From: [redacted]
To: Dutton, Holly
Subject: Ref APP/B0230/V/22/3296455
Date: 13 April 2022 20:48:17

Dear Mr Clegg and Ms Dutton

Ref APP/B0230/V/22/3296455

Town and Country Planning Act 1990 - Section 77 and Town and Country Planning (Inquiries Procedure) (England) Rules 2000

Application by London Luton Airport Operations Limited (LLAOL)

Thank you for the invitation to submit matters to be put before the inspector for this enquiry. This email contains the information I wish to put forward.

Please note that I have supplied my address below and would request that you redact it in any document produced or published. In addition, the information presented below, which is based on a limited amount of available public information, has not been verified with the airport and Luton Borough Council and would need to be supplemented by further independent enquiry.

Summary

In considering this application, I understand the inspector will examine the impact of Luton Airport's current operations and the impact of increased flights on matters relating to **climate change, conserving and enhancing the natural environment** and '**any other matters the inspector considers relevant**'. No doubt this enquiry will include looking into the impact of the airport's operations and flights on **noise pollution** and **congestion.**

I believe that the inspector should, in reviewing these matters and information presented on each of them, in the context of the proposal to expand the airport's activities, take into account the potential **conflict of interest** inherent in Luton Borough Council's ownership interest in Luton Airport. This relationship between the airport and the council generates over 20% of the council's income and increased revenue for the council with each additional flight creating a potential conflict with its historical role as the relevant planning authority and also in its inevitable involvement in working with the airport to submit information in support of the proposal.

The airport's expansion plans and its application, including all the supporting information

on the important environmental impact, have been commissioned, prepared and/or reviewed under arrangements which are not fully independent. It raises the risk of bias, incompleteness and misinformation on vital matters affecting the environment and residents of towns and villages in areas affected by flights.

The adverse impact on the environment of increased flights from Luton Airport

It is simply not sufficient for Luton airport to put forward a one-sided economic case for the airport's expansion. Such an economic case must take into account all other airport expansion plans and most importantly must be contrasted with the significant negative environmental impacts. This requires robust, reliable and independently verified information on, amongst other things, passenger forecasts, CO2 and other emissions, air quality, other pollution and noise levels. It also requires a fully sustainable plan for continuation of the existing operations and flights from the airport, let alone any increased flights.This has not been done by the proposers of the expansion, the airport and its owner (Luton Borough Council) and has not been considered by an independent planning body.

Having lived in Harpenden for almost 30 years my family and I have witnessed the expansion of the airport's flights and passenger numbers with an extremely detrimental impact on the environment, including CO2 and other emissions from aircraft and other operations, deterioration in air quality and significant noise pollution suffered by residents living nearby in Hertfordshire and under flight paths, especially towns and villages such as Harpenden, Redbourn, Markyate, St Albans, Wheathampstead and Sandridge.

Luton airport has made many promises in the past to reduce these adverse environmental effects as part of its expansion proposals including the introduction by airlines of newer aircraft, the implementation of new flight paths etc by the airport and it has in reality repeatedly failed to deliver to any significant extent on any of these undertakings.

It has also made only limited attempts to listen to residents complaints and often publishes complaint summaries and statistics which do not give the full picture.

It has breached previous limits set on flight numbers, especially at night, and only retrospectively sought approval.

Luton Borough Council appears to have failed to take this environmental impact and the track record of the airport in meeting its promises fully into consideration in its role as the planning authority. This has been evident in some of its dealings with expansion applications, for example in addition to the problems with information presented on noise, air quality and other environmental issues, consultation arrangements with local residents have been poor and meetings held by the authority to approve proposals sometimes seem

to have failed to receive the correct information on the legal position and environmental impact, which is potentially much more serious than presented. Consultations and decisions taken at the meetings have been conducted under the remit of an organisation with a potential conflict of interest in the decision made: Luton Borough Council.

You will note, by way of an example, that aircraft taking off in a westerly direction from Luton airport fly in a concentrated route path over the towns I mentioned and you will also note that the aircraft fail to climb in height as rapidly as they can and should to reduce noise levels as they travel over these places. This results in high and unnecessary noise from aircraft for residents day and night in towns overflown not just next to the airport by several miles away which could be avoided if the environmental impacts were taken seriously and the airport were held to account to make good on past promises before any expansion.

You will also note that there is one (only one) primary flight path for almost all westerly departures from Luton Airport. The position is similar in its design and has similar effects effects for Easterly routes and all incoming landing flights. This can be seen and heard if you visit the area concerned and watch the planes but also by a desk analysis looking at the number of take off and landing routes and the height gained over any particular distance by flights originating from Luton Airport together with the comparable available information for other airports e.g. Heathrow (with many flight paths and faster climb rates). This situation was made worse (not better) for residents of Markyate, Redbourn, parts of Harpenden and St Albans and Sandridge when Luton Airport concentrated its flight path for Westerly operations over parts of these Hertfordshire villages and towns effectively placing a huge burden on one part of the population and failing to consult properly on the changes.

Luton airport's response to any concerns on the environmental impact including noise pollution has been to restate the constraints of airport space change proposals and the CAA requirements. Meanwhile, flight numbers have increased and no substantial changes have been made to reduce the environmental impact.

Local organisations independent of the airport have estimated that Luton Airport on full operating capacity emits 2,000,000 tonnes of CO2 annually, which will grow by an estimated 1,000,000 tonnes should the expansion go ahead. This is at a time when the UK needs to cut emissions to meet COP26 commitments en route to net-zero. Luton Borough Council itself has a Climate Action Plan to achieve local Luton net-zero by 2040 which will be impossible if the airport expands to 30,000,000 ppa. Local towns already suffer from significant road congestion and pollution arising from Luton airport operations and passenger transport to and from the airport.

In terms of noise, the so-called NEO aircraft, that enabled Luton Airport to promise quieter skies in previous expansion proposals (all approved by Luton Borough Council), are estimated in fact not to produce any noise reduction benefits and the airport has itself reverted to the manufacturer to find out why. Very few of the aircraft are in operation anyway and way below

the numbers promised by Luton Airport.

At the current maximum capacity of 18,000,000 ppa there were in total141,000 aircraft movements (arrival and departure) at Luton Airport. Another 12,000,000 passengers would increase the number of flights over and around local towns by nearly 70%. These increased flights would also occur at night.

The Conflict of Interest for Luton Borough Council and why it is important to this enquiry

The existence of a potential conflict of interest between Luton Borough Council's ownership interest in the airport and its role as planning authority is irrefutable based on the airport's legal ownership and governance. Its significance is demonstrated by the financial impact on the council. Its relevance to the enquiry is that it means any information presented in previous proposals and this proposal is tainted by the involvement in its preparation or commissioning by Luton Borough Council. Despite various organisations and residents raising this matter in previous airport expansion applications no attempt seems to have been made either to take this into account or explain how this conflict is managed by the authority, its officers and employees.

No doubt you will research this potential conflict of interest in detail and seek information on it from Luton Borough Council. Please remember it exists at all times in your enquiry as every submission by the airport (at least from the point of view of those affected by environmental pollution of all types) reflects this close relationship with the local authority. It also invalidates (at least in part) any promises made about future sustainability of the airport.

Based on public information it is possible to establish the following about the financial relationships between the airport and the local authority, although you will wish to verify this directly:

1. Luton Borough Council is the majority shareholder of London Luton Airport Limited (LLAL), the company that owns London Luton Airport. In 1998/99 the company entered into a thirty-year concession with London Luton Airport Operations Limited to operate the airport, presumably to get round the then government requiring airports to be independent of local authorities. In terms of management and governance, a Luton Borough Councillor has always chaired LLAL. The 2020/21 accounts of Luton Borough Council state that 'LLAL is a full subsidiary of the Council'. One of the authority's own directors directly responsible for the airport, with the job title of the Corporate Director for LLAL, received remuneration of £158,000 in 2020/21. These potential conflicts have been known about for many years e.g. The Herts Advertiser newspaper in February 2013 identified two members of the council's development control committee also on the board of directors of LLAL.

2. Luton Borough Council's recent strategic plan and 2020-40 vision included an explicit

objective to expand and grow the airport and 'maximise passenger numbers'.

3. The money received by Luton Borough Council from Luton Airport comes in a variety of ways and is material to the authority's financial position and decision making. The authority has admitted it used the dividend and other revenues from its subsidiary (the airport) to fund essential services in the town.

4. Luton Borough Council receives money from LLAL in the form of: payment for services, rent from the airport's commercial real estate portfolio, interest on loans the authority makes to the subsidiary and dividends as the 100% shareholder. This has been the case for many years and the amounts received have been directly related to the expansion of Luton Airport. A report by CIPFA (Local Government Finance Review) in December 2021 noted that the income from the airport to Luton Borough Council has grown significantly over time from £7.6m in 2012/13 to a dependency of £43.7m in 2021. The report also noted that: 'In addition, its airport subsidiary was making voluntary payments of circa £7m to £11m in the years pre-pandemic to third sector organisations within Luton delivering non- statutory but key cultural and other services. In the current financial year, these payments are forecast to have fallen to around £7m'.

5. The dividend received by London Borough Council alone has typically been over £20m pa. This dividend was described by Luton Borough Council as a 'significant funding source' and component of total revenue in its statutory accounts. Due to the pandemic in 2020/21 no dividend was declared. This dependency was highlighted in a report by CIPFA in December 2021 into how the authority was belatedly seeking to reduce its reliance on income from the airport - this action seems only to have been taken because of the pandemic's effect on the authority's revenue from the airport. The report also recommended that 'the Authority, as the sole owner and lender to the airport needs to further strengthen its governance around the airport'. However, even during the pandemic the CIPFA report stated that: 'In 2020/21 commercial returns, just from the airport, made up some 28% of the authority’s revenue streams'. No doubt this was even higher in previous years when expansion of the airport was approved. The Luton Today newspaper estimated in 2020 the share of total revenue for the council from the airport was 23%.

6. The total revenue for Luton Borough Council from the airport (excluding the airport's community donations, some of which flow through Luton Borough Council) has been difficult to establish by the way it is presented in various public reports and because the accounting treatment in revenue and capital accounts is complex. However, from the published accounts the revenue from the airport received by Luton Borough Council in previous years can be estimated as having been approaching £30m or over 20% of the council's funding and therefore expenditure, although the authority may allocate some of the dividend to capital receipts.

7. Luton Borough Council in previous years and in its 2020/21 financial statements stated that it had the fourth lowest Council Tax per head compared to all other Shire Unitary Councils. Luton has significant numbers of vulnerable residents for which the authority

provides vital expenditure. It has to take the effect of this revenue from the airport in deciding on expansions and in preparing information in support of any proposal.

8. This potential conflict of interest and dependency by Luton Borough Council on airport revenues was brought into stark relief by its loss of income from aircraft movements during the pandemic which made this dependency on the airport evident when the authority applied to the the Ministry of Housing, Communities and Local Government for large funding. The authority is therefore fully aware that the consequence of this dependency was financial hardship in Luton and this makes the Council's dependency on the airport even more important to address for the future.

9. In its 2019/20 accounts Luton Borough Council itself clearly stated that the reduction in aircraft movements affected its revenue received from the company which owns the airport: 'The pandemic affected the company's ability to pay the dividend that in previous years the Council has used to fund essential services in the town'. At the same time as asking for central government funding, there were debenture loans from Luton Borough Council to the company owning the airport of £83m in 2020-22. The Luton Borough Council capital budget includes: '£17.9 million on the Development Consent Order to gain planning permission to expand the airport'. The authority repeated its statement on its dependence on airport revenues in its 2020/21 accounts.

10. The external auditors of Luton Borough Council have noted this financial dependency of the authority on the airport and the associated conflict in their report which stated:

'The financial position in relation to London Luton Airport Limited (LLAL) is a particular issue as the company's income, as freehold owner of the airport, is based on airport passenger throughput. Furthermore, the contract with the airport operating company has clauses relating to 'force majeure', or unforeseeable events beyond the control of the parties. Exactly how those clauses are determined to be applicable in the current situation will be key to establishing when LLAL will begin to receive income again.'

This amounts to a real concern about the authority's ability to continue as a going concern.There have also recently been delays in the auditors completing their work on the authority's accounts and the authority has published unaudited accounts.

11. In its 202/21 financial statements Luton Borough Council disclosed that the pandemic's effect on aircraft movements and therefore the council's revenue had forced it to turn to the central government for funding:

a) Central government provided grants of £35.6m related to the impact of the pandemic.

b) Exceptionally:

'...the budget for 2021/22 included a conditional offer of exceptional financial support, known as a“capitalisation directive”, of £35m from the Ministry of Housing,Communities and Local Government (MHCLG) to enable to cover the loss of dividend from LLAL as a result of the pandemic. The Ministry had approved a capitalisation directive up to a maximum value of £35m for 2020/21.'

c) These amounts exclude the applications for pandemic funding made directly by London Luton Airport.

The relevance to the enquiry of the potential conflict centres around whether information presented by the airport under the direction of Luton Borough Council can be relied upon, especially but not only as far as it covers environmental matters. Any claims that the ownership of the airport by the local authority comply with a true 'arms length' basis under the Airports Act 1986 and demonstrate complete transparency are clearly not supported by the facts - the two organisations appear to be interconnected. For example, the Luton And District Association for the Control of Aircraft Noiseback (LADACAN) identified in 2014 that a passenger growth incentivisation scheme between Luton Borough Council, LLAL and the airport operator was introduced to accelerate airport expansion in return for concession fee rebates. The potential conflict of interest seems to me to have influenced how much emphasis is placed on environmental matters and independent data when decisions balancing airport growth with planning and environmental concerns have been taken.

LADACAN’s representations to a council planning meeting highlighted that 'the airport operator agreed to planning limits knowing they were due to last until 2028, and then promptly ignored them. The Council failed adequately to monitor what was going on, and rather than enforcing the limits invited the operator to apply to have them set aside, and then agreed to legitimise the breach. As a result of the unbalanced growth, people living all around Luton Airport had to put up with far more noise, pollution and traffic congestion than they should have done between 2017 and 2019...the Council and Luton Airport failed to ensure the required balance between growth and mitigation, apparently focusing on maximising revenues instead.'

<u>Recommendations</u>

The enquiry will need to ensure any information presented to it by an organisation with a financial interest in the airport is independently verified. Reliance on any forward looking commitments by the airport and the council needs to be carefully considered given their track record of working together and an apparent tendency to ignore previous promises.

The inspector should consider refusing the expansion on environmental grounds based on available independently prepared data on emissions, air quality and noise pollution in the context of the country's climate change responsibilities.

As a minimum any proposed expansion of Luton Airport should be put on hold until:

i) The potential conflict of interest between the airport and Luton Borough Council is removed, and

ii) The promised airspace modernisation introducing for Luton Airport a much wider variety of flight paths (in number and range consistent with those used by other airports), more rapid aircraft altitude climb permitted after take off etc are fully implemented which seems to be at least 10 years from 2022; and

iii) All previous promises made in expansion proposals are independently verified as having been honoured by the airport.

By the way, as far as I can see can understand it, the use of the new name of 'Luton Rising' is an attempt by the airport and the local authority to rebrand LLAL so that previous failings are ignored by removing any reference to the airport and somehow to link the success of the airport to the council's own business plans for Luton.

I would be grateful for confirmation that you have received this submission to the inspection.

Yours sincerely

Russell Collins

Selected reference links:

https://www.luton.gov.uk/Council_government_and_democracy/Lists/LutonDocuments/PDF/Corporate%20Finance/Accounts/statement-of-accounts-2020-21-unaudited.pdf

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1039116/CIPFA_local_government_finance_review_-_Luton_Borough_Council.pdf

https://www.luton.gov.uk/Council_government_and_democracy/Lists/LutonDocuments/PDF/Luton2020-2040/Luton-2040-strategic-vision.pdf

https://www.luton.gov.uk/Council_government_and_democracy/Lists/LutonDocuments/PDF/Luton2020-2040/Luton-2040-main-vision.pdf

https://www.hertsad.co.uk/news/relationship-between-luton-airport-and-council-raises-concerns-4967716

https://www.lutontoday.co.uk/news/politics/full-extent-councils-dependence-luton-airport-income-laid-bare-executive-report-2927254