

Town and Country Planning Act 1990 – Section 77

Town and Country Planning (Development Management Procedure) (England) Order 2015

Town and Country Planning (Inquiries Procedure) (England) Rules 2000

Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017

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

Application by London Luton Airport Operations Limited for 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. (Application number: 21/00031/VARCON)

Environmental Statement Addendum

Comments submitted on behalf of :-

Hertfordshire County Council

North Hertfordshire District Council

Dacorum Borough Council

St Albans City and District Council

18 August 2022

1.0 Introduction

- 1.1 Vincent and Gorbings (“V+G”) is a planning consultancy based in Stevenage, Hertfordshire and has been instructed by Hertfordshire County Council (“HCC”), North Hertfordshire District Council (“NHDC”), Dacorum Borough Council (“DBC”) and St Albans and City District Council (“SADC”). For simplicity, in this statement the four local authorities are collectively termed “the authorities.”
- 1.2 We previously made Written Representations on behalf of the authorities in respect of the public inquiry into the planning application made by London Luton Airport Operations Limited (“LLAOL”) reference 21/00031/VARCON to change a number of planning conditions on the extant planning permission which presently controls operations at the Airport, including in relation to passenger numbers and noise.

- 1.3 The Applicant has now submitted an Environmental Statement Addendum (ESA) which is considered 'any other information' pursuant to Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, and as such a further period of public consultation has been undertaken.
- 1.4 This statement has been prepared on behalf of the authorities in response to the ESA. To summarise :-
- The ESA does not alter the authorities' position of objection given the effects of the proposals on noise and health and well being of the communities around the Airport;
 - The ESA continues to screen out economic effects which can therefore not be considered as significant;
 - There are still concerns regarding the noise contour modelling and whether this is fit for purpose;
 - The ESA does not reflect more recent climate change guidance and advice.

2.0 Baseline

- 2.1 In general terms, the authorities welcome the further detail and explanation of the future baseline against which the future environmental effects of the proposals should be measured. It has been highlighted by the authorities and others that the future baseline must be considered as being one which clearly complies with the current conditions in respect of passenger throughput and the approved noise envelope and therefore using pre-Covid operations in part to inform a future baseline, in a period where LLOAL was operating in breach of existing conditions, was entirely inappropriate and misleading as to the degree of effect that would result from permitting this application.
- 2.2 However, in our submission there is still some lack of clarity that LLOAL are in fact comparing the future baseline with the Proposed Scheme in an appropriate manner. For example, the comparison of the number of Air Traffic Movements (ATMs) for the with and without the Proposed Scheme appear to assume that the fleet mix will change in the same way in both scenarios and thus the difference between 18 and 19 million passengers per annum (mppa) is small. However, this could lead to a scenario where the number of flights with larger aircraft were effectively offering a number of spaces beyond the 18mppa cap and so would not be operationally acceptable. Any forward projection needs to evidence clearly that it conforms to Condition 8 and Condition 10 in all respects and the ESA does not achieve this, nor does it evidence how controls would be used to ensure compliance with any revised conditions, including the use of seat caps to ensure that the changing fleet does not result in the risk of conditions on passenger throughput being breached.
- 2.3 Moreover, whilst there is greater clarity than previously on this point, LLOAL still seem to be suggesting that maintaining the 18mppa cap and compliance with the existing conditions is not in reality a 'reasonable alternative' in EIA terms. The ESA states that para. 6.3.2 :-

“This updated approach provides a baseline substantiated with predicted flows, albeit ones which would be difficult for the airlines to operate in practice.”

- 2.4 It is unclear as to the basis of this comment, but what is clear is that the comparison must be with a condition compliant scenario, whether or not that resulted in operational issues. Controls would need to be in place to ensure compliance.
- 2.5 Existing Condition 10 also requires long-term contour reduction to a lower level, and such reductions cannot occur step-wise. Therefore the validation of the modelling must also demonstrate that at no time does it exceed a reasonably achievable reducing noise contour area for both day and night, to meet the long-term limit in 2028. Given that the strategy for long-term noise reduction was expected to be approved by January 2021, but still has not been, it would be reasonable to expect the contour reduction towards 2028 to have started shortly after that, given that as far as we are aware slots cannot easily be rescinded and therefore the reduction would depend on less noisy aircraft and (where possible) improved noise footprints on departure.

3.0 Noise impacts

- 3.1 Nothing in the ESA fundamentally changes the authorities’ objection to this application on noise and consequential health impacts, given that the assessment still demonstrates a worsening in environmental conditions in communities effected by noise and a significant health effect. The ESA does not change the fact that this application is contrary to the development plan and government advice in this regard, as elaborated upon in detail in our Written Representations.
- 3.2 The time lag to reach 19mppa that is modelled in the ESA compared to earlier iterations allows for the assumed rapid fleet modernisation to have more impact on the overall noise contours in the early assessment years. This clearly relies on actions of the airlines and is outside of the control of LLOAL. Some of the information presented in Appendix 8B of the ESA is not supported by any evidence base of airline announcements and we would question, for example, the abrupt change in 2025 from A320neos to A320neos and A321neos to A321neos.
- 3.3 In any event, there must be some uncertainty as to the future investment decisions of the airlines even in the alleged ‘post pandemic’ world, given other extraneous factors such as the staffing crisis within the aviation industry in general leading to a significant number of flights cancellations across 2022, coupled with a significant increase in costs due to fuel prices.
- 3.4 The authorities invite the Inspectors to closely scrutinise the assumptions set out in Appendix 8B and whether they are truly evidenced by buying decisions of the airlines, as these are pivotal to the claim that the change in noise contours will be small and for a relatively limited period.
- 3.5 If fleet modernisation does not take place as rapidly as is assumed, from the historic actions of LLOAL, the likelihood is that breaches of conditions will occur and the ultimate outcome of permitting this application for the communities around the airport will be worse than forecast in the ESA.

3.6 We understand that as a Rule 6 party, LADACAN will be raising queries regarding the derivation of contours and its consistency across various models. The authorities support LADACAN's representations, most particularly

- Whether the contouring methodology is currently fit for purpose. The Council's own consultants have queried during ES reviews since 2019 whether for consistency of comparison the 2012 model ought to be recalibrated such as occurred in 2015 and 2017.
- The calibration of the model uses 2018 to set the noise benefit of the A320neo, and 2019 to set the noise benefit of the A321neo. This may result in inconsistencies due to variation in weather and monitoring conditions.

4.0 Human Health

4.1 Despite the noise modelling presented in the ESA and the claimed reduced difference in noise effects of the Proposed Scheme compared to previous modelling, there remains a significant effect on the health of those effected. . Nothing in the ESA in this regard therefore changes the position of the authorities that the modifications to the conditions sought should be refused.

5.0 Climate Change

5.1 Clearly, the impact of the Proposed Scheme on climate change and Greenhouse Gas Emissions is a local, national and international issue. The ESA makes mention of Luton Borough Council's Climate Action Plan but fails to mention that all four authorities represented by this statement have declared a 'climate emergency' and have or are developing action plans in this regard, as set out in our original Written Representations.

5.2 Moreover, even since the ESA was written, climate change policy and advice has moved on including :-

- The publication of the new Progress Report by the independent Climate Change Committee (CCC) published on 29th June 2022 which finds "*major failures in delivery programmes towards the achievement of the UK's climate goals.*"¹
- The ruling of the High Court on 18 July 2022 that the Government's current Carbon Budget is unlawful;
- The publication by the Government of *Jet Zero strategy: delivering net zero aviation by 2050* on 19 July 2022 which prioritises largely technological solutions such as "sustainable aviation fuels" and zero-emission flights over any demand management.

5.3 This rapidly changing context will need to be considered by the Inspectors as the Inquiry proceeds.

¹ Climate Change Committee web site <https://www.theccc.org.uk/2022/06/29/current-programmes-will-not-deliver-net-zero/>

6.0 Economic effects

- 6.1 It is highlighted that the ESA fails to introduce any assessment of the economic effects of the proposals. As highlighted in our Written Representations this is a clear acceptance that any such claimed economic benefits cannot be significant as they have been effectively screened out of the EIA process.
- 6.2 This position contradicts comments made in the Applicants Statement of Case that :-
“In facilitating sustainable growth at the Airport, the S73 Application will play an important role in supporting wider economic growth and the rapid recovery from the Covid-19 pandemic.” (Appellant's SoC, para. 2.3.)
- 6.3 If the proposal was “important” to the wider economy, it would be significant in EIA terms.
“Luton therefore needs significant jobs and economic growth urgently.” (SOC para. 2.7)
- 6.4 Yet, having screened out these elements from the EIA process, the proposals cannot be considered as making a significant contribution with regard to jobs and economic growth.
- 6.5 The SoC of the Appellant goes on to claim that the proposal will create over 900 new jobs and contribute £44bn GVA to the economy (although it is understood that this was corrected by the Applicant at the Pre Inquiry Meeting to £44million). Leaving aside any interrogation of the veracity of this assessment, these economic consequences cannot, by definition, be significant. This should be considered in ascribing weight to these claimed benefits in the overall planning balance.

7.0 Summary

- 7.1 The authorities welcome the opportunity to comment on the Applicant's Environment Assessment Addendum.
- 7.2 There is some useful clarification and updating of data contained within the document, although a lack of clarity and uncertainties around some of the assessments remain.
- 7.3 Moreover, none of this new environmental information alters the authorities' objections to the proposed amendment to the conditions expressed in their Written Representations. As highlighted in opening, the proposals are contrary to the Development Plan and there are no material considerations that indicate that the decision should be taken otherwise than in accordance with the Development Plan.

Vincent and Gorbings

18 August 2022