

# Development Management Committee

## Minutes

30 November 2021 at 6.00 pm and

1 December 2021 at 6.00 pm

### Present:

Councillor Taylor (Chair); Councillors Agbley, A. Ali, Bridgen, Donelon, A. Hussain, M. Hussain, Khurshid and Masood

### In Attendance:

Councillor Roche  
Councillor Shaw (part meeting on 30 November 2021)

#### 48. Apology for absence (Ref 2.1)

An apology for absence from the meeting was received on behalf of Councillor Franks.

#### 49. Minutes - Ref (2.1)

That the minutes of the meeting of the Committee held on the 27 October 2021 be taken as read, approved as correct record and signed by the Chair.

#### 50. London Luton Airport, Airport Way, Luton (Ref: 7)

The Planning Team Leader reported on Application No. 21/00031/VARCON submitted by London Luton Airport Operations Limited (LLAOL), in respect of the variation of Conditions 8 (passenger throughput cap), 10 (noise contours), 22 (car parking management), 24 (travel plan) and 28 (approved plans and documents) to Planning Permission 15/00950/VARCON (dated 13th October 2017) to accommodate 19 million passengers per annum and to amend the day and night noise contours, at London Luton Airport, Airport Way, Luton

He was assisted by the council's external consultants, Dr Mark Hinnells in respect of climate change issues and by Vernon Cole in respect of noise issues, associated with the application. Also assisting were David Gurtler, the council's retained Airport Consultant and John Steel, QC, who dealt with any questions and clarifications from members.

The Planning Team Leader further reported on public consultations undertaken and further information provided as a result. The committee was also informed that the application was advertised through press releases to notify people and site notices were placed, which resulted in a significant response.

He additionally reported on updates to the report dealing with development since the initial committee report was completed. He informed members about the review of the Airport Master Plan by the Overview and Scrutiny Board and about the Executive's decision to adopt the use of the Airport Master Plan for the purpose of policy LLP6 of the Local Plan. The updates also contained a number of late written representations, mainly in objection, but also in support of the application and the responses to the issues raised.

The amendment document had been circulated to Members in advance of the meeting and published, alongside the committee agenda papers, on the council website.

He further reported on a number of late additional written representations received prior to the meeting, mainly in objection, but also one in support of the planning application and these were made available to members for their information and consideration and published on the council's website.

The Planning Team Leader requested that the committee agree an amendment on the first line of recommendation 2 a) (01), replacing the words, "Part II of" with "Regulation 18 and". The recommendation, therefore, to now read:

"2 a) (01) "The requirements of **Regulation 18 and** Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 (as amended) are satisfied by reason of the Addendum to the Environmental Statement including at least the following information:"

In accordance with the right to speak procedure (RTS), a number of objectors addressed the Committee in objection to the application over the course of the meetings on 30 November and 1 December 2021 and responded to members' questions. Agents for the applicant also addressed the committee, when re-convened on 1 December 2021, in support of the application and in response to the objections, answering members' and providing clarifications, as appropriate.

In relation to a member's motion for an additional condition to be included about tree planting to mitigate the impact of air pollution and improve air quality for residents living under the flight path, on legal advice, it was suggested that a condition was not the correct route. Members were advised that, as the matter was in the community programme being put forward by the applicant, they (members) could hold the applicant to account in that way, to which the applicant's representatives nodded in agreement. Members requested that this commitment be minuted. The motion was accordingly not proceeded with.

A member also requested that it be minuted that the area affected was wider than South Ward, covering other wards under the flight path, which included Wigmore ward and requested that in future the relevant ward councillors be involved in discussion on the matter.

Following discussions, comments and statements by Members of the Committee, the Chair moved the Officer's recommendations to approve the application, as set out in the report and as amended in line with the update document and the oral representation of the Planning Team Leader.

The motion was seconded, put to the vote and carried.

**Resolved:** (a) That the Development Management Committee resolved that:

(01) That the requirements of Regulation 18 and Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 (as amended) are satisfied by reason of the Addendum to the Environmental Statement including at least the following information:

- (i) A description of the development comprising information on the site, design and size of the development;
- (ii) A description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
- (iii) The data required to identify and assess the main effects which the development is likely to have on the environment;
- (iv) An outline of the main alternatives studies by the applicant and an indication of the main reasons for the choice made, taking into account the environmental effects;
- (v) A non-technical summary of the information under (i) to (iv) above.

(02) That it be recorded that, that in making the decision on the application, the Committee has taken into account the environmental information comprising the Environmental Statement and Addendum and that this information meets the minimum requirements of Regulation 18 and Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 (as amended).

(b) Planning permission be granted subject to:

- The Airport Master Plan being adopted by the Council's Executive, which occurred on 23 November 2021

i. Delegated authority being granted to the Head of Planning in consultation with the Council's Senior Solicitor (Planning) to:

- A. complete a variation to the current agreement dated 9/10/2017 and made under Section 106 of the Town and Country Planning Act 1990, in order to retain its current provisions and be varied to contain the following:
1. provision, implementation, monitoring and review of travel plans for passengers and staff;
  2. review of the Airport Surface Access Strategy within twelve months, such a review to make provision for additional staff parking and electric charging points;
  3. provision and an update to the noise alleviation measures including the noise management plan, noise mitigation and noise insulation scheme (including an increase in the noise insulation fund);
  4. provision and update to the current employment, skills and training programme;
  5. provision, implementation, monitoring and review of a Carbon Reduction Strategy;
  6. provision of an annual airport monitoring fee
- B. finalise the terms of the Section 106 agreement.

ii. The imposition of the conditions as detailed in Appendix 1 to this report and set out below, with delegated authority being granted to the Head of Planning in consultation with the Council's Senior Solicitor (Planning) to add any further conditions as considered necessary and to finalise the terms of the planning conditions as set out in Appendix 1.

(01) Phase 1 of the development shall be carried out in accordance with the Phasing Scheme approved on 23 April 2015 (ref: 15/00159/DOC) and Phases 2 and 3 shall be carried out in accordance with the Phasing Scheme approved on 28 October 2016 (ref: 16/01484/DOC). Otherwise no development of any phases shall take place until a scheme for the Phasing of Development shall be submitted to the Local Planning Authority. The scheme as submitted shall include the timescales for commencement of each of the phases. The scheme as approved shall be implemented in full and in accordance with the agreed timescales. (Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area).

(02) The landscaping scheme shall be carried out in accordance with details approved on 21 May 2015 (ref: 15/00449/DOC). Within one month of the completion of the landscaping scheme written confirmation of the completion date shall be submitted to the Local Planning Authority. If within a period of five years from the initial date of planting of any tree or shrub, any such plant is removed, uprooted or destroyed or dies, or becomes in the opinion of the Local Planning Authority, damaged, diseased or defective, another tree or shrub of the same species and size as that originally planted shall be replanted in the same location or as otherwise detailed in the scheme. The scheme as approved shall be implemented in full within the first planting season following completion of each of the agreed phases within Condition 1. (Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area).

(03) The buildings shall be constructed in accordance with the details and samples approved on 12 November 2015 (ref: 15/00160/DOC). (Reason: To ensure a

satisfactory standard of development and to safeguard the amenities of the surrounding area).

(04) Phase 1 of the development shall be carried out in accordance with the details contained in the Protected Species Management Plan approved on 28 January 2015 (ref: 14/01471/DOC) and Phases 2 and 3 shall be carried out in accordance with the details contained in the Protected Species Management Plan approved on 8 May 2017 (ref: 17/00459/DOC). (Reason: To safeguard any populations of these protected species on the application site).

(05) Lighting associated with Phases 1 and 2 of the development shall be carried out in accordance with the details approved on 25 September 2019 (ref: 19/00954/DOC)

No external lighting shall be installed within any subsequent phase of the development, other than in accordance with a scheme to be submitted to and approved by the Local Planning Authority. The scheme as approved shall be implemented in full and shall be subject to review in accordance with such agreed scheme. (Reason: In the interests of amenity, aircraft and public safety).

(06) Phase 1 of the development shall be carried out in accordance with the Construction Environmental Management Plan approved on 14 August 2015 (ref: 15/00452/DOC) and Phases 2 and 3 shall be carried out in accordance with the Construction Environmental Management Plan approved on 8 May 2017 (ref: 17/00460/DOC). (Reason: To minimise the environmental impact and disturbance to existing residents, vegetation and wildlife during construction of the development).

(07) The development shall be carried out in accordance with the archaeological Written Scheme of Investigation approved on 24 December 2014 (ref: 14/01496/DOC). (Reason: To ensure that the development allows for the recording of potential archaeological information).

(08) At no time shall the commercial passenger throughput of the airport exceed 19 million passengers in any twelve month period. From the date of this permission the applicant shall every quarter report in writing to the Local Planning Authority the moving annual total numbers of passengers through the airport (arrivals plus departures). The report shall be made no later than 28 days after the end of each quarter to which the data relates. (Reason: To enable the Local Planning Authority to exercise proper control over the development, in the interests of securing a satisfactory operation of the development and to safeguard the amenities of the surrounding area).

(09) Within three months of the date of this permission the Noise Control Scheme approved on 2 March 2015 (ref: 14/01519/DOC) shall be amended and submitted to the Local Planning Authority for approval in writing. The revised scheme shall be implemented and maintained.

For the avoidance of doubt, the controls within that scheme include:

- i) Measures with the purpose of phasing out of night time (2300 to 0700) operations by aircraft with a QC value of greater than 1 on either departure or arrival.
- ii) Monitoring and review of the scheme not later than the 1st and 4th year after its introduction and every subsequent five years.

iii) Limits during the night time period (2330 to 0600) of:

a) Total annual movements by aircraft (per 12 month period) of no more than 9,650 movements; and

b) Total annual noise quota movements of no more than 3,500 which, using all reasonable endeavours, shall be reduced at each review until it reaches a point where it does not exceed 2,800 by 2028.

iv) Limits for the Early Morning Shoulder Period (0600 to 0700) of not more than 7,000 movements in any 12 month period.

v) Reporting of the actual and forecast total number of aircraft movements for the preceding and next 12 months to the Local Planning Authority every three months.

vi) Within six months of the commencement of the development, a progressive reduction in the night time (2300-0700) maximum Noise Violation Limits (NVL) by the noisiest aircraft shall be implemented, as follows:

- 80dB(A) the date hereof
- 79dB(A) from 1st January 2020
- 77dB(A) from 1st January 2028

vii) Within six months of the commencement of the development, a progressive reduction in the daytime (0700 - 2300) maximum NVL by the noisiest aircraft shall be implemented, as follows:

- 82 dB(A) the date hereof
- 80 dB(A) from 1st January 2020.

(Reason: To safeguard residential amenity).

(10) The area enclosed by the 57dB LAeq(16hr) (0700-2300hrs) contour shall not exceed 21.1 sq.km for daytime noise, and the area enclosed by the 48dB LAeq(8hr) (2300-0700hrs) contour shall not exceed 42.1 sq km for night-time noise, when calculated by the Federal Aviation Authority Integrated Noise Model version 7.0-d (or as may be updated and amended) for the period up to the end of 2027.

Within 12 months of the date of this permission a strategy shall be submitted to the Local Planning Authority for their approval which defines the methods to be used by LLAOL or any successor or airport operator to reduce the area of the noise contours by 2028 for daytime noise to 15.5 sq km for the area exposed to 57dB LAeq(16hr) (0700- 2300hrs) and above and for night-time noise to 35.5 sq km for the area exposed to 48dB LAeq8hr (2300-0700) and above.

Post 31 December 2027 the area enclosed by the 57dB LAeq16hr (0700-2300hrs) contour shall not exceed 15.5 sq km for daytime noise, and the area enclosed by the 48dB LAeq(8hr) (2300-0700hrs) contour shall not exceed 35.5 sq km for night-time noise.

Post 31 December 2030 the area enclosed by the 57dB LAeq16hr (0700-2300) contour shall not exceed 15.1 sq km for daytime noise, and the area enclosed by the 48dB LAeq(8hr) (2300-0700hrs) contour shall not exceed 31.6 sq km for night-time noise.

A report on the actual and forecast aircraft movements and consequential noise contours (Day, Night and Quota Periods) for the preceding and forthcoming calendar year shall be reported on the 1st December each year to the Local Planning Authority, which shall utilise the standard 92 day summer contour.” (Reason: To safeguard residential amenity).

(11) The development shall be operated in accordance with the Noise Control Monitoring Scheme as approved on 2 March 2015 (ref: 14/01519/DOC).

For the avoidance of doubt the controls include:

- i) Fixed noise monitoring terminals and track keeping system (vertical and horizontal)
- ii) Complaint handling system
- iii) Sanctions to be imposed on infringement by aircraft in respect of track keeping and noise violation limits in accordance with condition 9 (parts vi and vii) of this permission
- iv) Arrangements for the verification of the submitted information

A review shall take place not later than the 1st and 4th year after introduction and every subsequent 5 years. (Reason: To safeguard residential amenity).

(12) The development shall be operated in accordance with the scheme to control ground noise approved on 2 March 2015 (ref: 14/01519/DOC). (Reason: To safeguard residential amenity).

(13) The development shall be implemented in accordance with the Comprehensive Surface Water Management Strategy approved on 18 May 2015 (ref: 15/00187/DOC). (Reason: To prevent surface and groundwater pollution).

(14) The detailed surface water drainage scheme for Phase 1 shall be carried out in accordance with the details approved on 8 December 2015 (ref: 15/00291/DOC) and the detailed surface water drainage scheme for Phase 2 shall be carried out in accordance with the details approved on 21 January 2019 (ref: 18/01463/DOC). No subsequent phase of development shall begin until a detailed surface water drainage scheme for that phase has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be generally in accordance with the Flood Risk Assessment (FRA) prepared by Jacobs, reference B1074100/22.2, issue 3, dated November 2012, (within Technical Appendix J of the Environmental Statement submitted with application 12/01400) and the scheme shall include details of soakaways and a restriction in run-off and surface water storage on site. The scheme as approved shall be implemented in full before completion of the relevant phase. (Reason: To prevent the increased risk of flooding and to improve and protect water quality, habitat and amenity).

(15) Phase 1 of the development shall be carried out in accordance with the details approved on 24 March 2016 in relation to measures to deal with contamination (ref: 15/00756/DOC) and Phases 2 and 3 shall be carried out in accordance with the Contamination Risk Assessment Report approved on 7 April 2017 (ref: 17/00173/DOC). (Reason: The site is located in a sensitive groundwater area over a Principal Chalk Aquifer within a source protection zone 3).

(16) No phase of the development shall be occupied until a verification report demonstrating completion of works set out in the approved remediation strategy and

the effectiveness of the remediation for that phase has first been submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved. (Reason: To protect groundwater).

(17) If, contamination not previously identified is found to be present at the site during the construction of a phase of development, no further development of the phase shall be carried out until the developer has first submitted a remediation strategy for approval to the Local Planning Authority and that such a strategy shall have been approved in writing. The remediation strategy shall be implemented as approved. (Reason: Intrusive investigations will not necessarily capture all contaminants present, hence the need to appropriately address any new source discovered during excavation and development).

(18) No infiltration of surface water drainage into the ground shall take place other than with the express written consent of the Local Planning Authority first having been obtained. The development shall be carried out in accordance with the approved details in accordance with an agreed timescale and phasing as applicable. (Reason: To protect groundwater).

(19) Phase 1 of the development shall be carried out in accordance with the details approved on 18 December 2015 in relation to piling (ref: 15/00756/DOC). No subsequent phase of the development which involves piling or other penetrative methods of forming foundations shall take place other than in accordance with a scheme which shall have first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved. (Reason: To protect groundwater).

(20) Phase 1 of the development shall be implemented in accordance with the measures to protect existing monitoring boreholes approved on 11 May 2015 (ref: 15/00454/DOC) and phases 2 and 3 shall be carried out in accordance with the Borehole Protection Report approved on 28 March 2017 (17/00176/DOC). (Reason: To safeguard the existing monitoring arrangements in the interests of the proper planning of the area).

(21) Phase 1 of the development shall be carried out in accordance with the foul drainage details approved on 14 August 2015 (ref: 15/00188/DOC).

Before the commencement of each subsequent phase, full details of the proposed means of foul drainage shall first be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to each phase coming into operation. (Reason: To prevent pollution of the water environment and to ensure a satisfactory form of development).

(22) The car parking areas shall be managed in accordance with details in the Car Parking Management Plan (Appendix B to the Transport Assessment dated December 2020, document reference 41431MP17V2).



The scheme as approved shall be implemented in full. The areas within the application site which are shown to be in use for car parking in the application details shall not be used for any other purpose other than the parking of vehicles by passengers, staff and contractors servicing the airport. (Reason: To ensure that adequate provision is made for vehicles to park clear of the highway in the interest of road safety and to prevent unacceptable environmental impact on neighbouring residential areas).

(23) The surfacing and drainage of car parking areas shall be carried out in accordance with the details approved on 22 September 2015 (ref: 15/00455/DOC). (Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area).

(24) The development hereby permitted shall be operated in full accordance with the Travel Plan dated December 2020 (document reference 41431MP18V2) for as long as the development remains in existence. (Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area).

(25) The Highway Improvement Schemes (comprising [i] improvements to the airport access road and [ii] improvements to the Percival Way roundabout) shall be carried out in accordance with the details approved on 8 May 2015 (ref: 15/00456/DOC) or otherwise in accordance with the provisions of the agreement dated 11 November 2015 under Section 278 of the Highways Act 1980 (or any variation to or replacement of such agreement). (Reason: To seek to reduce single occupancy vehicle trips to the site).

(26) The extensions to the passenger terminal hereby permitted shall not be brought into use for passengers unless and until either the approved highway improvement schemes referred to in Condition 25 have been carried out and completed by the applicant in accordance with the approved details or the applicant's obligations have fallen due under the agreement referred to in Condition 25 have been fully complied with. (Reason: To seek to reduce single occupancy vehicle trips to the site).

(27) The development shall be carried out in accordance with the Renewable Energy Strategy approved on 23 September 2015 (ref: 15/00734/DOC). (Reason: In the interests of sustainability and to reduce adverse environmental and energy impacts of the development).

(28) The development hereby permitted shall not be carried out other than in complete accordance with the approved plans and specifications as set out in the schedule of documents and the Environmental Statement contained in the Terence O'Rourke letters dated 30th November and 14th December 2012 submitted with application 12/01400/FUL and with the following documents:

- Environmental Statement Addendum
- Revised Chapter 8 of Environmental Statement Addendum
- Transport Assessment
- Travel Plan
- Car Parking Management Plan
- Site Waste Management Plan
- Drainage and Water Supply Infrastructure Appraisal

- Carbon Reduction Plan

(Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area).

(29) Within twelve months of the date of this permission, a Carbon Reduction Strategy shall be submitted to the Local Planning Authority for approval.

The Carbon Reduction Strategy and its outcomes will be subject to the following reviews:

- i. Annually: independent verification by the Airports Carbon Accreditation Scheme with the results being made available to the Local Planning Authority.
- ii. Annually: publication as part of the Airport's Annual Monitoring Report, available for review by all stakeholders, including the Local Planning Authority.
- iii. Every three years: independent audit and inspection by the Airports Carbon Accreditation Scheme with the results being made available to the Local Planning Authority.
- iv. Every five years: the airport operator review and update, including consultation with the Local Planning Authority and other stakeholders.

All approved measures in the Carbon Reduction Strategy (and subsequent updates) shall be implemented and complied with. (Reason: To ensure that the development mitigates, and is resilient to, the effects of climate change and ensure consistency with NPPF paragraph 148 to drive 'radical reductions' in carbon dioxide emissions).

**(Note: The meeting of 30 November 2021 was adjourned at 9.10 pm. The meeting of 1 December 2021 ended at 7.35 pm)**