

Department for Transport,  
Great Minster House  
33 Horseferry Road  
London SW1P 4DR



Interested Party reference **20040757**

13 October 2024

**Ref: TR020001-003601 Invitation to comment, dated 27 Sep 2024**

Dear Sir / Madam,

**Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010:  
Application by London Luton Airport Limited (“the Applicant”) Seeking Development  
Consent for the Proposed London Luton Airport Expansion (“the Proposed Development”).**

These are LADACAN’s comments, as invited, on Appendix A of the letter from Luton Rising (“The Applicant”) dated 6 September 2024 (TR020001-003592-London Luton Airport Ltd) regarding potential implications of Lord Leggatt’s ruling in ‘Finch v Surrey County Council’ (“*Finch*”) on the scope of the Applicant’s Greenhouse Gas Assessment. Unless otherwise indicated, paragraph references below are to those in Appendix A of TR020001-003592.

### ***1. Scope of assessment***

In Section 1.1, the Applicant advances its view on the applicability of *Finch* to the Proposed Development, and seeks to establish various conditions for inclusion:

- That there is a causal chain between a project and the combustion of oil leading to emissions:- the Applicant does not dispute this
- That the effects are capable of being assessed:- the Applicant suggests that impacts of GHG emissions from possible increased in employment and economic growth fail this test; it does assess the other impacts listed in 1.1.13 thereby providing additional information for the EIA assessment, thus evidencing that they can be assessed
- That the effects of the emissions are significant:- the Applicant suggests that Well-To-Tank (“WTT”) emissions, although capable of being assessed, are insignificant

The Applicant essentially agrees that *Finch* necessitates assessment of all direct and indirect significant effects which are likely to occur and capable of meaningful assessment, and does provide an assessment of the following from the list at 1.1.13:

- GHG emissions from inbound flights
- GHG emissions from WTT activities
- Indirect surface access emissions
- Impact of Green Controlled Growth framework of Limits and thresholds

It is therefore reasonable that the Secretary of State should take account of these impacts when assessing the EIA – and furthermore that this should be done in light of all relevant factors such as the decision to include aviation emissions in the Sixth Carbon Budget.

## **2. Stand-alone tests**

As a key further general point, Lord Leggatt makes clear each project assessment should be performed as a stand-alone test without being concerned about double counting, which is a different approach to that required for the Jet Zero Strategy (“JZS”) or the carbon budget.

In particular this applies to the need to assess the extent of emissions from inbound flights, contrary to what the Applicant argues (though at the same time providing the assessment).

The point turns on a crucial difference between reporting of emissions, and project-specific assessment of emissions. The latter, as clarified in *Finch*, focuses properly on informing the decision-maker and the public of the actual predicted impact on the climate from the extent of GHG emissions that the project would cause, rather than on avoiding double-counting.

From a decision-taking perspective, Lord Leggatt expressly finds at §125 that *“there is no rule that the same effect on the environment cannot result from more than one activity or that, if particular effects have been or will be assessed in the context of one project, this dispenses with the need to assess them as part of an EIA required for another project.”*

We now address the assessments in turn, and then provide observations and conclusions.

## **3. Scope 3 emissions in general**

The Applicant takes the view that Scope 3 emissions relating to aircraft, other than from the LTO cycle, are not part of its Green Controlled Growth (“GCG”) Framework<sup>1</sup> since they are part of the national budget and not under the direct control of the Airport Operator.

Appendix A echoes the Applicant’s “displacement” argument wherever it seeks to wash its hands of consideration of emissions from flights, as exemplified in the GCG Framework:

*“3.4.29 As such, any decreases in GHG emissions from flights operating to or from the airport would simply be offset by equivalent increases elsewhere. This would not help the UK meet its goal of achieving net zero by 2050, nor would it help to address the global effects of climate change. It could also lead to longer surface transport journeys overall as people travel to less convenient airports for flights that might otherwise have been offered at Luton, resulting in greater energy use and therefore GHG emissions.”*

We reject this fallacious argument and respectfully urge the Secretary of State to do likewise. The logical extension of the Applicant’s approach would nullify the aviation decarbonisation and Net Zero commitments which the Government is required to meet.

All UK airports could argue they should be permitted to expand to maximum potential capacity without any EIA consideration of additional emissions of aircraft in flight because taken individually the extra GHG emissions would be negligible. The net result could be all airports expanding to full capacity, which would then exceed carbon budgets.

This point is summed up neatly in a post by Flight Free:

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<sup>1</sup> TR020001-03212-7.03 GCG Framework Explanatory Note – see also its paras 3.4.7, 3.4.10

*“In 2019, the Climate Change Committee recommended that, in order to reach the UK’s legally-binding net zero goals, air passenger numbers should not rise by more than 25% by 2050. In 2023 the CCC repeated its call for there to be no net airport expansion in the UK. Airport expansion plans at that time added up to nearly 60% increased capacity.*

*This disparity made clear the issue concerning airport expansion decisions: they are taken in isolation, rather than as a whole. This creates problems when it comes to calculating how airport expansion fits into our remaining carbon budget; on their own, no airport expansion would tip us over the edge of net zero. Collectively, our budget is quickly spent.*

*For example, Heathrow’s third runway would increase existing capacity by almost 20%, taking up nearly the entire expansion budget, meaning that if Heathrow were to expand, none of the others could. Each political decision hinges on there being room in the carbon budget for that particular airport’s proposals. It’s easy to argue the case – as long as you overlook the fact that the same argument is being applied to all other expansion applications”<sup>2</sup>*

We respectfully request the Secretary of State to pause decision-making on any significant airport expansion until the proposals can be assessed in context of an overall UK national aviation carbon budget, as advocated by the Committee for Climate Change, rather than simply being viewed in isolation which is clearly absurd in the context of the climate crisis.

#### **4. Emissions from inbound flights**

For the reasons indicated in Section 2 above, we disagree with the Applicant’s view that its proposed increases in GHG emissions from inbound flights should be ignored

The assessment in Appendix A appears reasonable in terms of the phases of flight, although we note that the use of the LLA bunker fuel measure omits any assessment of “tankering” (where an aircraft carries sufficient fuel for more than one sector when departing, and does not refuel at the first destination).

Appendix A Table 1 shows the revised net increases in aviation emissions attributable to the Proposed Development were it to go ahead as follows:

|   |                              |
|---|------------------------------|
| 2050 Future baseline (without Development):   | 587,978 tCO <sub>2</sub> e   |
| 2050 Core planning case (with Development):   | 1,149,852 tCO <sub>2</sub> e |
| 2050 Net impact Core case (with Development): | 561,874 tCO <sub>2</sub> e   |

The 1.15MT CO<sub>2</sub>e is some 5% of the 23MT allowed by the CCC for the UK aviation sector by 2050, therefore representing a significant proportion.

Note however that the Applicant has only performed this assessment for its **Core planning case**, whereas the Applicant has based its Noise Limits on its **Faster Growth case**. Therefore, the emissions impact is still being understated.

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■ [REDACTED] / (retrieved 13 Oct 2024)

## **5. Well to Tank (“WTT”) emissions**

These emissions relate to extraction, refinement, and transport to point of use. In line with ANPS requirements, Appendix A provides construction, operation, surface access and aviation emissions assessments. The Applicant argues that this is conservative because these emissions occur mainly outside of the UK. Again, we disagree based on Section 2 above.

Table 2 shows an overall a 20.8% uplift in GHG emissions taking WTT into account, which is very significant, and is an area where JZS is silent but which *Finch* is correct to highlight. The uplift accounts for around 0.17% of the sixth carbon budget, which cannot be disregarded.

We note that the Applicant uses the displacement argument in 3.1.5, seeking to dismiss the necessity to include the WTT emissions increase into the EIA assessment of the impacts of its Proposed Development. We make two points in response:

Firstly, as indicated in Section 2 above, the Project being assessed would consequentially lead to additional oil being burned as a direct result of the expansion of LLA, therefore the WTT component is relevant according to *Finch*.

Secondly, the Applicant does not assess the benefits of any potential increase in economic activity occurring elsewhere should the Proposed Development be refused. This stance is asymmetric: if the Applicant wishes to claim the benefits locally it must take all the impacts into account locally as part of the proposal.

Regardless, it makes sense to include WTT emissions for kerosene in order to compare with SAF which already includes the WTT emissions as part of the lifecycle assessment. Equally, any SAF used in aviation in the UK today is also largely sourced from outside the UK, and yet the claimed net benefit is attributed to UK flights without any checks that the net reductions have not been claimed elsewhere. There needs to be a consistent approach.

## **6. Green Controlled Growth**

The Applicant still misleadingly hails GCG as some new and innovative approach, whereas it is simply a pragmatic way to control the rate of development of capacity at an airport which spectacularly failed to control development between 2014 and 2019, financially incentivised by the Applicant to grow capacity at an accelerated rate (see REP1-095 Appendix 1, Sections 1, 3, 6, 7, 8 and 9).

It should be noted that Appendix A 2.1.2 confirms that LTO cycle emissions from aircraft are included in the Environmental Statement, however the Airport Operator does not directly control fleet modernisation; aircraft fuel efficiency; the development of ZEF; or availability, cost and uptake of SAF. Yet Scope3 emissions are excluded from the GCG Framework.

## **7. Non CO<sub>2</sub> impacts**

There is no mention of non-CO<sub>2</sub> emissions. The Applicant has previously referred to the uncertainties associated with accurately estimating non-CO<sub>2</sub> impacts but does not address this question again in relation to *Finch*.

*Finch* is primarily concerned with GHGs and climate impacts, and while aviation's non-CO<sub>2</sub> impacts fall outside of the list of Kyoto GHGs, the associated temperature effect is relatable to the temperature goals under the Paris Agreement.

In 1.1.7, the Applicant draws our attention to the exclusion of effects based on 'conjecture and speculation' and goes on in 1.1.8 to infer that this means there should be no uncertainty.

While these comments were not made in relation to non-CO<sub>2</sub> we would argue that they do not offer a defence for excluding non-CO<sub>2</sub> from the impact assessment. The level of scientific knowledge goes well beyond 'conjecture and uncertainty' and while the precise magnitude of non-CO<sub>2</sub> impacts is subject to ongoing research, it is possible to make an assessment.

### **8. Observations**

The impacts are assessed against the emissions assumptions of the Jet Zero Strategy (JZS) and the UK carbon budget for departing flights, noting the ANPS guidance regarding refusal of an application if emissions would have a material impact on carbon reduction targets.

We respectfully ask the Secretary of State to take a fresh and pragmatic view of the progress towards the inherited set of aspirations embodied in the JZS – a strategy which has attracted a view inherited from the previous government that it constitutes policy which can be relied on in EIA decision-making, even though the means of delivery are unclear and unproven (see **REP6-136**, and a useful summary from Flight Free<sup>3</sup>)

While advocating that an impact must be capable of being assessed, the Applicant does not consider its proposed mitigations in a similar way. We note that the JZS relies on the delivery of the key dependencies which underpin the its aspirations, and that these cannot be taken for granted in the way the Applicant supposes. For example:

- Development of Zero Emissions Flight using electric or hydrogen power: there is no basis yet on which to assume aircraft using such technology will be capable of being deployed in significant numbers at LLA during the span of the Proposed Development
- The introduction of SAF: it remains unclear whether SAF will be affordable or even available at sufficient scale to mitigate the proposed increases in emissions at LLA
- Airspace redesign: this process is still much delayed and the London Airspace is the most complex part of it, with interdependencies between multiple airports. For LLA to benefit, its departures need to achieve Continuous Climb, which depends on the use of Departure Management (DMAN) Systems not as yet in widespread use. Note that LLA is not listed as one of the airports operating such systems, and that there would be a need to integrate the operations of DMAN systems with ATC operations.

A recent email update from ACOG to its Community Advisory Panel indicates that progress towards DMAN is still at a relatively early stage.<sup>4</sup>

The increasing urgency of the climate crisis, and the clearly evidenced cost-consequences of more extreme weather events – in particular storms and floods, with knock-on effects on housing, business, infrastructure and farming – such “washing the hands of responsibility” by the aviation sector can no longer be permitted.

## **9. Conclusions**

We respectfully urge the Secretary of State to postpone any decisions on further airport expansion applications until key gaps left by the previous government have been filled:

- a) an overall UK aviation carbon cap has been agreed, against which aggregated emissions forecasts from current and pending applications is assessed in light of a carbon-aware infrastructure strategy which is geared to an aggregate of emissions and a fair apportionment of impacts and benefits
- b) the aspirations of the JZS have been translated into a policy which can be relied on and which is funded by the polluter through taxation on aviation fuel and frequent fliers
- c) there is a clear, coherent and equitable aviation noise policy including night flights, backed up and overseen by independent body to replace ICCAN

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<sup>4</sup> *“One of the main goals of airspace modernisation in the London Terminal Area (LTMA) is creating a structured route network, where aircraft follow predetermined flight paths to reduce tactical interventions by air traffic controllers and improve their vertical profiles (a concept known as systemisation). DMAN systems play a crucial role in this by optimising the sequence of departures, taking into account runway availability, ground movements, and airspace congestion. LTMA airports such as Heathrow, Gatwick, Stansted, and London City have already invested in DMAN systems to enhance the management of their ground operations and improve runway efficiency.*

*Some DMAN data is now being shared with NATS Air Traffic Management (ATM) systems to better coordinate departures across the LTMA. This helps manage the timing of flights and reduces congestion by enabling more accurate planning. However, for full systemisation, improvements in the accuracy, coverage and integration of the DMAN (and Arrival Manager - AMAN) data is needed, especially to optimise aircraft climb and descent profiles.*

*NATS, in collaboration with LTMA airports and European partner ANSPs, is developing its Demand Capacity Balancing capability, which uses DMAN outputs and other aspects of the airports’ operational plans to forecast demand and airspace capacity. This capability is part of the SESAR (Single European Sky ATM Research) initiative that aims to improve departure flows, climb profiles, and overall airport participation in the ATM decision-making process.*

*Further integration of airport DMAN systems is expected during the next phase of LTMA airspace modernisation. It is likely that the UK ADS will take on a leading role in refining and integrating the current cluster of LTMA airspace designs. This will include evaluating the benefits of DMAN systems and their role in a systemised airspace concept of operations for the LTMA.”*

(email update from ACOG to Community Advisory Panel, 9 October 2024)