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SUMMARY PROOF OF EVIDENCE

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 13 October 2017) to accommodate 19 million passengers per annum and to amend the daytime and night-time noise contours.

LPA Ref: 21/00031/VARCON

PINs Ref: APP/B0230/V/22/3296455

SoS Ref: PCU/RTI/B0230/3269175

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Summary Proof of Evidence LADACAN Expansions to Luton Airport

Introduction

1. The purpose of my evidence is to provide an objective professional assessment of the background and key planning matters identified by the SOS. In particular, my evidence will focus on the Luton Local Plan 2011-2023 ('the LLP') and national planning policy (and related national planning practice guidance).
2. From review of the documents provided to me I have identified a number of key issues arising from the proposed variation of conditions (Section 73 application)
 - Conflict with the local development plan;
 - Conflict with national policy relating to noise/aviation noise;
 - Conflict with aspects of national aviation policy in respect of noise;
 - Reliance on unspecified and unquantified social and economic benefits;
 - The ineffectiveness of planning conditions and obligations to mitigate noise from aircraft movements
 - Weight afforded to climate change factors (in particular emissions);

My evidence

3. This evidence will seek to assist the Inspectors by providing a balanced assessment in respect of these issues. A key element of my evidence will be to consider the extent to which the proposed development is consistent with the development plan for the area.
4. As a Section 73 application seeks to vary historic planning conditions, this evidence will consider the planning history of the conditions under consideration, including the reasons for those conditions (in the context of relevant tests for planning conditions) and also historic issues around compliance with and enforcement of those conditions.
5. LADACAN has appointed appropriately qualified and experienced technical experts to deal with the following matters:

- Noise – Seth Roberts (Hayes McKenzie)
 - Socio-economics – Alex Chapman (New Economics Foundation)
 - Climate change – Cait Hewitt (the Aviation Environmental Federation)
 - Airport Operation/Context/Background – Andrew Lambourne (LADACAN)
6. I do not produce any technical/specialist evidence, but my evidence will refer to that of others, including that produced by Applicant as part of the application submissions.

Conclusions

Conflict with the Local Plan

7. In my opinion the proposed Section 73 application conflicts with the LLP. While the LLP supports the growth and expansion of the Airport recognising that it would deliver important social and economic benefits, the LLP also recognises that such growth comes at a price in terms of significant negative environmental and local community impacts. The policy support for expansion and growth of the Airport is not unqualified.
8. Policy LLP6 of the LLP seeks to balance these aspects by providing a clear and comprehensive set of criteria for noise control which must be met if a development for expansion is to be supported. Those criteria are essential in ensuring that negative impacts of development are minimised and mitigated in a reasonable and balanced way. Therefore, non-compliance with those criteria is not a matter to be dismissed lightly.
9. My evidence sets out my view that the Section 73 Application is in conflict with criteria (iv), (v) and (vii) of Policy LLP6B, and is not in accordance with the LLP. The start point arising from the plan-led approach to decision making and paragraph 12 of the Framework is that planning permission should be refused, unless material considerations indicate otherwise.

Other Material Considerations (Policy)

10. In assessing other material considerations, I have identified relevant aspects of national planning policy and guidance and other topical aspects of national/Government policy. I recognise that there is broad support in these

various documents for airport growth and expansion, but such support is not unqualified.

11. I do not consider that relevant aspects of national policy indicate that economic benefits will automatically or inevitably outweigh other aspects.

Other Material Considerations (Social and Economic Benefits)

12. The Applicant relies on economic benefits as the main plank of its case. The LPA has indicated that it attaches significant weight to those claimed economic benefits. Mr Chapman has pointed out that the Applicant has not produced any up-to-date or specific evidence which identifies and/or quantifies economic or social benefits which arise directly as a result of the Section 73 Application, but instead relies on the 2012 ES (CD6.02) content on social and economic benefits. I have identified two main issues that I consider arise from this reliance on the 2012 ES social and economic benefits.
13. First, those benefits were fully taken into account in the formulation of Policy LLP6 of the LLP. Policy LLP6 'baked-in' and gave full weight to those benefits (as set out in the 2012 ES), and set out clear and firm criteria to ensure that negative impacts were limited and mitigated.
14. Secondly, I consider that if a development proposal to increase the passenger throughput by 1 mppa, but which fails to meet the relevant criteria of Policy LLP6B), is to be supported on the basis of social and/or economic benefits, there must be clear and compelling evidence that additional or different benefits will be delivered. Such evidence (specific to the proposed variation of condition 8 to increase the passenger throughput by 1mppa) is not provided.

The Planning Balance

15. The conflict with the LLP in this case indicates that planning permission for the Section 73 Application should be refused, unless material considerations indicate otherwise. In this case it is clear to me that Policy LLP6B was carefully drafted to ensure that there was a framework within which future growth would be regulated. Policy LLP 6B is clear that proposals for expansion of the airport and its operations will only be supported if the criteria in Policy LLP 6B are met. Those criteria are not met.

16. For the planning balance to be tipped in favour of the Section 73 Application there would, in my opinion, need to be a clear and compelling case that other material considerations would outweigh and override the conflict with the LLP. As set out above I do not consider that a clear and compelling case has been made on the basis of additional and/or different social and economic benefits arising directly from the proposed changes to condition 8.
17. Furthermore, I consider that the imposition of the existing conditions 8 and 10 on the 2017 Planning Permission (carried forward from the 2014 Planning Permission) were thoroughly and carefully considered by the LPA, and followed a balanced approach that was accepted and supported by the Applicants.
18. That approach gave full regard to the tests for planning conditions and, in particular, recognised that conditions 8 and 10 were necessary to mitigate the negative impacts of the underlying development to an acceptable level. The conditions were also considered reasonable in that they did not place unjustifiable or disproportionate financial burdens on the Applicant. Conditions 8 and 10 were the key means by which the adverse impacts of the airport expansion could be mitigated.
19. The Applicant has failed to justify why those key controls and limits should be weakened, when to do so results in reduced levels of mitigation. I have not seen any evidence which seeks to explain why reduced levels of mitigation are justified.
20. For these reasons I do not consider that the planning balance suggest a decision otherwise than in accordance with the LLP. The dated and general information on social and economic benefits relied upon by the Applicant does not outweigh the conflict with the LLP.

Issues Arising from the Proposed Varied Conditions

21. Any increase in the passenger cap should be contingent upon a clear understanding of whether and to what extent reductions in noise and other impacts over time will be secured. Any conditions either in terms of passenger numbers or noise limitations, and any associated Section 106 obligations, must be drafted carefully and precisely to ensure that they are ultimately effective.

22. Mr Lambourne and Mr Roberts have set out in evidence the concerns that they have around about the effectiveness of the proposed condition 10. They do not believe that the Applicant's information provides a clear case that the proposed noise contours are achievable or that they would be effective. The history of repeated breaches from 2017 to 2019 indicates that previous assumptions and predictions in this regard have failed to materialise.

Conclusion

23. My overall opinion is that the Applicant has failed to demonstrate why the Section 73 Application, which represents a departure from the LLP and which would result in reduced mitigation of the adverse impacts of the underlying development, should be permitted. On that basis I consider that the section 73 Application should not be granted planning permission

24. However if the Inspectors are minded to recommend that the section 73 Application be granted, I would invite them to consider a variation of condition 10 which would seek to more effectively control and curtail passenger numbers in the event that the specified noise contours and limits are exceeded.

25. One way of doing so would be to impose some financial sanction on the Applicant in those circumstances following the Planning Appeals Commissioners' decision in the case of Belfast City Airport



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