

SUMMARY 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

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1.0 Structure and Scope of Evidence

- 1.1 My evidence addresses issues raised in relation to the Application reported to the Development Management Committee ('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).¹
- 1.2 This proof of evidence should be read in conjunction with that given by Dr Mark Hinnells (climate change), Ben Holcombe (noise), Antony Swift (transport) and Christopher Godden (highways).

2.0 Summary

- 2.1 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.
- 2.2 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, 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 <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.

¹ [CD1.16, CD1.17 and CD1.18]

2.3 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 LLP38,² this is no longer the case following a review of the updated environmental information contained within ESA4.

2.4 The DMC report considered the Proposed Variations to accord with policies in the development plan with regard to: climate change;³ drainage and flood risk;⁴ transport, highways and parking;⁵ air quality;⁶ and employment and the economy.⁷ 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.

2.5 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.”⁸

2.6 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.⁹ 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.¹⁰

3.0 Climate change (consideration 1)

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

- Climate change was a serious issue;

² For instance, paragraphs 138, 197, 199 and 212 [CD5.08]

³ Paragraphs 204 and 205 [CD5.08]

⁴ Paragraph 208 [CD5.08]

⁵ Paragraphs 153 and 209 [CD5.08]

⁶ Paragraph 160 [CD5.08]

⁷ Paragraphs 177, 210 and 211 [CD5.08]

⁸ Paragraph 11(c) [CD9.05]

⁹ Paragraph 1.6 and 1.29 [CD10.13]

¹⁰ Paragraph 3.61 [CD11.19]

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

3.2 Dr Hinnells concluded that based on current policy there were no climate change grounds to support a refusal.

3.3 Dr Hinnells states in his evidence that nothing has changed to alter that advice, indeed the Jet Zero Consultation: Summary of responses and government response¹¹ and the Jet Zero Strategy¹² reaffirms the Governments position.

4.0 Noise (consideration 2)

4.1 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.

4.2 Since surface access and ground noise would have negligible impacts, they were scoped out of the environmental assessment.

4.3 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.

4.4 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

¹¹ [CD11.18]

¹² [CD11.19]

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’.

- 4.5 Mitigation in the form of an enhanced Noise Insulation Scheme (‘NIS’) 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.¹³ The NIS 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 NIS would be a significant improvement on the current situation.

5.0 Air quality (consideration 3)

- 5.1 A joint position statement has been agreed between the Applicant and the LPA, the conclusions of which are reported below.
- 5.2 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.
- 5.3 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.
- 5.4 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.

¹³ Paragraph 3.37 [CD11.04]

6.0 Sustainable transport and transport infrastructure (consideration 4)

- 6.1 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 Air Rail Transit [DART]) connecting the airport terminal directly to Luton Airport Parkway Station and the Thameslink and East Midlands rail services.
- 6.2 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.
- 6.3 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,¹⁴ Travel Plan¹⁵ and a Car Parking Management Plan.¹⁶ 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.

7.0 Socio-economic implications (consideration 5)

- 7.1 Aviation has long been recognised by Government as essential to the UK economy, with the Secretary of State confirming in the Foreword to the APF¹⁷ 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.”

¹⁴ [CD1.13]

¹⁵ [CD1.12]

¹⁶ Appendix B [CD1.12]

¹⁷ [CD10.04]

- 7.2 MBU¹⁸ 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.”

- 7.3 The Jet Zero Consultation: Summary of responses and government response¹⁹ 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 Strategy²⁰ 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).
- 7.4 The report to DMC²¹ 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 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.

8.0 Consistency with development plan and other policy (consideration 6)

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004²² requires that applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2 The development plan for the area is the Luton Local Plan 2011-2031 (adopted 2017)²³ and policies relevant to the determination of the Application were set out in paragraphs 58-60 of

¹⁸ Paragraph 1.29 [CD10.13]

¹⁹ [CD11.18]

²⁰ [CD11.19]

²¹ [CD5.08]

²² [CD9.02]

²³ [CD9.07]

the report to DMC.²⁴ 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.

8.3 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.

8.4 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.

8.5 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 APF²⁵ and MBU,²⁶ and also the recently published Jet Zero Strategy.²⁷

9.0 Planning balance (consideration 7)

9.1 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.

9.2 There are a number of significant benefits of the development which carry substantial weight in any planning balance which may be made.

9.3 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

²⁴ [CD5.08]

²⁵ [CD10.04]

²⁶ [CD10.13]

²⁷ [CD11.19]

information and clarification. Negative factors associated with the Application would include environmental impacts and any other harm. The positive factors include socio-economic benefits, such as 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.

- 9.4 Since the resolution by the DMC to grant planning permission, ESA4 has been submitted to the Planning Inspectorate (and there has been further development in Government policy and airport related decisions).
- 9.5 With regard to noise, ESA4 identified that for dwellings within the daytime and night time SOAEL there would be no increase $\geq 1\text{dB}$ (neither would there be an increase $\geq 1\text{dB}$ 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 some conflict with elements of policies in the Local Plan was 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.
- 9.6 The DMC report had weighed up the impacts associated with noise, and given the temporary nature of the impacts, the enhanced NIS, 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 ESA4 which now indicates that noise impacts will not be significant.
- 9.7 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.²⁸ 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.

²⁸ CD11.19 page 74

10.0 Conclusions

- 10.1 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.
- 10.2 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.
- 10.3 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.
- 10.4 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.
- 10.5 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.
- 10.6 I respectfully therefore invite the Inspectors to recommend that the Secretaries of State grant planning permission for the Proposed Variations.