

**PROOF OF EVIDENCE****Planning**

On behalf of

**LUTON BOROUGH COUNCIL**

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

**David Gurtler BA(Hons) BPI DipSurv MRTPI**

**APPLICANT:** London Luton Airport Operations Limited

**APPLICATION SITE:** London Luton Airport, Airport Way, Luton

**DESCRIPTION OF DEVELOPMENT:** 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) for the dualling of airport way/airport approach road and associated junction improvements, extensions and alterations to the terminal buildings, erection of new departures/arrivals pier and walkway, erection of a pedestrian link building from the short-stay car park to the terminal, extensions and alterations to the mid-term and long-term car parks, construction of a new parallel taxiway, extensions to the existing taxiway parallel to the runway, extensions to existing aircraft parking aprons, improvements to ancillary infrastructure including access and drainage, and demolition of existing structures and enabling works and for the construction of multi-storey car park and pedestrian link building.

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

**LPA REF:** 21/00031/VARCON



Alpha Planning Ltd.

**Luton Airport Public Inquiry**

Planning Proof of Evidence

David Gurtler BA(Hons) BPI DipSurv MRTPI

on behalf of

Luton Borough Council

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

Luton Council ref: 21/00031/VARCON

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## 1.0 Qualifications and Experience

- 1.1 My name is David Gurtler, I hold a Bachelor of Arts in Town and Country Planning and a Bachelor of Planning from Manchester University. I also hold a Diploma in Surveying from the College of Estate Management at the University of Reading. I have been a member of the Royal Town Planning Institute since 1989.
- 1.2 I am a Director of Alpha Planning Ltd. I have been in practice for 35 years, having worked for three London Boroughs, three planning consultancies and a number of non-government organisations and charities.
- 1.3 I have been involved in planning associated with the aviation sector since 1992 when I first worked for the London Borough of Hillingdon as principal planning officer responsible for securing the delivery of British Airways's corporate headquarters at Waterside, Heathrow. Subsequently, I was involved with the Terminal 5 public inquiry in the mid-1990s, preparing evidence for Hillingdon's Divisional Director of Planning. Following a period abroad, I returned to the UK in 2001 and worked as a consultant for BAA on the Terminal 5 project, where I was responsible for securing consent for much of the landside infrastructure.
- 1.4 Between 2005 to 2012 I headed up the aviation team at Nathaniel Lichfield and Partners (now Lichfields), working with British Airways at Heathrow, BAA at Stansted, Regional Airports Ltd at Southend and Biggin Hill Airports, Sutton Harbour Group at Plymouth City Airport, Regional City Airports at Blackpool Airport and also a number of smaller local airports (including Wolverhampton Halfpenny Green and Tattenhill).
- 1.5 Since founding Alpha Planning in 2012, I have continued to work with the aviation sector, with roles that include: providing advice to Transport for London in relation to Heathrow's proposal to end the Cranford agreement; working with Biggin Hill and Oxford Airports in challenging the Ministry of Defence, the Civil Aviation Authority and the Department for Transport in the High Court against their decision to increase the number of civilian aircraft movements at RAF Northolt; working on Manchester Airports Group's Framework Agreement, having provided them with advice in relation to development at Bournemouth Airport prior to its sale; representing the London Borough of Newham as their expert witness at the London City Airport public Inquiry in 2016; advising Southampton City Council on Southampton Airport's proposal to extend the runway in order to provide representations to

Eastleigh District Council the local planning authority (LPA) responsible for determining the planning application; and working with Heathrow Airport Limited ('HAL') on enabling works associated with the third runway project and providing advice to various teams within HAL on planning matters as part of their framework agreement.

- 1.6 I have been involved in providing Luton Borough Council ('the Council') with planning advice associated with airport development proposals since November 2013, when I was first approached by the Head of Planning and Transportation to prepare a report for the Council's Development Management Committee in relation to the expansion of Luton Airport to accommodate 18 million passengers per annum ('mppa'). I have continued to provide airport related planning advice for the past seven years, and in July 2021 Alpha Planning won a tender to provide specialist and technical planning assistance to the Council for a five-year period pertaining to airport related development proposals.
- 1.7 I was the case officer that dealt with the first application submitted by London Luton Airport Operations Limited (LLAOL) proposing the variation of condition 10 to allow a temporary increase in the area covered by the 57dB LAeq(16hr) contour and the 48dB LAeq(8hr) contour (LPA ref: 19/00428/EIA) – that application was withdrawn when the current application, the subject of this inquiry (LPA ref: 21/00031/VARCON) was submitted.
- 1.8 For the current planning application (LPA ref: 21/00031/VARCON), I was involved in the pre-application discussions and subsequently have been the case officer working with the Council's in house teams and the external noise (Suono) and climate change (Ricardo) consultants in reviewing the proposed variation to the planning conditions and the documents submitted with the application in January 2021. This entailed reviewing the Environmental Statement Addendum (Jan 2021), requesting further information under Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, and further clarification of information, plus reviewing the representations received to the planning application, before reporting the application to the Council's Development Management Committee on 30 November and 1 December 2021.
- 1.9 The evidence which I have now prepared and provide in this proof of evidence is true and has been prepared and is given in accordance with the guidance of my professional institution. I confirm that the opinions expressed are my true and professional opinions.

## 2.0 Introduction

- 2.1 My evidence has been prepared on behalf of the Council, in response to the call-in on 6 April 2022 by the Secretary of State for Levelling Up, Housing and Communities, of the planning application for the variation of five conditions of planning permission 15/00950/VARCON ('the Proposed Variations'), most notably condition 8 (passenger cap) and condition 10 (summer noise contours) described at Section 2 of the Statement of Common Ground ('the SoCG').
- 2.2 The application the subject of this inquiry was dated 8 January 2021 and was validated by the Council on the 11 January 2021 ('the Application')<sup>1</sup>. The Application was accompanied by an environmental statement addendum ('ESA2', January 2021<sup>2</sup>).
- 2.3 On 30 November and 1 December 2021, the Application was reported to the Council's Development Management Committee ('the DMC')<sup>3</sup> with an officer recommendation that planning permission be granted subject to the variation of the current legal agreement dated 9 October 2017 and the imposition of various planning conditions. At the DMC it was resolved to approve the Application in line with the officer recommendation.<sup>4</sup>
- 2.4 On 22 December 2021 the Council received a direction under Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 from the Secretary of State for Levelling Up, Housing and Communities, preventing the Council from granting planning permission for the Proposed Variations without the specific authorisation of the Secretary of State.

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<sup>1</sup> CD1.01 – CD1.15

<sup>2</sup> For consistency with the infographic provided by Wood Group to the programme officer on 15 August 2022 and the subsequent technical note on the Environmental Statement Documentation provided on 24 August 2022, the following notation is being used throughout this evidence:

- 'the 2012 ES' - the environmental statement submitted with the original planning application (LPA ref: 12/01400/FUL) [CD6.02]
- 'ESA1' - the environmental statement addendum submitted with the first S73 application (LPA ref: 15/00950/VARCON) [CD7.02]
- 'ESA2' - the environmental statement addendum submitted with the Application in January 2021 (LPA ref: 21/00031/VARCON) [CD1.08, CD1.09 and CD1.10]
- 'ESA3' - the update to the noise chapter of ESA2, dated May 2021 (LPA ref: 21/00031/VARCON) [CD4.06]
- 'ESA4' the environmental statement addendum submitted in July 2022 to PINS following the call-in of the Application (LPA ref: 21/00031/VARCON) [CD1.16, CD1.17 and CD1.18]

<sup>3</sup> [CD5.08]

<sup>4</sup> [CD5.14]

- 2.5 On 6 April 2022 the Secretary of State for Levelling Up, Housing and Communities wrote to the Council advising that he had decided to call-in the Application in order for it to be referred to him for his determination, with all aspects of the Proposed Variations to be considered at a local inquiry.

### **3.0 Structure and Scope of Evidence**

- 3.1 My evidence will address issues raised in relation to the Proposed Variations reported to the DMC on 30 November and 1 December 2021 and the subsequent submission of the Environmental Statement Addendum to the Planning Inspectorate in July 2022 ('ESA4', July 2022).<sup>5</sup>
- 3.2 In my evidence I refer to the report to the DMC of 30 November,<sup>6</sup> but I do not repeat all aspects of that report. A Statement of Common Ground (SoCG) was agreed between the Council and the Applicant on 23 May 2022, and this is referred to and expanded upon in my evidence. This evidence therefore does not repeat the background to the application, the details of the Proposed Variations, information about the site and its surroundings, the numerous policy documents previously highlighted nor the planning history associated with the site, since this information is all set out in both the report to the DMC<sup>7</sup> and the SoCG.
- 3.3 The Pre-Inquiry Meeting Note from the Inspector Panel (dated 13 July 2022), identified seven main issues for consideration. In respect of those issues: Dr Mark Hinnells addresses climate change (consideration 1) in his evidence; Ben Holcombe addresses noise (consideration 2); air quality (consideration 3) is addressed by the Applicant and the Council in a joint position statement as instructed by the Inspector Panel in their Addendum to the Pre-Inquiry Meeting Note (dated 28 July 2022); and sustainable transport and transport objectives (consideration 4) are addressed by Antony Swift and Christopher Godden in their evidence.
- 3.4 This proof of evidence should be read in conjunction with those prepared by the Council's other witnesses. It draws upon their conclusions in respect of: climate change; noise; and transport, however, it is primarily focussed upon the acceptability of the Proposed Variations

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<sup>5</sup> [CD1.16, CD1.17 and CD1.18]

<sup>6</sup> [CD5.08]

<sup>7</sup> [CD5.08]



with regard to local and national planning policy (consideration 6), socio-economic implications (consideration 5) and the overall planning balance (consideration 7).

## 4.0 Summary

4.1 When the Application was submitted in January 2021, it was advertised as: a major development; EIA development; and as a departure from the development plan. It was considered a departure since at the time it was registered it was not in accordance with:

- Policy LLP6B(iii) as it was not in accordance with an up-to-date Airport Master Plan at the time;
- Policy LLP6B(iv) as the application had failed to identify appropriate forms of mitigation in the event significant adverse effects were identified;
- Policy LLP6B(v) as the evidence then submitted showed a >1dB increase in noise above the SOAEL in day and night time; and
- to Policy LLP6B(vii) as there was no evidence that the proposals would, over time, result in a significant diminution and betterment of aircraft operations on local residents.

4.2 The position in relation to the adoption of an up-to-date Airport Master Plan was resolved before the DMC meeting on 30 November 2021. Appropriate forms of mitigation have now been identified. Further, with the submission in July 2022 of ESA4 to the Planning Inspectorate, the evidence before the Inquiry now is that the Proposed Variations do not result in significant adverse effects. Noise level increases from airborne aircraft in the daytime and night time result in less than a 1dB increase, such an increase is not perceptible and not significant, and does not represent a material increase in noise. On the evidence now submitted in ESA4, the proposals will over time result in significant diminution and betterment of the effects of aircraft operations on the amenity of local residents through measures to be taken to secure fleet modernisation.

4.3 Thus, whilst the report to the DMC of 30 November 2021 reported that there were aspects of the application, relating to noise, that were in conflict with elements of Policy LLP6B and LLP38,<sup>8</sup> this is no longer the case following a review of the updated environmental information contained within ESA4.

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<sup>8</sup> For instance, paragraphs 138, 197, 199 and 212 [CD5.08]

4.4 The DMC report considered the Proposed Variations to accord with policies in the development plan with regard to: climate change;<sup>9</sup> drainage and flood risk;<sup>10</sup> transport, highways and parking;<sup>11</sup> air quality;<sup>12</sup> and employment and the economy.<sup>13</sup> With the latest assessment contained in ESA4, it is considered that the Proposed Variations now accord with policies in the development plan relating to noise.

4.5 The Proposed Variations are therefore considered to be in accordance with the development plan and represent sustainable development. At the heart of the NPPF is a presumption in favour of sustainable development, and for decision taking this means:

*“Approving development proposals that accord with an up-to-date development plan without delay.”<sup>14</sup>*

4.6 In addition, the Proposed Variations accords with the Government’s aviation policy, namely, the APF and MBU, which support airports throughout the UK making best use of their existing runways, subject to environmental issues being addressed.<sup>15</sup> Whilst the Jet Zero Strategy confirms Government support for growth in airport capacity where it is justified and can be delivered within the Government’s environmental objectives.<sup>16</sup>

## 5.0 Climate change (consideration 1)

### Summary

5.1 The advice given to the DMC on 30 November 2021 by Dr Hinnells was that:

- Climate change was a serious issue;
- It will be extremely challenging to meet all local targets for ground-based emissions, and national targets for ground-based emissions, surface access emissions and aviation emissions; and
- Whatever questions surround the sufficiency and deliverability of current policy, the Government policy is clear, supporting airport expansion and dealing with emissions

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<sup>9</sup> Paragraphs 204 and 205 [CD5.08]

<sup>10</sup> Paragraph 208 [CD5.08]

<sup>11</sup> Paragraphs 153 and 209 [CD5.08]

<sup>12</sup> Paragraph 160 [CD5.08]

<sup>13</sup> Paragraphs 177, 210 and 211 [CD5.08]

<sup>14</sup> Paragraph 11(c) [CD9.05]

<sup>15</sup> Paragraph 1.6 and 1.29 [CD10.13]

<sup>16</sup> Paragraph 3.61 [CD11.19]

through non-planning mechanisms, specifically technological development and market trading solutions.

- 5.2 Dr Hinnells concluded that based on current policy there were no climate change grounds to support a refusal.
- 5.3 Dr Hinnells states in his evidence that nothing has changed to alter that advice, indeed the Jet Zero Consultation: Summary of responses and government response<sup>17</sup> and the Jet Zero Strategy<sup>18</sup> reaffirms the Governments position.

### **Council's case**

- 5.4 The UK is obligated under the Climate Change Act 2008<sup>19</sup> to achieve net zero carbon emissions by 2050. The Jet Zero Strategy (July 2022) commits the sector to net zero UK aviation emissions by 2050,<sup>20</sup> with airport operations to be zero emissions by 2040<sup>21</sup>. With the vast majority of the UK's aviation emissions associated with international flights, the Jet Zero Strategy envisages that action is required at a global level (reaffirming the Aviation Policy Framework ('APF') position).<sup>22</sup> The Jet Zero Strategy states that net zero UK aviation emissions can be achieved without having to limit growth at UK airports,<sup>23</sup> with the analytical modelling taking on board projected and consented growth at UK airports (including Luton to 32mppa in 2030).<sup>24</sup> Net zero UK aviation emissions are forecast by the Government to be achieved by 2050 through six policy measures, namely: system efficiencies; sustainable aviation fuels ('SAF'), zero emission flight ('ZEF'); investing in carbon markets and greenhouse gas removals; influencing consumers; and addressing non-CO2 impacts.<sup>25</sup>
- 5.5 One of the objectives of the Jet Zero Strategy is to support growth in airport capacity where it is justified and can be delivered within the Government's environmental obligations.<sup>26</sup> ESA4 (July 2022) indicates that the scale of greenhouse gas emissions ('GHG') associated with international aviation, arising from the Proposed Variations, would be in-line with the UK

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<sup>17</sup> [CD11.18]

<sup>18</sup> [CD11.19]

<sup>19</sup> Section 1 and section 4 [CD11.01]

<sup>20</sup> Executive Summary page 8, infographics page 11 and 13, as well as paragraph 1.2 [CD11.19]

<sup>21</sup> Executive Summary page 9, infographics page 11, 13, 26 and 28, as well as paragraph 3.5 [CD11.19]

<sup>22</sup> APF paragraph 2.5 page 59 [CD10.04]

<sup>23</sup> Executive Summary page 10 and paragraph 3.57 [CD11.19]

<sup>24</sup> Jet Zero: modelling framework (March 2022) Annex D- Airport runway capacity assumptions for carbon modelling [CD11.43]

<sup>25</sup> Executive Summary page 8, infographics page 14 and 26, paragraphs 1.5, 1.7 and 3.1f [CD11.19]

<sup>26</sup> Jet Zero Strategy strategic objectives paragraph 3.61 [CD11.19]

Government's trajectory for reaching net zero by 2050, whilst the emissions from airport buildings, operations and surface access travel will require further mitigations via the Carbon Reduction Strategy ('CRS') to be secured through a planning condition. The outline Carbon Reduction Plan ('Outline CRP')<sup>27</sup> commits the Applicant to carbon neutrality for the Airport's direct emissions and net zero by 2040 (in line with the Council's Climate Action Plan target for the Borough to be carbon neutral by 2040).<sup>28</sup>

5.6 Climate change is a global issue and the position of the Government on climate change is that it is to be addressed at the international and national level<sup>29</sup>. The following are relevant:

- The Climate Change Act 2008<sup>30</sup> set a target of an 80% reduction in emissions, which allowed aviation some headroom, as amended to achieve net zero carbon emissions. The targets apply across the UK economy, with a series of five yearly carbon budgets to deliver the target. In 2019 the Climate Change Act (2008) was amended<sup>31</sup> to achieve net zero carbon emissions at 2050.
- Up until 2021 international aviation had a separate allowance. In April 2021 the Government decided to include aviation within the UK carbon target from the 6th carbon budget onwards (2032-37),<sup>32</sup> although this has yet to be incorporated in UK law.
- The Jet Zero consultation paper (July 2021),<sup>33</sup> which sets out how Government expects to achieve net zero aviation by 2050, includes an expectation that aviation could grow by 60% whilst achieving net zero. Government recognised that this required new efficiency technologies, new fuels, and new markets for trading carbon emission offsets.
- The Jet Zero: modelling framework (March 2022)<sup>34</sup> brought up to date the Department for Transport's aviation model in order to accurately represent passenger demand, aircraft movements and GHG emissions, using 2019 data (the last normal year of aviation activity before the Covid 19 pandemic). The modelling took into account assumed annual runway capacity and where a restriction on terminal capacity was to be constrained

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<sup>27</sup> [CD4.05]

<sup>28</sup> [CD11.44]

<sup>29</sup> For instance, the APF [CD10.4], page 10, paragraphs 12 to 13, page 41, paragraphs 2.4 to 2.5, and MBU [CD10.14], page 5 paragraph 1.11

<sup>30</sup> Section 1 [CD11.01]

<sup>31</sup> Section 2 [CD11.03]

<sup>32</sup> [CD11.44]

<sup>33</sup> [CD11.16]

<sup>34</sup> [CD11.43]

through a current planning application (in Luton’s case the proposed Development Consent Order [DCO] of 32mppa).

- The Jet Zero Strategy (July 2022)<sup>35</sup> commits the sector to net zero UK aviation emissions by 2050, with airport operations to be zero emissions by 2040. The Jet Zero Strategy does not envisage demand management, rather it anticipates that decarbonising aviation can be achieved through: development of technologies; use of Sustainable Aviation Fuels (SAF); Zero Emissions Flight (ZEF); system efficiencies; investing in carbon markets and greenhouse gas removals; influencing consumers; and addressing non-CO2 impacts.
- Published alongside the Jet Zero Strategy was the Jet Zero Consultation: Summary of responses and government response<sup>36</sup> in which the Government stated that it was “possible for the additional carbon emissions resulting from airport expansion schemes to be accommodated within the planned trajectory for achieving net zero emissions by 2050”.<sup>37</sup> The Government therefore did not consider that it was necessary to intervene directly to limit aviation growth.
- There is no aviation budget set by Government within the overall UK carbon budget.

5.7 Prior to the most recent statements of Government policy in relation to aviation and climate change, expansion proposals at three UK airports have been the subject of scrutiny through both public inquiries and the courts, namely at:

- Stansted Airport: The proposed expansion from the permitted 35mppa to 43mppa was heard at a public inquiry between January and March 2021, with the decision from the Inspector Panel being published on 26 May 2021.<sup>38</sup> A subsequent application by Uttlesford District Council, the LPA, for permission to apply for a statutory review was rejected in the High Court,<sup>39</sup>
- Bristol Airport: The proposed expansion from 10mppa to 12mppa was heard at a public inquiry between July and October 2021, with the Inspector Panel allowing the appeal on 2 February 2022,<sup>40</sup> though in May 2022 one of the Rule 6 parties won the right for a statutory review hearing in the High Court scheduled for 8/9 November 2022; and

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<sup>35</sup> [CD11.19]

<sup>36</sup> [CD11.18]

<sup>37</sup> Paragraph 2.115 [CD11.18]

<sup>38</sup> [CD15.01]

<sup>39</sup> [CD15.04]

<sup>40</sup> [CD15.05]

- Southampton Airport: Following approval of the proposed 164m extension to the runway at Southampton airport in June 2021 a judicial review of the decision was lodged, though in May 2022 a renewal hearing was refused.<sup>41</sup>

5.8 In the Stansted Airport High Court decision, the following was held (Mrs Justice Lang in October 2021) that:

*“It was correct to find that carbon emissions policies are addressed at a national level, in the MBU, and are not a matter for local planning decision-makers. It was entitled to conclude that the national policy ‘Making best use of existing runways’ (‘MBU’), published in June 2018, was made in full knowledge of the UK’s then commitments to combat climate change, and that it thoroughly tested the potential implications of the policy in climate change terms (DL 18). It was also entitled to conclude that the Government has not altered the policies in the MBU, notwithstanding changes to the targets for reduction of greenhouse gas emissions”.*<sup>42</sup>

5.9 The Bristol Airport appeal decision<sup>43</sup> which was published after the Luton DMC resolution, reiterated the position stated in the Stansted decision and the High Court ruling concerning the interpretation and application of MBU. The Inspectors noted that:

*“MBU, under the heading ‘Role of national policy’, provides that increased carbon emissions be dealt with at the national level. The Government reaffirmed its position on MBU on two occasions during the Inquiry – first as part of the Jet Zero consultation and second in response to NSC’s letter to the DfT. In both cases it was confirmed that MBU remains ‘the most up-to-date policy on planning for airport development’ and ‘continues to have full effect, for example, as a material consideration in decision-taking on applications for planning permission.’”*<sup>44</sup>

The Bristol decision is currently the subject of a High Court challenge due to be heard in early November.

5.10 Mr Justice Holgate in the Southampton Airport High Court judgement noted that:

*“On the basis of current policy and law it is permissible for a planning authority to look at the scale of the GHG emissions relative to a national target and to reach a judgment, which may inevitably be of a generalised nature, about the likelihood of the proposal harming the achievement of that target”.*<sup>45</sup>

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<sup>41</sup> [CD15.03]

<sup>42</sup> Ground 1, page 2 of Judge’s decision [CD15.04]

<sup>43</sup> [CD15.05]

<sup>44</sup> Paragraphs 70 and 71 of appeal decision [CD15.05]

<sup>45</sup> Ground 3, paragraph 123 page 25 of Judge’s decision [CD15.03]

- 5.11 Mr Justice Holgate also considered whether the expansion of the airport was likely to affect national targets and policy when considered cumulatively with expansion plans at Stansted, Bristol and Leeds Bradford. He concluded that:

*“Given that we are dealing with a contribution to a global impact assessed against national targets, satisfaction of the EIA Regulations did not require that GHG contributions from the expansion of the three other airports could only be taken into account by being added to the contribution from the expanded Southampton Airport, before being compared to a national benchmark.”<sup>46</sup>*

- 5.12 Along with neighbouring authorities, the Council has declared a climate emergency and policies, such as LLP1 (Presumption in Favour of Sustainable Development), LLP25 (High Quality Design) and LLP37 (Climate change, carbon and waste reduction and sustainable energy), within the Local Plan<sup>47</sup>, acknowledge the significance of climate change and seek to protect the environment. These policies, however, are of relevance to carbon emissions from the airport’s building, ground operations and surface access, which comprise local policy concerns that were addressed within the content of the application.
- 5.13 The submitted ESA2 (January 2021) considers impacts on the climate that would result from the proposal and this was reviewed on behalf of the LPA by Ricardo<sup>48</sup>. The review led to a response from the Applicant’s agent, Wood Group,<sup>49</sup> and these interactions confirmed that the consideration of climate change was appropriate and the results were consistent with planning policy relevant to the determination of the planning application. ESA4 (July 2022) confirms that the conclusions of ESA2 (January 2021) remain valid, namely that the Proposed Variations would be unlikely to materially affect the ability of the UK to meet its carbon target for net zero by 2050 as required by the Climate Change Act 2008.<sup>50</sup>
- 5.14 The consideration of climate change impacts of the Proposed Variations was set out within the officer’s report to the DMC<sup>51</sup>, where it was determined that appropriate mitigation would ensure that the proposal would be consistent with both existing and emerging policy concerning climate change.

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<sup>46</sup> Paragraph 126 page 26 of Judge’s decision [CD15.03]

<sup>47</sup> [CD9.07]

<sup>48</sup> [CD4.03]

<sup>49</sup> [CD4.04]

<sup>50</sup> [CD11.01]

<sup>51</sup> [CD5.08]

- 5.15 This would be achieved through the implementation of a Carbon Reduction Strategy ('CRS'), which would develop the Outline CRP<sup>52</sup> that had been provided in support of the application and set out steps that LLAOL is taking to achieve carbon neutrality by 2026 and deliver net zero carbon for the Airport's direct operational emissions by 2040. As such, the CRS will address scope 1 emissions, namely those directly related to activities that LLAOL controls (such as the burning of gas and fuel on the airport) and scope 2 emissions associated with the consumption of heat and electricity purchased by LLAOL. Scope 3 emissions are those linked to the airport (including tenants' concessions and subcontractor emissions) over which LLAOL has very significant influence, and which are ground based activities, and some emissions which LLAOL does not have absolute control, but can influence through commercial agreements, including flights and surface access.
- 5.16 Table 4.1 from the Outline CRP<sup>53</sup> (included as Appendix 1 to this evidence) details the Applicant's short term mitigation measures, up to 2025, for working towards achieving net zero carbon by 2050. Whilst Table 4.2 of the Outline CRP provides a summary of key carbon mitigation measures to be implemented in the medium term, 2025-2031 (the end of the Applicant's current concession agreement). The third table in the Outline CRP, Table 4.3, sets out mitigation measures over the long term, 2032-2050, which is outside the current concession agreement.
- 5.17 Figure 5.1 in ESA4 (July 2022) (repeated below) sets out total GHG emissions for the 2019 baseline, together with the 'without development' (the 2014 planning permission LPA ref: 12/01400/FUL) and the 'with development' (the Proposed Variations submitted in 2021) projected for key years up to 2050. All emissions can be seen to reduce over time compared to the 2019 baseline (in both the 'with' and 'without development' scenarios), whilst the difference between the 'with development' and 'without development' GHG emissions steadily decreases over time. The areas over which the Applicant can exert some influence, predominantly airport buildings and ground operations, surface access and domestic aviation can be seen to reduce in the 'with development' scenario by 2050 to almost parity with the 'without development' scheme. Tables 5A.7, 5A.8 and 5A.9 in Appendix 5A: Climate assessment supporting data<sup>54</sup>, provide the data behind Figure 5.1.

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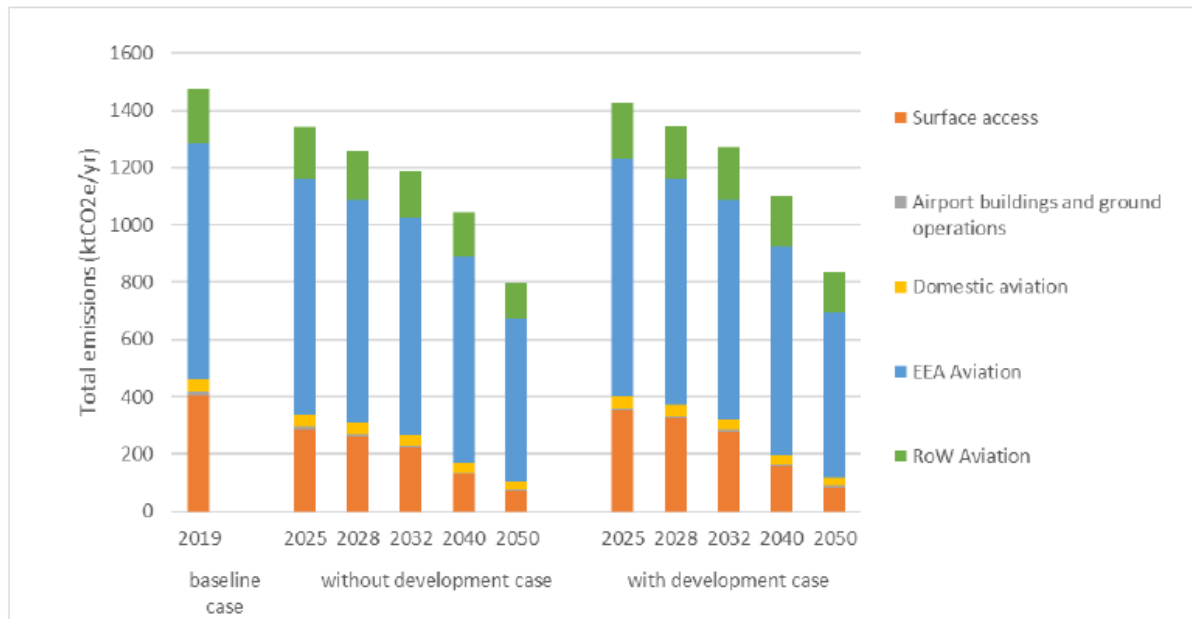
<sup>52</sup> [CD4.05]

<sup>53</sup> [CD4.05]

<sup>54</sup> [CD1.17]



Figure 5.1 Total GHG emissions for the 2019 baseline, the 'without development' and 'with development' cases for the central scenario.



5.18 In order to ensure that the objectives of the Outline CRP are realised, a planning condition (Condition 29) was, and is, recommended to secure the production, implementation and regular five yearly review of a Carbon Reduction Strategy, covering all ground-based activity (including scope 1, 2 and relevant scope 3 emissions). The Section 106 legal agreement will also secure the monitoring of the CRS.

## 6.0 Noise (consideration 2)

### Summary

- 6.1 The Proposed Variations involving an increase in the passenger cap and a temporary variation to the summer daytime and night time noise contours attracted a significant number of representations in relation to potential noise impacts.
- 6.2 Since surface access and ground noise would have negligible impacts, they were scoped out of the environmental assessment.
- 6.3 ESA4, submitted to the Planning Inspectorate in July 2022, assesses noise level increases from airborne aircraft in the daytime and night time as not significant, with an increase of <1dB in every assessment year, which is not perceptible and is in line with local plan policy of no material increase in noise. ESA4 forecasts that by 2031 noise levels generated by aircraft movements necessary to carry 19mppa, will not exceed the limits that are set by the

condition associated with the original 2014 permission which allowed airport expansion up to 18mppa. The Proposed Variations are in line with Government policy for airport operators to share the benefits of technological advancements in noise reduction with affected communities.

- 6.4 ESA4 forecasts that the Application will result in an additional 322 dwellings experiencing noise above the SOAEL during the night time. The highest number of dwellings in any assessment year, the worst case, is predicted as being in 2023, with a total of 1,993 dwellings, compared to 1,671 dwellings ‘without development’.
- 6.5 Mitigation in the form of an enhanced Noise Insulation Scheme is proposed, which is in line with Government policy in the APF, that requires airport operators to offer acoustic insulation to noise sensitive buildings exposed to noise of 63dB LAeq(16hr) or more.<sup>55</sup> The Noise Insulation Scheme would include increased funding, together with an increase in the money offered per dwelling, as well as an increased capability to offer insulation to more dwellings for a period of up to five years after the worst case year. The enhanced Noise Insulation Scheme would be a significant improvement on the current situation.

#### **Council’s case**

- 6.6 National aviation policy recognises that the impact of noise is one of the environmental effects that is a key concern associated with airport development.<sup>56</sup> The proposed changes to the noise contours resulted in the greatest number of objections, and were also the subject of considerable scrutiny by the LPA, with the Council appointing noise consultants to review the information submitted and provide independent advice to the LPA. The Jet Zero Strategy notes that:

*“It is vital that local communities and the wider public have confidence that the impacts of airport expansion have been properly considered. Applicants should therefore provide sufficient detail regarding the likely environmental and other effects of airport development to enable communities and planning decision-makers to give these impacts proper consideration.”<sup>57</sup>*

- 6.7 The APF sets out the Government’s overall objective in relation to aviation noise, namely:

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<sup>55</sup> Paragraph 3.37 [CD11.04]

<sup>56</sup> Paragraph 3.2 [CD10.04] and paragraph 1.8 [CD10.13]

<sup>57</sup> Paragraph 3.62 [CD11.19]

*“To limit and, where possible, reduce the number of people in the UK significantly affected by aircraft noise.”<sup>58</sup>*

- 6.8 The APF also recognises that proposals when judged by the relevant planning authority should take careful account of all relevant considerations, particularly economic and environmental impacts and proposed mitigations.<sup>59</sup> However, there is no policy stating that airport expansion should not be permitted if it results in an increase in noise levels above existing levels. Further, the potential for airport expansion to result in an increase in noise is something that the government recognises may occur, since the APF allows for compensation schemes in such circumstances.<sup>60</sup>
- 6.9 National and local policy seek to minimise and mitigate the impact of noise from airport expansion upon the local community. The PPG provides guidance on how it can be established whether noise is likely to be a concern.<sup>61</sup> Thus, for an increase in noise between the LOAEL and SOAEL thresholds, small changes in behaviour and attitude may occur and consequently consideration should be given to mitigating and minimising those effects, taking into account economic and social benefits derived from the activity. For levels above the SOAEL noise causes a material change in behaviour, and it is undesirable for such exposure to be caused, therefore the planning process should be used to avoid this effect occurring, or appropriate mitigation should be used.
- 6.10 The Noise Policy Statement for England (NPSE)<sup>62</sup> identifies three aims as part of the Government’s long-term vision, namely:
- *avoid significant adverse impacts on health and quality of life;*
  - *mitigate and minimise adverse impacts; and*
  - *where possible contribute to the improvement of health and quality of life.*<sup>63</sup>
- 6.11 The NPSE also sets out the concepts of Lowest Observable Adverse Effects Level (LOAEL), the level above which adverse effects on health and quality of life can be detected, and Significant Observable Adverse Effects Level (SOAEL), the level above which significant adverse effects on health and quality of life occur.

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<sup>58</sup> Executive summary paragraph 17 and paragraph 3.12 [CD10.04]

<sup>59</sup> Paragraph 1.29 [CD10.13]

<sup>60</sup> Paragraphs 3.36-3.41 [CD10.04]

<sup>61</sup> Paragraph: 005 Reference ID: 30-005-20190722 [CD13.10]

<sup>62</sup> [CD13.06]

<sup>63</sup> Paragraph 1.7 [CD13.06]

6.12 The Luton Local Plan<sup>64</sup> reflects the national aims with policy LLP38 requiring development to identify whether it will result in any significant adverse pollution effects and where adverse effects are identified appropriate mitigation will be required. Policy LLP6 is specific to the strategic airport allocation, requiring inter alia:

- the impacts of any increase in air transport movements on surrounding occupiers and/or the local environment (in terms of noise, disturbance, air quality and climate change) to be fully assessed, and appropriate forms of mitigation in the event of significant adverse effects to be identified (iv);
- seeking expansion proposals to achieve further noise reduction or no new material increase in day or night time noise or otherwise cause excessive noise (v);
- advocating the inclusion of 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 the Local Plan and any planning permission which has been granted (vi); and
- 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 (vii).

6.13 Prior to the Application being submitted, the Council appointed independent noise consultants to assist in reviewing the noise implications of the proposal, a role which continued once the Application was submitted with advice being given on the adequacy of the noise assessment and proposed mitigation measures<sup>65</sup>. The findings of the noise consultant were reported to the DMC and are set out in Mr Holcombe's evidence.

6.14 ESA2 (January 2021) adopted an approach to significance with regard to both the absolute level of noise and the change in noise level. In order to consider the absolute level, LOAEL and SOAEL thresholds were adopted, whilst to consider change in noise levels, thresholds of significance were adopted. Increases of  $\geq 3\text{dB}$  above the LOAEL and below the SOAEL were considered significant (in line with the APF)<sup>66</sup>, whilst a lower level of  $\geq 1\text{dB}$  above the SOAEL

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<sup>64</sup> [CD09.07]

<sup>65</sup> Reports CD4.02, CD4.07, CD4.11 and CD4.12

<sup>66</sup> Paragraph 3.39 [CD10.4]

was chosen to reflect the evidence that people are more sensitive to increases in noise at higher absolute levels, and following PPG guidance.

- 6.15 The proposed development generates three potential noise impacts, namely, ground noise, road traffic noise and air noise. Ground noise and road traffic noise were considered in the Screening Report<sup>67</sup> with the results of the assessments indicating that the effects would be negligible and consequently they were screened out of ESA2 (January 2021). The assessment of air noise was based on the forecasts provided by LLAOL in the planning application which took into account the existing fleet mix and airline orders for new generation aircraft to 2026 of the principal operators at Luton Airport (Wizz Air, easyJet and Ryanair). The potential noise impacts arising from the proposed development were further assessed in the revised Chapter 8, ESA3 (May 2021),<sup>68</sup> which was then reported to the DMC.<sup>69</sup>
- 6.16 Since the report to the DMC, the Applicant has submitted a further addendum to the environmental statement to the Planning Inspectorate. ESA4 (July 2022) provides the most up-to-date assessment of effects. ESA4 notes that there would be an additional 322 dwellings within the SOAEL at night in the worst-case year (2023) compared to the ‘without development’ scenario. This figure then steadily decreases up to 2028 on the basis of assumptions in ESA4. The reduction in the number of properties exposed to increases in noise levels from 2023 onwards is associated with the introduction of more modern quieter aircraft types (Airbus neo and Boeing max), with the forecast for their introduction being based on future schedules and aircraft types of the major carriers operating from Luton (Wizz Air, easyJet, and Ryanair).
- 6.17 ESA4 also demonstrates that the effect of the Proposed Variations would not be significant either during the daytime or night time, with no increases in the area between the LOAEL and the SOAEL at  $\geq 3\text{dB}$  change, and no change  $\geq 1\text{dB}$  above SOAEL.
- 6.18 By 2031, noise levels are forecast in ESA4 to reduce to below the original Condition 10 limits, with the area enclosed within the 57dB LAeq(16hr) summer daytime contour predicted to be 14.7sq.km, whilst the area within the 48dB LAeq(8hr) summer night time contour predicted

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<sup>67</sup> Appendix 1A [CD1.10]

<sup>68</sup> [CD4.06]

<sup>69</sup> [CD5.08]

to be 31.5sq.km.<sup>70</sup> This represents a small reduction in the area enclosed by the daytime and night time contours from that conditioned by the original planning permission.

- 6.19 The effect of the Proposed Variations is therefore not considered to be significant, the noise increase is for a temporary period and at less than 1dB is negligible and not considered to be perceptible, whilst overtime, the area exposed to noise levels is forecast to be less than that currently permitted by the original 2014 planning permissions.
- 6.20 The mitigation measures proposed include an enhancement to the existing Noise Insulation Scheme, with greater assistance available per household, the £100,000 annual cap removed, and the offer of noise insulation available to all those who fell within the SOAEL in the worst-case year (2023), up to five years after that date, even where properties may no longer fall within the daytime or night time SOAEL.
- 6.21 The report to the DMC went on to outline the details of the Noise Insulation Scheme and how this would respond to the evolving situation over the period up to 2028. The Airport's Residential Noise Insulation Scheme will contribute significantly to mitigating the noise effects for those who currently experience noise above the SOAEL and those who as a consequence of the expansion will do so. It was, however, recognised that the roll out of the programme is such that not all dwellings that will experience adverse noise impacts will be able to be insulated prior to those impacts occurring. Consequently, it was considered that the measures proposed are compensation rather than mitigation. However, the difference between mitigation and compensation in this case is recognised to be of limited weight given that the consequence of the development is not likely to result in a noticeable change in noise levels.
- 6.22 At paragraph 137, the DMC<sup>71</sup> report also detailed consideration of non-residential properties and open spaces that might be sensitive to increases in noise. ESA4 provides an updated assessment of the significance of the Proposed Variations on non-residential noise sensitive properties, noting for both daytime and night time the noise increase would not be significant, being under 1dB in each case.
- 6.23 Matters relating to the performance of the A321neo were raised with in representations to the Application, however, the actual performance of this aircraft has been factored into the

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<sup>70</sup> Appendix 8E, table 8E.2.1 [CD1.18]

<sup>71</sup> [CD5.08]

environmental statement addendum. It was, therefore, considered that the modelled contours provide justification for the change in the contours that were sought in the application. The issue of tranquillity was also raised, however, the matter is more appropriate for consideration within the context of airspace change, a separate regulatory regime. Notwithstanding this assertion, the proposal would not result in any new areas being overflowed, whilst the number of flights would increase by only 1% and the environmental statement addendum envisages almost 14,500 fewer movements than the assumptions within the 2012 environmental assessment for the increase to 18mppa. On that basis, no material change is anticipated to the character of the areas overflowed.

- 6.24 Whilst it was accepted in the DMC report that the proposal would be contrary to local policy, as it would be contrary to elements of policies LLP6 and LLP38, ESA4 indicates that the Proposed Variations will not have significant adverse noise effects, and consequently, with the implementation of an enhanced Noise Insulation Scheme, and the reduction in daytime and night time noise contours over time, it is now considered that the Proposed Variations will comply with Policies LLP6 and LLP38 of the Local Plan (this is addressed in more detail in Section 10.0 of my evidence).

## **7.0 Air quality (consideration 3)**

### **Summary**

- 7.1 A joint position statement has been agreed between the Applicant and the LPA, the conclusions of which are reported below.
- 7.2 ESA2 concluded that the air quality impacts of the Proposed Scheme were negligible and were not significant. Concentrations of all pollutants were forecast to be well below their respective Air Quality Objectives (AQOs) in 2024 and impacts were considered to be of a negligible magnitude.
- 7.3 ESA4 considered the impact of a change in the year when 19mppa would be reached from 2024 to 2025. As a result of changes, such as the replacement of older vehicles with newer ones that meet tighter emission standards or with electric vehicles, both emission rates and background pollutant concentrations are expected to be lower in 2025 than in 2024. The conclusions of ESA2 therefore remain valid. In 2025, the effects on both human health and ecological receptors would also be negligible and therefore considered not significant. The

same conclusion is reached if an adjusted baseline to account for compliance with condition 10 is used.

- 7.4 Air quality is generally improving and will be better in future than in recent years, with the existing consented development (LPA ref: 15/00950/VARCON) or with the Proposed Variations. The development of Luton Airport to accommodate 19mppa is predicted to result in negligible changes in pollutant concentrations at receptors. These do not result in significant impacts.

### **Council's case**

- 7.5 National aviation policy recognises that airport operations have the potential to impact upon local air quality. The NPPF<sup>72</sup> states that planning decision should prevent new development giving rise to unacceptable levels of air pollution and where possible help to improve local environmental conditions.
- 7.6 The Air Quality Strategy for England, Scotland, Wales and Northern Ireland (2007)<sup>73</sup> sets AQOs which are a statement of the Government's policy intent to see a steady decline in the ambient levels of pollution. Where there is an exceedance, or likely exceedance of AQOs, Air Quality Management Areas (AQMAs) have to be declared with Air Quality Action Plans prepared.
- 7.7 Luton has three AQMAs, two adjacent to junction 11 of the M1 and one in the town centre, though over the past five years the two AQMAs adjacent to the M1 have not seen exceedances. Luton Borough Council has recently submitted its annual Air Quality Status Report to the Department for Environment Food and Rural Affairs (Defra).<sup>74</sup> Road traffic is the main source of air pollution in the borough with nitrogen dioxide (NO<sub>2</sub>) being the main pollutant of concern.
- 7.8 The Air Quality Standards Regulations 2010<sup>75</sup> set air quality limit values for, inter alia, NO<sub>2</sub>, NO<sub>x</sub>, PM<sub>10</sub> and PM<sub>2.5</sub>s. Therefore, the policy framework within which air quality impacts must be considered is: the impact of the proposed development on the Air Quality Standards (AQS) and AQOs; whether the impacts are mitigated to an acceptable level; and the need to sustain that compliance.

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<sup>72</sup> [CD9.05]

<sup>73</sup> [CD14.01]

<sup>74</sup> [CD14.07]

<sup>75</sup> [CD14.02]



- 7.9 ESA2 (and the update ESA4) include a chapter on air quality that consider the impacts of the proposed development upon air quality against the AQOs. The monitoring over the period 2013-2018, reported in ESA2, was supplemented by data for 2019 and 2020 in ESA4. The monitoring demonstrates that NO<sub>2</sub> levels are below the AQS limits, showing a downward trend of approximately 0.5µg m<sup>-3</sup> each year. PM10 and PM2.5 concentrations are also shown to be below the AQS mean concentration limits. The environmental statement addendum assessed the air quality impact of the proposed development upon both human receptors and ecological receptors.
- 7.10 With regard to the impact of PM10s on human health, ESA2 found that the impact of the increase in PM10s associated with the additional 1mppa would be negligible, with the greatest predicted concentration of 20µg m<sup>-3</sup> being only half the AQS level. For PM2.5s the increase again was predicted to be negligible, with an increase in emissions of 0.1µg m<sup>-3</sup> representing 51% of the AQS level. Concentrations of NO<sub>x</sub> are predicted to increase by a maximum of 3µg m<sup>-3</sup> at Winchill Wood (one of the ecological receptors modelled). There are a number of ecological locations where the concentration is predicted to exceed the AQS level of 30µg m<sup>-3</sup>, though these are close to major roads and since the receptors are only of local importance, the ESA2 classifies the impact as not significant. ESA4 notes that with the modelling of the 19mppa being reached one year later than in ESA2, the emission rates and background pollutant concentrations are expected to be slightly lower, consequently the conclusions that the impacts would not be significant remain valid.
- 7.11 Overall, in terms of air quality, the proposed expansion to cater for up to 19mppa will not have a significant effect upon air quality. Where the assessment does predict an increase in emissions, it is in each case negligible and well within the AQS limits set by Government. In terms of the predicted impacts upon air quality, the proposed development is considered to align with national policy as well as policy LLP38 of the Local Plan<sup>76</sup>.

## 8.0 Sustainable transport and transport infrastructure (consideration 4)

### Summary

- 8.1 Luton airport is well served by strategic transport infrastructure with Airport Way (A1081) linking to junction 10 of the M1, and a shuttle bus service (soon to be replaced by the Direct

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<sup>76</sup> [CD5.08]

Air Rail Transit [DART]) connecting the airport terminal directly to Luton Airport Parkway Station and the Thameslink and East Midlands rail services.

- 8.2 The reliance on car for access to the airport has decreased since the original planning application was submitted in 2012, with public transport mode share (bus/coach and train) by passengers increasing from 32.5% in 2010 to 43.5% in 2019 and for staff seeing an increase from 12.7% to 31.1% over the same period. The Applicant has set targets to increase the use of sustainable transport modes by passengers and employees to 33% and 47% respectively by 2024.
- 8.3 Prior to the submission of the Proposed Variations, pre-application discussions had taken place with Highways England (now National Highways) and the local Highway Authority. The Application includes a chapter in ESA2 (January 2021) on transport (updated in ESA4, July 2022), a Transport Assessment,<sup>77</sup> Travel Plan<sup>78</sup> and a Car Parking Management Plan.<sup>79</sup> As noted in Mr Godden's evidence, the Council as Highway Authority considered that the Proposed Variations would not have an unacceptable impact upon the highway network, whilst National Highways had no objection in relation to the impact upon the strategic highway network. The measures included in the Travel Plan were conducive to meeting prescribed targets. The Application was therefore found to be in accordance with both national and local policies.

### **Council's case**

- 8.4 The planning application was accompanied by a Transport Assessment,<sup>80</sup> a Travel Plan<sup>81</sup> and a Car Parking Management Plan.<sup>82</sup> In addition, ESA2 included a chapter on transport, assessing the impact of the additional passenger numbers on the highway network. To inform the baseline transport conditions, the Transport Assessment built upon the 2012 environmental assessment data, referencing more recent 2019 information when the airport was operating at 18mppa. The forecast year for reaching 19mppa for the Transport Assessment was 2024 (now in ESA4 this has been updated to 2025). The Transport Assessment considered the existing situation, both in terms of the sustainable transport network (rail, coach, bus, cycling and walking) and also the road access and parking facilities. The assessment considered the

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<sup>77</sup> [CD1.13]

<sup>78</sup> [CD1.12]

<sup>79</sup> Appendix B [CD1.12]

<sup>80</sup> [CD1.13]

<sup>81</sup> [CD1.12]

<sup>82</sup> Appendix B [CD1.12]

performance of the road network feeding the airport as well as anticipated improvements, including the DART and the M1-A6 link road.

- 8.5 The Transport Assessment<sup>83</sup> predicted that there would be an increase of 121 two-way vehicle movements in the AM peak (an increase of 3.7%) and 93 two-way vehicle movements in the PM peak (an increase of 3.2%). Overall, the Transport Assessment demonstrated that this small increase in traffic volumes would not have a significant adverse impact upon the operation of the highway network, even before the measures in the Travel Plan have been taken into account.
- 8.6 The Travel Plan<sup>84</sup> submitted with the application utilised the Civil Aviation Authority ('CAA') passenger data, which shows that between 2016 and 2019 there was a 1.6% increase in the use of public transport as the main means of access to the airport, with the private mode share dropping by 10.8%. The Travel Plan also demonstrates that the airport has already met its sustainable transport target (as set out within the Airport Surface Access Strategy 2018-2022 [ASAS])<sup>85</sup> and provides both further targets for achieving 19mppa by 2024 and an action plan for achieving that target.
- 8.7 The provision of available car parking at the airport is below that which was envisaged within the 2012 application and the rapid growth of the airport has resulted in a greater under provision of available spaces. Alongside an established Car Parking Management Plan, which restricts availability and establishes cost of vehicular entry to the airport, this has motivated the increased use of sustainable modes of transport. The Car Parking Management Strategy<sup>86</sup> submitted with the application continues this approach, with the ASAS and the Travel Plan providing targets that will be monitored to assess effectiveness.
- 8.8 With current targets having been met without the DART being operational, it is considered that the use of sustainable transport methods will increase and the targets provided within the Travel Plan are attainable. With regard to staff, an early review of the ASAS is proposed to encourage staff to opt for sustainable modes through the provision of electric charging points and cycle facilities.

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<sup>83</sup> [CD1.13]

<sup>84</sup> [CD1.12]

<sup>85</sup> [CD12.05]

<sup>86</sup> Appendix B [CD1.13]

- 8.9 It was considered that the Transport Assessment, Travel Plan and Car Parking Management Plan are acceptable, being in accordance with policies in the NPPF and Policies LLP31 and LLP32 of the Luton Local Plan.<sup>87</sup>

## 9.0 Socio-economic implications (consideration 5)

### Summary

- 9.1 Aviation has long been recognised by Government as essential to the UK economy, with the Secretary of State confirming in the Foreword to the APF<sup>88</sup> that:

*“Government believes that aviation needs to grow, delivering the benefits essential to our economic well-being, whilst respecting the environment and protecting quality of life.”*

- 9.2 MBU<sup>89</sup> reiterates the government’s support for airports beyond Heathrow making best use of their existing runways, emphasising that relevant considerations should be taken into account by the LPA, particularly:

*“Economic and environmental impacts and proposed mitigations.”*

- 9.3 The Jet Zero Consultation: Summary of responses and government response<sup>90</sup> emphasised the importance of the aviation sector to the whole of the UK economy in terms of “connectivity, direct economic activity, trade, investment and jobs” (paragraph 2.201 and 3.2), whilst the Jet Zero Strategy<sup>91</sup> repeats this (paragraph 3.61) and confirms continued government support for sustainable airport growth, recognising the key role airports play in supporting economic growth and UK trade (paragraph 2.27).

- 9.4 The report to DMC<sup>92</sup> set out the significant benefits of the airport to Luton, the Three Counties (Bedfordshire, Buckinghamshire and Hertfordshire) and the wider sub-region. These benefits include direct and indirect employment associated with the airport together with the contribution to local, regional and national GDP, as well as the wider benefits that the Government identifies as arising from aviation (including holidays, links to friends and family abroad, education and business travel). The Application would safeguard and reinforce these benefits and assist in the recovery post pandemic, and this would be in line

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<sup>87</sup> [CD9.07]

<sup>88</sup> [CD10.04]

<sup>89</sup> Paragraph 1.29 [CD10.13]

<sup>90</sup> [CD11.18]

<sup>91</sup> [CD11.19]

<sup>92</sup> [CD5.08]

with the Government’s ‘levelling up’ agenda, where Luton is a Priority 1 area, being in the top quarter of most deprived local authorities in England.

### **Council’s case**

- 9.5 Government aviation policy, comprising the ANPS,<sup>93</sup> MBU<sup>94</sup> and the Jet Zero Strategy,<sup>95</sup> all acknowledge the importance of airports to the UK economy and establish the Government’s position that the expansion of airports will be significant in enhancing global connectivity and economic growth.
- 9.6 Whilst the Application would be unlikely of itself to significantly increase employment numbers, additional passengers and expenditure associated with the Proposed Variations would support and sustain the employment of airport and aviation related staff and the economy of the wider area, as well as safeguard the continued commercial viability of the Airport and existing direct and indirect jobs, preventing the loss of jobs, and consequently be likely to produce a significant economic benefit to Luton and the wider area.
- 9.7 The report to DMC<sup>96</sup> recognised that the Airport is an asset to the town of Luton and the wider sub-region, reporting the socio-economic benefits that were set out in the Applicant’s Planning Statement.<sup>97</sup> The international connectivity the airport provides to countries throughout Europe and further afield attracts tourism, brings in foreign investment, encourages international trade and creates employment opportunities. The airport stimulates economic growth both directly and indirectly, providing material benefits to local people, including those living in areas of local deprivation.
- 9.8 The Airport’s Annual Monitoring Report for 2019<sup>98</sup> (published in June 2020), reports that employment at and surrounding the Airport contributes significant economic benefits to Luton as a whole and to the sub-region. The report recorded a total of 11,200 employees at the Airport and its vicinity.
- 9.9 Oxford Economics report in November 2016 analysed the nature and scale of the economic impact of the Airport on Luton, the Three Counties sub-region and the UK as a whole. The report measured the economic impact in terms of employment, contribution to GDP and

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<sup>93</sup> [CD10.15]

<sup>94</sup> [CD10.13]

<sup>95</sup> [CD11.19]

<sup>96</sup> [CD5.08]

<sup>97</sup> [CD1.07]

<sup>98</sup> [CD8.26]

government tax receipts, considering direct, indirect (supply chain) and induced impacts (wage spend generating further economic activity). The report presented results for 2013 and forecast up to 2030 with infrastructure enhancements and a passenger throughput of 18mppa.

- 9.10 The report provided the following breakdown for the impact in 2013 upon the Luton area, with almost 12,000 jobs supported and a contribution of £533 million to GDP. For the Three Counties sub-region, 16,000 jobs were sustained with a GDP contribution of £732 million, with the Airport described as having a pivotal role in the economy of the area. At a national level, Oxford Economics calculated the impact as comprising £425 million in direct impacts, £338 million in indirect impacts (within the supply chain) and £506 million in induced impacts (wages spent by employees of the airport and supply chain). Nationally, a total of 27,000 jobs were attributed as being supported by the Airport, of which 9,400 were direct jobs, 7,700 indirect jobs within the supply chain and 10,000 were induced jobs as a consequence of wages spent. The Oxford Economics report noted that by sustaining this level of employment, in 2013 the Airport contributed £740 million in gross wages, with tax receipts for the treasury providing a further £648 million.
- 9.11 The report also considered the importance of the airport to its passengers, with the proximity meaning that between 20 to 68 minutes in travel time for each leg of their journey was saved. This together with savings in travel costs and the fact that Luton's low-cost carriers offer among the cheapest available fares to destinations it serves, meant that Luton Airport offered additional value for passengers of approximately £120 million.
- 9.12 In May 2022, post the resolution of the Council to grant planning permission, the Government published its strategic framework for the aviation sector, *Flightpath to the Future*.<sup>99</sup> This strategic framework has four themes underpinned by a ten-point plan. One of the themes 'realising benefits for the UK' recognises that aviation has a central role in delivering local benefits across the UK, including championing the levelling up agenda, boosting economic success, supporting local jobs and supply chains and benefitting local communities. *Flightpath to the Future* recognises the important role that airports have to play in local economies, helping local communities to flourish, particularly given the wider impacts for the local areas caused by Covid 19 and the disruption to air travel.

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<sup>99</sup> [CD11.15]

- 9.13 Flightpath to the Future recognises the key role airports have to play in unlocking local benefits and levelling up – this aligns with the Government White Paper on ‘Levelling Up the United Kingdom’ (February 2022).<sup>100</sup> The position of Luton as a Priority 1 area in the Government’s levelling up agenda, and the key role of the airport as a major employer and generator of economic prosperity in the levelling up agenda for the area was a matter that was taken on board in the DMC report. Flightpath to the Future reinforces this position, stating that the Government is:

*“Supportive of airports bringing forward expansion plans, where justified. Our existing policy frameworks for airport planning remain in effect, providing a stable framework for airports to grow within our strict environmental criteria”.*<sup>101</sup>

- 9.14 Post the Council’s resolution to grant planning permission Luton Rising, the airport owner, has undertaken a public consultation on the proposed DCO and the expansion of the airport to accommodate 32mppa. This consultation included a report on the Economic Impact of London Luton Airport, prepared by Oxford Economics.<sup>102</sup> This report supports the assessment of the benefits that were set out in the DMC report and confirms the importance of the airport to not only the Luton economy, but also that of the Three Counties, the wider region (including Cambridgeshire, Essex, Oxfordshire and the London Thameslink Corridor) and the UK as a whole.
- 9.15 The Oxford Economics report found that in 2019 the airport directly: supported 10,900 jobs; contributed £789 million to UK GDP (with 70% of this contribution coming from airlines and the airport operations); paid £449 million gross wages for those employed at the airport; and generated £334 million in tax revenue (with the largest contribution being Air Passenger Duty). The indirect benefits of the airport were also estimated in the study, with the supply chain contribution being estimated as contributing £434 million to UK GDP (supporting some 8,600 employees) and induced impacts from the spending of workers employed at the airport amounting to a contribution of some £553 million to UK GDP (supporting a further 8,900 jobs). Other contributions to UK GDP from the indirect and induced impacts identified in the study include ‘employee compensation’ (benefits in kind and pensions) at £510 million and tax revenue at £257 million.

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<sup>100</sup> [CD16.16]

<sup>101</sup> Page 44 [CD11.15]

<sup>102</sup> [CD16.02]

- 9.16 The report to DMC<sup>103</sup> considered representations received to the Application that contended that outbound tourism should count against the socio-economic benefits of airport growth, and the report noted that the APF<sup>104</sup> did not recognise outbound tourism as being of material detriment to the UK economy.
- 9.17 The DMC report<sup>105</sup> concluded that the proposal would deliver economic growth and prosperity to serve Luton and the sub-region which would be consistent with policy LLP13 of the Local Plan and Section 6 of the NPPF which supports a strong and competitive economy. The Proposed Variations also accord with the Government’s existing framework for airport planning in England, the ANPS,<sup>106</sup> MBU<sup>107</sup> and now the Jet Zero Strategy.<sup>108</sup>

## 10.0 Consistency with development plan and other policy (consideration 6)

### Summary

- 10.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004<sup>109</sup> requires that applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 10.2 The development plan for the area is the Luton Local Plan 2011-2031 (adopted 2017)<sup>110</sup> and policies relevant to the determination of the Application were set out in paragraphs 58-60 of the report to DMC.<sup>111</sup> Relevant national policy, guidance and strategies were also detailed in the DMC report, though since the consideration of the application by the Committee the Government has published its aviation strategy and other policy.
- 10.3 Whilst the Proposed Variations were advertised as a departure from the development plan when they were submitted in January 2021, and the report to the DMC on 30 November 2021 recorded that there were aspects of the application, relating to noise, that were in conflict with parts of Policy LLP6 and LLP38, this is no longer the case following a review of the updated environmental information contained within ESA4.

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<sup>103</sup> [CD5.08]

<sup>104</sup> [CD8.05]

<sup>105</sup> [CD8.05]

<sup>106</sup> [CD10.15]

<sup>107</sup> [CD10.13]

<sup>108</sup> [CD11.19]

<sup>109</sup> [CD9.02]

<sup>110</sup> [CD9.07]

<sup>111</sup> [CD5.08]



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10.5 It is now considered that that the Proposed Variations do not conflict with policies on noise in the Local Plan, whilst, as noted in evidence from the Council’s other witnesses, the Application accords with policies in the Local Plan in relation to climate change, transport, highways and air quality. Taken as a whole it is considered that the Proposed Variations represent sustainable development and are in accordance with policies in the development plan.

10.6 The Proposed Variations are also in line with the Government’s aviation policy, with in principle support for making best use of existing runways expressed in both the APF<sup>112</sup> and MBU,<sup>113</sup> and also the recently published Jet Zero Strategy.<sup>114</sup>

### **National Aviation Policy**

10.7 The Council’s Statement of Case noted that a key priority of national aviation policy is to make best use of existing runway capacity.<sup>115</sup> The Government has reaffirmed this position in a number of documents published since the Council submitted its Statement of Case on 23 May 2022, namely: Flightpath to the Future (26 May 2022)<sup>116</sup> – the Government’s strategic framework for the aviation sector; Jet Zero Consultation: Summary of responses to the Jet Zero consultation (19 July 2022);<sup>117</sup> and also the Jet Zero Strategy itself (19 July 2022).<sup>118</sup>

10.8 The Government response to the Jet Zero consultation<sup>119</sup> and further technical consultation<sup>120</sup> stated explicitly that the Airports National Policy Statement (‘the ANPS’)<sup>121</sup> and Beyond the Horizon, the future of UK aviation: Making best use of existing runways (‘MBU’)<sup>122</sup>:

*“Provide a robust and balanced framework for airports to grow sustainably within our strict environmental criteria”.<sup>123</sup>*

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<sup>112</sup> [CD10.04]

<sup>113</sup> [CD10.13]

<sup>114</sup> [CD11.19]

<sup>115</sup> See for instance the APF 2013 [CD10.04] para. 1.60 and MBU 2018 [CD10.13] para. 1.29

<sup>116</sup> [CD11.15] Published 26 May 2022 post submission of the Council’s Statement of Case.

<sup>117</sup> [CD11.18]

<sup>118</sup> [CD11.19]

<sup>119</sup> [CD11.18]

<sup>120</sup> [CD11.17]

<sup>121</sup> [CD10.15]

<sup>122</sup> [CD10.13]

<sup>123</sup> Paragraph 2.116 [CD11.18]

10.9 This is further repeated in paragraph 3.4, and, in the light of the Government’s continued support of airport growth, the summary response concluded that:

*“We do not, therefore, consider restrictions on airport growth to be a necessary measure.”<sup>124</sup>*

10.10 The Jet Zero Strategy<sup>125</sup> itself makes clear that the ANPS<sup>126</sup> and MBU<sup>127</sup> are the Government’s existing policy framework and “have full effect, as a material consideration in decision making on applications for planning permission” with the Jet Zero Strategy stating explicitly that the Government’s analysis “shows that it is possible to achieve our goals without the need to restrict people’s freedom to fly”.<sup>128</sup>

10.11 The policy commitment of the Government set out in the Jet Zero Strategy is therefore very clear and unambiguous in its support for airport growth where it can be delivered within existing environmental obligations.<sup>129</sup>

10.12 Environmental considerations are considered to be both global (climate change) and local (primarily noise, as well as air quality and surface access congestion).<sup>130</sup> These environmental matters have been referred to previously in this proof and are also dealt with by the Council’s other witnesses in their evidence.

10.13 The Proposed Variations, entailing an increase in the capacity of the airport to 19mppa, are in accordance with the Government’s aviation policy, set out in the ANPS, MBU and the Jet Zero Strategy.

### **National Planning Policy**

10.14 The core principle of the NPPF<sup>131</sup> is a presumption in favour of sustainable development and in order to achieve sustainable development the planning system has three overarching objectives, namely economic, social and environmental. The NPPF advises that LPAs should approach decision making in a positive and creative way and should work proactively with applicants to secure developments that will improve the economic, social and environmental

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<sup>124</sup> Paragraph 3.4 [CD11.18]

<sup>125</sup> [CD11.19]

<sup>126</sup> [CD10.15]

<sup>127</sup> [CD10.13]

<sup>128</sup> Page 74 [CD11.19]

<sup>129</sup> Paragraph 3.61 and also page 74 [CD11.19]

<sup>130</sup> Paragraph 12 [CD10.04]

<sup>131</sup> [CD9.05]

conditions of the area. The NPPF states that decision makers at every level should seek to approve applications for sustainable development where possible.<sup>132</sup>

- 10.15 In terms of the economic objective, the NPPF outlines that planning decisions should help create conditions in which businesses can invest and expand and that significant weight should be placed on the need to support economic growth and productivity.<sup>133</sup> Whilst for the social and environmental objectives the NPPF states that planning decisions should ensure that new development is appropriate for its location, taking into account the likely effects of pollution on health, living conditions and the natural environment.<sup>134</sup> In doing so development should mitigate and reduce to a minimum potential adverse impacts resulting from noise, and avoid noise giving rise to significant adverse impacts.

### Development Plan

- 10.16 The application was advertised as, amongst other things, a departure from the development plan. At the time of receipt of the application, it was recognised that the proposal would not be in accordance with the 2012 Airport Master Plan,<sup>135</sup> which envisaged growth up to 18mppa and that the 2021 Airport Master Plan<sup>136</sup> that was submitted at the same time as the application had not been adopted by the Council. Further, the EIA Screening Report had concluded that the expansion of both the daytime and night-time contours would expose more people to adverse effects from noise which, would be contrary to policies within the Luton Local Plan.<sup>137</sup>
- 10.17 Whilst the proposal, in supporting economic growth, enhancing infrastructure and proposing development that would be appropriate in nature and scale, would accord with various aspects of the Local Plan, it was acknowledged in the DMC report that it would be contrary to other elements, such as leading to a temporary increase in noise and the number of properties that would be affected by that increase.
- 10.18 Since the report to the DMC, the Applicant has submitted a further addendum to the environmental statement to the Planning Inspectorate. ESA4 (July 2022) identified that there would not be an increase of 1dB or greater in noise experienced in dwellings within the

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<sup>132</sup> Paragraph 38 [CD9.05]

<sup>133</sup> Paragraph 81 [CD9.05]

<sup>134</sup> Paragraph 185 [CD9.05]

<sup>135</sup> [CD8.37]

<sup>136</sup> [CD1.06]

<sup>137</sup> [CD9.07]

daytime SOAEL (63dB LAeq[16hr]) or night time SOAEL (55dB LAeq[8hr]) nor in the areas between the daytime or night time LOAEL and SOAEL. Consequently, the noise chapter of ESA4 assesses the effect of the proposed variations as ‘not significant’ in terms of noise impacts. This updated the assessment that had been in the noise chapter submitted in May 2021 (ESA3) where some dwellings were predicted as being exposed to noise level increases greater than 1dB and so in some cases the impact had been considered significant.

10.19 The DMC report had identified conflict with specific elements of policies within the Local Plan<sup>138</sup>, which have now been addressed, namely:

- LLP6B(iii)<sup>139</sup> – which requires proposals to be “in accordance with an up-to-date Airport Master Plan published by the operators...and adopted by the Borough Council.” At the time the DMC report was written the Airport Master Plan 2021 had not been adopted by the Council, though the Amendment Sheet<sup>140</sup> to the DMC updated the position, noting that it had been reported to the Executive on 23 November 2021 and adopted by the Council. There is therefore no conflict with this element of Policy LLP6 as the Proposed Variations accord with an up-to-date Airport Master Plan.
- LLP6B(iv)<sup>141</sup> – in terms of noise, disturbance, air quality and climate change impacts, the policy requires proposals to “identify appropriate forms of mitigation in the event significant adverse effects are identified”. ESA4 (July 2022) updates the May 2021 noise chapter (ESA3) and does not identify any significant noise impacts (which was the area of potential conflict when the application was reported to DMC in November 2021). Further, the enhanced Noise Insulation Scheme, removes the annual cap, increases the sum available per dwelling, and extends the period over which those within the SOAEL in the worst-case year (2023) can apply for mitigation. There is therefore no conflict with this element of Policy LLP6.
- LLP6B(v)<sup>142</sup> – requires proposals to “achieve further noise reduction or no material increase in day or night time noise or otherwise cause excessive noise.” ESA4 confirms that there is no material increase in day or night time noise, since no

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<sup>138</sup> CD5.08 paragraphs 141, 198, 199 and 206

<sup>139</sup> CD5.08 paragraph 198

<sup>140</sup> [CD5.09]

<sup>141</sup> CD5.08 paragraph 199 and 212

<sup>142</sup> CD5.08 paragraph 199 and 212

properties within the SOAEL are exposed to noise increases above 1dB, with the noise impact of the Proposed Variations being assessed as not significant. The proposal would therefore accord with this element of Policy LLP6.

- LLP6B(vii)<sup>143</sup> – states that applications involving airport expansion should “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.” Significant diminution can only be achieved over the long term and with fleet modernisation, which the Airport Operator is seeking to secure. The Application seeks to encourage airlines to bring the more modern aircraft to the Airport, and therefore a significant diminution could be expected more rapidly than if the Proposed Variations are not approved. The Noise Insulation Scheme that is proposed will result in betterment, since dwellings will be able to benefit from the scheme, whilst post 2031 ESA4 predicts the daytime and night time summer contour area could be lower than that currently conditioned. There would therefore be no conflict with this element of Policy LLP6.
- LLP38<sup>144</sup> –notes that “where adverse impacts are identified, appropriate mitigation will be required.” As noted above in relation to LLP6B(iv), the noise impacts identified in ESA4 are not considered to be significant and the Noise Insulation Scheme is considered to be appropriate mitigation and therefore Application accords with Policy LLP38.

10.20 The report to the DMC had not found conflict with other policies in the development plan, in fact it recorded that the Application accorded with policies on: climate change (such as Policy LLP37);<sup>145</sup> air quality (Policy LLP38);<sup>146</sup> flood risk (Policy LLP36);<sup>147</sup> highways, transport and parking (Policies LLP31 and LLP32); <sup>148</sup> and the Council’s economic objectives (Policies LLP1, LLP2, LLP6B[viii] and LLP13).<sup>149</sup>

10.21 The Proposed Variations are therefore considered to be in accordance with the development plan and represent sustainable development. In addition, the Proposed Variations accords

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<sup>143</sup> CD5.08 paragraph 199 1nd 212

<sup>144</sup> CD5.08 paragraphs 206 and 212

<sup>145</sup> Paragraphs 204-205 [CD5.08]

<sup>146</sup> Paragraph 160 [CD5.08]

<sup>147</sup> Paragraph 208 [CD5.08]

<sup>148</sup> Paragraph 209 [CD5.08]

<sup>149</sup> Paragraphs 210 and 211 [CD5.08]

with the Government's aviation policy, namely, the APF and MBU, which support airports throughout the UK making best use of their existing runways.

## **11.0 Planning balance (consideration 7)**

### **Summary**

- 11.1 As the proposal is in accordance with the development plan and Government policy, there is a presumption in favour of sustainable development and planning permission should be granted. There is therefore in such a case no requirement for a planning balance to be carried out, so that any residual harm is required to be outweighed by the benefits of the development. However, it is open to the Inspectors and Secretaries of State to conclude that a planning balance is required to be made.
- 11.2 There are a number of significant benefits of the development which carry substantial weight in any planning balance which may be made.
- 11.3 The report to the DMC provided a detailed assessment of the planning application that had been submitted in January 2021 and updated following requests from the LPA for further information and clarification. Negative factors associated with the Application would include environmental impacts and any other harm. The positive factors are socio-economic benefits, which include employment and other benefits to the local area, sub-region and UK as a whole. The assessment identified the environmental considerations, such as air quality, noise and climate change, considered impacts associated with the Proposed Variations against policies within the development plan and other material considerations as well as weighing the economic benefits of the Application against any negative matters.
- 11.4 Since the resolution by the DMC to grant planning permission, an updated addendum to the environmental statement has been submitted to the Planning Inspectorate (ESA4, July 2022) and there has been further development in Government policy and airport related decisions.
- 11.5 ESA4 provided an update to ESA2 (and the update to the noise chapter from May 2021, ESA3). With regard to noise, it identified that for dwellings within the daytime and night time SOAEL there would be no increase above 1dB (neither would there be an increase exceeding 1dB for properties between the LOAEL and the SOAEL daytime or night time contours), and consequently the noise impact was not significant. Thus, whereas in the report to the DMC in November 2021 some conflict with elements of policies in the Local Plan were identified, it

is now considered that the Proposed Variations accord with policies in the development plan, and where development does not conflict with policies in an up-to-date development plan planning permission should be granted.

- 11.6 The DMC report had weighed up the impacts associated with noise, and given the temporary nature of the impacts, the enhanced Noise Insulation Scheme, and the airport operator's encouragement of airlines to utilise the new generation aircraft at Luton, the report concluded that the economic benefits of the proposal outweighed any harm and material considerations weighed in favour of granting planning permission. That conclusion is reinforced by the assessment in the ESA4 which now indicates that noise impacts will not be significant.
- 11.7 With regard to national policy, the Jet Zero Strategy confirmed the position that the ANPS and MBU have full effect as material considerations in decision making, and that the Government will support airport growth where it can be delivered sustainably.<sup>150</sup> Given that environmental considerations have been addressed, it is considered that the proposal represents sustainable development that accords with national policy and the development plan.

#### **Council's case**

- 11.8 National aviation policy, including the ANPS and MBU (the most up-to-date aviation policy), all support the increased use of existing runway capacity at UK airports. They also highlight the positive impacts that airport expansion can bring to the UK economy. The ANPS also suggests that with the UK leaving the EU, the importance of aviation to the economy will only increase. The NPPF advises that significant weight should be given to the need to support economic growth and productivity. There is, however, the need to balance economic benefits against environmental impacts.
- 11.9 The report to the DMC weighed negative matters in relation to climate change, noise, highways and air quality against the benefits and importance of the sustainable growth of the airport to both Luton and the wider sub-region.
- 11.10 In terms of economic benefit, as stated above, whilst the proposal would be unlikely of itself to significantly increase employment numbers, additional passengers and expenditure by them would support and sustain the employment of airport and aviation related staff and the

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<sup>150</sup> CD11.19 page 74

economy of the wider area. It would also safeguard the continued commercial viability of the airport and existing direct and indirect jobs, preventing the loss of jobs, and consequently be likely to produce a significant economic benefit to Luton and the wider area.

- 11.11 No significant highway implications were identified through consideration of the application and its supporting documents. Moreover, strategies for a further shift towards sustainable modes of transport would be secured through implementation of the proposal.
- 11.12 With regard to greenhouse gases, the Outline CRP targets 2026 for the airport to become carbon neutral and 2040 to achieve net zero. Secured through condition and planning obligation, it was considered that the impact would be appropriately mitigated by this intervention, in accordance with Policy LLP37.
- 11.13 Noise impacts, therefore, comprised the material consideration most-weighted against the benefits of the proposal. It was accepted in the DMC report that the planning application resulted in more residents being exposed to noise that could not be adequately mitigated, and therefore at that time the report considered that the Proposed Variations would be a departure from local policy.
- 11.14 As noted in Section 6.0: Noise and Section 10.0: Consistency with the development plan, since consideration by the DMC, the Applicant has submitted a further addendum to the environmental statement. Whereas in the May 2021 Noise chapter (ESA3) the assessment indicated that there were properties within the night time SOAEL contour that would be exposed to an increase of between 1db – 1.9dB in noise, ESA4 has provided updated assessments which indicate that no properties within either the night time or daytime SOAEL would experience an increase greater than 1dB, consequently the effects of noise are not considered significant.
- 11.15 In weighing matters of noise, the DMC report set out the adverse impact, as well as the temporary nature of the increase in the size of noise contours, the expansion of the noise mitigation scheme and the benefits of fleet modernisation that would be accelerated. The report concluded that the economic benefits of the proposal weighed heavily in its favour. With the updated ESA4, it can be seen that the significance of the noise impacts is not as great as were considered in the report to DMC, with the assessment concluding that they are not significant. With ESA4 modelling a reduction of the area within the daytime 57dB LAeq(16hr) contour as well as the night time 48dB LAeq(16hr) contour, the situation will



improve overtime. As such it is considered that there is no longer any conflict with noise policies in the adopted Local Plan.

- 11.16 The Council's DMC concluded that the material considerations weighed in favour of approval and the DMC agreed with that recommendation from officers. On the basis of the information now available in ESA2-ESA4 and the Oxford Economics report, the case in favour of the grant of planning permission is stronger than that reported to the Council's DMC.

## 12.0 Rule 6 Parties

### CPRE Hertfordshire

- 12.1 In their Statement of Case CPRE Hertfordshire identify their opposition to three of the five conditions in the Proposed Variations, namely; condition 8 (passenger cap); condition 10 (summer noise contours); and condition 18 (approved plans and documents).
- 12.2 CPRE Hertfordshire raise four areas of objection:
- i. Climate change;
  - ii. Noise impact;
  - iii. Impact on the Chilterns Area of Outstanding Natural Beauty (AONB); and
  - iv. Non-compliance with the adopted local plan
- 12.3 CPRE's Statement of Case also raises questions about the future monitoring of planning conditions and the ownership of the airport, which consequently may form part of their case when Proofs of Evidence are submitted.
- Climate change***
- 12.4 There is a duty under the Climate Change Act 2008<sup>151</sup> it is the duty of the Secretary of State to ensure that the UK meets net zero by 2050. The Government has set out both in the Jet Zero Consultation: Summary of responses and government response<sup>152</sup> and the Jet Zero Strategy<sup>153</sup> that their analysis shows that the aviation sector can achieve net zero without the need for the Government to intervene directly to limit aviation growth.
- 12.5 CPRE's position in paragraphs 11-14 appears to be challenging the Government's aviation policy, stating that the technical advances (a key element of the Government's strategy) will

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<sup>151</sup> [CD11.01]

<sup>152</sup> [CD11.18]

<sup>153</sup> [CD11.19]

not be sufficient and that continued expansion of airports in the south east of England is inappropriate.

- 12.6 With regard to the reference in paragraph 14 to the proposed expansion of Luton airport to accommodate 32mppa, that to date has only been a consultation, and should the promoter – Luton Rising – bring the proposal forward it will be dealt with by a separate regime, namely through a Development Consent Order to be determined by the Secretary of State under the Planning Act 2008.

**Noise impact**

- 12.7 CPRE Hertfordshire’s comments on noise are made without any evidence to substantiate them. Thus, in paragraph 15, it is suggested that the increase in passenger numbers to 19mppa will inevitably increase what is termed ‘noise nuisance’, whilst it is also alleged in paragraph 16 that the Proposed Variations will result in new communities being overflowed and blighted, and in paragraph 17 that the delivery of the new quieter aircraft has not been in accordance with previous promises.
- 12.8 The significance of the noise impacts of the Proposed Variations are addressed in Ben Holcombe’s evidence, which concurs with the findings of ESA4, namely that the noise impacts are temporary, negligible and imperceptible and will not be significant.
- 12.9 With regard to the increase in passenger numbers, this does not directly correlate with an associated increase in the number of aircraft movements. ESA2 provided details of peak day air transport movements (Table 3.2 page 30), which showed that day time movements for the Proposed Variations would be no different than those for the airport operating at 18mppa, since the additional passengers would be accommodated in the newer aircraft, which whilst quieter also have a larger seating capacity (thus the A320ceo can have a maximum of 180 seats vs the A320neo’s 194 and the A321ceo a maximum of 220 seats vs the A321neo’s 244). ESA2 went on to demonstrate that with the increased use of the new generation aircraft the peak day air transport movements would decrease by six movements in 2028 (ESA4 does not change this).
- 12.10 The report to DMC addressed tranquillity in paragraphs 178-181.<sup>154</sup> In responding to representations received from, amongst others, the Chiltern Conservation Board and the Chiltern Society, the DMC report noted that, “an assessment of tranquillity is a matter more

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<sup>154</sup> [CD5.08]

appropriate in the context of airspace change, however, it is worth noting that the proposed development will not result in any new areas being overflowed” (paragraph 144).

- 12.11 Finally in relation to the delivery of the new quieter aircraft it is worth noting that at the time of the submission of the original planning application in 2012, both Boeing and Airbus were developing replacement aircraft (the Airbus A320neo and the Boeing 737max). The main carrier at Luton in 2012 was easyJet and the company had indicated that it would bring forward a proposal for the next generation of deliveries which was likely to be 2017. Given the uncertainty as to when the degree of modernisation of the fleet would occur, the 2012 ES<sup>155</sup> presented a number of scenarios for 2028 covering: no fleet modernisation; partial fleet modernisation (up to 50%) and full fleet modernisation for 2028. It is therefore not possible to say that the replacement of the current fleet with less noisy variants has not kept up with promises made in 2012.

#### ***Chilterns AONB***

- 12.12 Comments about tranquillity and the AONB have been addressed above. With regard to the possible extension of the Chilterns AONB, the AONB was designated in 1965 and was enlarged in 1990 following a review of its boundary. In 2013 the Chilterns AONB Conservation Board submitted a proposal to Natural England to amend the boundaries of the AONB. The application followed Natural England’s guidance and identified large areas of search in North Hertfordshire, Buckinghamshire and the Thames Valley for possible inclusion, with no specific hard boundaries. During the North Hertfordshire Local Plan Examination in Public when areas of land to the north of the airport (east of Luton) were being considered for housing allocation, North Hertfordshire District Council considered that an extension to the Chiltern AONB may or may not happen in the future and considered that no weight should be given to the fact that an application has been made to extend the boundary south of the A505 in considering the soundness of the allocations of land for housing east of Luton.

#### ***Luton Local Plan***

- 12.13 The Proposed Variations are identified as being not in line with two elements of Policy LLP6 from the Luton Local Plan by CPRE Hertfordshire, LLP6B(v) and (vii).
- 12.14 With regard to Policy LLP6B(v) Mr Holcombe’s evidence addresses this point, noting that there is no material increase in day or night noise (or excessive noise including ground noise)

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<sup>155</sup> [CD6.02]

as a consequence of the Proposed Variations, and that the noise impact would not be perceptible and is therefore negligible.<sup>156</sup>

- 12.15 In relation to the need set out in Policy LLP6B(vii) of airport expansion to include proposals that result in a significant diminution and betterment of the effects of aircraft operations on residential amenities, Mr Holcombe’s evidence notes that betterment is achieved through the number of dwellings being able to benefit from the enhanced Noise Insulation Scheme, together with the reduction in the areas covered by the future contours in Condition 10. In terms of significant diminution, he notes that, since the application seeks to incentivise fleet modernisation, significant diminution would be expected to come about sooner than ‘without development’. Through incentivising fleet modernisation and the implementation of the Noise Insulation Scheme, the ‘significant diminution and betterment’ aspect would be achieved.<sup>157</sup>

#### ***Monitoring and ownership***

- 12.16 Conditions were proposed in the report to DMC and were attached as Appendix 2 to the SoCG. The NPPF specifies that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.<sup>158</sup> The question about the ability of the Council “to enforce onerous planning conditions” is entirely misplaced, since oppressive conditions would not be likely to meet the NPPF tests.
- 12.17 Similarly in relation to the ‘lack of enforcement of existing conditions’, CPRE Hertfordshire appears to have forgotten that enforcement action is discretionary and needs to be proportionate in responding to suspected breaches. The Council was aware that a breach of the summer noise contours might occur in 2017 when the airport operator submitted its report detailing the 2016 actual summer contours and 2017 predicted contours by 1<sup>st</sup> December 2016. The Council met with the airport operator to discuss the implications of the potential breach and measures that might be taken to address and mitigate the breach. The discussions included the airport’s noise consultants together with the Council’s noise consultants, with it being indicated that the likely breach would be equivalent to a 1dB increase, which was indicated as not being perceptible.

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<sup>156</sup> Paragraph 4.17(v) of Mr Holcombe’s evidence.

<sup>157</sup> Paragraph 4.17(vii) of Mr Holcombe’s evidence

<sup>158</sup> Paragraph 56 [CD9.05]

- 12.18 With confirmation on 27<sup>th</sup> November 2017 that the summer night time noise contour had been breached<sup>159</sup>, again the Council met with the airport operator to discuss measures to address the breach and in February 2018 formally wrote to the airport operator to seek assurances of measures that would be implemented for that summer period and in the longer term (Appendix 2). The airport operator introduced a number of measures (Appendix 3) and the Council met with neighbouring authorities to appraise them of the breach and discuss the actions that the Council was taking and steps that the airport operator had undertaken to implement in order to remedy the breach.
- 12.19 Despite the measures introduced by the airport operator when the next annual report was submitted a further breach of the summer night time contour had occurred in 2018, with a forecast that there would be a breach of both the night time and daytime contours in 2019. During this time the Applicant was not only meeting with the Council to discuss measures to address the breach, but also undertook the preparation of a planning application to vary the summer contour cap for a temporary period. That application (LPA ref: 10/00428/EIA) was submitted in 2019 together with an environmental statement.
- 12.20 The Council acted in accordance with its enforcement policy, engaging with the airport operator, updating not only neighbouring authorities but also local bodies through the London Luton Airport Consultative Committee (LLACC) (and its Noise and Track Sub-Committee [NTSC]), and through engaging external consultants determining what action would be proportionate and whether enforcement action was appropriate.

## LADACAN

- 12.21 In their Statement of Case LADACAN identify a number of headings, though their points of objection are scattered throughout. I seek to address their points under the headings that they have chosen to use in their Statement of Case.

### ***Legal and policy framework***<sup>160</sup>

- 12.22 In paragraph 8 of their Statement of Case LADACAN seem to suggest that paragraph 1.29 of MBU<sup>161</sup> accepts airports making best use of their existing capacity “where need has been demonstrated”. Paragraph 1.29 of MBU confirms that the Government is supportive of airports beyond Heathrow making best use of their existing runways, there is no reference to

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<sup>159</sup> [CD13.15]

<sup>160</sup> Note whilst LADACAN have used the word ‘legal’ in their heading, I am not providing legal evidence.

<sup>161</sup> [CD10.13]

need. MBU provides in principle support for Luton Airport ‘making best use’ of its runway, subject to the resolution of environmental issues. The report of 30 November 2021 to DMC stated that “there is no requirement arising from national aviation policy for individual planning applications for airports beyond Heathrow to demonstrate a need for their proposed development or for associated additional air traffic movements and increased passenger numbers. This point was specifically made by the inspectors in the Stansted airport appeal decision<sup>162</sup>, granting permission for the airport to increase its passenger numbers by 8mppa.”<sup>163</sup>

12.23 The status of the 2021 Airport Master Plan<sup>164</sup> and the need for the 2012 Airport Master Plan to be updated is questioned by LADACAN in paragraph 9. The APF<sup>165</sup> recommends that airport master plans are reviewed at least once every five years, thus it was entirely appropriate for the Applicant to have produced an update to the 2012 Airport Master Plan. The Applicant undertook non-statutory public consultation on the draft Master Plan between October and November 2020, before submitting the 2021 Master Plan as part of the suite of documents forming the planning application in January 2022. Since the Airport Master Plan is neither a Development Plan Document nor a Supplementary Planning Document and the requirement of Policy LLP6B(iii) is that the airport operator publish an up-to-date Airport Master Plan and the Council adopt the same, it was considered that the appropriate Committee to report the Airport Master Plan to was the Council’s Executive, which met on 23 November 2021,<sup>166</sup> with views of the Council’s Overview and Scrutiny Board being sought before that.<sup>167</sup>

12.24 With regard to the policy documents mentioned in paragraph 10, LADACAN have been selective in their interpretation of the Government’s aviation and planning policy. Thus, the APF<sup>168</sup> affirms that the Government’s “primary objective is to achieve long-term economic growth” (paragraph 5), whilst the NPPF<sup>169</sup> states that “significant weight should be placed on the need to support economic growth and productivity” (paragraph 81). As noted above,

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<sup>162</sup> Paragraph 17 of Stansted Airport appeal decision [CD15.01]

<sup>163</sup> Paragraph 76 [CD5.08]

<sup>164</sup> [CD1.06]

<sup>165</sup> Paragraph 4.12 [CD10.04]

<sup>166</sup> [CD5.01]

<sup>167</sup> [CD5.05]

<sup>168</sup> [CD10.04]

<sup>169</sup> [CD9.05]

MBU<sup>170</sup> makes clear that there is in principle support for airports such as Luton, making best use of their existing runways (paragraph 1.29), taking into account relevant economic and environmental considerations. Nowhere in the APF does it say that noise must be reduced and eliminated, as suggested in 10(a), rather paragraph 3.12 of the APF advises that the overall policy is “to limit and, where possible, reduce the number of people in the UK significantly affected by aircraft noise.” Paragraph 3.24 of the APF that LADACAN quotes continues to say that, “the Government accepts that it is neither reasonable nor realistic for such actions to impose unlimited costs on industry. Instead, efforts should be proportionate to the extent of the noise problem and the numbers of people affected.” This is referred to as the ‘balanced approach’.

- 12.25 The starting point with Government policy in relation to airports such as Luton is that the Government supports them making best use of their existing runways and this has been seen in recent PINS decisions such as the increase of Stansted Airport from 35mppa to 43mppa (23% increase), the increase of Bristol Airport from 10mppa to 12mppa (20% increase) and even the recent grant of development consent for Manston<sup>171</sup>. Economic and environmental considerations need to be taken into account, with the Government giving significant weight to the need to support economic growth and prosperity, whilst also seeking to limit and where possible reduce the number of people significantly affected by noise. The issue of the significance of the noise impact of the Proposed Variations is one that is addressed in Mr Holcombe’s evidence, with the conclusion being that the increase will not be significant, being <1dB, which is negligible and considered imperceptible. It will be necessary for the inspectors to form a planning judgement with regard to the economic and environmental considerations.

***History of non-compliance with conditions***

- 12.26 Not wishing to stray from the planning case, it does seem necessary to point out that the Local Planning Authority does not own the airport as stated by LADACAN in paragraph 12, rather the Council is the sole shareholder of Luton Rising. Further, public authority ownership of an airport is not unusual, there are numerous examples including: Cardiff Airport wholly owned by the Welsh Government; Cornwall Airport owned by Cornwall Council, Teeside International Airport is wholly owned by the Tees Valley Combined

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<sup>170</sup> [CD10.13]

<sup>171</sup> [CD15.06]

Authority, whilst Manchester, Stansted and East Midlands Airports have 64.5% local authority ownership and 51% of Newcastle Airport is owned by seven local authorities. In Scotland there are thirteen airports fully in public ownership.<sup>172</sup>

12.27 The main criticism in this section appears to be what LADACAN describe as “the woeful record of enforcement” by the Council. It has already been noted that enforcement action is discretionary, and in deciding whether it is expedient to take enforcement action the LPA should have regard to the development plan and any other material considerations. The NPPF also states the LPAs should act proportionately in respect of suspected breaches of planning control.<sup>173</sup> This is the course of action that the Council took when first alerted to the potential breach, meeting with the airport operator to discuss what actions could be taken to address the situation. Upon confirmation of the breach of the summer night time 48dB LAeq(8hr) noise contour on 23 November 2017 the Council met with the airport operator on 13 December 2017 to discuss measures that the operator would implement to address the breach, followed by a letter to the Airport Operator on 16 February 2018 (Appendix 2) raising the issue of the breach of the night noise contour and seeking a detailed Action Plan from the operator as to how it proposed to remedy the breach.

12.28 Steps were put in place by the airport operator with airlines being advised of the restrictions that were to be imposed and a letter of 27 February 2018 (Appendix 3) setting out steps that were to be imposed to address the night noise breach as well as additional measures to address potential breaches of the summer daytime 57dB LAeq(16hr) contour. During this period the Council was transparent with neighbouring local authorities and interest groups, reporting to the LLACC and the NTSC as well as organising meetings with senior officers from the neighbouring local authorities. Discussions also continued with the airport operator, their consultants, and the Council’s noise consultants with regard to the significance of the breach and a proportionate response. The Airport Operator commenced the preparation of a Section 73 application to temporarily vary Condition 10 and discussed steps to mitigate the impact of what was described as a 1dB increase in the noise contour.

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<sup>172</sup> Highlands and Islands Airports Limited (HIAL) is wholly owned by Scottish Ministers and owns 11 airports in Scotland (Barra, Benbecula, Campbeltown, Dundee, Inverness, Islay, Kirkwall, Stornoway, Sumburgh, Tiree and Wick John O’Groats), Glasgow Prestwick is wholly owned by the Scottish Government and Argyll and Bute Council own Oban airport.

<sup>173</sup> Paragraph 59 [CD10.4]



- 12.29 With the submission of the Section 73 application in 2019 (LPA ref: 19/00428/EIA), the LPA was able to determine the significance of the noise impact of the proposed variation to condition 10 since an environmental statement accompanied that application. Given the limited significance of the noise impact assessed in that environmental statement and the fact that the LPA was considering the planning application, enforcement action in relation to the subsequent breach of both the night time and daytime summer noise contours in 2019 would not have been expedient. Ultimately the 2019 application seeking to vary condition 10 alone was withdrawn upon submission of the current Proposed Variations and with the impact of the pandemic, condition 10 was not breached in 2020 or 2021 and is not forecast to be breached for the 2022 summer period.

***The proposals***

- 12.30 Within this section LADACAN question the reliability of the environmental impact assessment undertaken by the Applicant's team. ESA2, and the update to the noise chapter (ESA3), were subject to scrutiny by the Council's consultants, resulting not only in a Regulation 25 request for further information, but also in requests for clarification – some of which were specific to points raised by LADACAN – and which were addressed in responses to the Council prior to the Application being reported to DMC with a recommendation that planning permission be granted.
- 12.31 In paragraph 21 LADACAN state that the consequence of increasing the number of passengers is that noise impacts will be "severe, legion and wide-ranging." Firstly, an increase in passenger numbers does not, on evidence before the Inquiry, correlate with an increase in the size of the noise contours nor the level of noise experienced. It has previously been explained that the new generation aircraft tend to have a greater number of seats than their equivalent older models. Thus, if the main carriers operating out of Luton (Wizz, easyJet and Ryanair) are to be encouraged to introduce the new quieter aircraft, and if these are to be flown with the typical load factors required by these low-cost carriers, than the 18mppa cap needs to be varied, otherwise there is no incentive for the airlines to fly their quieter aircraft to Luton, rather than to say Stansted or Gatwick. Secondly, the "severe, legion and wide-ranging" harm that LADACAN allege is not borne out by the environmental assessment undertaken by the Applicant's team and reviewed by the Council's experts. ESA4 sets out that there are no increases of  $\geq 3\text{dB}$  for residents in the contours between the LOAEL and SOAEL for the daytime or night time periods, nor are there any increases  $\geq 1\text{dB}$  for

residents experiencing noise above the daytime or night time SOAEL. The conclusion of ESA4 is that the effect of the Proposed Variations in the worst-case year, 2023, would not be significant either during the daytime or the night time. In the year when 19mppa passengers is anticipated as being reached, 2025, the impacts are less than those experience in the worst-case year.

- 12.32 LADACAN contend that because the impact of the Proposed Variations is severe the Applicant has no choice but to offer mitigation in the form of noise insulation. The Noise Insulation Scheme is an appropriate response to airport development that results in an increase in noise, with the Government stating in the APF that airport operators should “offer financial assistance towards acoustic insulation to residential properties which experience an increase in noise of 3dB or more which leaves them exposed to levels of noise of 63 dB LAeq,16h or more”.<sup>174</sup> The Proposed Variations do not result in an increase in noise levels of that magnitude, however, the Noise Insulation Scheme will be available to all the residents within the daytime and night time SOAEL, and will be available for five years after the worst case year, even though some of those dwellings will no longer be exposed to noise above the night time 55dB LAeq(8hr) or daytime 63dB LAeq(16hr) levels.

### ***Planning balance***

- 12.33 The planning balance has been addressed earlier in my evidence, however, in this section LADACAN emphasise that the Proposed Variations are a departure from the development plan, particularly in relation to the lack of an up-to-date Master Plan (Policy LLP6B[iii]), the failure to achieve a reduction or no material increase in noise (Policy LLP6B[iv]) and their contention that there is no mitigation (Policy LLP38). These matters have all be addressed earlier in my evidence, suffice it to say that:

- there is an up-to-date Master Plan published by the airport operator and adopted by the Council;
- the Proposed Variations will over time achieve a reduction in noise levels as the airlines’ fleets are modernised; and
- the Noise Insulation Scheme has been enhanced compared to the scheme that was in place following the original planning permission in 2014, with many of the properties within the predicted SOAEL being offered the mitigation already, and further

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<sup>174</sup> Paragraph 3.39 [CD10.4]

properties will be approached by the LLACC before the worst-case year (the summer period of 2023). Thus, the number to which the term compensation might be applied, is significantly less than when the application was reported to DMC on 30 November and 1 December 2021.

## 13.0 Conclusions

- 13.1 At the time that the Application was reported to the DMC, the officer's report identified elements of the Proposed Variations that did not accord with parts of policy LLP6 and LLP38. The evidence before this Inquiry now, in the form of ESA2, ESA3 and ESA4, demonstrates that the Proposed Variations are in accordance with the development plan and national planning policy and that there are no other material considerations which indicate that planning permission should be refused.
- 13.2 The Proposed Variations, entailing an increase from 18mppa to 19mppa, will make best use of Luton Airport's existing runway, which will accord with the Government's aviation policy and wider national economic objectives. As such I give significant weight to this in the planning balance.
- 13.3 The Application represents sustainable development. The Proposed Variations will increase the capacity of Luton Airport to accommodate 19mppa, which will deliver substantial benefits in terms of jobs (direct, indirect and induced) and GDP for the local area, Three Counties sub-region and the UK as a whole. The NPPF advises that significant weight should be given to the need to support economic growth and productivity, and as such I afford this significant weight in the planning balance.
- 13.4 The evidence presented by the Council's witnesses demonstrates that the Proposed Variations, and the benefits that will result from permitting an increase in the passenger cap, can be achieved whilst ensuring that adverse impacts on local communities and the environment are appropriately minimised and mitigated.
- 13.5 Overall, I conclude that the need for, and benefits from, the Proposed Variations, outweigh the limited adverse impacts associated with increasing the passenger capacity to 19mppa and temporarily increasing the area contained within the summer daytime and night time contours.



13.6 I respectfully therefore invite the Inspectors to recommend that the Secretaries of State grant planning permission for the Proposed Variations.



## **Appendix 1: Short- & medium-term mitigation measures from the Outline CRP**

Table 4.1 Short Term (2020-2025): Mitigation measures additional to RBS targets for achieving net zero carbon by 2050 within the timeframe of LLAOL's Responsible Business Strategy

Source	GHG Scope	Mitigation Area	Description
Airport buildings & ground operations	1 & 2	Operational vehicles	Establish a programme for the phased electrification of airside vehicles. All new contracts with Ground Handling Agencies to require electric vehicles, if possible
Airport buildings & ground operations	1 & 2	Renewables / Low Carbon Technologies	Conduct feasibility studies and funding review with LLAL and LBC for on-site and near-site renewable or low carbon energy generation, e.g. from solar, biomass, CHP etc, including consideration of any existing feasibility studies carried out by airport partners
Airport buildings & ground operations	1 & 2	Energy efficiency and reduction	Continue programme of upgrades to more energy efficient equipment and systems (e.g. air-handling equipment), supported by detailed survey of buildings and energy data to identify potential for energy savings and improved Building Management System controls.
Surface Access	3	Surface Access Staff & Passengers	Work with the council to improve pedestrian and cyclist access routes, and cycle facilities at the airport (noting that policies are under consultation by LBC on the 'Transport Strategy and Local Transport Policies' <sup>15</sup> )
Surface Access	3	Surface Access Staff & Passengers	Review strategies for car-parking allocation, consider preferential parking for electric or hybrid vehicles and penalty charges for high emissions vehicles
Surface Access	3	Electric vehicle charging	Noting timescales to phase out the sale of new petrol and diesel cars in the UK by 2030, instigate feasibility studies and funding review to ensure the smart provision of electrical vehicle charging infrastructure, based on expected demand and charging patterns.
Aviation	3	Aviation Operations	In collaboration with LLAL and airlines conduct feasibility assessment and funding review for installing Fixed Electric Ground Power (FEGP) and air-conditioning supplies at aircraft stands
Aviation	3	Aviation operations	Update airlines' "Conditions of use" policy to encourage low-carbon techniques during landing and take-off operations e.g. single/reduced-engine taxiing, advised take-off speeds
Aviation	3	Aviation operations	Incentivise implementation of more efficient aircraft through contractual agreements
Aviation	3	Sustainable Aviation	Work with airlines, LLAL and an innovation working group, to plan for operational measures that will support airlines to implement policies from the Sustainable Aviation Decarbonisation Road Map <sup>9</sup> for fuel-efficient aircraft, efficient operations and use of sustainable aviation fuels (noting also the inclusion of international aviation emissions in legislation being introduced for the UK's 6 <sup>th</sup> Carbon Budget <sup>2</sup> )
All sources	1,2 & 3	Measuring, Monitoring & Reporting	Develop a Carbon Reduction Strategy with a 5 year emission reduction target, incorporated into LLAOL's strategic business plans, and reviewed on an annual basis regarding progress and any material changes in local or national policies
All sources	1, 2 & 3	Measuring, Monitoring & Reporting	ACA scheme – achieve 'Optimisation' level 3 (engagement with third parties in carbon footprint management)
	LLAOL responsible for implementation of measure		
	LLAOL working with LLAL on implementation of the measure		
	LLAOL working with LLAL and LBC on implementation of the measure		
	LLAOL liaising with airlines (and where indicated LLAL) on implementation of the measure		

<sup>15</sup> Luton Borough Council (2020). Transport Strategy and Local Transport Policies (Draft for consultation). Available at: [https://engage.luton.gov.uk/planning-transport-parking-highways/copy-of-luton-transport-plan-consultation/user\\_uploads/luton\\_transport-strategy-and-policies.pdf](https://engage.luton.gov.uk/planning-transport-parking-highways/copy-of-luton-transport-plan-consultation/user_uploads/luton_transport-strategy-and-policies.pdf)

Table 4.2 Medium Term (2026-2031): Mitigation measures additional to RBS targets for achieving net zero carbon by 2050 within the current Concession Agreement timeframe

Source	GHG Scope	Mitigation Area	Description
Airport buildings & ground operations	1 & 2	Renewables / Low Carbon Technologies	Work with LLAL to increase the proportion of on-site renewables used to supply the airport's operational electricity requirements, beyond the existing RBS target of 25% by 2026, to 50% of electricity generated by on-site renewables by 2030.
Airport buildings & ground operations	1 & 2	Energy efficiency and reduction	Facilitate options for replacing diesel generators with battery backup supplies or cleaner technology; alternatives to gas for heating requirements (e.g. air/ground source heat pumps, on-site biomass boiler, connecting to a district heating system); and review developments in the application of hydrogen-based energy infrastructure.
Airport buildings & ground operations / Surface Access	1, 2 & 3	Development projects	Collaborate with LLAL on its expansion proposals in facilitating the development of low carbon or nearly zero net energy buildings
Surface Access	3	Surface Access Staff & Passengers	Update surface access strategy and targets for staff and passengers using sustainable modes of transport to travel to and from the airport
Surface Access	3	Surface Access Staff & Passengers	Review renewals of contracts with bus operators and taxi operators to specify or incentivise the use of electric vehicles
Surface Access	3	Surface access	Incentivise suppliers to promote delivery consolidation and maximise the proportion of full-load trips and use of low carbon vehicles
Surface Access	3	Electric vehicle charging	In partnership with LLAL and LBC provide the infrastructure for 40 to 60 electric vehicle (EV) charging points by 2030, considerate of EV charging requirements, in line with the planned phase out of new petrol and diesel cars in the UK by 2030.
Aviation	3	Aviation Operations	Facilitate installation of Fixed Electric Ground Power (FEGP) on all new stands as part of LLAL's future development of the airport
Aviation	3	Aviation operations	In partnership with LLAL facilitate infrastructure and airline requirements for the introduction of electric flights, focussing on LLA domestic and short haul flights
Aviation	3	Aviation operations	As part of airspace modernisation, review the uptake of low-carbon techniques during landing and take-off operations and opportunities for further improvement
Aviation	3	Sustainable Aviation	In partnership with LLAL and innovation partners promote the uptake of sustainable aviation fuels and review logistical requirements to facilitate storage and access at the airport, taking into account timescales for the development and demand for sustainable aviation technology
All sources	1, 2 & 3	Measuring, Monitoring & Reporting	Produce an updated 5-year Carbon Reduction Strategy and emissions reduction target, with regular monitoring of performance and progress updates
All sources	1, 2 & 3	Measuring, Monitoring & Reporting	ACA scheme – achieve the fourth level: 'Neutrality' (level 3+, achieve carbon neutrality by offsetting residual carbon emissions from airport direct emissions)
	LLAOL responsible for implementation of measure		
	LLAOL working with LLAL on implementation of the measure		
	LLAOL working with LLAL and LBC on implementation of the measure		
	LLAOL liaising with airlines (and where indicated LLAL) on implementation of the measure		



## **Appendix 2: LPA letter to LLAOL 16 February 2018**



**Development Control**

Town Hall,  
Upper George Street,  
Luton,  
Bedfordshire  
LU1 2BQ

T: (01582) 546317  
E: david.gurtler@luton.gov.uk  
W: www.luton.gov.uk/planning

Neil Thompson  
Operations Director  
London Luton Airport  
Navigation House  
Airport Way, Luton  
Bedfordshire LU2 9LY

Date 16 February 2018

Reference: 12/01400/FUL and 15/00950/VARCON

Dear Mr Thompson,

**Re: Breach of Night Noise Condition at London Luton Airport**

I am writing further to Laura Church's email of 14 February 2018 following the meeting that was held at Hart House with representatives of the neighbouring authorities on Friday 9 February 2018 in relation to the breach of the night noise condition at the airport.

The relevant planning condition that has been breached is condition 10 of application 15/00950/VARCON (formerly condition 12 of the original planning permission granted in 2014 [ref: 12/01400/FUL]). The condition states that:


*"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(A) Leq16hr (0700-2300) contour shall not exceed 19.4 sq km for daytime noise, and the area enclosed by the 48dB(A) Leq8hr (2300-0700) contour shall not exceed 37.2 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 or amended).*

*"Within five years of the 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 15.2sq km for the area exposed to 57dB(A) Leq16hr (0700-2300) and above and for night-time noise to 31.6 sq km for the area exposed to 48dB(A) Leq8hr (2300-0700) and above."*

The planning condition was imposed in order to safeguard residential amenity.

The information required pursuant to the noise report mentioned in the first



paragraph of the condition was provided to the Local Planning Authority (LPA) on 30 November 2017 by cover of an email from James Dantas. This information included the noise exposure contours for the past year (2017), both for the daytime and night time periods. The past year's contours showed that the area within the 48dB  $L_{Aeq8hr}$  contour had been exceeded by 1.5km<sup>2</sup>, and that it was forecast that there would be a further increase within the area enclosed by the 48dB contour in 2018 (up to 39.6km<sup>2</sup>). There had not been a breach with regard to the 57dB  $L_{Aeq16hr}$  daytime contour in 2017 and it was forecast that for 2018 the area enclosed within the 57dB contour would be 19.4km<sup>2</sup>, which would not breach the condition.

Accordingly could you provide a detailed Action Plan setting out how the Airport Operator proposes to remedy the breach of this condition. Specifically the LPA requires the Action Plan to set out, in the short term, how and when the breach of condition can be remedied, together with a timetable for implementation of actions to address the breach and mitigate any harm. Over the longer term the Action Plan should set out the strategy for the future. Although I note that the period specified in the condition for the production of a strategy was 'within five years of the commencement of development' (i.e. by 1 January 2021), at that time it was not anticipated that the airport would grow so rapidly. With the breach of the condition arising from the rapid growth of the airport, it is imperative that the production of this strategy be brought forward.

As you are aware from the meeting with adjoining authorities, the Council as LPA is facing considerable pressure from neighbouring Councils and local residents to address this issue. In the circumstances I am sure that you will appreciate that in line with the Government's Planning Practice Guidance, 'Ensuring Effective Enforcement', consideration has to be given by the LPA to the various options that are open to us to remedy the breach.

I look forward to receiving your reply and an indication of when we can expect to receive the Action Plan.

Yours sincerely



Jackie Barnell  
Service Manager – Development Management



### **Appendix 3: Measures introduced by LLAOL for summer 2018**



London Luton Airport  
Navigation House  
Airport Way  
Luton  
Bedfordshire  
LU2 9LY

27<sup>th</sup> February 2018

Dear [Customer]

### **Noise restrictions commencing Summer 18**

I am writing to you to advise that following a breach of the night time contour limit in 2017 we are now having to take urgent unprecedented action to curb our noise footprint with effect from this summer.

The permitted night-time noise contour was exceeded at night in Summer 2017, not because of planned or scheduled movements but because of late running arrivals and unfortunately we are not permitted to remove these from the actual assessment.

Without intervention, and allowing for continued pro-rata late running operations, our forecasts predict that the permitted noise contour footprint at night will again be exceeded in 2018 through to 2021 and possibly beyond, despite the expected increasing participation of next generation aircraft. We are therefore implementing the following measures with immediate effect for Summer 2018 and every subsequent Summer until further notice;

- No ad hoc movements will be permitted including Commercial, GA and Maintenance between 2200-0559 GMT 1<sup>st</sup> June – 30<sup>th</sup> September
- No further night slots to be allocated to series flights 2200-0559 GMT 1<sup>st</sup> June – 30<sup>th</sup> September
- No re-scheduling of existing allocated slots from the day time 0600-2159 GMT into the night time 2200-0559 GMT 1<sup>st</sup> June – 30<sup>th</sup> September
- No “non-emergency” Diverted Flights will be accepted 2200-0559 GMT 1<sup>st</sup> June – 30<sup>th</sup> September
- 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.

In terms of the daytime noise contour limit we are expecting to reach that in Summer 2018 however, we are expecting a decrease in future years with the participation of next generation aircraft. In order to protect any breach of the daytime contour this year we will be applying the following measures with immediate effect;

- No further day time slots to be allocated to aircraft greater than QC1 0600-2159 GMT 1<sup>st</sup> June – 30<sup>th</sup> 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 0600-2159 GMT 1<sup>st</sup> June – 30<sup>th</sup> September
- No “non-emergency” Diverted Flights will be accepted 0600-2159 GMT 1<sup>st</sup> June – 30<sup>th</sup> September

It is with great regret that we have to apply these restrictions and understand the impact that this will have, however we must work within the legal limits that are attached to our planning approval.

Members of the LLA team will be in touch shortly to arrange visits to discuss these restrictions in more detail if you wish.

Yours sincerely

A handwritten signature in black ink, appearing to read 'N. Thompson', with a stylized, cursive script.

Neil Thompson  
Operations Director