

M Reddington Response to SoS letter of 23_08_2024: ID20037459

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Glossary

19mppa application	Application 21/00031/VARCON on the LBC Planning Portal – submitted by LLAOL to LBC to further increase noise contour limits and the passenger cap
2022 inquiry	Planning Inspectorate Inquiry (ref APP/B0230/V/22/3296455) into the called-in decision by LBC to grant the 19mppa application
Airport/LLA	London Luton Airport
Airport Operator/LLAOL	London Luton Airport Operations Ltd, ('LLAOL') currently the concessionaire at the Airport
Applicant	Luton Rising (London Luton Airport Ltd - LLAL)
Application	This application TR020001 for a Development Consent Order
ATM	Air Transport Movement
DCO	Development Consent Order
KPI	Key Performance Indicator
LBC	Luton Borough Council, ultimate owner of and Local Planning Authority for LLA
mppa	'million passengers per annum': a measure of an airport's passenger capacity or actual passenger throughput
LOAEL	Lowest Observable Adverse Effects Level
noise contour	An outline on a map enclosing an area in which the 8-hour or 16-hour logarithmic average of aircraft noise for an average day in a defined 92-day summer period equals or exceeds a given value, expressed in terms of LAeq for an 8h or 16h period
Project Curium	Application 12/01400/FUL on the LBC Planning Portal – submitted by LLAOL to LBC in 2012 for development works to increase LLA capacity to 18mppa by 2028
SOAEL	Significant Observable Adverse Effects Level

Table 1: M Reddington Response to the SoS letter of 23 -08- 2024

Note: Only sections that have attracted comment are referenced. To save repetition some of the Applicant's more lengthy responses are not provided in full.

I.D	App- endix A ref.	SoS for Transport's letter 02_08_2024 Queries Q11 through Q15	M. Reddington's Response to Applicant's Response to the SoS for Transport's letter 02_08_2024 Queries Q11 through Q15 (Appendix A)
1	A3.6.1	<p>Paragraph 11 extract: <i>"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 on the face of the Development Consent Order....."</i></p>	<p>Throughout the GCG [TR020001/APP/7.08] the emphasis is on controlling Air Noise. There is no discussion about the monitoring or control of Ground noise.</p> <p>In many ways Ground Noise is more pernicious as it is longer-lasting, (albeit peak Ground noise is lower than peak Air Noise). Receptors are subject to, but cannot distinguish, Ground noise and Air Noise. They hear BOTH simultaneously.</p> <p>The Applicant does not even consider this in any noise reduction strategy under GCG and has previously advised that it is not possible to measure Ground Noise, (i.e. to separate it from the totality of Air+Ground+Traffic noise) so it will only ever be <i>modelled</i>. (and reviewed every five years).</p> <p>By contrast, Air noise can be both modelled and measured as per the Noise Management Plan if devices are located sufficiently far away from the runway and correctly positioned.</p> <p>For example the Ground Noise Management Plan (REP11-043) is simply a series of activities the Applicant will carry out to reduce operational noise from various sources – without any plans to monitor.</p> <p>How is an exceedance of Ground noise or Traffic noise to be detected and remedied by the Applicant ? It seems there are no provisions for this.</p> <p>Ground Noise is an artificial construct that serves only to confuse, and ignores human physiology.</p> <p>The TOTAL (Air+Ground+Traffic) noise produced by an airport should be monitored as a matter of course and strict limits defined.</p>

			<p>I respectfully request the SoS to impose noise contour limit controls to include all noise sources. See also comment under A3.5.1</p>
2	A3.2.1	<p>Paragraph 12 <i>“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.</i></p>	<p>The Applicant sees no requirement to insulate these 17 properties because (ref. A3.2.6): (a) there is no direct link between additional noise and the DCO proposals; (b) even though the properties will be subject to additional levels of noise, this would be is ‘imperceptible’ although the total noise exposure would still meet or exceed SOAEL levels. (c) the additional noise will only be temporary until LBC dual the A505 2028. (d) to provide insulation would affect the Noise Insulation Programme for Schemes 1-3 which are Air Nose schemes</p> <p>A3.2.7 The dualling of Vauxhall Way may be delayed or even cancelled.</p> <p>I respectfully request that SoS instructs the Applicant that subjecting receptors to levels at or in excess of SOAEL is not acceptable.</p>
3	A3.3.1	<p>Paragraph 13. <i>It is noted that the Applicant identified community areas that would experience an adverse likely significant effect due to air noise increases [.....</i></p>	<p>In A3.3.2 and A3.3.3.the Applicant refers to the Noise Management Hierarchy which advises that after compensation (insulation) is applied: <i>“they will strive for a [noise] level that is ‘as far as reasonably practicable’ ”.</i></p> <p>In A3.3.9 and A3.3.10 the Applicant quotes “British Standard 8233, in particular: <i>“These guideline values may not be achievable in all circumstances...”</i></p> <p>Nowhere is there an absolute ceiling on what noise levels external receptors should be subjected to, as long as a <i>“..reasonably practicable noise level”</i> is achieved.</p> <p>For the ‘Do Minimum’ case noise would be expected to reduce year-on-year with the introduction of quieter aircraft. For the ‘Do Something’ case, noise will increase simply because there will be more ATMs even with quieter aircraft.</p> <p>I respectfully request the SoS that ‘further measures’ is to ‘<u>Do Minimum</u>’ which would retain existing noise levels but would reduce them over time.</p> <p>Note 1: The Applicant in his response refers to the Community Fund but is not an agency for compensation. The Applicant could equally have referred to the ‘Community First ‘fund.</p>

4		A3.3.4 (Relevance ? The query is about outdoor noise and amenity)
5		In A3.3.5, A3.3.6 and A3.3.7 the Applicant refers to the Noise Envelope and advises there are insignificant effects on open spaces. See comment under A3.3.1
6		A3.3.8 suggests that most people spend 85-90% of their time indoors, in effect implying that exposure to external noise levels will be minimal. I respectfully request the SoS to ask the Applicant if he had considered and checked that due to airport noise many residents have no option but to stay indoors.?
7		A3.3.11 advises that “..resulting levels outdoors are not a reason for refusal”. I respectfully suggest that the Applicant could appear ot be dictating to the SoS.
8		‘Community Areas’ are here considered only in the context of public open spaces, but the vast majority of affected open spaces are private, i.e. one’s back gardens. They stop being used because of grinding, constant noise from air and ground operations. The BS8233 aim of 50-55 dBA _{Leq 16h} is only a pipedream given the total noise levels current and proposed. Note: The Applicant refers to the insulation compensation , but it is often overlooked that in summertime: (a) air traffic movements -ATMs -are at a maximum and (b) many people keep windows open or at least ajar particularly at night. At that point internal noise levels start to approach external noise levels, i.e. minimal attenuation due to insulation. An additional measure of mitigation would be to include air conditioning into the compensation regime, not just insulation.
9		A3.3.13 and A3.3.14 - In respect of the Community Fund see Note 1 under A3.3.1 responses above
10		The Applicant quotes selectively from the ANPS. However ANPS paragraph 1.41 states: <i>“The Airports NPS does not have effect in relation to an application for development consent for an airport development not comprised in an application relating to the Heathrow Northwest Runway [my emphasis] and proposals for new terminal capacity located between the Northwest Runway at Heathrow Airport and the existing Northern Runway and reconfiguration of terminal facilities between the two existing runways at Heathrow Airport. Nevertheless, the Secretary of State considers that the contents of the Airports NPS will</i>

			<p><i>be both important and relevant considerations in the determination of such an application [my emphasis], particularly where it relates to London or the South East of England. Among the considerations that will be important and relevant are the findings in the Airports NPS as to the need for new airport capacity and that the preferred scheme is the most appropriate means of meeting that need</i></p> <p>The ANPS states that the preferred solution to increased airport capacity in South East England is the third runway, but one of the “important and relevant” considerations is ANPS Paragraph 5.62: <i>“The Government also expects a ban on scheduled night flights for a period of six and a half hours, between the hours of 11pm and 7am, to be implemented”</i></p> <p>ANPS paragraph 5.56 recognises that night-time noise has a greater impact on health.</p> <p>Since the Applicant quotes the ANPS, then presumably he should incorporate its spirit and have a night time moratorium on flights as for the proposed Heathrow third runway. Instead the Applicant still wants to maintain over 9000 night time ATMs.</p> <p>I respectfully request the SoS to consider the removal, or significant reduction of, night-time ATMs as this would align with the spirit of the ANPS and provide valuable amenity to receptors.</p>
11	A3.4.1	<p>Paragraph 14 <i>“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</i></p>	<p>Among other things the Applicant’s roll-out is dependent upon funding, The Applicant was requested to provide a breakdown of the Insulation costs allocated in the Funding Statement.</p> <p>The analysis excluded Ground Noise and Traffic Noise insulation so these activities have to be funded from somewhere otherwise the rollout will be hampered.</p> <p>Another issue was that of insulation testing. It is not clear who will <u>fund</u> the testing regime – LLAOL or the Applicant ?</p> <p>I respectfully request the SoS to ask the Applicant to clarify the funding of: (a) Ground and Traffic Noise insulation, and (b) the testing regime pre-and post-insulation installation.</p>
12		<p><i>considers could be brought</i></p>	<p>A3.4.4 (c)</p>

		<i>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.”</i>	<p>The Applicant is committed to providing a ‘look up’ tool whereby residents can see if their property is eligible for insulation. There is no timescale provided. It is not clear what comes first – the look-up tool or the letter to eligible residents. If it is the former, this could delay the insulation roll out because the tool will take time to be designed, developed and tested.</p> <p>There is another troublesome issue that needs resolution – the eligibility threshold for insulation - set out in Table 3 below.</p>
13			<p>A3.4.4.(d) The Applicant only proposes to give residents 30 days to respond to an initial invitation but does not provide an opportunity for a repeat invitation if they miss the first deadline.</p> <p>For example the current scheme (i.e. Project Curium) waits for 5 years before making a revised offer. [REDACTED]</p> <p>I respectfully request the SoS to instruct the Applicant to reinstate a repeat invitation after a period has elapsed, such a period to ensure that Schemes 1-3 are still completed within 4 years.</p>
14			<p>A3.4.4.(g)</p> <p>In respect of the roll out plan, there appears to be a discrepancy between the timescales quoted for Scheme 2 in Table 4.1 of REP4-079 (2-6 years) and what is being promised for Schemes 1-3 (2 years).</p> <p>I respectfully request the SoS to instruct the Applicant to explain the apparent discrepancy between REP4-079 Table 1 Scheme 2 (6 years) and the stated roll-out timescale for Schemes 1-3 of 4 years.</p>
15			<p>A3.4.4.(g) and (h):</p> <p>Refer to Table 2 below.</p>

16			<p>A3.4.5 and A3.4.6 advises that the overall programme timescale is dictated by the householder's response. However, the Applicant advises in A3.4.4 (c) – (e) that there will be significant interaction with residents to increase awareness.</p> <p>Indeed if the Applicant took a more flexible approach to the initial offer deadline of 30 days there may be increased take-up. Similarly more flexibility in a repeat offer would help.</p> <p>It could be interpreted that the Applicant appears to be making excuses for delays at the outset.</p>
17			<p>A3.4.6 The Applicant only proposes to install Schemes 1-3 in the 4-year period. But there are the remaining Air Noise insulation schemes 4-5, Ground Noise scheme and Traffic Noise schemes also to be considered.</p> <p>I respectfully request the SoS to ask the Applicant to clarify whether the timescales in REP4-079 Table 4.1 are to be used for Schemes 4-5, Ground Noise and Traffic Noise ? (Due to apparent discrepancy identified under A3.4.4 (g) above.)</p>
18			<p>I respectfully suggest to the SoS that there is a lack of meaningful remedy should the body responsible for insulation fail to meet the roll out programme and the deadlines included in Table 4.1 of REP4-079 (as amended). Further measures should be introduced: Key Performance Indicators should be applied to the Applicant to demonstrate that the roll-out programme is on time and to apply remedies to encourage timely delivery,</p>
19	A3.5.1	<p>Paragraph 15 SoS query <i>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..</i></p>	<p>A3.5.2. (a) The Applicant has no plans for further measures. Throughout the examination process the Applicant has maintained that it is not possible to measure Ground Noise so he has no plans to monitor - only modelling.</p> <p>How can he confirm there is either an increase or decrease in Ground noise – which is a component of total noise ? I suggest that in the vicinity of the airport permanent noise monitors are installed to measure the total noise experienced by receptors, and not as an artificially fragmented set of measurements and models. The same applies to Traffic Noise - although to a lesser extent as not all traffic is directly airport-related.</p> <p>I respectfully request the SoS to ask the Applicant to consider how this measurement strategy could be implemented and monitored.</p>

Table 2: M Reddington Comments on Compensation Measures Tracked Changed TR020001-003475- LR (August 2024 version)

I.D	ID ref.	Para.	M. Reddington's Comments
		Para.	Comment
1.	ID 1	6.1.6	<p>6.1.6 states: <i>"The proposals when implemented will replace the existing scheme."</i></p> <p>It is unclear what this means because Para. 6.1.1 states <i>"The airport operator [LLAOL] currently operates a Noise Insulation Scheme"</i>. Does this mean that LLAOL will continue to operate the revised insulation scheme ? Will this mean that LLAOL's obligations under their current Scheme will disappear or be handed over to the Applicant ?</p> <p>Insulation has been a painful topic since the start of Project Curium) which was to increase passenger numbers from 9mppa to 18mppa over the period to 2028 by which time community benefits such as insulation and less noisy aircraft were to have been achieved.</p> <p>By 2019 18mppa had been achieved but with none of the community benefits promised. The Applicant for Project Curium was LLAOL, not Luton Rising (LLAL).</p> <p>There followed a further successful application by LLAOL for an increase in passenger numbers to 19mppa (Application 21/00031/VARCON on the LBC Planning Portal). The '19mppa' proposed a significantly increased provision of noise insulation. <u>As of 06/09/2024 this has not yet begun.</u></p> <p>Finally the DCO (with Luton Rising as Applicant) proposes a significant programme of insulation: REP4-079 "Noise Insulation delivery Programme.</p> <p>Given that the various insulation projects mentioned above overlap to a greater or lesser extent since many of the same properties are affected in some way, it is going to be extremely difficult to determine which relevant Applicant will pay for which level of insulation, to which property. A further complication is that some residents may also be paying additional charges for more comprehensive insulation.</p> <p>There is a danger that double-counting will take place so very tight oversight will be necessary.</p> <p>There must be a formal handover process designed and implemented the once the Applicant has served notice on Luton Borough Council under article 44(1) of the DCO. This needs to be enshrined in the Noise Insulation Sub-committee</p>

I.D	ID ref.	Para.	M. Reddington's Comments
			<p>(NIS) Terms of Reference in Appendix C, for example a Handover document with complete information</p> <p>I respectfully request the SoS to instruct the Applicant to amend the Compensation Policies etc. document to include details.</p>
2	ID 2	6.1.16	<p>Insulation eligibility criterion 6.1.16 is draconian and reduces the numbers of properties eligible for insulation thereby saving the Applicant significant sums of money.</p> <p>This is a ridiculous position for reasons set out in Table 3 below.</p>
3	ID3	6.1.17, 6.1.29	<p>If a resident is eligible for more than one insulation Scheme then they should be provided with the totality of these schemes (e.g. Air, Ground, Traffic).</p> <p>I respectfully request the SoS to instruct the Applicant to amend the Compensation Policies etc. appropriately</p>
4	ID4	8	<p>Community First This is a confusing title. There is already a 'Community Fund' (ref. S106 Agreement REP11-108) which is funded directly by LLAOL and which sets out to meet the aims of LBC and is applicable to a (defined) 'Local Area'.</p> <p>The 'Community First' zone will be funded by a £1 levy per passenger over 19mppa. Its area is defined in Figure 9.1 and looks suspiciously like the 'Local Area' and also sets out to meet LBCs stated priorities.</p> <p>Thus LLAOL are indirectly funding Community First because either they or the Applicant will simply divert monies that would be spent on other causes.</p> <p>Note that document 7.10 Compensation Policies, Measures And Community First (REP11-026) forms Appendix 5 to the S106 Agreement (REP11-108) -February 2024 - but should be replaced by the latest version.</p>
5	ID 5	Appendix A	<p>Indicative Air Noise contour drawings are included but there are none for Ground Noise – or Traffic Noise.</p>
6	ID6	Appendix C	<p>The Applicant has considered Public Buildings Noise Insulation Scheme and The Voluntary Acquisition and Hardship Schemes during the Examination and determined that what expenditure is anticipated will fall within the Funding Statement.</p> <p>However if there were to be more-than-anticipated demands the Applicant does not state how the monies will be funded.</p>

Table 3: M. Reddington Comments on Insulation Eligibility Moratorium Date of October 2019

These comments [references excepted] were submitted in REP6-154 Appendix B and REP10-083 Table 2.

I.D	M. Reddington's Comments
	With reference to Draft Compensation Policies, Measures and Community First Tracked Change Version [dated August 2024 paragraphs 5.1.5 c) and 6.1.16.
1	<p>Moratorium</p> <p>“6.1.16 <i>The Policy will apply to properties built and occupied prior to 16 October 2019, being the date Statutory Consultation commenced for the Proposed Development. This date may be lifted for those able to demonstrate that they could not reasonably have known about the Proposed Development at the time, or that the application for planning consent to build their property pre-dated 16 October 2019 and as such the housebuilder could not reasonably have known about the Proposed Development at the time.</i>”</p> <p>There is a similar issue with 5.1.5c in relation to the purchase of properties before October 2019)</p>
2	<p>Our Position</p> <p>(a) The requirements for noise insulation will depend upon the building’s location within noise contours. These requirements can vary depending on proximity to the runway. There is going to be either one overarching set of requirements that apply to all buildings (i.e. worst case) or a tiered system depending upon exposure.</p> <p>(b) The date of 16th October 2019 is a date when the DCO document was released for <i>formal consultation</i>. There was no guarantee that the DCO would be permitted so why would a builder take it upon himself to include additional constraints that may never be realised, within his design ? Builders are not psychic.</p> <p>(c) In order to enforce additional constraints Host Authorities would have had to include any such constraints within the relevant Planning Department’ processes and procedures PRIOR to the granting of Planning Permission (‘PP’) for any building;</p> <p>(d) This would necessitate Planning Departments’ prior knowledge of the Applicant’s specific construction requirements and an instruction (by whom ?) to include within their procedures.</p> <p>(e) Did the Applicant inform the Host Authorities Planning Departments of any particular requirements for inclusion within Planning procedures in a timely manner to influence granting of Planning Permissions; AND with sufficient leeway to allow a builder to construct a property to completion before 16th October 2019 ?</p>
3	<p>Applicant’s position</p> <p>The Applicant’s position is that this is ‘usual practice’. Our contention is that this is draconian.</p>

I.D	M. Reddington's Comments
4	<p>Extensions</p> <p>How would these constraints apply to building extensions that also require PP</p>
5	<p>Elapsed Time</p> <p>Even assuming the original date of 16th October 2019 was 'reasonable' [we think not] and the Applicant's requirements were clearly communicated to the Host Authorities , five years have elapsed since 16th October 2019 and the DCO is still not finalised since it is subject to SoS decision. Therefore, it is not possible to say with any certainty that requirements will be added, amended or deleted related to the construction of properties affected by airport noise, thus rendering buildings constructed before 16th October 2019 ineligible for insulation, through no fault of their own.</p>
6	<p>Activity Schedule*</p> <p>Attached to is a simplified activity schedule (without durations) showing the steps required for a building to be completed before 16th October 2019, Also shown in the attached Activity Schedule are the steps we believe should be taken to secure the correct level of noise insulation.</p> <p><u>*Schedule is not reproduced here for simplicity – refer to REP6-154 Appendix B</u></p>
7	<p>I respectfully request the SoS to instruct the Applicant to amend the eligibility threshold as per the Recommendation below:</p> <p>Recommendation</p> <p>The moratorium date of October 2019 should be dispensed with immediately. Once requirements are finalised and development is permitted, the Applicant should advise Host Authorities so that these requirements can be included in their Planning processes. Any Planning Permission granted thereafter would then secure that any new buildings are compliant with latest Regulations and hence ineligible for insulation under the DCO specification.</p>