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# Proof of Evidence

Of Sean Bashforth (for  
the Applicant) on  
Planning Matters

Application by London Luton Airport  
Operations Limited

London Luton Airport

LBC REF: 21/0031/VARCON

PINS REF: PCU/RTI/B0230/3269175

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AUGUST 2022

Q220451

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# 1 Qualifications and Experience and Scope of Evidence

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## Qualifications and Experience

- 1.1 My name is Sean David Bashforth. I hold a First Class Bachelor of Arts Degree in Geography and a Master of Arts Degree in Town and Regional Planning. I am a Member of the Royal Town Planning Institute (RTPI).
- 1.2 I am a Senior Director at Planning Consultants Quod, one of the largest independent planning consultancies in the UK, with offices in London and Leeds. I have advised private sector clients over many years on regeneration and infrastructure projects including Heathrow Airport and London City Airport. I have acted as an expert witness on many occasions in planning and compulsory purchase inquiries and in the Upper Lands Tribunal.
- 1.3 I was instructed shortly after the receipt of the 6 April 2022 call-in letter from the Secretary of State for Levelling Up, Housing and Communities (“the Secretary of State for LUHC”).
- 1.4 I have read all of the background information and made enquiries such as I consider necessary to fulfil my duties as an expert witness. My evidence comprises my true professional opinion and is provided in accordance with the RTPI Code of Professional Conduct and the RTPI Practice Advice for Planners as Expert Witnesses (September 2018).

## Scope of Evidence

- 1.5 My evidence is concerned with the appeal proposals’ consistency with planning policy and other material considerations. I consider the four matters which the Secretary of State for LUHC has asked to be informed about in paragraph 7 of the Call in Letter, namely:
  - a. The extent to which the Proposed Scheme is consistent with Government policies for meeting the challenge of climate change, flooding and coastal change (National Planning Policy Framework (NPPF), Chapter 14);
  - b. The extent to which the Proposed Scheme is consistent with Government policies for conserving and enhancing the natural environment (NPPF Chapter 15);
  - c. The extent to which the Proposed Scheme is consistent with the development plan for the area; and
  - d. Any other matters the Inspector considers relevant.
- 1.6 More specifically I have also had regard to the main issues as set out by the panel of Inspectors appointed to carry out an inquiry into the proposals at the Pre-Inquiry Meeting:
  - The implications of the proposal for meeting the challenge of climate change.

- The effect of noise associated with the proposal on health, quality of life, and the character of the area.
  - The effect of the proposal on air quality.
  - The effect of the proposal on sustainable transport objectives and transport infrastructure.
  - The socio-economic implications of the Proposed Scheme.
  - Whether the Proposed Scheme would be consistent with the Development Plan and other relevant policies; and
  - The effect of other considerations on the overall planning balance.
- 1.7 My evidence cross refers to the main Statement of Common Ground (SoCG) agreed with Luton Borough Council (LBC) which sets out the factual background. I also make reference to a Joint Statement on Air Quality (JSAQ) between LBC and the Applicant.
- 1.8 Where appropriate, I draw upon the evidence of others, including:
- a. Mr Andy Hunt – Socio-economics
  - b. Mr Rupert Thornely-Taylor – Noise, & Health and Wellbeing
  - c. Mr Matt Ösund-Ireland – Climate Change and Carbon; and
  - d. Johnny Ojeil – Surface Transport

## 2 Relevant Background

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- 2.1 In this section of my evidence, I consider the planning background including the existing planning controls that are most relevant to the current planning application.

### Planning History and Environmental Information

- 2.2 A summary of the planning history is set out in Section 4 of the SoCG. A short summary of Luton Airport's ('the Airport') planning history and environmental information relevant to this S73 Application is set out below:

- a. In December 2012 the Airport submitted a planning application (12/01400/FUL) accompanied by an Environmental Statement (dated November 2012) ("the 2012 ES") for the expansion of the Airport involving *inter alia* the dualling of Airport Way, extensions to the terminal, a new pier and walkway, extensions to taxiways, enlargement of car parks and the construction of a multi-storey car park;
- b. On 23 June 2014 LBC granted planning permission 12/01400/FUL;
- c. On 25 June 2015 the Airport made a S73 application (15/00950/VARCON) for the variation of condition 11(i) relating to nighttime noise levels. This was accompanied by an ES Addendum dated July 2015 ("the ESA1");
- d. On 13 October 2017 LBC granted planning permission 15/00950/VARCON, the Variation Permission;
- e. On 21 January 2021 London Luton Airport Operations Limited (LLAOL) made this S73 Application which included further Environmental Statement Addenda (ESA2, dated January 2021; ESA3, May 2021; and ESA4, dated 2022):

*'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. (21/00031/VARCON)' ('the Proposed Scheme')*

- 2.3 As I explain below, in 2019 an application to adjust noise contours etc was withdrawn by the Airport. This did not include proposals to increase the number of passengers.

### Noise Planning Controls

- 2.4 As set out in Section 4 of the SoCG the 2017 Planning Permission (15/00950/VARCON) and the associated Section 106 legal agreement impose a framework of limits and restrictions to control the operation of the Airport<sup>1</sup>.

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<sup>1</sup> This permission supersedes the 2014 Planning Permission 12/01400/FUL. Further controls are also imposed by parallel regulatory regimes in relation to other airport operational matters such as the environment, airspace management and public safety.

- 2.5 The 2017 Planning Permission (CD7.03) has four principal conditions relating to noise (conditions 9 to 12). These require the Airport to be operated in accordance with the Noise Control Scheme (condition 9), the Annual Noise Report, (condition 10), the Noise Control Monitoring Scheme (condition 11) and the Ground Noise Control Scheme (condition 12).
- 2.6 The conditions place limits on numbers of aircraft within specific noise signature bands; noise violation limits for individual aircraft; progressive reductions in the noise violation limits; overall size of ground noise contour footprints; requirements to reduce that footprint over time; and requirements to operate in accordance with the specified noise control scheme, noise reporting, noise control monitoring scheme and a scheme to control ground noise.
- 2.7 Specific and detailed schemes control the operation of a quota count ('QC') system. This system classifies aircraft based on noise source characteristics into various 'QC' scores and is intended to demonstrate means of compliance with planning. Limits are set on the basis of an overall quota count permitted annually. The effect of this overall QC limit is to incentivise the use of aircraft with lower sound power profiles. Specific targets for day-time movements, night-time movements and movements within the morning shoulder are specified. The quota count scheme requires three-monthly reporting to allow LBC to monitor any exceedances of the specified limits.
- 2.8 In addition to these measures, the Current S106 Agreement, dated 9 October 2017 (CD8.42) includes legal obligations relating to a Noise Management Plan, which incorporates the conditioned schemes referred to above, a Noise Insulation Scheme (covering residential and non-residential properties subject to certain monetary limits) and the Noise Insulation Fund.
- 2.9 More generally, the Current S106 Agreement also includes other legal obligations to ensure the proper operation of the Airport, including the requirement for the Airport to submit an Annual Monitoring Report to LBC to provide a comprehensive report of the Airport's operation against the terms of the planning permission and Section 106 agreement during the preceding calendar year (see table 2.1).

**Table 2.1 Principal Topics in the Current S106 Agreement**

S106 Schedule	Topic	Principal Obligations
Schedule 1	Noise Mitigation	<ul style="list-style-type: none"> <li>Noise Management Plan</li> <li>Residential Noise Insulation Scheme</li> <li>Non-residential Noise Insulation Scheme</li> <li>Noise Insulation Fund</li> <li>Track Violations</li> </ul>
Schedule 2	Traffic and Transportation	<ul style="list-style-type: none"> <li>Transport Forum</li> <li>Airport Surface Access Strategy</li> <li>Off-site Highway Works</li> <li>Travel Plans</li> <li>Century Park Access Road</li> </ul>
Schedule 3	London Luton Airport Consultative Committee (LLACC)	<ul style="list-style-type: none"> <li>Continual Operation of LLACC</li> </ul>
Schedule 4	Sustainability	<ul style="list-style-type: none"> <li>Sustainability Strategy</li> <li>Environment Forum</li> <li>Environmental Management Contribution</li> </ul>
Schedule 5	Local Employment and Supply Chains	<ul style="list-style-type: none"> <li>Local Procurement Protocol</li> <li>Employment Skills and Recruitment Plan</li> <li>Employment and Training Contribution</li> </ul>
Schedule 6	Community Fund	<ul style="list-style-type: none"> <li>Retention and operation of the Community Fund</li> </ul>
Schedule 7	Monitoring and Reporting	<ul style="list-style-type: none"> <li>Annual Monitoring Report</li> </ul>

## The Noise Insulation Scheme

- 2.10 The Airport's existing Noise Insulation Scheme covers both residential and non-residential properties in Bedfordshire and Hertfordshire subject to monetary limits. Depending on any existing insulation in the property, double glazing, secondary glazing, ventilation units and loft insulation is provided to eligible properties. Rooms eligible for insulation include living rooms, dining rooms, kitchen-diners and bedrooms. Noise contours determine the eligible properties each year.
- 2.11 The Noise Insulation Scheme is operated by the Airport, together with an independent noise analyst and the London Luton Airport Consultative Committee (LLACC) Noise Insulation Sub-Committee, to offer noise insulation to eligible properties.
- 2.12 In accordance with the Noise Action Plan (NAP) for the Airport, noise insulation is provided to residential 'receptors' exposed to noise above Significant Observed Adverse Effect Level (SOAEL) (i.e. the noise level above which significant adverse effects on health and quality of life occur). I deal further with the benefits of the development proposal in enhancing the Noise Insulation Scheme below.

## Residential Noise Insulation Scheme

- 2.13 The existing scheme provides for noise insulation works to residential buildings that meet the residential eligibility criteria and which have not previously been treated by the Airport subject to monetary limits (See Table 2.2).

Table 2.2 Summary of Current Noise Insulation Scheme

Noise Source	Residential Eligibility Criteria
Airborne Aircraft Noise	<ul style="list-style-type: none"> <li>Any habitable rooms at dwellings within the <b>63 dB L<sub>Aeq,16h</sub> average mode summer daytime (07.00-23.00)</b> airborne noise contour<sup>1</sup>.</li> <li>Any habitable rooms which are used as bedrooms at dwellings within the <b>55 dB L<sub>Aeq,8h</sub> average mode summer night-time (23.00-07.00)</b> airborne noise contour<sup>1</sup>.</li> <li>Any habitable rooms which are used as bedrooms at dwellings where the airborne noise level in excess of <b>90 dB SEL</b> occurs at an annual average frequency of once or greater during the night-time (23.00 to 07.00).</li> </ul>
Ground Noise	<ul style="list-style-type: none"> <li>Any habitable rooms at dwellings which are exposed to a free field noise level in excess of <b>55 dB L<sub>Aeq,16h</sub> daytime (07.00-23.00)</b><sup>1</sup>.</li> <li>Any habitable rooms which are used as bedrooms at dwellings which are exposed to a free field noise level in excess of <b>45 dB L<sub>Aeq,8h</sub> night-time (23.00-07.00)</b><sup>1</sup>.</li> </ul>
Traffic Noise	<ul style="list-style-type: none"> <li>(i) Any habitable rooms at dwellings with a facade incident noise level in excess of <b>66 dB L<sub>Aeq,16h</sub> daytime (07.00 to 23.00)</b>; and</li> <li>(ii) Which are subject to the predicted Road Traffic Noise Increase of <b>not less than 1 dB</b> as a result of the Development which for the avoidance of doubt has been identified in Plan 2 of the settled Section 106 Agreement.</li> </ul>

<sup>1</sup> Based on actual aircraft movements at the Airport during the summer period (16th June to 15th September) in the immediately preceding calendar year.

- 2.14 The existing noise insulation scheme is capped to a total of £100,000 per annum. The grant per household is restricted up to £3,000 Index Linked per property based on providing noise

insulation to up to five habitable rooms<sup>2</sup>. The only rooms excluded are bathrooms and kitchens, although kitchen dining rooms are considered as habitable rooms. In exceptional circumstances, as deemed by the Airport, higher grants maybe available.

- 2.15 The grant is based on noise levels at the time of application and can be used for works that will improve the internal noise climate within the residential property through either the installation of secondary glazing to provide an additional layer of glass inside the existing external windows or installation of double-glazed replacement windows. Where glazing works are undertaken there is also a requirement to install sound attenuated ventilation units to provide background ventilation.

### *Non-residential Noise Insulation Scheme*

- 2.16 This part of the scheme provides noise insulation works to non-residential buildings (i.e. education, healthcare, religious, community and children's day care uses) that meet the non-residential eligibility criteria. The non-residential eligibility criteria are listed below in Table 2.3:

**Table 2.3 Non Residential Noise Insulation**

Noise Source	Non-residential Eligibility Criteria
Airborne Aircraft Noise	<ul style="list-style-type: none"> <li>Any noise sensitive rooms within non-residential buildings within the <b>63 dB L<sub>Aeq,16h</sub> average mode summer daytime (07.00-23.00)</b> airborne noise contour<sup>1</sup>.</li> <li>Any noise sensitive rooms which are used at night within non-residential buildings within <b>the 55 dB L<sub>Aeq8h</sub> average mode summer night-time (23.00-07.00)</b> airborne noise contour<sup>1</sup>.</li> </ul>

<sup>1</sup> Based on actual aircraft movements at the Airport during the summer period (16th June to 15th September) in the immediately preceding calendar year.

- 2.17 The scheme provides a grant as appropriate in order that noise insulation can be provided through either the installation of secondary glazing or double glazed replacement windows, as well as sound attenuated ventilation units. Where acoustic insulation cannot provide an appropriate or cost-effective solution, alternative mitigation measures will be considered.

### *Noise Action Plan*

- 2.18 The Airport has produced a NAP which covers the period 2019-2023 (CD13.11). The NAP has been produced in accordance with the Environmental Noise (England) Regulations 2006, providing strategic noise maps together with a set of actions which seeks to improve noise management at the Airport, in line with the International Civil Aviation Authority's 'balanced approach' to noise management, whereby maximum environmental benefit is achieved in the most cost-effective manner.
- 2.19 The NAP contains measures designed to improve noise management. Those measures include actions based on planning commitments and also include many voluntary actions demonstrating the Airport's commitment to comply with and exceed environmental noise targets.

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<sup>2</sup> See paragraph 8.14.8 and Table 8.29 of ESA2 (CD1.08, 1.09 & CD1.10) which also indicates a total fund of £1.3 million between 2016-2028 (up to £100,000 per annum).



## Surface Access Controls

2.20 The Airport has prepared an Airport Surface Access Strategy (ASAS) to promote and encourage sustainable surface access to the Airport. The first ASAS was published in 2000 and it has since been amended and updated. The most recent revision covers the period 2018 – 2022 (CD12.05). It has two principal objectives:

- a. To promote sustainable surface transport options (e.g. reducing employee single occupancy vehicle use, promoting the car sharing scheme, review of airport fleet vehicles).
- b. To reduce the impact of surface access to the Airport on the local community (e.g. working with local authorities to shift customers to more sustainable transport options, increasing the number of bus bays, improving proximity of coach and bus services, and installing digital totems and signage improvements).

2.21 More details of surface access measures are explained further in the evidence of Mr Ojeil.

## Addressing Non-Compliance

2.22 Data from the noise monitoring (published as part of the Airport's annual monitoring reports) suggested in December 2017 that night time noise contour limits for the summer period had been exceeded.

2.23 Set against more rapid growth than originally envisaged in the forecasts supporting the application for the 2014 Planning Permission<sup>3</sup>, the exceedances indicated were due to a combination of:

- a. Slower aircraft refueling than originally envisaged;
- b. The noise of newer aircraft not performing as well in practice as predicted before they were introduced; and
- c. A series of severe weather events combined with European Air Traffic Control disruption, resulting in flights that were scheduled to arrive in the daytime period arriving in the night time period.

2.24 Potential noise contour exceedances were discussed by the Airport with LBC in late 2016/early 2017. There were also early discussions with both the Airport Consultative Committee and the Noise & Track Sub Committee, with subsequent updates being provided to each Committee as appropriate.

2.25 **Appendix 1** comprises a summary of reporting on the matter from June 2017 to January 2020 (just before the Covid 19 pandemic).

2.26 The Airport produced an Action Plan in March 2018 which set how it would implement further operational restrictions to address future potential exceedances. The Action Plan (which is

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<sup>3</sup> Which forecast 12.1 MPPA in 2017 (compared to 15.8mppa actual); 12.6 MPPA in 2018 (compared to an 16.6 MPPA actual) , 12.9 MPPA in 2019 (compared to 17.99 MPPA actual) and that 18 MPPA would be reached by 2028

summarised in paragraph 4.3.17 of the Applicant's Planning Statement, CD1.07) included the following restrictions:

- Removal of ad-hoc slot applications between 22:00-05:59 GMT 1st June and 30th September.
- No further night slots to be allocated to series flights between 22:00-05:59 GMT 1st June and 30th September.
- No rescheduling of existing allocated slots from the day-time (06:00-21:59 GMT) into the night-time (22:00-05:59 GMT) between 1st June and 30th September.
- No non-emergency diverted flights accepted during daytime (06:00-21:59 GMT) and night-time (22:00-05:59 GMT) between 1st June and 30th September.
- Zero flow rate between 05:00-05:59 GMT 1st June and 30th September.
- QC2 aircraft ban.
- No aircraft with a value greater than QC1 permitted to operate in the night-time period (22:00-05:59 GMT) / No further day-time (06:00-21:59 GMT) slot to be allocated to aircraft greater than QC1 between 1st June and 30th September.
- No equipment changes on existing allocated slots that would involve replacing an aircraft with a QC value of 1 or less with an aircraft with a QC value greater than 1 between 06:00-21:59 GMT 1st June and 30th September.
- Incentivise aircraft fleet modernisation with differential charging.
- Increased frequency and detailed cooperation between the Flight Operations Department and the Business Development Department in LLAOL.

2.27 As the evidence of Mr Thornely-Taylor explains, the introduction of quieter next generation aircraft such as the Boeing 737 Max was delayed. This made it significantly more challenging to get close to the 18 million passengers per annum (MPPA) passenger cap without changing the approved noise contour caps.

2.28 Lower noise levels from more modern aircraft were also not as beneficial as expected. The Noise Contour Methodology note in Appendix 8C of ESA4 explains how the 2012 Environmental Statement modelled a 3db noise reduction for all modernised aircraft types (Table 4) whereas current modelling predicts improvements for arrivals of 0db (A321 Neo), -1dB (A320 neo) and -2.2db (Boeing 737 max) with the departures being -1.9db, -3.8db and -3.0db respectively for those aircraft types (Table 3). Appendix 8C explains that more up to date predictions take into account data from aircraft actually flying at the Airport.

2.29 Table 2.5 below shows that it was possible to stay within the daytime noise contours in 2018 (including for the forecast for 2019), but during 2019 both the daytime and night time contours had been exceeded and by that time it was clear that remedial measures such as the NAP would not be sufficient to manage noise within the contour caps.

Table 2.5 Noise Contour changes 2017-2019

Year	Annual Passengers	Annual LAeq, 16 hour (daytime) Summer		Annual LAeq, 8 hour (night-time) Summer	
		For that Year	Forecast for next year	For that Year	Forecast for next year
Planning Limit	18 MPPA	19.4 km <sup>2</sup>	-	37.2 km <sup>2</sup>	-
2017	15.8 MPPA	19.0 km <sup>2</sup>	19.4 km <sup>2</sup>	38.7 km <sup>2</sup>	39.6 km <sup>2</sup>
2018	16.58 MPPA	19.4 km <sup>2</sup>	18.8 km <sup>2</sup>	40.2 km <sup>2</sup>	42.7 km <sup>2</sup>
2019	17.99 MPPA	20.8 km <sup>2</sup>	21.3 km <sup>2</sup>	44.2 km <sup>2</sup>	42.6 km <sup>2</sup>

Source Annual Monitoring Reports 2017-2019

- 2.30 As shown in Appendix 1, the possibility of a S73 application was flagged by LBC at the January 2018 Consultative Committee meeting with the Airport explaining publicly that it intended to submit an application at its September 2018 meeting.
- 2.31 In March 2019, a S73 Application was submitted to vary condition 10 of planning permission 15/00950/VARCON for a temporary period (to the end of 2024) to enable the area enclosed by the 57dB(A) daytime noise contour to increase from 19.4 sq km to 21.4 sq km and the area enclosed by the 48dB(A) night-time noise contour to increase from 37.2 sq km to 44.1 sq km. Following the submission of that application there were extensive discussions on technical matters particularly the approach to noise modelling. This resulted in two Regulation 25 requests for further environmental information, the latest being submitted in November 2019. The application was eventually withdrawn on 21 January 2021 prior to the submission of the current application.
- 2.32 During the determination of the 2019 S73 application it became evident that those proposals were becoming out of date, with proposed changes to the noise contours and the forecasts underpinning them no longer aligning with forecast growth (predicted to be 19 MPPA). Following discussions with LBC it was agreed that a new application would be prepared for the changes to the noise contours and it would also seek permission for an additional 1 MPPA. The submission of the application was delayed in part due to COVID 19 from March 2020 onwards. The Airport undertook public consultation on the S73 between 7 October and 11 November 2020. Pre-application discussions took place with LBC before and after the public consultation including meetings in September 2020 to agree the scope of the Environmental Statement (ES).

## Airspace Change

- 2.33 Paragraph 178 of the Development Management Committee Officers' Report (OR) (CD5.08) explains that Airspace changes are administered under a separate regulatory regime to that of planning, with the Civil Aviation Authority (CAA) being the independent aviation regulator responsible for deciding whether to approve changes proposed to the design of airspace over the UK.
- 2.34 The Proposed Scheme does not require consequential airspace changes:

- a. OR paragraph 180 refers to the AD6 airspace changes which sought to reduce the complexity of arrivals and following consultation this was implemented in early 2022. I am advised that the implemented changes are outside of the contour area and therefore have no impact on the application.
- b. OR paragraph 181 refers to the South (FASI-South) as a much more complicated proposal involving the complete redesign of the existing airspace in the South East of England. This process for Airspace above 7,000 ft is at an early stage and has yet to reach a formal consultation stage. This consultation will not commence until there are firmer proposals for all of the airports in the South East which may not be until around 2024<sup>4</sup>. The process will have its own ES and will need to consider airport proposals for growth, including these application proposals in the event that they are approved.

## Luton Rising

- 2.35 The Airport's owners (Luton Rising), as opposed to its operators London Luton Airport Operation Limited (LLAOL) promoting this S73 Application, intend to seek a Development Consent Order (DCO) application for the expansion of the Airport for up to 32 million passengers per annum. Statutory pre-application consultation on the Nationally Significant Infrastructure Project took place in 2019 and again in 2022. It is understood that the application is due to be submitted in late 2022 with determination expected in 2024.
- 2.36 To accommodate up to 14 million additional passengers that project will seek to alter existing planning restrictions and seek consent for physical works including a second passenger terminal, extensions and remodelling of the existing terminal building, an extension to the current airfield, new airside facilities, enhancements to surface access infrastructure including a new dual carriageway, a new forecourt, extension of the DART infrastructure and parking facilities and other works.
- 2.37 Given its timescales and its strategic nature, there is no direct overlap in what is proposed with this S73 Application. As explained in the Preliminary Environmental Impact Report and other documentation accompanying the 2022 consultation for the DCO, all of the assessment work for that project has been undertaken using a 'baseline' of 18 MPPA (the current consented cap). In anticipation of LLAOL's 19 MPPA planning application, assessments also include sensitivity analysis for an additional 1 MPPA as an alternative 'future baseline'.

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<sup>4</sup> Heathrow currently have the longest timelines and they are set to submit their Stage 2 documentation to the CAA in June 2023, if this is approved all our neighbouring airports would be in Stage 3 at this point.

# 3 The Planning Application

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## Planning application

- 3.1 The S73 Application seeks the variation of certain conditions attached to the existing planning permission dated 13 October 2017 with reference number 15/00950/VARCON ("the Variation Permission"). The Variation Permission was itself a variation of a planning permission granted in June 2014 for the expansion of the Airport involving, inter alia, the dualling of Airport Way, extensions to the terminal, a new pier and walkway, extensions to taxiways, enlargement of car parks and the construction of a multi-storey car park (ref: 12/01400/FUL) ("the 2014 Permission").
- 3.2 The S73 Application proposes amendments to five conditions. In summary:
- a. the proposed variation of condition 8 is to increase the passenger cap by 1 million passengers per annum ('MPPA') from 18 MPPA to 19 MPPA; this represents a 5.5% increase in passenger numbers;
  - b. the amendments to condition 10 are temporary amendments to the summer day and night-time noise contours and these are explained further below;
  - c. the proposed variation of condition 22 provides for an update to the approved car parking management plan which is required as a result of the increase in passenger numbers;
  - d. the proposed variation of condition 24 provides for an update to the passenger travel plan which is also a result of the increase in passenger numbers; and
  - e. the proposed variation of condition 28 is required to reflect the variations of the car parking management plan and the passenger travel plan.
- 3.3 The proposed amendments to condition 10 are shown in bold and underlined in the text below:

*'The development shall be operated in accordance with the Noise report approved on 2 March 2015 (ref: 14/01519/DOC), including providing details of forecast aircraft movements and consequential noise contours as set out in that report.*

*The area enclosed by the 57dB LAeq(16hr) (0700-2300hrs) contour shall not exceed ~~49.4-sq km~~ **21.6 sq km** for daytime noise, and the area enclosed by the 48dB Leq(8hr) (2300-0700hrs) contour shall not exceed ~~37.2-sq km~~ **42.9 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 five-years **12 months** of the **date of this permission** commencement of development 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 ~~15.2-sq km~~ **15.5 sq km** for the area exposed to 57dB LAeq(16hr) (0700-2300hrs) and above and for night-time noise to ~~31.6-sq km~~ **35.5 sq km** for the area exposed to 48dB(A) Leq8hr (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(A) Leq16hr (0700-2300) contour shall not exceed 15.1 sq km for daytime noise, and the area enclosed by the 48dB Leq(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 LBC, which shall utilise the standard 92 day summer contour.'

#### Noise contour changes (condition 10)

- 3.4 The expansion proposed for summer daytime and night-time contours is temporary only. By 2031 the proposed condition requires the night-time contours to return to the same size as those required under the Variation Permission.
- 3.5 Adjustments to the permissible size of the noise contour are as follows for the period to the end of 2027:
  - 3.5.1 Daytime (57dB LAeq 16hr 0700-2300 hrs) from 19.4 to 21.1 sq.km;
  - 3.5.2 Night time (48dB LAeq (8hr) 2300-0700 hrs) from 37.2 to 42.1 sq.km.
- 3.6 The 2017 Permission requires contours to contract post 31 December 2027 (to 15.2 and 31.6 sq km respectively) and the proposed adjustments would allow these to be 15.5 sq.km for the daytime and 35.5 sq.km for the night-time for the calendar years 2028, 2029 and 2030, after which they would be 15.1 sq.km in the daytime (0.1 sq. km better than the consented position for 2028 onwards) and 31.6 sq km for the night time contours (the same as the current condition 10 for 2028 onwards).
- 3.7 The proposed changes to the noise contour conditions in the SoCG differ from those initially sought and reported in the OR. The differences are set out in paragraph 2.2.1 of ESA4 which explains how it was originally proposed to seek a 21.6 sq km daytime contour and a 42.9 sq km night-time contour and reduce this down to 15.5 sq km and 35.3 sq km by 2028. The changes agreed with LBC (described above) seek to further incentivise the Airport to reduce noise over time. It means that the noise contours would be no larger after December 2030 than those allowed in the 2017 Planning Permission after 2028 (i.e. 2 years later). Indeed, the daytime one would be slightly smaller.
- 3.8 Forecasts and accompanying noise modelling have informed the proposed passenger limits and noise contours and are summarised below in Table 3.1 which provides annual Air Transport Movements (ATM), passengers (as Million Passengers per Annum or MPPA) and the modernised fleet percentage in each year together along with existing and forecast noise contours based on the 92-day summer average.

Table 3.1 Forecast scenarios summary

	2019 Actual	C10 Adjusted Baseline	2023	2024	2025	2028	2031
<b>Baseline</b>							
ATMs*	141,481	134,454					
MPPA	17.96	16.7					
Contour Size	Day: 20.8 Night: 44	Day: 19.4 Night: 37.2					
<b>Without Proposed Scheme</b>							
ATMs*			127,460	128,427	134,622	137,076	136,991
MPPA			16	17.1	17.6	17.8	17.8
Contour Size			Day: 19.4 Night: 37.2	Day: 19.4 Night: 37.2	Day: 19.4 Night: 37.2	Day: 15.2 Night: 31.6	Day: 15.2 Night: 31.6
<b>With Proposed Scheme</b>							
ATMs*			127,460	136,251	140,085	140,085	140,085
MPPA			16	18.1	18.9	19	19
Contour Size			Day: 21.1 Night: 42.1	Day: 20.4 Night: 41.9	Day: 19.4 Night: 39.8	Day: 15.5 Night: 35.5	Day: 14.7 Night: 31.5

\* Source LLAOL

### 3.9 Informed by what is proposed and the underlying forecasts, I note that:

- The proposed changes to the daytime noise contour (21.1 sq.km) reflect the forecast worst case (2023) contour which is expected to fall year on year afterwards reaching 15.5 sq.km by 2028.
- The night-time noise contour area is also expected to fall year on year after 2023, reducing from 42.1 sq km from 2023 to 35.3 sq km in 2028.
- The 5.5% increase in the passenger cap (or 6.7% increase relative to the without development scenario for 2025 onwards) is not accompanied by a commensurate increase in ATMs. By 2028, there would only be a 2.2% increase in the number of flights. Compared to the 2019 actual there would be approximately 1% less ATMs in 2028 and 2031.

3.10 The slower growth of ATMs compared to passengers can be explained by the slightly larger capacity of newer generation aircraft compared to the existing<sup>5</sup>. I understand that this also helps to explain why no additional infrastructure such as new aircraft parking stands are required in order to accommodate the additional passengers.

3.11 The downward trajectory of noise reflects fleet modernisation. Mr Hunt's evidence explains why this is expected to take place more rapidly with the Proposed Scheme compared to without<sup>6</sup>.

<sup>5</sup> For instance, the Boeing 737 usually has 189 seats whereas the 737MAX usually has eight more.

<sup>6</sup> See section 6 of Mr Hunt's evidence where it is explained that the most likely outcome is that the majority of the additional 1 million passengers would fly on modernised, larger aircraft using existing slots.



### Conditions 22, 24 and 28

- 3.12 In respect of conditions 22, 24 and 28, adjustments are required to cross-refer to updated Car Park Management and Travel Plans which set out slight modifications to transport measures in order to manage up to 19 MPPA without directly related additional physical works such as additional car parking.

### Proposed Mitigation Enhancements

- 3.13 As part of the S73 Application, enhanced sound insulation is proposed as a response to any potential adverse effects.
- 3.14 As already noted, the existing Noise Insulation Scheme has an annual capped fund of £100,000 per year (index linked) with a per property fund of £3,000 (index linked).
- 3.15 As set out in the SoCG (Table 9.4), this means that under the current permission noise insulation for all affected eligible properties (approximately 1,100) would take 33 years to complete with a fund of approximately £3.5M and with the current uptake of the scheme and (approximately 50%) at best deployment could take 16 years.
- 3.16 Under the new scheme a fund of £4,500 (index linked) per property is proposed with an uncapped annual fund. In relation to daytime SOAEL, windows to any habitable room are included, whilst for properties that fall within the night-time SOAEL only, replacement bedroom windows would be provided. The Applicant intends to allocate £8.5M to the noise insulation
- 3.17 Further details of the enhanced mitigation measures in the S106 are provided in appendix 3 of the SoCG which, in addition to noise alleviation measures, includes provision of passenger and staff travel plans, a review of the Surface Access Strategy, updates to the employment, skills and training programme, provision of a carbon reduction strategy and annual monitoring.

### Consideration of the Application

- 3.18 This application was considered by LBC over two evenings on 30 November 2021 and 1 December 2021. The Development Management Committee of LBC agreed with the officers' recommendation and resolved to grant planning permission for the Development, subject to the Applicant and LBC entering into a section 106 agreement.
- 3.19 On 6 April 2022 the Secretary of State for LUHC called-in the Application for his own determination and directed that it should be referred to him instead of being dealt with by LBC.
- 3.20 On 11 May 2022, the Secretary of State for Transport made a direction under section 266(1A) of the Town and Country Planning Act 1990 for a joint determination of the Application.



## 4 Planning Policy

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### Statutory Development Plan

- 4.1 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) require that planning applications be determined in accordance with the Development Plan, unless material considerations indicate otherwise. For the purposes of the Proposed Scheme the statutory development plan comprises the Luton Local Plan 2011-2031 (December 2017) (CD09.07). The strategic importance of the Airport for the Borough and recognition of its growth is clear throughout the Local Plan and indeed from the plan's vision and first strategic objective is that:

*'3.5 London Luton Airport will be improved to provide more jobs related to aviation industries and other associated business clusters and maintain London Luton Airport's key role as a sub-regional economic driver bringing wealth and job creation (including high skilled jobs) to the town and neighbouring local authorities.' [My emphasis]*

- 4.2 Section 3 of the Local Plan sets out LBC's 11 strategic objectives<sup>7</sup>. The first strategic objective is as follows: *'Strategic Objective 1: Retain and enhance Luton's important sub-regional role as a place for economic growth and opportunity including the safeguarding of London Luton Airport's existing operations and to support its sustainable growth over the Plan period based on its strategic importance.'* [My emphasis]
- 4.3 Policy LLP6 (London Luton Airport Strategic Allocation) states that the allocation serves the strategic role of the Airport and associated growth of business and industry etc that are important for Luton, the sub-regional and for regenerating the wider conurbation. Supporting text (paragraph 4.51) notes that the policy makes provision for the Airport to respond positively to future growth helping to safeguard Luton's key subregional economic contribution to jobs and wealth creation whilst setting out a clear environment and transport framework with which to regulate future growth.
- 4.4 Paragraph 4.45 of the supporting text to LLP6 notes that the 2014 planning permission allowed growth to 18 MPPA which is supported by LLP6. The policy itself does not preclude more than 18 MPPA and I come on to consider how the proposals comply with the specific requirements of LLP6 in subsequent sections of my Proof of Evidence (PoE).
- 4.5 The supporting text to policy LLP13 (Economic Strategy) recognises that the Airport functions as an important sub-regional employment centre.
- 4.6 Section 5.5 of the SoCG comprises an agreed list of relevant planning policies. LBC has advertised the Proposed Scheme as potentially contrary to policies LLP6 (London Luton Airport Strategic Allocation) and LLP38 (Pollution and Contamination) of the Local Plan and,

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<sup>7</sup> Also repeated in Chapter 5 'Growing Luton's Economy' as the first of three economic objectives

as I come on to explain, in my view this was a cautious approach and I do not consider that the proposals conflict with either policy.

## National Aviation Policy

- 4.7 National Aviation Policy has recently been updated with *Flightpath to the Future* (FtF) (CD11.15), published in May 2022 and *Jet Zero Strategy: Delivering Net Zero Aviation by 2050* (CD11.19) published in July 2022.

### Flightpath to the Future

- 4.8 Described as a 'Strategic Framework' in the document itself the DfT's website explains that:

*'Flightpath to the future' is a strategic framework for the aviation sector that supports the Department for Transport's vision for a modern, innovative and efficient sector over the next 10 years.*

*This 10-point plan focuses on how government and industry can work together to deliver a successful aviation sector of the future.*

*In 2018, the government published a consultation on its long-term ambitions for aviation entitled Aviation 2050. We published a response on one area of the consultation, in 2019, relating to legislation for enforcing the development of airspace change proposals.*

*Given the unprecedented challenges aviation has faced as a result of the coronavirus (COVID-19) pandemic, the government has decided not to publish a further formal response to the remaining parts of that consultation.*

*Instead, this strategic framework builds on the responses received to Aviation 2050 and establishes our ambitions and commitments for aviation over the next 10 years.* [My Emphasis]

- 4.9 The 10 point plan includes a number of areas which have a direct or indirect interaction with planning considerations (which I have underlined below):

1. Recover, learn lessons from the pandemic and sustainably grow the sector - including to committing to growth and working together towards a future where the sector can recover, grow and thrive in a way that is sustainable, resilient and connected.
2. Enhance the UK's global aviation impact and leadership.
3. Support growth in airport capacity where is justified, ensuring that capacity is used in a way that delivers for the UK
4. Put the sector on course to achieve Jet Zero by 2050 – with specific targets for 10% SAF by 2030 and zero emissions flights across the UK this decade.
5. Capture the potential of new technology and uses – including routinely using new aircraft to provide new and improved low carbon services

6. *Unlock local benefits and levelling up - including through trade, air freight, aerospace, investment and tourism as wells as allowing people to benefit from improved connections across the union and regions.*
7. *Unleash the potential for next generation professionals.*
8. *Make the UK the best place in the world for General Aviation.*
9. *Improve the consumer experience.*
10. *Retain our world leading record on security and safety with a world leading regulator.”*  
[My emphasis]

4.10 Conditional Government support for growth and expansion is therefore clear and this is also evident throughout FttF, including:

- a. Page 2 (Ministerial forward) – supporting airport expansion where it’s justified ‘*to boost our global economy and level up the UK, but also committing to a much greener future*’.
- b. Page 7 (Realising the benefits for the UK) – as above but with reference to existing policy frameworks for airport planning providing a robust and balanced framework for airports to grow sustainably within strict environmental criteria.
- c. Page 18 – ‘*It is also essential that we utilise existing airport capacity in a way that delivers for the UK, putting the needs of users first and supporting our aims to enhance global connectivity*’
- d. Page 26 (Support growth in airport capacity where it is justified) – includes a clear statement that airports play a critical role in boosting both global and domestic connectivity and levelling up in the UK and that airport expansion plays a key role in this; the Government is still supportive of expansion where it can be delivered within the UK’s environmental obligations.
- e. Page 69 (Conclusions) – notes the Government’s continued commitments to the sustainable growth in the aviation sector and its vital economic importance to the UK.

4.11 There is also clear acknowledgement of the challenges faced by the industry following the COVID 19 pandemic. The Ministerial Foreword on Page 2, for instance, acknowledges that the airline industry was the most severely hit sector. There is frequent reference to helping the sector “build back better” and a desire to support growth in passenger demand.

4.12 Page 42 also recognises the essential role that aviation plays in delivering a wide range of benefits for the UK and supporting the Government’s levelling up agenda.

4.13 In supporting growth “where it is justified” page 26 states that ‘[T]he Government is supportive of airports bringing forward expansion plans by way of our existing policy frameworks for airport planning<sup>13</sup>. Footnote 13 then makes reference to ‘Beyond the horizon – the future of UK aviation: Making Best use of existing runways (2018) (‘MBU’) and the Airports National Policy Statement (‘ANPS’).

- 4.14 The ANPS (CD10.15) is principally concerned with a third runway at Heathrow and is of limited relevance to consideration of this S73. Application. Paragraph 1.42 states that airports wishing to make more intensive use of existing runways will need to submit applications which will be judged on their own merits and notes the findings of the Airport Commission on the need for more intensive use of existing infrastructure and accepts that it may be *'may well be possible for existing airports to demonstrate sufficient need for their proposals, additional to (or different from) the need which is met by the provision of a Northwest Runway at Heathrow.'* The Proposed Scheme is not a Nationally Significant Infrastructure Project (NSIP).
- 4.15 The Inspectors considering the Town and Country Planning Applications for Bristol Airport (see IR77 of CD15.05) and Stansted Airport (see IR16 of CD 15.01) both considered it to be of limited relevance. I address MBU below.

#### Transport Decarbonisation Plan

- 4.16 In July 2021, the Government published *Decarbonising Transport: A Better Greener Britain* (CD11.11). It sets out the Government's strategy for decarbonising all forms of transport, including aviation which is dealt with on pages 116 to 127. The recent decision by the Secretary of State for Transport in respect of the re-determined Manston Airport proposals stated as follows in paragraph 139:

*'It sets out the pathway to net zero transport in the UK, the wider benefits net zero transport can deliver and the principles that underpin Government's approach to delivering net zero transport. It states that the combining of projections for domestic and international aviation emissions through the inclusion of international aviation in the UK's sixth carbon budget in 2033 means that aviation emissions will continue to fall to 2050. The recent Secretary of state decision on Manston Airport The Decarbonising Transport Plan recognises that the technology pathway to zero emissions is not yet certain for aviation (DTP, page 30) and accepts that where positive emissions remain in transport sectors, these will need to be offset by negative emissions elsewhere across the economy (DTP, 46). However, it also highlights that with the right investment and the emergence of new zero emission technologies it could be possible for achieving even deeper cuts in greenhouse gas emissions from aviation (DTP, page 46).'*

#### Jet Zero Strategy

- 4.17 This document (CD11.19) sets out the Government's decarbonisation goals for the Aviation Sector. Paragraph 1.2 states that the Government is *'...committing the UK aviation sector to reach net zero or Jet Zero by 2050'*. It goes on to explain that the Strategy is based on a 'High Ambition' scenario which sees aviation CO<sub>2</sub> emissions peak in 2019 (paragraph 1.10). The Jet Zero Strategy (JZS) sets an earlier target for UK domestic flights to reach net zero by 2040 (1.3), mandates 10% use of Sustainable Aviation Fuels (SAF) (3.5) and explains how the Strategy will be reviewed every five years and adapted depending on progress made (para. 1.4).
- 4.18 In respect of airport operations paragraph 3.5 states as follows:

*'.. it is right to place more ambitious targets on airports, reflecting that the aviation sector will face difficulties to reduce emissions overall ...significant co-benefits, especially when combined with the introduction of new generation aircraft can be realised by reducing local air pollution and noise for local communities'*

4.19 There is also specific reference to airports' surface access strategies with page 73 stating that the Government will work with airports and stakeholders to help airports to improve their surface access strategies.

4.20 The Strategy also makes it clear that the Government continues to support sustainable airport growth where this is justified and can be delivered within environmental obligations. I note that the Government's high ambition strategy is explained to be deliverable on the basis of the Emissions Trading Schemes (ETS) and Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) and specifically ruled out direct demand management measures<sup>8</sup>. The Strategy itself (at paragraph 3.57) states that:

*'Our approach to sustainable growth is supported by our analysis (set out in the supporting analytical document) which shows that we can achieve Jet Zero without the Government needing to intervene directly to limit aviation growth. The analysis uses updated airport capacity assumptions consistent with the latest known expansion plans at airports in the UK. The analysis indicates that it is possible for the potential carbon emissions resulting from these expansion schemes to be accommodated within the planned trajectory for achieving net zero emissions by 2050, and consequently that our planning policy frameworks remain compatible with the UK's climate change obligations.'* [My Emphasis]

4.21 It is explained that the analysis uses updated airport capacity assumptions and shows it is possible for carbon emissions to be accommodated within the planned trajectory (3.57) and that *'Our analysis shows that it is possible to **achieve our goals without the need to restrict people's freedom to fly**'* (P74).

4.22 Importantly, in setting the High Ambition Target the government is not capping CO2 emissions to 2019 levels from the publication of the Strategy. As page 60 explains, *'we are setting the trajectory on an in-sector basis, using our 'High ambition' scenario which will include interim targets of 35.4 MtCO<sub>2</sub>e in 2030, 28.4 MtCO<sub>2</sub>e in 2040, and 19.3 MtCO<sub>2</sub>e in 2050.'* Support for growth whilst achieving carbon targets can also be found elsewhere in the JZS as follows:

a. *'We will also **continue to support sustainable airport growth where it is justified** ...It is right that we support the sector to recover from COVID-19 whilst putting in place the framework to ensure the sector reduces its emissions over time.'* (2.27)

b. *'We will **support airport growth where it can be delivered within our environmental obligations**.'* (3.61, P74)

4.23 Detailed consideration of carbon and climate change legislation and policy is provided in Mr Matt Ösund-Ireland's proof of evidence, which I draw upon as appropriate but avoid repeating in this proof. I come on to explain in section 6 of my evidence the implications of this Strategy in respect of climate change.

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<sup>8</sup> Pages 48 and 49 of 'Jet Zero Consultation: Summary of responses and government response', July 2022

Beyond the horizon – the future of UK aviation: Making Best use of exiting runways (MBU) (2018)

- 4.24 *Beyond the Horizon* (CD8.09) or 'MBU' includes a section on '*Role of local planning*' and states that most concerns raised can be addressed through the government's existing policies as set out in the 2013 Aviation Policy Framework (APF) and goes on to state that for the majority of environmental concerns, the government expects these to be taken into account as part of the existing local planning application processes and demonstrate how mitigation addresses local environmental issues (paragraph 1.9, 1.23 & 1.26).
- 4.25 Making best use of existing airport capacity, with specific reference to runways, is a key theme in this document (paragraph 1.1, 1.11 & 1.29) along with sharing economic benefits with local communities, where paragraph 1.22 states as follows:

*'The government recognises the impact on communities living near airports and understand their concerns over local environmental issues, particularly noise, air quality and surface access. As airports look to make best use of their existing runways, it is important that communities surrounding those airports share in economic benefits of this, and that adverse impacts such as noise are mitigated where possible.* [My Emphasis]

The Aviation Policy Framework

- 4.26 Whilst the APF is not referred to in FttF the Secretary of State for Transport has confirmed that it remains extant in his decision to approve the Manston Airport proposals (paragraph 48 of that decision).
- 4.27 The APFs foreword explains that its status is to set out the '*Government's objectives and principles to guide plans and decisions at the local and regional level, to the extent that it is relevant to that area*' something which FttF also now seeks to do.
- 4.28 Page 35 of FttF states that the Government will set out a new noise policy framework, with next steps in 2022/3, to provide '*a clearer noise policy framework alongside measures to incentivise best operational practice to reduce noise and measures*'. Reference is made to the Aviation 2050 consultation (2018) and this should help to inform the direction of travel in advance of consultation on further policy on noise. Until this time, the APF is the only policy document which sets out detailed policies on when, and at what noise levels, insulation should be offered to mitigate adverse noise impacts<sup>9</sup>.
- 4.29 In respect of noise, section 3 of the APF is concerned with noise and other local environmental impacts and states that the Government's overall policy on aviation noise is to '*limit and, where possible, reduce the number of people in the UK significantly affected by aircraft noise*' (paragraph 3.12).
- 4.30 Paragraph 3.3 of the APF refers to striking a balance and sharing benefits of noise reduction with the local community as follows:

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<sup>9</sup> Local policies relating to noise are general and do not materially add to the approach set out in the APF.



*"We want to strike a fair balance between the negative impacts of noise (on health, amenity (quality of life) and productivity) and the positive economic impacts of flights. As a general principle, the Government therefore expects that future growth in aviation should ensure that benefits are shared between the aviation industry and local communities. This means that the industry must continue to reduce and mitigate noise as airport capacity grows. As noise levels fall with technology improvements the aviation industry should be expected to share the benefits from these improvements."*

- 4.31 Paragraph 3.17 states that the Government will treat the 57dB LAeq 16 hour contour as the average level of daytime aircraft noise marking the approximate onset of significant community annoyance, and goes on to state that all people within this contour will experience significant adverse effects from aircraft noise and notes how people outside the contour may also consider themselves annoyed by aircraft noise. Paragraph 3.19 recommends that airports use average noise contours and alternative measures to reflect how aircraft noise is experienced in different locations.

### **Aviation 2050: The future of UK Aviation (A consultation)**

- 4.32 Published in December 2018 this document has not been issued in final form. It is referred to by the Secretary of State for Transport in the August 2022 Manston decision letter where paragraphs 49 to 55 cite passages of the document and then reliance is placed upon it in paragraph 63 which states that that development aligns with objectives of Aviation 2050, noting the importance of aviation to the whole of the UK, the need to increase capacity through more intensive use of existing runways and airspace and the connection aviation to the whole of the UK and the rest of the world. These themes are consistent with other policy documents including FttF and MBU.

### **National Noise Policy**

- 4.33 National policy on noise is set out in the Noise Policy Statement for England (2010) (NPSE) which aims to avoid, minimise, mitigate and where possible reduce significant adverse impacts on health and quality of life.
- 4.34 With specific regard to aviation noise, the PPG<sup>10</sup> notes that where airport expansion is considered through the planning system, it will be important for decisions to consider any additional or new impacts from that expansion, and not to revisit the underlying principle of aviation use where it is established.
- 4.35 MBU recognises that the development of airports can have negative as well as positive local impacts, including on noise levels. It notes that, as airports look to make the best use of their existing runways, it is important that communities surrounding those airports share in the economic benefits, and that adverse impacts such as noise are mitigated where possible.
- 4.36 Page 4 of the NPSE states as follows:

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<sup>10</sup> Paragraph: 014 Reference ID: 30-014-20190722, Revision date 22 7 2019

*“Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:*

- 1. avoid significant adverse impacts on health and quality of life;*
- 2. mitigate and minimise adverse impacts on health and quality of life.*
- 3. where possible contribute to the improvement of health and quality of life.”*

- 4.37 The PPG also contains guidance on the way in which national planning policies are to be implemented. In relation to noise matters, it makes it clear that noise should not be considered in isolation and states as follows:

*“Can noise override other planning concerns?*

*It can, where justified, although it is important to look at noise in the context of the wider characteristics of a development proposal, its likely users and its surroundings, as these can have an important effect on whether noise is likely to pose a concern (ref. ID: 30-002-20190722)*

- 4.38 The PPG also cross refers to the APF in respect of how airport operators should mitigate the environmental impacts of airport expansion and states that airport operators are encouraged to work with LBC to develop mitigation measures that are proportionate to the scale of impact (013 Reference ID: 30-013-2019072).
- 4.39 Detailed consideration of noise policy and guidance is provided in Mr Thornely-Taylor’s PoE which I draw upon as appropriate but avoid repeating within my evidence.

## **Other Material Considerations**

### **National Planning Policy Framework (2021)**

- 4.40 The NPPF (at paragraph 10) establishes a presumption in favour of sustainable development. Sustainable development is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 4.41 Paragraph 8 sets out the overarching economic objective of a “strong, responsive and competitive economy” which is to be achieved by “ensuring that sufficient land of the right type is available in the right place and at the right time to support growth, innovation and improved productivity”. The second objective is “to support strong, vibrant and healthy communities.”
- 4.42 Paragraphs 81 and 83 of the NPPF are also relevant. These require policies and decisions to create the conditions for businesses to invest and expand, support economic growth and allow areas to build on their strengths.
- 4.43 I come on to consider how the proposals comply with the NPPF in respect of the topic specific matters which the Secretary of State for LUHC has been asked to be informed about.

### **Build Back Better**

- 4.44 As part of the March 2021 Budget, the Government set out its plans to support economic growth through significant investment in infrastructure, skills and innovation in “Build Back



Better: our plan for growth” to support recovery from the Covid 19 pandemic and following the departure of the UK from the European Union.

4.45 Page 31 of Build Back Better (CD17.03) notes that:

*“High quality infrastructure is crucial for economic growth, boosting productivity and competitiveness. More than this, it is at the centre of our communities. Infrastructure helps connect people to each other, people to businesses, and businesses to markets, forming a foundation for economic activity and community prosperity. Well-developed transport networks allow businesses to grow and expand, enabling them to extend supply chains, deepen labour and product markets, collaborate, innovate and attract inward investment.”* (p.31).

4.46 The Build Back Better plan for growth focuses on three pillars of investment to act as the foundation on which to build the economic recovery and levelling up: (1) radical uplift in infrastructure investment (2) creating new skills training opportunities across the UK and (3) fostering the conditions to unleash innovation.

#### Levelling Up

4.47 The Government published its Levelling Up White Paper in February 2022. The paper sets out the Government’s framework for broadening opportunities for people across the country, underpinned by a range of metrics which will track the progress of the 12 Levelling Up “Missions”.

4.48 Luton has been identified as a Priority 1 Area for the Levelling Up Fund.

4.49 In May 2022 the Government published the Levelling Up and Regeneration Bill which is intended to give effect to some of the principles set out in the White Paper.

4.50 Detailed consideration of economic policy is provided in Mr Hunt’s proof of evidence which I draw upon as appropriate but avoid repeating in my PoE.

#### Summary

4.51 Local and national planning policies are supportive of growth at Luton Airport subject to environmental considerations. MBU, FttF, the APF and, to the extent that they are relevant Aviation 2050 and the ANPS, state that the Government is supportive of airports beyond Heathrow making best use of their existing runways. There is no requirement in national aviation policy for an individual planning application for development, such as this one, to demonstrate need for their Proposed Scheme and associated flights and passengers<sup>11</sup>.

4.52 At a national level there is clear support for airport growth to boost the global economy and level up the UK where this can be delivered within the UK’s environmental obligations. There is also clear recognition that the sector needs to build back better after the severe effect on the sector from the pandemic.

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<sup>11</sup> See also IR17 of the Stansted Appeal Decision dated 26 May 2021 (CD15.01)

- 4.53 National policy recognises that aviation needs to play its part to address the climate change crisis and the Government's Jet Zero Strategy provides a framework for doing so.
- 4.54 All levels of policy require detrimental impacts on local communities associated with noise and air quality to be assessed and addressed and I come on to consider these matters in the following sections of my PoE.

## 5 Aircraft Noise

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- 5.1 In this section of my evidence, I will consider the acceptability of the changes to aircraft noise and mitigation associated with the Proposed Scheme against the development plan, national policies drawing on the expert evidence of Mr Thornely-Taylor.
- 5.2 Chapter 6 of the ESA4 sets out the most up to date assessment of the noise impacts of the proposals. It concludes that in noise terms for each of the assessment years, the Proposed Scheme's impacts for both daytime and night-time periods would have '*no significant adverse effect on residences*' (see 6.5.9).
- 5.3 I note that the increase in noise levels is small for residential properties. Tables 6.3 to 6.17 of ESA4 (which compare the Proposed Scheme against existing Condition 10 limits/the without development case) show that the noise increases are all below 1db for all dwellings at the 2023 worse case position and these will fall over time. Section 8 of Mr Thornely-Taylor's PoE explains these changes are not likely to be perceptible. Critically there are no increases of more than 3dB between the LOAEL (51dB) and SOAEL (63dB) and no increases of 1dB or more for residents experiencing noise above SOAEL.
- 5.4 The increase in noise levels is also small for non-residential properties. Section 6.6 and table 6.16 of ESA4 shows how increases are all less than 1dB and not significant. This is also explained in the OR (paragraph. 136) which lists a nursery, primary schools(x4), secondary school/academy, college and church as potentially affected by the Proposed Scheme. Moreover, the small increase in noise levels (at both residential and non-residential properties) is temporary and needs to be seen in light of the additional noise insulation measures that are proposed that more than offset such temporary increases (as discussed below).
- 5.5 In 2023 (when compared to the existing condition 10 limits) there would be 105 additional dwellings predicted to experience noise above SOAEL during the daytime and 322 additional dwellings during the night-time (ESA4 Table 6.2). By 2031 there would be no more dwellings above the daytime SOAEL (when compared to the existing condition 10 limits) and fewer in the 55dB LAeq 8hr night-time SOEAL contour than the existing Condition 10 limits (ibid). This also applies to non-residential properties, where table 6.16 predominantly shows reductions by 2031 compared to without Scheme (existing future condition 10) scenarios.
- 5.6 Table 6.17 and 6.18 of ESA4 helps to show how noise improvements are delivered over time through the introduction of next generation aircraft such as the A320neo, A321 and B737 max As explained in the evidence of Mr Hunt the take up rates of these aircraft is expected to be quicker compared to the without development position.
- 5.7 As explained in Section 3 of my PoE and Table 9.4 of the SoCG, it is proposed to enhance the Airport's sound insulation scheme. In accordance with the Airport's NAP, noise insulation would be provided to residential receptors exposed to noise above the SOAEL. The additional 105 properties above daytime and 322 above night-time SOEAL, would be entitled to sound insulation and indeed as explained in paragraph 6.9.4 of the ESA4 these occupiers would already be included in the night-time SOAEL contours and therefore requirements would be based on night time results.

- 5.8 Eligibility of the noise insulation scheme will be enhanced. It will be based on the worst years (2023 in ESA4) and fixed for a period of six years so that any properties falling within the 55dB LAeq (8hr) or 63db contour in that worst year would be entitled to noise insulation for a period of six years after that date, despite over time those properties falling outside of SOAEL as noise levels fall. Because the new scheme would always be based on 2023 data everyone affected by the worst-case year would be eligible for insulation in those future years.
- 5.9 More grant will also be available to home owners who are eligible for insulation. Under the new noise insulation scheme the existing maximum contribution of £3,000 would be raised to £4,500 (index linked) with an uncapped annual fund. As Mr Thornely-Taylor explains, unlike some other airport schemes, the noise insulation scheme at Luton offers property owners like for like replacement (in terms of window frames) to ensure that a uniform look for the property is maintained. The Applicant intends to allocate £8.5M to the noise insulation scheme to ensure properties meeting the relevant criteria can be insulated. In my opinion, these changes to the mitigation package respond positively to the short-term noise increases and will improve noise conditions indoors for those installing upgrades as the noise from aircraft falls over time.
- 5.10 The 2017 S106 agreement makes provision for a noise insulation scheme covering non-residential buildings with the scheme providing a grant as appropriate in order for noise insulation to be provided and this would apply equally to the Proposed Scheme (subject to the increase in the maximum contribution as described above).

#### Local Plan compliance

- 5.11 Policy LLP6 (London Luton Airport Strategic Allocation) is the principal policy in the local plan relating to proposals at the Airport. Part B of that Policy (headed Airport Expansion) is directly relevant to the Proposed Scheme, with criteria ii, v, vi and vii being relevant to noise matters which I deal with in turn.<sup>12</sup>
- 5.12 It states that proposals for development will only be supported where they meet the 9 criteria where applicable/appropriate, with 5 of the criteria being directly relevant to noise matters and which I address in turn.

#### *ii. they contribute to achieving national aviation policies;*

- 5.13 I address later in this section of my evidence and explain how overall I consider that the Proposed Scheme is consistent with national planning policy.

#### *v. achieve further noise reduction or no material increase in day or night time noise or otherwise cause excessive noise including ground noise at any time of the day or night and in accordance with the Airport's most recent Airport Noise Action Plan;*

- 5.14 After 2031 the noise contours which the Airport would be permitted to operate within would be marginally smaller in the summer daytime and the same at night-time as under the current permission. As paragraph 140 of the OR notes, the application involves the variation of noise

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<sup>12</sup> These are considered in turn in OR141 which confirms that all of the non-noise related criteria (i, iii, vii, viii and ix) have been addressed.

limitations that equates to a 1dB increase for a temporary period and in relation to this criterion, paragraph 141v of the OR acknowledges that by 2028 it is predicted that the noise contours will have returned to the levels associated with the Airport operating at 18 MPPA with all properties having been eligible and offered noise insulation. The ESA4 confirms that the effects of the Proposed Scheme in 2028 (Table 6.10) and 2031 (Table 6.11) are not significant with all changes less than 1dB and by 2031 widespread improvements overall with, for instance, 351 dwellings receiving up to -1dB less noise 63 to 63.9 dB daytime noise band than the old Condition 10 noise limits.

- 5.15 In my view there is no conflict with criterion v of LLP6B. The policy requires the achievement of further noise reductions or no material increase in day or night time noise. Further noise reduction is achieved (albeit after a temporary small increase). Whilst there is a temporary increase in day or night noise, this is assessed as being non-significant in the ESA4. Even if it were considered that this change represented a material increase for the purposes of the policy (which I do not consider to be the case), noise reductions will be achieved relative to the without development position by 2031 (see ESA4 Table 6.11). Moreover, with the additional mitigation (in the form of the enhanced residential insulation scheme set out above above), residents have the opportunity to install enhanced noise insulation (for 6 years).

*vi. include an effective noise control, monitoring and management scheme that ensures that current and future operations at the airport are fully in accordance with the policies of this Plan and any planning permission which has been granted;*

- 5.16 In the OR (paragraph 141vi), Officers advised that *'the current requirements for noise monitoring and management are to be retained and strengthened through conditions and in the Section 106 agreement'*. I agree with this position, and I have explained existing and proposed additional mitigation above. In my experience, the noise measures which I have described in section 2 of my evidence are comprehensive and will now be enhanced by significantly improved noise insulation scheme should planning permission be granted for the Proposed Scheme. The revised noise contour conditions will also clearly apply and, with fleet change now underway there can be confidence that future breaches can be avoided.

*vii. include proposals that will, over time, result in a significant diminution and betterment of the effects of aircraft operations on the amenity of local residents, occupiers and users of sensitive premises in the area, through measures to be taken to secure fleet modernisation or otherwise;*

- 5.17 For the reasons explained in relation to criterion v, over time there will be a reduction in noise contours within which the Airport will be permitted to operate even with the additional 1 MPPA. In the OR (141vii), Officers advised members that the Proposed Scheme complied with this criterion with new generation aircraft contributing to a reduction in contours and sharing in the benefits of technological improvements in the aviation sector. I agree with this statement and note that the Proposed Scheme will help to encourage the airlines to invest more rapidly in quieter next generation aircraft (see Appendix A of Mr Hunt's proof).
- 5.18 In terms of other criterion in Policy LLP6B, the Proposed Scheme is clearly directly related to the Airport use (criterion i), it accords with the 19 MPPA Master Plan approved by LBC's Executive on 23 November 2021 (criterion iii) and the impacts have been fully assessed in ESA2, 3 & 4 (criterion iv). Surface access related criteria are considered in later sections of my evidence.

5.19 Policy LLP38 (Pollution and Contamination) is also relevant to noise considerations. In summary, it requires applicants to provide evidence of any significant adverse impacts and where these are identified, '*appropriate mitigation*' will be required. For the reasons already identified, there will not be any significant adverse impacts. But in addition, the existing and enhanced noise mitigation should in my view be regarded as '*appropriate*' for the purposes of this policy in terms of any adverse impacts because:

- a. As explained in the OR (141iv) the Applicant has '*fully assessed the impacts*' (*including noise*) and the noise insulation scheme will '*contribute significantly*' to mitigating the noise effects for those who currently experience noise above the SOAEL and those who, because of the expansion, will experience noise above the SOAEL.
- b. The roll out of existing and enhanced sound insulation mitigation can potentially lag behind the additional noise being experienced and the uptake of the offer for additional mitigation is dependent upon the willingness of those eligible to apply. However, this is common for all airport noise insulation schemes and, in my view, the Airport's enhanced sound insulation scheme responds to what are objectively very small increases in noise and which are predicted to fall over time.

#### v. National Aviation Policy Compliance

5.20 Mr Thornley-Taylor's evidence explains how the Proposed Scheme is consistent with national policy on noise matters, including how it has been comprehensively assessed using the appropriate noise metrics, change criteria and the change in noise levels are considered acceptable.

5.21 Paragraph 3.12 of the APF states that sharing the benefits of noise reduction with industry is part of the Government's overall policy on aviation noise to limit, and where possible, reduce the number of people in the UK significantly affected by aircraft noise. As paragraph 271 of the Bristol Airport decision explains, the concept of sharing the benefits is set down by the APF but gives no guidance on how it should be calculated or assessed.

5.22 Unamended, condition 10 (noise contours) of the current Variation Permission (15/00950/VARCON), requires noise contours to shrink from 19.4 sq km to 15.2 sq.km (daytime) and 37.2 sq.km to 31.6 sq.km (night-time) through a strategy to be submitted within 5 years of the date of that 13 October 2017 permission. This recognises that as fleet modernisation takes place, the noise benefits are shared with the community.

5.23 The Application Scheme maintains this principle and in certain respects improves the situation. Whilst there will be a short period where noise will increase for some receptors (as explained above):

- a. The increases will be imperceptible and temporary.
- b. The revised wording of condition 10 ensures the progressive reduction in noise, with stepped noise cap reductions from the end of 2027 and 2030 so that the noise contour is slightly lower than the already consented position;
- c. Enhanced noise insulation (which has been introduced in recognition of the temporary change in noise) will provide additional insulation even when noise reduces through fleet modernisation; and

- d. the change in the passenger cap provides the airlines with opportunities for further growth and will help to encourage them to re-fleet more quickly, thereby helping to deliver this benefit earlier (see Appendix A of Mr Hunt's PoE).

5.24 Paragraph 42 of Stansted decision notes that '*It is necessary to ensure that the benefits in terms of the reduction in noise contours over time arising from fleet modernisation, and the reduction in night noise are secured in order that these are shared with the community in accordance with national policy*' (my emphasis). In my view, the proposed changes will be secured through the revised wording of condition 10 and the new sound insulation scheme in the S106.

### NPPF Compliance

5.25 The Secretary of State for LUHC has also specifically asked to be informed about the extent to which the Proposed Scheme is consistent with Government policies for conserving and enhancing the natural environment (NPPF Chapter 15).

5.26 Paragraph 185 states that decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impact on health and the quality of life. The NPPG<sup>13</sup> states as follows:

"..... It may be appropriate to consider, as part of any proposed mitigation strategy, how operational measures, siting and design of new taxiways, apron and runways, and ground-level noise attenuation measures could reduce noise impacts of expansion or increased utilisation to a minimum."

5.27 The Airport has a comprehensive suite of established noise mitigation measures, including its NAP which ensures that its operations avoid and minimise potential noise impacts.

5.28 The NPPF also states that proposals should identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason. In my view, the Proposed Scheme will not change the character of areas overflown and therefore will not have any material impact on tranquil areas. In Mr Thornely-Taylor's PoE he explains that there will be no change in aircraft approach or departure routes so that no new areas will not be overflown.

5.29 Tranquillity was also considered in the OR (paragraph 144) in response to comments from the Chiltern Society, where it was noted that, notwithstanding that an assessment of tranquillity is typically undertaken for airspace change proposals, in various scenarios the number of flights would fall.

### Summary and Conclusions

5.30 LBC concluded that the proposals were contrary to Policy LLP6 and LLP38 of the Local Plan and indeed advertised it as a departure, but that the benefits of the development proposed outweighed any such conflict. As I have explained in this section of my evidence, I consider that the proposals do not conflict with LLP6. In particular, the level of impact is such that it does

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<sup>13</sup> Paragraph: 013 Reference ID: 30-013-20190722, Revision 22 7 2019

not conflict with criterion vi. After a temporary and imperceptible increase in noise it will fall once again. This is consistent with the requirements of the policy. Further, such temporary noise increase is more than offset by the permanent benefits of the changes to the noise insulation scheme, leaving aside the other benefits of the proposals discussed further below and LLP38 (where appropriate mitigation will be put in place).

- 5.31 I also consider that the proposals are consistent with national planning policy on noise matters (and therefore criterion ii of Policy LLP7B of the Local Plan). I come on to consider the position further in Section 9 of my PoE in respect of the overall planning balance which also takes account of the important benefits of the proposals.



## 6 Climate Change

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- 6.1 In this section of my evidence, I consider the acceptability of the Proposed Scheme in respect of Climate Change against the development plan and national planning policy.
- 6.2 Since 27 June 2019<sup>14</sup>, there has been a duty on the Secretary of State to ensure that the net carbon account for the UK is 100% lower than the 1990 baseline. Informed by advice from the Committee on Climate Change (CCC), the Government must set carbon budgets and how these should be met by different sectors of the economy. In the context of a duty on the Secretary of State to set 5 yearly carbon budgets, the most recent one for Aviation is the Sixth Budget (for the period 2033 to 2037). Against this background, the Government has published its Transport Decarbonisation Plan and JZS for the aviation sector which identifies targets and measures to contribute to achieving the national statutory reductions in emissions.

### Climate Change impacts

- 6.3 Section 5 of ESA4 sets out the Applicant's assessment of Green House Gas (GHG) emissions. Paragraphs 5.5.3 & 4 explain that relative to the 2019 baseline, the total GHG emissions in the 'with development case' decrease in all future scenarios (between a 19% and 83% reduction) and this is graphically shown in Figure 5.1, which also acknowledges that emissions in the 'with development case' are slightly higher than the 'without development case'. This can be attributed to the additional activity associated with the additional million passengers proposed. Paragraph 5.5.5 then goes on to explain that:

*'GHG emissions in the 'with development' case peak in the 2025 assessment year in all future scenarios. This is primarily due to fact that passenger forecasts for the Proposed Scheme are assumed to be constant beyond 2025 while efficiency improvements continue. At their peak in 2025, total GHG emissions associated with the 'with development' case are 47 – 71 ktCO<sub>2</sub>e/yr lower than the 2019 baseline, dependent on the future scenario considered.'*

- 6.4 As explained in the evidence of Mr Ösund-Ireland, at their peak in 2025, total GHG emissions associated with the 'with development' case are 47 – 71 ktCO<sub>2</sub>e/yr lower than the 2019 baseline, dependent on the future scenario considered. Table 3.2 and 3.3 of that evidence sets out percentage reductions; emissions from surface access are expected to reduce the most by 2050 (by 79% - 82%) in the central scenarios without and with development respectively. Emissions from airport buildings and ground operations reduce by 51% - 54% and emissions from aviation reduce by 29% - 31%.
- 6.5 The carbon emissions can be put in context in many ways and in every way they are very small. Drawing on the ESA4 and Mr Ösund-Ireland's evidence I note that:
- Emissions from the Proposed Scheme represent a 0.05% increase (2.84% total) relative to the without development scenario when compared to the fourth carbon budget and 0.07% more in 2028 (2.7% total) when compared to the fifth carbon budget.

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<sup>14</sup> The current target is set out in the Climate Change Act 2008 (2050 Target Amendment) Order 2019.

- b. The reductions in emissions at Luton Airport are consistent with the trajectory set in the JZS up to 2040. The JZS in-sector carbon trajectory interim targets of reducing emissions to 25.4% below 2019 levels by 2040 and to 49.3% below 2019 levels by 2050. By comparison, emissions from Luton Airport are expected to fall by 26% (12%-41%) with the Proposed Scheme by the year 2040 and 44% (19%-83%) with the Proposed Scheme by the year 2050.
- c. ESA4 is based on conservative assumptions and is likely to be improved upon with the implementation of the JZS. Overall, Mr Ösund-Ireland considers that the change in emissions will not be material in preventing the UK Government reaching its carbon net zero target.
- d. Even when combined with other committed airport schemes with planning permission (Stansted, Southampton International, Bristol and Manston) the emissions represent only 2.325-2.549% for the overall 37.5 MtCO<sub>2</sub>e target and only 4.53- 4.95% of the 19.3 MtCO<sub>2</sub>e JZS target at 2050.

## Compliance with National Policy

- 6.6 The JZS sets out a clear downward trajectory of 'in-sector' aviation CO<sub>2</sub> emissions between the base taken from 2019 (38.2 MtCO<sub>2</sub>e) and then targeting net zero by 2050 (19.3 MtCO<sub>2</sub>e), with interim targets for years in between (35.4 MtCO<sub>2</sub>e in 2030 and 28.4 MtCO<sub>2</sub>e in 2040). The strategy does not say that airports individually or cumulatively must demonstrate how their expansion would not breach these levels and the document commits (para 1.14) to a 2027 five year review of the strategy starting in 2027 to monitor progress. Nevertheless, it is clear from ESA4 (Figure 5.1) that carbon emissions at Luton will be less than 2019 for subsequent assessment years and will be consistent with the trajectory in the JZS up to 2040.
- 6.7 Along with the publication of the JZS the DfT published a dataset spreadsheet which provides the scenario assumptions which underpin the strategy. This indicates various assumptions for the adopted High Ambition scenario 2 in the JZS adopts and shows that terminal passengers are assumed to increase by 70% nationally between 2016 and 2050 and ATMs by 25% over the same period. They are shown as 292.38 million in 2019 and 482.08 million in 2050 (a 60.65% increase). For 2025 and 2028, the principal assessment years for the Proposed Scheme, nationally passengers are predicted to be 322.02 million and 335.33 million; an increase of 29.64 and 42.94 million respectively compared to 2019.
- 6.8 Clearly, the addition of 1 million passengers and the associated small increase in CO<sub>2</sub> would represent a very small percentage of this planned growth and, in my view, is entirely compatible with the JZS.
- 6.9 Section 4 of Mr Ösund-Ireland's evidence explains how the Airport's Outline Carbon Reduction Plan (CRP) in support of the S73 Application would further contribute to reducing emissions from the perspective of the Airport Operators.
- 6.10 Against this background I consider that the Proposed Scheme is consistent with the Government's climate change commitments and its aviation specific means of implementing these through its JZS policy.

- 6.11 The Inspectors determining Bristol Airport's proposals to increase the capacity of that airport from 10 to 12 million passengers (and other works), also came to a similar conclusion for that scheme, albeit prior to the publication final version of the JZS. I note that Para. 146 of the Inspectors' Report found increases in emissions to be acceptable in the context of:
- a. representing a very small % (0.22-0.28%) of national carbon budgets (para. 187);
  - b. carbon needing an international response (para. 150);
  - c. planning policy not specifically precluding an increase in emissions (paras. 152-155 & 162); and
  - d. how aviation policy (including draft Jet Zero) does not include any explicit requirement to limit capacity at airports (para. 175).
- 6.12 The Secretary of State for Transport's reasoning for the determination of the Manston Airport decision is also particularly relevant given its determination after the publication of the JZS. In that case, the Secretary of State disagreed with the examining authority who had concluded that there would be a material impact on the ability of Government to meet its carbon reduction targets and:
- a. was satisfied that the range of non-planning policies and measures identified in the Government's Transport Decarbonisation Plan and JZS will help to accelerate decarbonisation in the aviation sector and will ensure that the Government's decarbonisation targets for the sector and the legislated carbon budgets can be met, without directly limiting aviation demand (para. 149); and
  - b. concluded that carbon emissions should only be afforded moderate weight against the development in the planning balance and should instead be given neutral weight at the most (para. 150).

### Compliance with the Development Plan

- 6.13 Policy LLP37 (Climate Change, Carbon and Waste Reduction) of the Local Plan states that LBC will support development proposals that contribute towards mitigation and adaption to climate change through energy use reduction, efficiency and energy.
- 6.14 The Outline CRP submitted to accompany the application (CD4.05) shows how the Airport will operate consistently with both the requirements of policy LLP37 and the targets in the Government's JZS for airport operations to be net zero by 2040.
- 6.15 Draft condition 29 will secure compliance with a CRP and requires it to be submitted within 12 months of the permission and for it to be audited and regularly reviewed. As I come on to explain in section 8, there would be benefit in reviewing the wording of condition 29 to require future CRPs to follow the principles of the Outline one already submitted. The Outline CRP submitted during the determination of the application sets out steps that the Airport is taking to achieve carbon neutrality by no later than 2026 and to deliver net zero carbon for the Airport's direct operational emissions by 2040. It addresses:

**Scope 1** emissions directly related to activities that LLAOL controls (such as the combustion of gas and fuel on the Airport);

**Scope 2** emissions associated with the consumption of heat and electricity purchased by the Airport; and

**Scope 3** emissions over which the Airport has very significant influence (those linked to the Airport (including tenants' concessions and subcontractor emissions), and which are ground based activities, and some emissions which the Airport does not have absolute control, but can influence through commercial agreements including flights and surface access.

## Conclusion

- 6.16 Many representations to the planning application raised concerns about climate change. The Inspectors in the recent Stansted and Bristol public inquiries made it clear that this is a national rather than local matter which requires a co-ordinated approach. The ESA4 demonstrates that the amount of additional GHG emission arising from the Proposed Scheme is very small and over time will fall consistent with the trajectory the Government has set in its JZS. In my view, there is no basis for an objection on climate change grounds and the proposals comply with both local and national policy.

## 7 Other Matters

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- 7.1 In this section I address other matters which have been raised by the Inspectors and during the determination of the application. It draws on the ES addenda and JSAQ agreed with LBC.

### Air Quality

- 7.2 As explained in the OR (paragraph 155), Luton has three Air Quality Management Areas (AQMA), two of these are adjacent to the M1 (6km from the Airport) with a further one covering the town centre (2km from the Airport). Eaton Green Road (to the north of the Airport) is the residential area most likely to be impacted in terms of air quality.
- 7.3 Section 4 of ESA4 sets out the up-to-date assessment of air quality changes arising from the Proposed Scheme and the position is further explained in the JSAQ.
- 7.4 I note that Section 4.3 of ESA4 states that aircraft in the air will have limited impacts on ground level pollutant concentrations; emissions from road traffic being a major determinant of pollutant concentrations at the most sensitive receptors around the Airport. It also explains that air quality concentrations in the UK are generally improving as a result of controls on emissions sources (particularly diesel vehicles) and the latest data indicates that the emissions factors for 2025 and subsequent years are expected to be lower than 2024 (both NO<sub>x</sub> and PM). Paragraph 1.3.2 of the JSAQ states that air quality is generally improving and will be better in future than in recent years with or without the development.
- 7.5 Section 4.5 of ESA4 concludes that in 2025 the effects on both human and ecological receptors are not significant. The OR (156 & 157) identified that there would be small increases to NO<sub>2</sub> levels closest to the M1 but noted that these would remain well below the exceedance levels of 40 ug m<sup>-3</sup> and cited negligible impacts on PM<sub>10</sub> in respect of human health and negligible effects in respect of NO<sub>x</sub> on local habitats. The JSAQ concludes that it is common ground that air quality impacts are negligible in all circumstances, both for human and ecological receptors.
- 7.6 I note that Air Quality Impacts were not a significant issue during the determination of the application and Rule 6 parties have not raised specific concerns about the matter in their Statements of Case. In their 12 February 2021 consultation response, LBC's Environmental Protection Officer concluded '*that the requested changes will not have a significant detrimental effect on air quality is accepted*'. Representations from other local authorities also did not raise air quality as a specific concern.
- 7.7 In terms of compliance with planning policy, the OR (160) found that the air quality aspect of the proposals complied with Local Plan policy LLP38. The JSAQ clearly explains why the proposals will not result in any significantly adverse effects and there would be no additional mitigation required.
- 7.8 In terms of compliance with the NPPF, Paragraph 186 states that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of AQMAs and Clean Air Zones, and the cumulative impacts from individual sites. The JSAQ explains how the proposals will not cause

any further exceedance limits in the AQMAs nearby nor cause any further exceedances identified in tables 4.1 to 4.3 of the ESA4.

- 7.9 Paragraph 186 of the NPPF states that opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. It goes on to state that planning decisions should ensure that any new development in AQMAs and Clean Air Zones is consistent with the local air quality action plan. The Airport's continued implementation of its Surface Access Strategy (see below) will contribute to reducing vehicle movements and associated emissions against a backdrop of falling emissions from motor vehicles (see ESA4, Figure 4.1). The Outline CRP also includes measures that will reduce air pollution (principally road traffic).

## Health Effects

- 7.10 Mr Thornley-Taylor summarises the health effects of the Proposed Scheme which is closely related to changes in noise exposure. Whilst noting that 160 additional dwellings technically move into the SOAEL level in 2023, this falls back down to about 85 dwellings in 2031 and he explains that that change relative to the without development position is not significant. Section 7 of ESA4 concludes that there will be some impact on health of minor to moderate significance. The OR (paragraph 166) summarises the position by stating that 'this would be a small change in risk factors for health to a small minority of the population, over a limited period of time'.
- 7.11 I find no conflict with Local Plan policies. There are no specific policies relating to this topic. The local plan vision (paragraph 3) makes specific reference the health and wellbeing for all Borough residents and health matters are closely related to noise, which policy LLP6 seeks to reduce.
- 7.12 In terms of national policy, the NPPF (paragraph 8) makes it clear that the social objective of sustainable development to support strong, vibrant and healthy communities and Section 8 (Promoting healthy and safe communities) requires decision makers to aim to achieve health, inclusive and safe places. The first two bullet points of paragraph 185 of the NPPF summarises key aims of the NPSE and states as follows:

*"Planning policies and decisions should also ensure that new development is appropriate for its location taking into account likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the sensitivity of the site or the wider area to the impacts that could arise from the development. In doing so they should:*

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise in new development – and avoid noise from giving rise to significant adverse impacts on health and quality of life*
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and ...."*

- 7.13 I consider that the Proposed Scheme complies with these policy statements.

## Surface Transport

- 7.14 The proposals would allow for an additional 5.5% increase in the number of passengers (from 18 to 19 MPPA) and no increase in the number of car parking spaces. As explained in ESA4 (Section 8.3), the Proposed Scheme is considered to have a very minimal impact on traffic volumes and would be of 'negligible significance' with less than a 4% increase in traffic in AM and PM peaks<sup>15</sup>. At the same time public transport modal share is predicted to improve (due to DART and other measures) with volumes of car borne traffic likely to be significantly less going forward.
- 7.15 No objections were received from Highways England in respect of the impact upon the strategic highway network (M1 motorway) in their response dated 19 November 2021 and no objection has been received from the County Highway Authority, with Hertfordshire County Council's 13 June 2021 consultation response advising that the planning application adequately assesses surface access implications and only flagging that the Airport needs to ensure the delivery of surface access commitments.
- 7.16 The OR(160) explained that the surface access aspects of the proposals complied with Local Plan policy and specifically policy LLP7. This requires the following:
- viii. incorporate sustainable transportation and surface access measures that, in particular, minimise use of the private car, maximise the use of sustainable transport modes and seek to meet modal shift targets, all in accordance with the London Luton Airport Surface Access Strategy;*
- 7.17 The evidence of Mr Ojeil explains how the continued implementation of the Airport's Travel Plan will help to minimise the use of the private car. As explained, no additional car parking is proposed and the availability of enhanced public transport (DART etc) should assist to incentivise passengers to use sustainable modes particularly from London and other parts of the South East.
- 7.18 Criterion ix of Policy LLP6 requires any expansion proposals to '*incorporate suitable road access for vehicles including any necessary improvements required as a result of the development.*' Criterion D of Policy LLP31 (Sustainable Transport Strategy) relates directly to the Airport and states that '*support for the continued economic success of the Airport as a transport hub(Policy) LPP6 will be delivered through measures to ensure there is capacity at strategically important junctions and continued enhancement of sustainable modes of transport via the Airport Surface Access Strategy*'. Mr Ojeil explains that this infrastructure is already in place and given the very minimal impact on traffic numbers, the application proposals do not trigger further infrastructure requirements.
- 7.19 In terms of compliance with national planning policy, consistent with the requirements of paragraphs 104, 105, 109 and 111 of the NPPF (which requires development to facilitate access to high quality public transport and to provide appropriate facilities that encourage its use and provision of charging points etc), Mr Ojeil explains how this is achieved through Travel Plan and other initiatives at the Airport. Over time they target enhanced mode share for public

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<sup>15</sup> OR149 refers to 121 two-way movements in the AM Peak (an increase of 3.7%) and 93 two way movements in the PM peak (an increase of 3.2%)



transport so that by 2024 there is a target of 33% of staff travelling by sustainable mode (up from 31% in 2019) and 47% of passengers (up from 34% in 2019). It is also clear that the proposed change in traffic will not have a materially detrimental impact on the highway network and, consistent with paragraph 111 of the NPPF, development should not be prevented or refused on highway grounds because there is not an unacceptable impact on the highway safety and the residual impacts on the road network are not severe.

- 7.20 In respect of surface access, I conclude the changes to traffic levels are small and can be easily accommodated by existing infrastructure and will take place as the Airport continues to incentivise non-car journeys and dissuade car use in its Surface Access Strategy. This aspect of the proposals complies with the local plan and national policy.

## Benefits

- 7.21 The Proposed Scheme will help to support an important sector of the economy which has many economic and societal benefits. As the evidence of Mr Hunt explains, the Proposed Scheme will underpin the critically important role the Airport has in Luton's, the sub-region's and the UK's economy and compared to the baseline or without development positions will deliver additional employment and other benefits.

- 7.22 National policy makes it clear that the benefits of aviation are very substantial and in my view proposals which enhance these benefits should be given very significant weight in planning terms. This is evident throughout FttF, the Government's recently published and up to date statement of aviation policy. Page 7 makes it clear that:

*'Aviation also has a central role in delivering local benefits across the UK. This includes championing the levelling up agenda, strengthening union connectivity, boosting economic success, and supporting local jobs. It is important to recognise the role our extensive airport, airfield and aviation infrastructure network plays in providing benefits to local communities, as well as supporting associated supply chains and the aerospace industry'.*

- 7.23 It goes on to explain that airport expansion has a key role to play in realising benefits for the UK through boosting global connectivity and levelling up. Page 19 of FttF explains that enhancing global connectivity and including making both the UK more accessible to visitors and making the rest of the world more accessible to people living in the UK is important. It also notes that in 2019, 41 million visitors came to the UK, spending £28.4 billion and the UK was the tenth most visited country in the world and travel is the UK's third largest export. FttF also gives strong encouragement to growth to allow the sector to recover rapidly from the pandemic following acknowledged *'immense challenges to global aviation'* (see page 8).

- 7.24 The importance of the Airport locally is also clear from the Local Plan's Vision (page 13) and Strategic Objective 1 (p14 & 49) which seek to retain and enhance Luton's important sub-regional role as place for economic growth.

- 7.25 The Airport's significance is also clear from the Planning Statement submitted with the application (cited in OR paragraph 170). Here it is explained that the Airport's (pre-pandemic 2019) importance is apparent from a GDP contribution of £957 million in Bedfordshire alone, sustaining 28,300 jobs across the UK (10,900 direct jobs).



- 7.26 I also understand that the concession fee contributes significantly to local infrastructure and services<sup>16</sup>. The Airport also provides connectivity to 143 destinations in 40 countries and the Airport plays an important role in supporting the tourism sectors and providing access to overseas markets and trade, investment, people and knowledge.
- 7.27 The evidence of Mr Hunt explains how the Proposed Scheme will help to maintain and enhance these benefits, in a location which will clearly benefit from investment and economic growth. Many areas in Luton are categorised as a Priority 1 Area in the Government's levelling up agenda where a number areas of the town are within the top 10% most deprived areas in the country.
- 7.28 In terms of specific benefits which arise from the Proposed Scheme, these align with the objectives of national policy in FttP and Mr Hunt sets these out in his evidence as follows:
- a. Economic Benefits including £44 million of Gross Value Added nationally and up to 858 direct additional jobs in 2025 and 2,200 overall across the UK.
  - b. Industry Benefits in relation to an industry which needs to recover from the COVID 19 pandemic. The additional capacity and noise controls will incentivise airlines to invest further in fleet modernisation. The increased capacity has the following benefits:
    - Connectivity Benefits – by supporting growing access to international markets which bring trade, investment, export and import benefits, and underpin the competitiveness of regional economies.
    - Consumer Benefits – with potential for more choice and competitive airfares
    - Environmental benefits - growth provides an enhanced incentive to invest in a modernised fleet of aircraft which will help to minimise environmental impacts and also respond positively to Jet Zero.
  - c. Levelling up Benefits – by growing jobs, reducing unemployment and growing productivity benefits in an identified priority area.
  - d. The S106 will also further improve access to jobs including the Employment Skill and Recruitment Plan, the Employment and Training Contribution and Local Procurement protocol which are explained in further detail in the evidence of Mr Hunt.

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<sup>16</sup> This was £57.5 million in 2019 and £51.4 million in 2018

## 8 Other Matters raised by third parties

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- 8.1 In this Section I address matters raised by third parties, focussing on procedural matters, recognising that topic specific issues are addressed by the Applicant's other witnesses.

### The Master Plan Update Process (LADACAN)

- 8.2 The Airport published its '19 MPPA Master Plan' in January 2021 (CD1.06). This replaced the Airport's 2012 masterplan which had been prepared to reflect the expansion of the Airport up to 18 MPPA (eventually approved in the 2014 Planning Permission).
- 8.3 As the executive summary to the Master Plan explains, it is intended to serve as a guiding framework for short term development (in advance of the DCO) to increase the Airport's capacity from 18 to 19 million passengers.
- 8.4 The Master Plan indicates limited changes to passenger facilities to accommodate the additional 1 MPPA including minor changes to the passenger terminal (internal works including to check in, security, baggage and customs) and no changes to airfield facilities (infrastructure). Table 0.1 shows 19 million annual passengers, equating to 142,566 total aircraft movements.
- 8.5 Paragraph 4.11 of the Aviation Policy Framework (APF) explains that master plans are non-statutory documents intended to provide a clear statement of intent on the part of the Airport operator in order to enable development at airports to be given due consideration in local planning processes. Annex B of the APF states that the 'suggested content' of master plans should include 'core areas' including forecasts, infrastructure proposals, safeguarding and land/property take, impact on people and the natural environment and proposals to minimise and mitigation impacts.
- 8.6 Policy LLP6 (Biii) of the Luton Local Plan requires expansion proposals at the Airport to be in accordance with an up-to-date Airport Master Plan adopted by the Borough LBC.
- 8.7 Given this policy background and need to be consistent with Policy LLP6 Biii of the Local Plan, LBC reported the 19 MPPA Master Plan to its 23 November 2021 Executive meeting prior to determining the planning application at its 30 November/1 December 2021 Development Management Committee (DMC). LBC Executive agreed to adopt the Airport Master Plan for the purposes of policy LLP6 B(iii) of the Local Plan. Compliance with the Master Plan will therefore amount to compliance with policy LLP6 B(iii).
- 8.8 LADACAN has criticised this approach with their statement of case expressing concern about that Master Plan and the nature of its adoption by LBC. I deal with each of these in turn:

### Barely any analysis before it was adopted

- 8.9 As a non-statutory document, LBC were not obliged to treat the Master Plan as a formal planning submission or planning policy document, with detailed consideration of the explanation being addressed through the DMC which followed. Nevertheless, the Master Plan was prepared in parallel, and informed by, formal application proposals which were the subject of detailed analysis, scrutiny and public consultation. Separately the Airport undertook public

consultation on the draft Airport Master Plan between 7 October and 11 November 2020 with a Summary Consultation Report published in December 2020. The Airport Master Plan was then published in January 2021.

*There are various fundamental errors (LADACAN):*

*The Masterplan states the 2012 planning application was to 'increase capacity to 18 million passengers per year by 2020' (in contradiction to the 2012 Masterplan and para 80 of 5.7 DMC Item 7 London Luton Airport (Officer's Report))*

*The Masterplan adopts the current noise planning conditions 9-12 and 2019 Noise Action Plan (yet Condition 10 has been breached and this Application seeks to increase the contours, and the 2019 Noise Action Plan claimed compliance with contours while in breach.*

- 8.10 There are no fundamental errors and LADACAN is merely pointing to some technically incorrect references which do not affect the substance of the decision at all. None of them go to the heart of 'suggested content' listed in the APF and it must be remembered that the ability to implement the Master Plan is dependent on the grant of planning permission which was considered (with full reasoning at the subsequent DMC) and which is now to be determined by the Secretary of State.

*Impartiality (various parties)*

- 8.11 Various comments have been raised about the impartiality of LBC as local planning authority in the context of it owning the London Luton Airport Limited (known and Luton Rising), the company which owns the Airport.
- 8.12 In my experience public authorities often have property interests and statutory planning and other functions at the same time. There are established protocols to ensure that impartiality and independence are maintained. In this instance, I note how:
- a. There has been ongoing public scrutiny of the Airport and LBC through the Airport Consultative Committee and other forums and through the Airport's annual reporting.
  - b. For the S73 Application process (and the 2019 S73 Application), LBC appointed independent expert consultants to review the application on their behalf. Before the inquiry are various technical notes from Vernon Cole on noise matters dated February 2021), Suono on noise matters dated July, September and November 2021 and Ricardo on carbon emissions dated May and November 2021, all of which analysed LLAOL submissions and, where appropriate, sought clarifications and further environmental information. Matters were addressed in corresponding technical notes from the Airport's advisors Wood and in the EIA addendum which were subsequently reviewed again by LBC's consultant team.
  - c. Table 8.1 provides a detailed chronology of the Airport's further submissions in support of the application (in blue) and subsequent reviews by LBC's independent expert advisors (in black):
- 8.12.1 LBC was aware of scrutiny about its impartiality and addressed the matter in its 'Amendment Sheet' to the 30 November 2021 DMC meeting.

Table 8.1 Audit process of the S73 Application

Date	Application Correspondence
30 November / 1 December 2021	LBC Development Management Committee Meeting
23 November 2021	Review of ES Noise Clarifications from Suono on behalf of <b>LBC</b> on noise data
26 November 2021	Update review from Ricardo on behalf of <b>LBC</b> on implications for carbon emissions
26 October 2021	Bickerdike Allen Partners note on behalf of <b>LLAOL</b> on Actual 2021 Summer Noise Contours
2 September 2021	Response from Suono on behalf of <b>LBC</b> to noise clarification
25 August 2021	Clarifications provided by <b>LLAOL</b> regarding ES assessments
25 August 2021	Clarifications provided by <b>LLAOL</b> regarding noise
19 July 2021	Noise review by Suono on behalf of <b>LBC</b> of updated Noise chapter
21 May 2021	Letter from Wood on behalf of <b>LLAOL</b>
21 May 2021	Outline Carbon Reduction Plan submitted to LBC by Wood on behalf of <b>LLAOL</b>
28 May 2021	Review of carbon emissions/climate change impacts by Ricardo on behalf of <b>LBC</b>
21 May 2021	Updated ES Chapter 8 – Noise submitted to LBC by Wood on behalf of <b>LLAOL</b>
25 February 2021	Review of noise impacts by Vernon Cole on behalf of <b>LBC</b>
4 February 2021	Internal comments from <b>LBC</b> Environmental Protection to LBC
11 January 2021	<b>LLAOL</b> Submission of S73 Application to LBC

- 8.13 Given the care which LBC has taken to have the S73 Application scrutinised by independent consultants, I consider that any claims that LBC's decision-making process has not been impartial are not well founded.

Breaches continuing (Vincent Gorbing on behalf of Herts CC, North Herts DC, Dacorum BC and St Albans CD)

- 8.14 In section 2 of my evidence I summarised the history of the exceedances of noise contour conditions, why they took place and what measures were taken to address them. In my view, the Secretaries of State can be confident that there is a significantly reduced likelihood of proposed planning controls not being met. Aside from the Airport addressing the question of exceedances and taking steps to avoid having to be reactive with corrective proposals going forward, I note:
- The controls have been tailored to the short term forecast requirements and predicted impacts of the Proposed Scheme and it is reasonable to predict that these form a much more realistic basis to control development than the assumptions/forecasts behind the 2014/2017 Planning Permission which sought to control the Airport over longer time periods and without the knowledge of current aviation trends.
  - One of the principal causes for exceedances was the slower introduction of newer generation aircraft. Safety issues have been addressed with the B737 Max and both this aircraft and the A320 neo have committed orders from the airlines based at Luton.

- 8.15 Of course, in the unlikely event of any future exceedance, LBC in its role as the local planning authority has enforcement powers. In the context of ongoing scrutiny from the Airport Consultative Committee and other forums, I have no reason to doubt that LBC would use its enforcement powers.

[The CRP should form part of the application considerations \(Vincent Gorbng on behalf of Herts CC, North Herts DC, Dacorum BC and St Albans CD\)](#)

- 8.16 As explained in section 6 of the PoE, the Outline CRP was submitted to illustrate how the Airport could commit to carbon reduction targets from its own operations, with Condition 29 requiring a CRP to be submitted within 12 months of the permission. Following the publication of the JZS which includes specific requirements for airport operations in England to be zero emission by 2040 (paragraph 3.5), the Airport has now committed to a series of specific targets with a view to meeting this target (see PoE of Mr Ösund-Ireland). To secure these commitments, the Applicant proposes to adjust the wording of draft condition 29 in order to make the CRP follow the committed targets and measures in the Outline CRP (see **Appendix 2**). In this way, the parties can have confidence that the strategy is sufficiently ambitious and consistent with JZS objectives.

## 9 Overall summary and the planning balance

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- 9.1 In accordance with Section 38(6) of the Planning and Compulsory Act the S73 Application should be determined in accordance with the development plan unless material considerations indicate otherwise.
- 9.2 For the reasons set out in section 5 of my evidence I consider that this there is no conflict with Policy LLP6 of the Luton Local Plan which requires the achievement of further noise reductions. There is a temporary increase in day and night-time noise which is small and assessed as not significant in the environmental statement (ESA4)<sup>17</sup>. Noise reduction is achieved after the end of 2027 and the overall effect on the proposals is a reduction in noise by 2031. In terms of the adequacy of noise mitigation, as with all airport noise insulation schemes there are timing and take up limitations and given the circumstances of this case, the Airport is providing appropriate and enhanced mitigation, consistent with Policy LLP38 of the Local Plan, particularly taking into account the significantly enhanced noise insulation package.
- 9.3 Like LBC, I find no conflict with policies relating to other topics:
- a. Climate Change – policy LLP37 states that LBC will support development which contributes towards mitigation and adaption to climate change through energy use reduction and efficiency. There are no specific policies in relation to aircraft emissions and the Outline CRP, with defined targets and measures (to be secured through a revised Condition 29), will ensure that the local policy requirement is met and is also consistent with the target in the Government’s Jet Zero Strategy (JZS) for net zero airport operations by 2040.
  - b. Air Quality – policy LLP38 requires the identification of adverse impacts and appropriate mitigation to be provided in respect of air quality and other aspects of pollution. As set out in section 7 of my PoE and the JSAQ, the proposed cap uplift to 19 million passengers will not have significant effects on air quality and therefore complies with this policy.
  - c. Surface access – the Proposed Scheme complies with criteria viii and ix of Policy LLP6 which requires the incorporation of sustainable transport measures and expansion proposals to incorporate suitable road access and improvements. The imminent opening of DART and other initiatives to promote non-car modes as part of the Airport’s Surface Access Strategy will reduce the proportion of trips by car. Section 7 of my PoE explains how the cap uplift results in very small increases in traffic which do not cause capacity or safety issues.
  - d. Health effects – there are no specific local plan policies relating to this topic and there would only be a small change in risk factors for health to a small minority of the population, over a limited period of time.

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<sup>17</sup> Mr Thornley Taylor says it is not material in Section 10 of his evidence.

- 9.4 The expansion of the Airport, and the economic benefits it brings are consistent with Policy LLP6 of the Local Plan which specifically allocates the Airport for the strategic growth of business and industry which is important for the Luton and the sub-regional economy.
- 9.5 Taking all of this into account, I consider that the Proposed Scheme complies with policies LLP6 and LLP38 and complies with the development plan as a whole.
- 9.6 Even if it were considered that there were some conflict with policy in respect of noise (as LBC suggested but with which I do not agree) or indeed any other policies, I consider that any such conflict would be minor and the proposal would still comply with the development plan when considered as a whole. But even if it were assumed that a conflict with part of LLP6 or any other development plan policy gave rise to conflict with the development plan as a whole, I consider this would be a case where any such conflict would be clearly and demonstrably outweighed by other material considerations which, in this case should be given significant weight in the planning balance. I note that the Proposed Scheme:
- a. is consistent with up-to-date aviation policy in Flightpaths to the Future (FttF) and Making Best Use (MBU) which accepts the principle of growth through making best use of existing infrastructure;
  - b. assists the Airport to recover from pandemic;
  - c. incentivises Airlines to continue to invest and grow in Luton;
  - d. brings significant economic benefits which will be shared with the local community through enhanced training and other employment initiatives (consistent with the requirement of MBU);
  - e. commits to targets in the Outline Carbon Reduction Plan responding directly to JZS targets for airport operations;
  - f. can take place with reductions in Green House Gasses at the Airport consistent downward in sector CO<sub>2</sub> emissions targets in the Government's JZS;
  - g. shares the noise benefits from fleet modernisation with the community with modified condition 10 progressively reducing the noise contour downwards so growth occurs in parallel with reduced noise for the community.
- 9.7 More generally, I find that the Proposed Scheme complies with national aviation, noise and climate change policies. Compliance with national aviation policies also means that there is no conflict with Criterion Bii of the LLP6 which requires expansion proposals to contribute to achieving national aviation policies.
- 9.8 Revised condition 10 is consistent with the tests for conditions in the NPPF<sup>18</sup> with the revised controls informed by up-to-date forecasts and confirmed orders for new generation aircraft.
- 9.9 Overall, I conclude Proposed Scheme accords with the development plan as a whole and there are no material considerations which indicate that a decision should be taken other than in accordance with the development plan. Conversely, there are significant material considerations which weigh in favour of this application. Even if there were considered to

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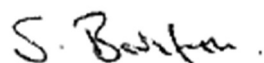
<sup>18</sup> Necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects (para. 56)

conflict with the development plan as a whole (which I do not), I consider that those other material considerations would clearly and demonstrably outweigh that conflict anyway. On that basis, I consider that the application should be granted planning permission.



## Declaration

The evidence which I have prepared and provide for this planning appeal in this proof of evidence is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

A handwritten signature in black ink, appearing to read 'S. Bashforth'.

Sean David Bashforth, Senior Director

30 August 2022

# Appendix 1 Meetings re Noise Exceedances

Meeting (Date)	Record of Discussions (Meeting Minutes)
London Luton Airport Noise & Track Sub Committee  (6/6/17)	<i>"3.3 ...Members noted that the night-time noise contour area had increased by 10%. The basic INM methodology had not been altered so comparison between this quarter's results and last years was appropriate."</i>
London Luton Airport Consultative Committee  (10/7/17)	<i>"6.7 Members enquired about the current day and night noise contours and what would happen were the limit to be exceeded. Members were advised that in December LLAOL would know whether they will exceed the condition which, if this were the case, would lead to further discussions with the Planning Authority regarding the implications."</i>
London Luton Airport Noise & Track Sub Committee  (6/9/17)	<i>3.2... Members noted that the night-time noise contour area has increased by 4.5%. The INM methodology had been updated, allowing for the latest measured results, so comparison between this quarter's results and last years was approximate."</i>
London Luton Airport Consultative Committee  (22/1/18)	<p><i>"3.6 2017 Annual "Summer" Noise Contours - LLAOL informed that the noise contours for the period mid-June to mid-September had been computed and indicated that the area of the daytime contour was just less than the initial limit specified in Planning Condition 12. The night-time contour area was over the limit by 4%. LLAOL informed that the result had been expected and they were in discussion with LBC. The main cause for the increase was the continued growth in traffic. LLAOL advised that they were working with the airlines to speed up the introduction of re-engined and totally new aircraft which would aid in reducing the noise contour area. Late arriving aircraft had also impacted on the night time contour area."</i></p> <p><i>"LBC informed that they had advised LLAOL to carry out pre-application dialogue with local stakeholders before any Section 73 application to vary Condition 12 was submitted and added that such an application would of course involve a full public consultation and planning application."</i></p> <p><i>"Further discussion ensued with LLACC members regarding the breach in the Noise Contour limit and how it should be addressed."</i></p>
London Luton Airport Noise & Track Sub Committee  (14/3/18)	<p><i>"3.2...Members noted that the night-time noise contour area had increased very slightly by just under 1% for the period."</i></p> <p><i>4.3 Condition 12 Variation now Condition 10 - LLAOL stated that in the light of predicted noise contours for Summer 2018, it had taken steps to reduce noise at night. However, the contour limits set by the original Planning Condition 12 had been breached. LBC advised that they had instructed the Airport on the 16<sup>th</sup> February 2018 to provide a detailed Action Plan setting out how the Airport Operator planned to remedy the breach of this condition. LLAOL informed that with immediate effect for Summer 2018 and every subsequent Summer until further notice:</i></p> <ul style="list-style-type: none"> <li><i>• No ad hoc movements would be permitted including Commercial, GA and Maintenance between 2200-0559 GMT from 1st June – 30th September.</i></li> <li><i>• No further night slots would be allocated to flights between 2200-0559 GMT from 1st June – 30th September</i></li> <li><i>• No re-scheduling of existing allocated slots from the daytime 0600-2159 GMT into the night time 2200-0559 GMT would be permitted from 1st June – 30th September</i></li> <li><i>• No "non-emergency" Diverted Flights would be accepted 2200-0559 GMT from 1st June – 30th September</i></li> <li><i>• For Summer 2019 and all subsequent seasons no aircraft with a value greater than QC1 would be permitted to operate in the night-time period.</i></li> </ul>

Meeting (Date)	Record of Discussions (Meeting Minutes)
	<p><i>In terms of the daytime noise contour limit the Airport would be applying the following measures with immediate effect;</i></p> <ul style="list-style-type: none"> <li><i>• No further daytime slots to be allocated to aircraft greater than QC1 between 0600-2159 GMT from 1st June – 30th September</i></li> <li><i>• No equipment changes on existing allocated slots that would involve replacing an aircraft with a QC value of 1 or less with an aircraft with a QC value greater than 1 between 0600-2159 GMT from 1st June – 30th September</i></li> <li><i>• No “non-emergency” Diverted Flights would be accepted between 0600-2159 GMT from 1st June – 30th September.</i></li> </ul> <p><i>These new restrictions were discussed in depth and concerns were raised over their effectiveness.</i></p> <p><i>LLAOL informed that there was still a lot more being done and they would be in a better position to advise at the next NTSC.”</i></p>
<p>London Luton Airport Consultative Committee</p> <p>(23/4/18)</p>	<p><i>“3.2...Condition 12 Variation - There was a long debate with NTSC members regarding Condition 12 (now Condition 10). LLAOL advised that in light of predicted noise contours for Summer 2018, they had taken steps to reduce noise at night (LBC advised that they had instructed the Airport on the 16th February 2018 to provide a detailed Action Plan setting out how the Airport Operator plans to remedy the breach of this condition). LLAOL advised on things that they have already put in place and on what more can be done including:</i></p> <p><i>With immediate effect for Summer 2018 and every subsequent Summer until further notice:</i></p> <ul style="list-style-type: none"> <li><i>• No ad hoc movements will be permitted including Commercial, GA and Maintenance between 2200-0559 GMT 1st June – 30th September</i></li> <li><i>• No further night slots to be allocated to series flights 2200-0559 GMT 1st June – 30th September</i></li> <li><i>• No re-scheduling of existing allocated slots from the daytime 0600-2159 GMT into the night time 2200-0559 GMT 1st June – 30th September</i></li> <li><i>• No “non-emergency” Diverted Flights will be accepted 2200-0559 GMT 1st June – 30th September</i></li> <li><i>• For Summer 2019 and all subsequent seasons no aircraft with a value greater than QC1 will be permitted to operate in the night-time period.</i></li> </ul> <p><i>In terms of the daytime noise contour limit the Airport will be applying the following measures with immediate effect;</i></p> <ul style="list-style-type: none"> <li><i>• No further daytime slots to be allocated to aircraft greater than QC1 0600-2159 GMT 1st June – 30th September</i></li> <li><i>• No equipment changes on existing allocated slots that would involve replacing an aircraft with a QC value of 1 or less with an aircraft with a QC value greater than 1 0600-2159 GMT 1st June – 30th September</i></li> <li><i>• No “non-emergency” Diverted Flights will be accepted 0600-2159 GMT 1st June – 30th September.</i></li> </ul> <p><i>These new restrictions were discussed, and concerns raised over their effectiveness and impact.”</i></p>
<p>London Luton Airport Noise &amp; Track Sub Committee</p> <p>(3/9/18)</p>	<p><i>“3.2... Members noted that the night-time noise contour area had increased, by 9%. This was mainly due to late running aircraft slipping in to the night-time period exacerbated by ATC issues over Europe. It was noted that the INM methodology had been slightly updated, allowing for the latest measured results, so comparisons between this quarter’s results and last years was only approximate.</i></p> <p><i>4.3 Section 73 Application: Condition 10 Variation - LLAOL informed members that they intended to submit a variation request to Condition 10 which dealt with Noise Contours and gave a detailed update on their planned submission to LBC to vary the noise contour limit for a maximum of 5 years to accommodate the exceptional growth in airport activity prior to the major deployment of new quieter aircraft. LLAOL stressed that they were not intending to change any of the other caps and were only proposing to increase the current cap of the noise contour for a limited period. It was also noted that the activity in 2017 was virtually the same as that originally predicted for 2024 in the previous planning application.</i></p>

Meeting (Date)	Record of Discussions (Meeting Minutes)
	<p><i>LLAOL informed members that their intention was to submit the documentation for the variation very soon and members were advised by LBC that the Planning Application would be 16 weeks minimum of which 30 days would be public consultation; consequently any decision should not be expected before the New Year.</i></p> <p><i>LLAOL briefed members on the details of the application and related mitigation measures, these included that by Summer 19 the stopping of the noisiest aircraft operating at night with the banning of QC2 aircraft operations at night; together with the removal of QC2 aircraft operations during the daytime between June and September.</i></p> <p><i>LLAOL informed that the variation sought related to a small increase in activity between 30-35 movements per day, of which 5 would be at night, this equated to a maximum noise increase of only 1 dB. Members raised concern on were the noise contour would be extended to and the impact of an additional 35 aircraft (max) and in particular the additional 5 at night.</i></p> <p><i>It was noted that separate to the application LLAOL would be preparing the required Noise Contour Reduction Strategy in 2019.</i></p> <p><i>Members sought clarification that they would be able to ask their noise consultant to advise on the application once submitted. This was confirmed."</i></p>
<p>London Luton Airport Consultative Committee</p> <p>(21/1/19)</p>	<p><i>"3.9 Members asked LLAOL what steps they were taking to avoid a breach in 2019 as previous mitigation measures had not prevented a breach occurring in 2018. LLAOL informed that they were working with operators to minimise the breach; however, quieter aircraft were not expected for another few years and therefore the requirement would be for the Airport to submit an application to vary the planning condition temporarily to avoid any further breach as the Airport had grown much quicker than expected. LLAOL confirmed that there was a requirement for the Airport to start to bring down noise even further by 2028."</i></p>
<p>London Luton Airport Consultative Committee</p> <p>(20/1/20)</p>	<p><i>"4.4...The noise monitor results showed that most departures continued to produce noise levels in the range 70-76 dB L<sub>A</sub>max. The total number of recorded departure noise events registered at greater than 80 dB and above for the period was 19 by day and none by night; last year for the same period the figures had been 17 and 0 respectively. There were no noise violations by day or night but members did note that the night-time noise contour area had increased by 10%."</i></p> <p><i>"4.10 NTSC Members noted that while fuel efficiency was probably the driving factor in aircraft selection by the airlines, there was also a conflict between the use of the new quieter aircraft with increased passenger capacity and the need to contain passenger activity to 18mppa. LLAOL informed that they were managing the seat cap for next summer through the Airport Coordination Committee."</i></p>

## Appendix 2: Proposed Revised Wording for Condition 29

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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 [informed by the carbon mitigation targets in the 'Outline Carbon Reduction Plan', dated May 2021 and 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.