster Growth (in both the ES and Updated Faster Growth) in assessment Phase 2a and assessment Phase 2b are the same as for the Core Planning Case, just occurring one year earlier;
- g. significant effects on health and quality of life for the relatively small population exposed above SOAEL in the UFG case that are below the SOAEL in the Core Planning Case (300 total, as those above daytime SOAEL are also above night-time SOAEL) would be avoided by the provision of full cost of noise insulation;
- h. whilst the difference between the UFG scenario and Core Planning Case means that these 300 people move from marginally below SOAEL to marginally above SOAEL, the difference in noise levels for all assessment locations between these two scenarios ranges from only 0.3 – 0.4dB for daytime and 0.1 – 0.2dB for night-time (a negligible and likely imperceptible change); and
- i. as noise levels will be continually reducing in Phase 1, the difference between UFG and Core Planning Case noise levels will reduce as the UFG and Core Planning Cases converge towards Phase 2a, particularly for night-time.

A3.6.5 The Applicant therefore considers that GCG Limits based on the Updated Faster Growth Case are appropriate and compliant with Government noise policy.

A3.6.6 However, recognising the Interested Parties' position and the SoS's request, the Applicant has provided updates to the **Green Controlled Growth Framework [TR020001/APP/7.08]** and **GCG Explanatory Note [TR020001/APP/7.07]** to lower the Level 1 (L1) and Level 2 (L2) Thresholds so that they are respectively set at 85% and 95% of interpolated Core Case contours, rather than Updated Faster Growth contours, i.e. the Thresholds are now based on the Core growth predictions in Tables 7.40, 7.43, 7.46, 7.49, 7.52 and 7.55 of **Appendix 16.1 of the ES [REP9-017]** as referenced by the SoS.

A3.6.7 The reduced contour areas for the Thresholds are shown in Table . This has the effect of the following GCG mechanisms being based on the Core Case growth predictions:

- a. L1 Thresholds and the requirement to provide commentary on the avoidance of the exceedance of a Limit when the L1 Threshold is reported to have been exceeded in the annual Monitoring Report; and
- b. L2 Thresholds and the requirement that there shall be no increase in declared capacity until a L2 Plan setting out details of any proposed actions which are designed to avoid or prevent exceedances of a Limit has

been approved by the Environmental Scrutiny Group (ESG), or a Monitoring Report confirms that the L2 Threshold is no longer exceeded.

Table A: Updated GCG Thresholds for aircraft noise (tracked changes shown)

Limit	Up to 2028	2029 – 2033	2034 – 2038	2039 - 2043*	2044 onwards (in 5 year cycles)*
Average summer day-time noise levels, as measured by size (km <sup>2</sup> ) of 54 dB LAeq,16hr noise contour	<b>Limit</b>				
	33.0	32.0	30.4	32.6	32.6
	<b>Level 2 Threshold (95% of limit)*</b>				
	<u>29.7</u> <del>31.4</del>	<u>28.9</u> <del>30.4</del>	<u>28.1</u> <del>28.9</del>	31.0	31.0
	<b>Level 1 Threshold (85% of limit)*</b>				
	<u>26.6</u> <del>28.1</del>	<u>25.8</u> <del>27.2</del>	<u>25.2</u> <del>25.8</del>	27.7	27.7
Average summer night-time noise levels, as measured by size (km <sup>2</sup> ) of 48 dB LAeq,8hr noise contour	<b>Limit</b>				
	43.3	42.1	39.8	43.2	43.2
	<b>Level 2 Threshold (95% of limit)*</b>				
	<u>40.5</u> <del>41.1</del>	<u>39.4</u> <del>40.0</del>	<u>37.7</u> <del>37.8</del>	41.0	41.0
	<b>Level 1 Threshold (85% of limit)*</b>				
	<u>36.2</u> <del>36.8</del>	<u>35.3</u> <del>35.8</del>	<u>33.7</u> <del>33.8</del>	36.7	36.7

\*The GCG Limits correspond to the reasonable worst-case noise contour areas presented in the Environmental Statement, as updated by the Updated Faster Growth Case. The Level 2 and Level 1 Thresholds are defined with reference to the Core Planning Case, and are set at 95% and 85% of the relevant contours respectively.

**Suggested wording for a requirement which would secure noise contour limits on the face of the Development Consent Order**

A3.6.8 The Applicant remains of the position that it is not necessary or appropriate to provide noise contour area Limits on the face of the DCO. The Applicant’s position on this is set out in Section 3.3 of **Applicant’s Position on Noise Contour and Movement Limits [REP9-055]**. To summarise, the Applicant’s position is that this is not necessary as:

- a. it provides no further legal security, certainty or enforceability than is already achieved by the inclusion of the noise contour Limits in the GCG Framework;
- b. it incurs the risk that it has the effect of inhibiting or disincentivising progressive “improvement” in the noise contour controls; and
- c. it could lead to confusion.

A3.6.9 A detailed expansion of these points is provided in Section 3.3 of **Applicant’s Position on Noise Contour and Movement Limits [REP9-055]**.

A3.6.10 Without prejudice to this position the Applicant has provided draft wording for a requirement in Table as requested by the SoS. In doing so, the Applicant has sought to provide draft requirement wording that relates to the unlikely situation in which breaches occur over and above the mechanisms already in GCG to overcome some of the issues described above. This provision would mean that where there were two successive mitigation plans which did not remove an exceedance, enforcement action under Part 8 of the Planning Act 2008 could be undertaken, which includes the potential for fines to be issued. It would not affect the requirement for further mitigation plans, or the general operation, of the GCG Framework. Given the potential delivery and commercial implications, and to meet the requirements of procedural fairness, the Applicant would welcome an opportunity to comment on revisions (if any) proposed by the Secretary of State.

Table A: ‘Without prejudice’ draft requirement wording

Draft requirement wording	Explanatory notes																		
<p><b>Noise contour limits</b></p> <p>(1) Without prejudice to the operation of the green controlled growth framework, the noise contour limits (“the limits”) that apply in respect of the authorised development are as follows-</p> <table border="1" data-bbox="201 510 1209 1029"> <thead> <tr> <th></th> <th>Up to 2028</th> <th>2029 – 2033</th> <th>2034 – 2038</th> <th>2039 – 2043</th> <th>2044 onwards</th> </tr> </thead> <tbody> <tr> <td>Average summer day-time noise levels, as measured by size (km<sup>2</sup>) of 54 dB LAeq,16h noise contour Limit</td> <td>33.0</td> <td>32.0</td> <td>30.4</td> <td>32.6</td> <td>32.6</td> </tr> <tr> <td>Average summer night-time noise levels, as measured by size (km<sup>2</sup>) of 48 dB LAeq,8h noise contour Limit</td> <td>43.3</td> <td>42.1</td> <td>39.8</td> <td>43.2</td> <td>43.2</td> </tr> </tbody> </table>		Up to 2028	2029 – 2033	2034 – 2038	2039 – 2043	2044 onwards	Average summer day-time noise levels, as measured by size (km <sup>2</sup> ) of 54 dB LAeq,16h noise contour Limit	33.0	32.0	30.4	32.6	32.6	Average summer night-time noise levels, as measured by size (km <sup>2</sup> ) of 48 dB LAeq,8h noise contour Limit	43.3	42.1	39.8	43.2	43.2	<p>The draft wording relates to the unlikely situation in which breaches persistently occur over and above the mechanisms already in GCG. The limits on the face of the DCO must not compromise the operation of the GCG framework, which is agreed with the Host Authorities to be an effective noise strategy [TR020001/APP/8.13-8.17]. Importantly, the preventative and forward looking measures within GCG are likely to result in noise exposure that is lower than the Limits.</p> <p>The limits on the face of the DCO are set using the Updated Faster Growth Case as justified in paragraph B3.6..</p>
	Up to 2028	2029 – 2033	2034 – 2038	2039 – 2043	2044 onwards														
Average summer day-time noise levels, as measured by size (km <sup>2</sup> ) of 54 dB LAeq,16h noise contour Limit	33.0	32.0	30.4	32.6	32.6														
Average summer night-time noise levels, as measured by size (km <sup>2</sup> ) of 48 dB LAeq,8h noise contour Limit	43.3	42.1	39.8	43.2	43.2														
<p>(2) Where the airport is being operated in excess of the limits under sub-paragraph (1), it is not a breach of the terms of this Order for the purposes of Part 8 of the 2008 Act unless the two conditions in sub-paragraph (3) are met.</p> <p>(3) The two conditions referred to in sub-paragraph (2) are that---</p> <p>a. the limits have been exceeded as a result of circumstances which are not beyond the undertaker’s control; and</p>	<p>As noted in paragraph B3.6.10 above, the purpose of these provisions is to specify the circumstances under which exceedence of the limits would constitute a breach of the DCO which is capable of enforcement under Part 8 of the Planning Act 2008. The drafting of sub-paragraphs (2) and (3) ensures that this “backstop” provision is compatible with the GCG regime.</p>																		

Draft requirement wording	Explanatory notes
<p>b. two successive Mitigation Plans approved by the ESG under paragraph 24 (exceedance of a limit) of this Schedule or the Secretary of State under paragraph 40 (appeals to the Secretary of State) of this Schedule have not removed the exceedances which gave rise to the requirement for those mitigation plans within the time period stated in those plans to achieve compliance.</p>	<p>The wording sub-paragraph (3)(b) builds upon that suggested by the Host Authorities in their closing statement <b>[REP11-061]</b> and provides additional enforceability over and above GCG should there be a ‘persistent’ breach of Limits. The Applicant notes, in particular, that the Host Authorities specifically suggested a Requirement which would apply where there was a submission of “an updated Mitigation Plan for a second or subsequent occasion in relation to an exceedance of the same Limit” (i.e., after two Mitigation Plans fail).</p> <p>With regard to sub-paragraph (3)(a), this drafting reflects the position in relation to exceedances of Limits (i.e., where the exceedance is outside of the airport operator’s control, the provisions in Schedule 2 ensure that the operator does not need to produce a mitigation plan) and is considered necessary in this provision as an exceedance may follow a mitigation plan being approved and so it is considered appropriate that the undertaker should not be liable unless it was within its control to avoid that liability.</p>
<p>(4) References to the limits under paragraph (1) are to be construed as references to the noise Limit which may be revised in accordance with the green controlled growth framework and paragraph 25 (review of implementation of this Part) of this Schedule.</p>	<p>This wording is required to allow the necessary flexibility for the noise limits to be reviewed where necessary (e.g. following airspace changes which would follow the DCO (if development consent is granted)), and subject to appropriate controls, in accordance with the <b>GCG</b></p>

Draft requirement wording	Explanatory notes
	<p><b>Framework [TR020001/APP/7.08]</b> at paragraph 2.3.4:</p> <p><i>“As set out in sections 3.3, 4.4, 5.4 and 6.3 of this document, the airport operator will undertake reviews of the Thresholds and Limits associated with particular environmental topics in specific circumstances. Where these reviews identify grounds to change Thresholds or Limits the airport operator will have the ability to apply to the ESG to do so. There will be no ability to change any of the Level 1, Level 2 Thresholds or Limits to permit materially worse environmental effects than those identified in the Environmental Statement (ES). This ensures that GCG can operate effectively over time.”</i></p> <p>It should be noted, as secured in the extract above, no changes which lead to materially worse environmental effects are permitted. This flexibility in the Limits was discussed in Issue Specific Hearing 9 and the Applicant’s justification for this necessary flexibility is summarised in Section 4.3 of <b>Applicant’s Post Hearing Submission - Issue Specific Hearing 9 (ISH9) [REP6-067]</b>. Any variation would have to be approved by the ESG pursuant to paragraph 25 of Schedule 2 to the dDCO.</p> <p>On the same topic the Host Authorities noted in their <b>Post-hearing submission - ISH9 [REP6-</b></p>

<b>Draft requirement wording</b>	<b>Explanatory notes</b>
	<b>04]</b> that “Decreases in the noise limits would be acceptable” and that “Increases in noise limits (and corresponding levels) would be acceptable in specific circumstances”.



**Amendments to the GCG Framework table 3.1 and Air Noise Management Plan (and any linked documents)**

- A3.6.11 Amendments have been made to Table 3.1 in **Green Controlled Growth Framework [TR020001/APP/7.08]** and Table 3.1 in the **GCG Explanatory Note [TR020001/APP/7.07]** have been made as described above in paragraph B3.6.6.
- A3.6.12 No updates are required to the **Air Noise Management Plan [REP9-047]**, as this document relates to noise controls that are outside the GCG Framework, so are not affected by the changes to the framework describe above or by the 'without prejudice' draft requirement wording in Table A4.
- A3.6.13 Similarly, no updates are required to the **Aircraft Noise Monitoring Plan [REP11-019]**, as this document simply references the Limits in Table 3.1 of the **Green Controlled Growth Framework [TR020001/APP/7.08]** without reproducing them, so changes to the GCG Framework Thresholds automatically carry across.
- A3.6.14 No other linked documents need to be updated to reflect the changes in the **Green Controlled Growth Framework [TR020001/APP/7.08]** or to ensure compliance and support the monitoring and reporting with the proposed wording of the draft requirement to secure noise contour limits at this time. However, the Applicant notes that the inclusion of the potential requirement could impact on a number of cross-references to specific paragraphs within Schedule 2 of the DCO within a range of certified documents, which would need to be reviewed and potentially updated in response to the finalis Order made by the SoS. This review and update would be achieved under the process defined by Article 50(2) of the **Draft Development Consent Order [TR020001/APP/2.01]**.

## REFERENCES

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- Ref 1 Her Majesty's Stationery Office (2013), The Aviation Policy Framework
- Ref 2 Department for Transport (2023), Policy Paper: Overarching Aviation Noise Policy
- Ref 3 Department for Environment Food and Rural Affairs (2010), Noise Policy Statement for England
- Ref 4 Department for Communities and Local Government (2019), Planning Practice Guidance: Noise
- Ref 5 Department for Transport (2018). *Airports National Policy Statement: new runway capacity and infrastructure at airports in the South East of England*.
- Ref 6 Department for Transport (2022), Decision letter – Application for the proposed Manston Airport Development Consent Order
- Ref 7 Department for Communities and Local Government (2017), Decision letter – Enabling works to allow implementation of full runway alternation during easterly operations at Heathrow Airport, APP/R5510/A/14/2225774
- Ref 8 House of Commons Environment, Food and Rural Affairs Committee (2021), Air Quality and coronavirus: a glimpse of a different future or business as usual, Fifth Report of Session 2019–21
- Ref 9 Yousef Al horr, Mohammed Arif, Martha Katafygiotou, Ahmed Mazroei, Amit Kaushik, Esam Elsarrag (2016), Impact of indoor environmental quality on occupant well-being and comfort: A review of the literature, International Journal of Sustainable Built Environment, Volume 5(1), pp1-11
- Ref 10 British Standards Institute (1999), BS 8233:1999 Sound insulation and noise reduction for Buildings - Code of practice
- Ref 11 Association of Noise Consultants/ Institute of Acoustic/ Chartered Institute of Environmental Health (2017), Professional Practice Guidance: Planning and Noise
- Ref 12 Criteria London Luton Airport Operations Ltd (LLAOL) Community Trust (2022), available at <https://blcf.org.uk/wp-content/uploads/2022/01/20220114LLAOLCTFCRITERIA.pdf>
- Ref 13 Department for Transport (2018), Airports National Policy Statement

## **APPENDIX B – Crown Consent Letter**

Central Property Team, Property Directorate,  
Ministry of Justice, 10<sup>th</sup> floor 102 Petty France,  
London SW1H 9AJ

11 February 2024

Dear Mr Walker

**London Luton Airport Expansion: Application for Development Consent Order (PINS Ref TR020001)  
Crown Consent under s135 Planning Act 2008**

We are instructed by the Secretary of State of Levelling Up, Housing and Communities (the **Secretary of State**) in connection with the above application by London Luton Airport Limited (**Luton Rising**).

**Background**

The Secretary of State benefits from a lease dated 12 December 2023 (the **Lease**). Luton Rising has applied for a Development Consent Order under the Planning Act 2008 (the **Act**) for the London Luton Airport Expansion, which is being examined by the Planning Inspectorate under reference TR020001 (the **Scheme**). The Scheme provides for the compulsory acquisition of land which is subject to the Secretary of State's Lease. The affected land is detailed by reference to the plot references and plans (in both cases as contained in the Book of Reference relating to the Scheme) in the table that follows (the **Land**):

Number on Land Plans	Description of Land	Owner of any Crown Interest in the Land
2-45	All interests and rights in 322 square metres of bin store (Building 74, Provost Way) (excluding all interests held by the Crown) Borough of Luton	Secretary of State for Levelling Up, Housing and Communities 2 Marsham Steet London SW1P4DF  (in respect of a lease dated 12 December 2023)

2-46	All interests and rights in 6258 square meters of premises and hardstanding (Building 74, Provost Way) (excluding all interests held by the Crown) (Borough of Luton)	Secretary of State for Levelling Up, Housing and Communities 2 Marsham Steet London SW1P4DF  (in respect of a lease dated 12 December 2023)
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Section 135(1) of the Act provides that an order granting development consent may include provision authorising the compulsory acquisition of an interest in Crown land only if it is an interest which is for the time being held otherwise than by or on behalf of the Crown and the appropriate Crown authority consents to the acquisition.

Section 135(2) states that an order granting development consent may include any other provision applying in relation to Crown land, or rights benefiting the Crown, only if the appropriate Crown authority consents to the inclusion of the provision.

Consent under both section 135(1) and (2) is required for the Scheme.

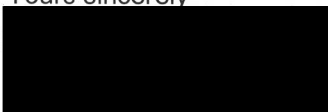
**Consent**

We confirm that the Secretary of State for Levelling Up, Housing and Communities, acting on behalf of the Home Office, is the appropriate Crown authority under section 135(1) of the Act regarding the Land.

We further confirm that, pursuant to s135(1) of the Act, the Secretary of State consents to the compulsory acquisition in connection with the Scheme of the Land subject to the provisions of the Lease continuing to apply to the Land.

In accordance with section 135(2) of the Act the Secretary of State agrees to any other provision applying in relation to Crown land, or rights benefiting the Crown, and accordingly the drafting of Article 39 of the draft DCO is agreed.

Yours sincerely



**Brian McMahon**

Mobile: 

Email: @justice.gov.uk