



Inclusive Economy  
Luton Council  
Town Hall  
George Street  
Luton  
Beds LU1 2BQ

Transport Infrastructure Planning Unit  
Great Minster House  
33 Horseferry Road  
London, SW1P 4DR

T: [REDACTED]

W: [www.luton.gov.uk](http://www.luton.gov.uk)

By email: [transportinfrastructure@dft.gov.uk](mailto:transportinfrastructure@dft.gov.uk)

11 October 2024

Your Reference: TR020001  
Our Reference: 20040643

Dear Sir/Madam,

[REDACTED] 008 (as amended)  
London Luton Airport Limited seeking Development Consent  
for the Proposed London Luton Airport Expansion

We write further to your letter of 27 September 2024 inviting comment upon various matters which we list below.

### **Amendment of section 85 of the Countryside and Rights of Way Act 2000**

The request for information in relation to this subject was addressed to Natural England, The Chilterns Conservation Board and the Applicant. We have nothing further to add to the comments that we submitted on 5 February 2024 (REP10-057).


### **The Finch Judgement**

We reviewed the Applicant's response received on 6 September 2024 with regard to the implications of the Supreme Court judgement, the case of R (on the application of Finch on behalf of the Weald Action Group) (Appellant) v Surrey County Council and others (Respondents), for the Luton Airport Expansion DCO.

We have read the Applicant's response to your request of 29 August 2024 to provide any information it considered relevant in relation to the implications of the Finch judgment for the Proposed Development. We have also read the response of London Gatwick Airport to the Examining Authority's question CC.2.1<sup>1</sup> in relation to the implications of Finch for their Northern Runway Project DCO, as well as the

---

<sup>1</sup> Gatwick Airport Northern Runway Project DCO, ExQ2 via  
<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR020005/TR020005-002773-GATW%20ExQ2%20FINAL.pdf>



responses from Interested Parties at that DCO Examination (including Kent County Council, the Legal Partnership Authorities, CAGNE, GACC and a couple of individuals).

We consider that the Applicant has provided a useful overview of the Finch case in Appendix A of their response. The Applicant then sets out how aviation emissions have been calculated and how this is consistent with the Government's approach, both in terms of aviation policy and regarding recent aviation appeal decisions. This approach does seem to be appropriate and accords with that taken in relation to recent airport inquiries. Two of these inquiries and decisions preceded the Finch judgement, namely Bristol Airport's 12mppa public inquiry (PINs ref: APP/D0121/W/20/3259234 dated 2 February 2022), and the Luton Airport 19mppa public inquiry (PINs ref: APP/B0230/V/22/3296455 dated 13 October 2023), whilst the decision on the third, the London City Airport 9mppa public inquiry (PINs ref: APP/G5750/W/23/3326646 dated 19 August 2024) was made after the Supreme Court handed down its judgement on Finch.

It is also worth noting that the Applicant's response in relation to emissions arising from inbound flights, is consistent with that presented by Gatwick Airport Limited in response to the Examining Authority's question on climate change and the implications of Finch for their proposed development (see paragraphs 37f of GAL's REP7-079<sup>2</sup>).


The Applicant has also considered upstream or indirect emissions, in the form of well-to-tank emissions, in a similar manner to that presented by Gatwick Airport Limited at their DCO Examination. We consider that the Applicant's assessment of well-to-tank emissions for the four key sources (construction, airport operations, surface access and aviation) is appropriate, and that based on the information provided in the Applicant's tables, the conclusion that these indirect emissions do not alter the significance of the impact of the assessment for greenhouse gasses, within the Environmental Statement, is fair. Further, the Council also accepts the Applicant's overall conclusion that total emissions from the Proposed Development, when including well-to-tank emissions, is not so significant as to materially impact on the ability of the Government to meet its carbon reduction targets.

The other areas that the Applicant's response considers with regard to the implications of the Finch judgement on the Proposed Development, are those associated with: indirect surface access emissions; increased employment because of economic growth; and the proposed Green Controlled Growth Framework.

The Council agrees with the Applicant's conclusion that the additional indirect surface access effects assessed, namely potential effects in terms of greenhouse gas emissions from changes to vehicle routing and additional highway capacity, would be negligible and that the overall conclusion in the Environmental Statement in terms of surface access emissions would remain unchanged.

---

<sup>2</sup> REP7-079 via <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR020005/TR020005-002952-10.56.2%20The%20Applicant's%20Response%20to%20ExQ2%20-%20Climate%20Change%20and%20Greenhouse%20Gases.pdf>



With regard to greenhouse gas emissions arising from increased employment due to the economic growth of the airport, the Applicant asserts that these cannot be adequately estimated and so are incapable of being assessed. Based on the Finch judgement, it would appear entirely reasonable for the Applicant to state that there is no requirement for an assessment as there is no clear causal pathway.

In terms of the Green Controlled Growth Framework, nothing similar was put forward by Gatwick Airport Limited for their proposed Northern Runway Project DCO, and the Council agrees with the Applicant that the Green Controlled Growth Framework is a far reaching commitment to manage the environmental effects associated with the proposed expansion of Luton Airport. The Applicant's conclusion that the Finch judgement has no implications for the Green Controlled Growth Framework is accepted by the Council.

### **Noise**

The request for information is to the Applicant to respond to submissions made by Interested Parties (including those submitted by Suono on behalf of the Host Authorities), and therefore does not require a response from Luton Council at this stage.

### **Side Agreements**

The request for information is to the Applicant and Hertfordshire County Council, and consequently we have no comment on these side agreements.

### **Other Matters**

[REDACTED] invited to respond to previous submissions from Interested Parties state that this will generate the need for additional comments from Luton Council.


### **Interested Parties**

We were invited to provide any further comments that we might wish to make at this stage. We have two areas that we would wish to address arising from the responses received to the last consultation and published on 11 September 2024.

Airspace change: Firstly, we note that there were a considerable number of responses pertaining to the Swanwick Airspace Improvement Programme - Airspace Deployment 6 (AD6), with the CAA Stage 7: Post Implementation Review having sought feedback by 11 September 2024. This coincided with the timetable for providing responses to the last consultation request from the DfT re the Luton Airport Expansion DCO, which may explain the number of responses received, despite the fact that airspace change (including that of AD6) had been addressed during the Examination.

The Applicant addressed the relationship between airspace change and the DCO in a submission at Deadline 1 (REP1-028).

The AD6 proposal separates the holding areas for Luton and Stansted Airports, providing a new holding area for Luton Airport approximately 40 miles to the north of Luton (above Grafham Water in Cambridgeshire). The stack would be at circa 9,000ft and would have minimal changes to flight paths below 5,000ft (and consequently would not have noise effects above the lowest observable adverse effects level).



The CAA decision on the AD6 proposals was made on 24 November 2021, with the airspace change being implemented on 24 February 2022. The data collection and monitoring period was extended until 22 September 2023 to fully inform the PIR analysis, taking into account the strengthened recovery of aviation following the Covid-19 Pandemic. Not only was the CAA provided with one year's worth of data and its analysis (from 23 September 2022 to 22 September 2023), but all complaints received from the implementation date were also provided and considered.

Following the publication of the PIR material on 11 July 2024, the CAA invited stakeholders to provide comments in a 28 day period (though that was extended to 11 September 2024), which the CAA will study before publishing its assessment report.


With regard to the DCO we do not consider that the additional comments from Interested Parties in relation to the airspace change have any implications for the proposed development.

Green Horizons Park: The second matter that we wish to address is the response from the Friends of Wigmore Park in relation to the Green Horizons Park development. There are a number of factual errors within the Friends of Wigmore Park's response.

In our response of 19 August 2024 to your consultation of 2 August, we confirmed that the Green Horizons Park development had been lawfully implemented. The Applicant provided a more detailed response in paragraphs 2.1 to 2.12 of their letter and we concur with the facts that the Applicant has set out in that

With regard to the errors in the Friends of Wigmore Park's letter we would point out the following:

- Outline permission was not 'approved by LBC in March 2019' (second paragraph on page one of their letter, also repeated in the fifth paragraph on the second page), rather planning permission was granted on 29 June 2021 (the background information was provided by the Applicant to the ExA in their Deadline 1 submission REP1-005 with the Decision Notice being included in Appendix B [REP1-007]).
- A number of times the Friends of Wigmore Park challenge whether the development has commenced. In paragraph eight on page one, they state that development has not 'occurred within five years of permission, when that permission expired in March 2024, not June as stated.' Condition 1 of the permission granted on 29 June 2021 stated that:  
*"The development hereby permitted shall be begun not later than the expiration of three years beginning with the date of this permission."*  
As noted in both the Council's and the Applicant's responses of 19 August 2024, development had commenced within three years of the date of decision, namely by 28 June 2024.
- The final two paragraphs on the first page of the response from the Friends of Wigmore Park confuse the commencement of development entailing works associated with the skate park and children's play areas (which forms part of



the detailed planning permission) and the submission of the reserved matters for a building in Phase 1 of the development (which is the first phase of the outline planning permission). The Applicant's response of 19 August 2024 does refer to the reserved matters application (LBC ref: 24/00764/REM), which was submitted within the three year period (on the 21 June 2024) and does as the Applicant's response notes 'keep the outline elements of the Planning Permission extant.' As an update, the Council would advise that the reserved matters submission was approved on 10 September 2024.

- Finally, in relation to the comment questioning whether the erection of rickety Heras fencing, placing a few wooden posts and a single hole on the site of the new skate park at Wigmore Valley Park, denotes the commencement of the GHP planning approval' (final paragraph on the first page), we can confirm that it does constitute commencement of the development. Section 56(1) of the Town and Country Planning Act 1990 notes that "*development of land shall be taken to be initiated (a) if the development consists of the carrying out of operations, at the time when those operations have begun*" and we have previously confirmed that the works that were undertaken by 28 June 2024 were material operations that have kept the permission alive.

We trust that our response to the Applicant's comments on the Finch judgement, and those in relation to other issues raised by Interested Parties are of assistance.

Yours sincerely



Sunil Sahadevan  
Interim Service Director  
Sustainable Development