

1st November 2024

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Your Ref: TR020001

Dear Sir/Madam

London Luton Airport Expansion Project (Reference Number TR020001)

1. Further response to Secretary of State letter published on the 27 September 2024 – section 85 of the Countryside and Rights of Way Act 2000

1.1 In paragraph 1 of her [letter](#) dated 27 September 2024 the Secretary of State set out:

Without prejudice to the final decision and subject to the above, Natural England, the Chilterns Conservation Board and the Applicant are invited to set out what, if any, further enhancement measures they agree could be brought forward, should it be decided further measures are necessary to assure compliance with the amended duty. If agreement cannot be reached, the Applicant, Natural England and the Chilterns Conservation Board are invited to set out their respective views on what is needed to resolve the concerns.

1.2 The Applicant responded in their [letter](#) dated 11 October 2023 setting out, that without prejudice to their position that no further measures are necessary to assure compliance with the amended duty, the Applicant had commenced engagement with the Chilterns Conservation Board (CCB) to understand what further measures would allow it to be satisfied that the enhanced duty has been met¹. At paragraph 2.5 the Applicant stated:

As these matters are under active discussion and are not capable of resolution by the deadline of 13 October 2024 (given the complexity of the issues and the governance involved in making any such commitments) the Applicant proposes to provide a further update to the Secretary of State on whether a form of commitment has been identified and agreed by 1 November 2024. The Applicant is aware that the CCB has proposed the same date for an update.

¹ The Applicant notes that it has not engaged directly with Natural England, on the basis that CCB advised (at the meeting with the Applicant on 10 October 2024) that Natural England's preferred approach is that discussions are conducted with the CCB. Natural England's [letter](#) to the Secretary of State dated 14 October 2024 confirmed the same.

- 1.3 Following the Secretary of State's confirmation that the Applicant and CCB were duly permitted an extension of time, the Applicant now provides its update as follows.
- 1.4 The Applicant and the CCB have engaged regularly and meaningfully over the last three weeks, including meetings on 10 October, 24 October and 31 October 2024. The purpose of the engagement has been to seek to agree what further enhancement measures could be brought forward, should it be decided by the Secretary of State that further measures are necessary to assure compliance with the amended duty. For the avoidance of doubt, the Applicant has made clear that the discussions held were without prejudice to its primary position that no such measures were necessary or justified in planning terms.
- 1.5 Noting Natural England's proposal that "*a financial package may be a suitable mechanism for securing enhancements*", the Applicant and CCB have focussed engagement on the potential for a legal agreement between the parties that would secure a financial contribution to projects in the Chilterns National Landscape that would meet defined purposes related to conservation and enhancement.
- 1.6 Despite constructive discussions taking place, there remains significant differences in the parties' positions on the terms of any agreement, in particular on:
 - 1.6.1 the appropriate quantum of any fund – the parties are a long way apart on the sum of money that any financial commitment should comprise; and
 - 1.6.2 the consideration flowing in the Applicant's direction upon entering into any agreement – the Applicant understands that CCB's position remains that even if a legal agreement was settled between the parties, under which a financial contribution towards enhancement measures in the Chilterns National Landscape was secured at a quantum acceptable to CCB, this measure would still not satisfy the CCB that the enhanced duty has been met. This would be a critical basis for the Applicant to enter into such an agreement, and so without the agreement of this term, the Applicant considers the parties are at an impasse.
- 1.7 Returning therefore to the Secretary of State's first question, for the reasons set out above the Applicant does not consider that the parties can feasibly agree measures to assure compliance with the amended duty.
- 1.8 The second part of the Secretary of State's question concerns what is needed to resolve the concerns, if no agreement can be reached between the Applicant, CCB and Natural England.
- 1.9 The Applicant's firm position remains that it does not consider any further measures are necessary to ensure compliance with amended section 85, for the reasons set out at paragraphs 4.1– 4.20 of the Applicant's [letter](#) to the Secretary of State dated 19 August 2024 and paragraphs 2.2 – 2.3 of the Applicant's [letter](#) dated 11 October 2024 (which in turn cross-reference the submissions made on the matter during the examination).
- 1.10 To supplement its case, the Applicant highlights two further points:

- 1.10.1 The Applicant's Community First commitment [REP11-025], secured by section 106 dated 9 February 2024 [REP11-108] provides a significant financial contribution to local communities affected by airport expansion, up to £13 million each year at a throughput of 32 mppa. The Community First zone (figure 9.1) includes significant areas of the Chilterns National Landscape, and projects capable of receiving funding are those which tackle deprivation and support the achievement of carbon neutrality by 2040. It follows that conservation and enhancement projects within the Chilterns National Landscape which also meet the Community First aims are already capable of receiving funding.
- 1.10.2 In its submission of 19 August 2024 the Applicant highlighted the separate airspace change process, operated by Government through the CAA, that regulates the routing of flights including over National Landscapes. The Applicant notes that Government has recently launched a consultation on a proposed new UK Airspace Design Service². This is evidence of the measures taking place at a national level to seek to modernise and improve the efficiency of UK airspace and reduce its impacts.
- 1.11 Should the Secretary of State decide that (notwithstanding the Applicant's position) further measures are necessary and appropriate in the context of the enhanced duty, then the Applicant observes that the Secretary of State is capable of introducing a new form of commitment, secured by the draft DCO, if a decision is made to grant consent.
- 1.12 To assist the Secretary of State in this regard, the Applicant proposes to send a further letter on Friday 8 November 2024, setting out specifically the form and content of such a commitment, and how it could be secured. As the Applicant's focus up until this point has been to explore a legal agreement, more time is required to develop a unilateral form of commitment.
- 1.13 For the avoidance of doubt, the Applicant will present the measure to the Secretary of State without prejudice to its primary argument that it is not necessary or justified in planning terms.

2 Update on negotiations with Bloor Homes Limited

- 2.1 The Applicant has now reached an agreement with Bloor Homes [RR-0153] and a deed is expected to be completed shortly.

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

Yours sincerely,



Antony Aldridge
Head of DCO Programme

² <https://www.gov.uk/government/news/new-plans-for-quicker-quieter-and-cleaner-flights-on-the-horizon>

