

## Response to consultation on Environmental Statement Addendum

**Submitted by the Luton and District Association for the Control of Aircraft Noise (LADACAN)**

**PINS Reference: APP/B0230/V/22/3296455**

**Date: 19<sup>th</sup> August 2022**

### Background

LADACAN is a community group which represents the concerns of local people impacted primarily by the noise from London Luton Airport (the Airport, LLA) and concerned also by other impacts caused by passenger traffic, air pollution and fumes, carbon emissions, and the threat to quality of life and the character of the area.

LADACAN has for many years been a regular and active participant in meetings of the Airport's official Consultative Committee (LLACC) and its Noise and Track Sub-Committee (NTSC), and has also responded to numerous noise-related planning consultations arising from applications by the Airport Operator, London Luton Airport Operations Limited (the Applicant), including:

- 12/01400/FUL on the Luton Planning portal (18mppa Application) for development works to increase capacity to 18 million passengers per annum (mppa), opposed by the majority of ordinary members of the public who responded to consultation;
- 19/00428/EIA (Condition 10 Application) to increase the noise contours, withdrawn in January 2021 after three rounds of public consultation, during which it was overwhelmingly opposed with 534 public comments opposing a 2 supporting; and
- 21/00031/VARCON (the Application) – the subject of this Inquiry after three rounds of public consultation, during which it was overwhelmingly opposed with 923 public comments opposing and 205 supporting.

It should be noted that the first breach of planning condition, the night noise contour limit, occurred in 2017, worsened in 2018 and again in 2019 when the day noise contour was also breached and Airport also reached its passenger cap 9 years ahead of expectation.

A persistent theme throughout both applications, from expert reviewers acting on behalf of Luton Borough Council (the LPA) as the determining authority is a lack of clarity particularly in the area of noise.

The latest Addendum does nothing to assist in reducing that lack of clarity – in fact it makes it worse. Key information upon which the reader is entitled to rely in order to follow, assess and understand the case being made is either scattered, incomplete or obfuscated.

We do not regard this Environmental Statement (ES) overall as fit for purpose.

## Lack of clarity and coherence

The ES Addendum is the fourth iteration of ES documents relating to the Application: previous versions were issued in January 2021 and May 2021 (Library sections 1 and 4); substantial clarifications were issued in August and September 2021 (Library section 4).

The ES Addendum has made an already confusing<sup>1</sup> ES presentation in respect of noise even more confusing and difficult to follow.

In the break during the Pre-Inquiry Meeting on 6 Jul 2022 the ES Addendum was described to us verbally by the Applicant's agent Wood as "replacing existing material where section numbering was the same". However, the situation has proved to be far more complex than that.

Taking just one example: Appendix 8B in the ES Addendum contains information essential to understanding the noise contours: the predicted numbers and types of aircraft movements in the 92-day contouring period. This Table now appears in "Figures and Appendices" to the ES Addendum<sup>2</sup>, whereas in the previous (already-revised) ES it appeared in the Volume 2 Noise Chapter<sup>3</sup>, which had itself apparently<sup>4</sup> updated a table originally labelled Appendix 3A in the first Volume 3 "Figures and Appendices"<sup>5</sup>.

The Volume 2 Noise Chapter referred to above contains two additional Appendices, which are (using its numbering):

Appendix 8B Noise - Air Traffic Movements

Appendix 8D Noise Comments and responses (presumably included to avoid needing to place the comments and clarifications in context in an update version, instead leaving that effort to the reader)

One of the comments and responses in its Appendix 8D Noise states:

*"PDF page 80 ES ch2 revised: Unfortunately, Appendix 3A was not updated to take into account updates within the assessment. Whilst the data presented is correct, the years 2022, 2023 and 2024 were not added and the years 2011 and 2018 were not removed. The night-time for 2028 Development Case was omitted by accident. An up-to-date Appendix 3A will be provided with the missing data."*

We are left to assume that its Appendix 8B is indeed the update containing the missing data, however what it not clear is whether any residual data in the original Appendix 3A is still relevant.

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<sup>1</sup> See CD4.02 'Noise review on behalf of the council', Vernon Cole, Feb 2021 sections 5.1 and 5.2; CD4.07 'Noise review', Suono, Jul 2021, section 6.1; CD5.09 'DMC Amendment Sheet', Clive Inwards, Suono slides PDF p29

<sup>2</sup> CD1.17 'Addendum to Environmental Statement Figures and Appendices', Wood, Jul 2022, Appendix 8B

<sup>3</sup> CD4.06 'ES Chapter 8 Noise – Revised', Wood, May 2021, Appendix 8B

<sup>4</sup> CD4.09 'Clarification Response on Noise Issues', Wood, Aug 2021, p2 "Technical Queries", "Wood Response"

<sup>5</sup> CD1.10 'Volume 3 Environmental Statement Figures and Appendices', Wood, Jan 2021, Appendix 3A

The ES Addendum provides a further update to Appendix 8B, but with different headings and with some columns missing and one containing entirely “n/a”<sup>6</sup>. The narrative provides no explanation as to why information is either missing entirely or shown as “n/a”.

A member of the public attempting to disentangle this and confidently to navigate the ES would find it impossible to be certain what information actually applies and where in the various scattered tables to find it.

As a Rule 6 Party we asked the Applicant to clarify this Appendix in the ES Addendum for the benefit of the Inquiry, but their response<sup>7</sup> is equally confusing:

**LADACAN Question:** *“Flow tables Appendix 8B provides forecast Air Traffic Movements for the modelled future years. However, the column ‘2028 Current Limit’ appears to be missing. Please provide forecast daytime and night-time movements for this category as soon as possible.”*

**Wood response:** *“The July 2022 Addendum focused on elements which had changed from the May 2021 ES update. The 2028 Condition 10 Noise Contour forecasts have not changed. The 2023 to 2025 data was updated to take account of the previous exceedances of the Condition 10 short-term noise limits. This was not required for the future Condition 10 limits; as such there was no need to update 2028 Condition 10 forecasts and this information is as per the 2021 ES.”*

**LADACAN question:** *“... there is yet more data missing from the Table 8B.1 on pdf page 55 of the new “ES Addendum Figures and Appendices”. The column headed 2025 Current Limit (DayTime) contains “n/a” all the way down, yet the corresponding columns of figures for 2023 and 2024 are both present. And as we noted yesterday, both the columns for 2028 Current Limit (Daytime and Night-time) are also missing”*

**Wood response:** *“The 2028 Current Limit data is the same as per the previous submission last year and therefore was not included. However, we didn’t need to include the 2028 19 mppa data as this was also the same as last year’s submission, but the decision was taken to include this. For 2025, there was no need to have a 2025 Current limit column of flows as the 19 mppa for 2025 is the same as meeting the 2025 Current Condition 10 limit and so this has not been duplicated here.”*

As the Government guidance puts it:

*“One of the aims of a good environmental statement should be to enable readers to understand for themselves how its conclusions have been reached and to form their own judgment on the significance of the environmental issues raised by the project”.<sup>8</sup>*

People should not have to ask for guidance on how to navigate the ES or make sense of it, yet in this case we are faced with information which is poorly structured, scattered by the inclusion of Regulation 25 requests and responses out of context with the original

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<sup>6</sup> CD1.17 ‘Addendum to Environmental Statement Figures and Appendices’, Wood, Jul 2022, PDF p55 and 56

<sup>7</sup> ‘LADACAN information requests tracker dated 18.8.22.xlsx’, Wood, 18 Aug 2022, by email to PINS & parties

<sup>8</sup> ‘Environmental Assessment: A Guide to the Procedures’, (HMSO 1989), p4

statements, and overlaid multiple versions lacking clarity over what still applies and what does not.

### Reasons for opposing grant of the Application

LADACAN's reasons for opposing the Application on planning grounds have already been set out in our representations<sup>9</sup>. This opposition is echoed in the representations of others – for example that of the Joint Local Authorities whose residents are affected by environmental impacts of Luton Airport.

The ES Addendum has not altered our reasons for opposing the Application since it is clearly still in breach of both local and national planning policy in areas such as the following:

- The Conditions set out when the 18mppa Application was agreed by the Airport owner Luton Borough Council (the LPA) were, and remain, reasonable, necessary and enforceable otherwise they would not have been agreed.
- Condition 8 (passenger cap) and Condition 10 (noise contour limits and longer-term noise contour reduction) interlock to ensure balanced growth and mitigation
- The noise controls in particular set out a carefully calibrated suite of inter-related planning Conditions, supported by a Section 106 Agreement<sup>10</sup> which itself imposes planning Obligations on both the airport operator and the LPA.
- Taken together, these Conditions and Obligations form a sophisticated Noise Monitoring and Noise Control Scheme<sup>11</sup> which were seen as providing legally binding certainty to local communities in respect of noise over the period from 2014 to 2028.
- The 18mppa Application set out to the satisfaction of the LPA the economic benefits expected from capacity expansion to 18mppa over the period to 2028<sup>12</sup>, and the Revised Masterplan<sup>13</sup> indicated an upper-end trajectory of broadly linear growth in passenger numbers and aircraft movements (a trajectory reiterated by the Applicant in 2014<sup>14</sup>) at a rate which would provide sufficient time for fleet modernisation.
- The relationship between growth in aircraft movements, fleet modernisation and noise was described in detail in the associated noise reports<sup>15</sup>.

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<sup>9</sup> Section 3 of the Core Library: Representations Received to Consultations (currently being redacted)

<sup>10</sup> CD8.42 Section 106 Agreement

<sup>11</sup> See CD8.45 LLA Noise Control Scheme, 2015; CD13.44 Review dates and content; CD8.42 referenced above

<sup>12</sup> See for example CD16.06 Halcrow report, 2012; CD17.18 and CD17.19 LLA press releases, Jul/Aug 2015

<sup>13</sup> CD8.37 LLA Revised Masterplan, 2012, and associated 2012 Application documents

<sup>14</sup> CD8.29 LLA RNAV consultation extract, April 2014

<sup>15</sup> See for example CD13.14 Bickerdike Allen Appendix H Noise extract, Dec 2012

- This relationship was set out in a comprehensive Environmental Statement<sup>16</sup>, and in the Planning Officer's report and recommendation to the Dec 2013 Development Control Committee meeting<sup>17</sup>, which also contained noise control caveats including:

Recommendations:

*"LLAOL to instigate noise mitigation measures including a noise management plan, a noise insulation scheme and a noise insulation fund;*

*LLAOL to commit to continue to operate the Consultative Committee, Noise and Track Sub-Committee and the Transport Forum;*

*LLAOL to provide an annual monitoring report to include information on noise, traffic and local employment outcomes."*

Paragraph 110 first bullet: *"Controlling the noise impact to the levels indicated for 2028 requires that a substantial part of the airline fleet is changed to modern, low noise variants of types currently operating. The primary mechanism put forward by the applicant for ensuring that this will happen is by way of a condition limiting the extent of key daytime and night time aggregated noise contours."*

Paragraph 111: *"Although the assessment of the ES in terms of noise did initially identify areas of concern relating to the interpretation of policy LLA1, predicted noise levels, night time noise issues and necessary mitigation measures, further negotiation with the applicant has resulted in the applicant accepting additional controls and mitigation measures by way of condition and or inclusion within the S106 Agreement."*

Paragraph 183: *"Future noise control measures are included within the Airport's Noise Action Plan and the additional noise mitigation measures will help mitigate the potential effects on the local amenity on the community. Conditions are proposed to further address the noise implications of the development."*

Paragraph 202: *"...The greatest impact in the long term will therefore relate to the increase in aircraft movements, size of aircraft and passenger numbers with the associated levels of increased traffic and potential for noise disturbance in particular to residential amenity"*

Paragraph 205: *"As set out within the report, the proposed expansion of the Airport will have an impact in terms of additional noise from aircraft movements and traffic generation. However, the proposal does afford the opportunity to put in place a range of controls through the use of a mix of planning conditions and obligations contained within a S106 Agreement, in respect of issues such as night time noise, noise insulation, limitation on the passenger numbers and type of aircraft etc."*

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<sup>16</sup> CD6.02 2012 Application Environmental Statement and its associated appendices

<sup>17</sup> CD09.08 Development Control Committee Report, Dec 2013

Instead of observing the Conditions and Obligations placed upon it by the LPA as part of the planning agreement, the Applicant egregiously breached them in respect of noise.

These were not “intermittent” breaches caused by late-arriving night flights, as the Applicant’s Statement of Case puts it<sup>18</sup>. Noise contours are calculated annually for the prescribed 92-day Summer period and compared to the defined day and night contour limits, and either pass or fail. The Applicant’s own noise consultant has confirmed that the breaches were caused by over-rapid growth leading to too many flights in advance of fleet modernisation<sup>19</sup>.

The ES Addendum provides no evidence justifying this failure exercise the professional level of control over the release of capacity which would be expected of a professional airport operator. Therefore the application to legitimise non-permitted development of capacity at the Airport should be rejected.

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<sup>18</sup> Applicant’s Statement of Case, para 2.3.19

<sup>19</sup> CD8.08 ‘Condition 10 variation’, Bickerdike Allen Partners, Aug 2019