VINCENT+GORBING

Town and Country Planning Act 1990 – Section 77

Town and Country Planning (Development Management Procedure) (England) Order 2015

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

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

Application by London Luton Airport Operations Limited for the variation of conditions 8 (passenger throughput cap), 10 (noise contours), 22 (car parking management), 24 (travel plan) and 28 (approved plans and documents) to Planning Permission 15/00950/VARCON (dated 13th October 2017) to accommodate 19 million passengers per annum and to amend the day and night noise contours. (Application number: 21/00031/VARCON)

Written Representation on behalf of :-

Hertfordshire County Council

North Hertfordshire District Council

Dacorum Borough Council

St Albans City and District Council

22 May 2022

1.0 Introduction

1.1 Vincent and Gorbing ("V+G") is a planning consultancy based in Stevenage, Hertfordshire and has been instructed by Hertfordshire County Council ("HCC"), North Hertfordshire District Council ("NHDC"), Dacorum Borough Council ("DBC") and St Albans and City District Council ("SADC") to make a Written Representation to the public inquiry into the planning application made by London Luton Airport Operations Limited ("LLAOL") reference 21/00031/VARCON to change a number of planning conditions on the extant planning permission which presently controls operations at the Airport, including in relation to passenger numbers and noise. The authorities welcome the decision of the Secretary of State to call-in the application and to consider the matters set out in the call-in letter dated 6 April 2022.

1.2 For simplicity, in this statement the four local authorities are collectively termed "the authorities."

1.3 London Luton Airport lies outside of the boundaries of the authorities' respective administrative areas but is located close to their borders: Dacorum Borough broadly to the south and west; St Albans to the south; North Hertfordshire District to the east; and Hertfordshire County as the upper tier authority in which DBC, NHDC and SADC are located enveloping Luton Borough Council (the LPA and a unitary authority) broadly to the east and south.

1.4 Moreover, the operation of the Airport impacts on the communities within the authorities' administrative areas in a number of ways, but most obviously as a result of noise from over-flying aircraft. In addition the authorities are affected by vehicular traffic accessing the Airport, impacting on the local highway network in respect of congestion, air quality and noise. A range of other environment effects are experienced within the authorities' areas as a result of the close proximity of the Airport. The Airport also emits Green House Gases (GHGs) as a result of ground operations, traffic and aircraft movements. Each of the authorities has declared a climate emergency and have local strategies to achieve net zero. The Airport's operations negatively impact upon the Chilterns AONB within Hertfordshire and beyond.

1.5 Hence the authorities have a significant interest in both the current and future operation of the Airport.

1.6 This statement follows on from a number of submissions made to the LPA during the consultation on the application prior to its resolution of approval. Whilst it is assumed that these will be provided to the Inspector as part of the Inquiry process, they are appended to this statement for ease of reference and comprehensiveness as follows:-

Appendix 1 HCC response to the application comprising a letter from Councillor Stephen Boulton dated 11 June 2021;

Appendix 2 HCC response to the application comprising a letter from Councillor Stephen Boulton dated 27 October 2021;

Appendix 3 HCC response to the application comprising a letter from Councillor Stephen Boulton dated 25 November 2021;

Appendix 4 DBC response to the application comprising a letter from James Doe dated 7 February 2021;

Appendix 5 NHDC response to the application comprising a statement prepared by V+G dated 12 August 2021;

Appendix 6 NHDC response to the application comprising a statement prepared by V+G dated 1 October 2021;

Appendix 7 SADC response to the application comprising a letter from Tracy Harvey dated 21 April 2021.

1.7 This statement does not seek to repeat the detail of the above representations and they should be considered as forming part of the authorities' submissions to this Inquiry.

1.8 The Secretary of State will be aware that the owner of the Airport ("Luton Rising" or "LR") has separate plans to increase the throughput of the Airport from 18 to 32 million passengers per annum (mppa). Given their scale, these proposals are a Nationally Significant Infrastructure Project ("NSIP") under the Planning Act 2008. The proposals have been subject to two rounds of Statutory Consultation and authorities in Hertfordshire have made representations to this process. This is relevant to this application insomuch as LR is proposing new control measures as part of these expansion plans, including the implementation of a managed environment growth

regime that they have called "Green Controlled Growth". The principles of this regime are generally supported by the local authorities around the Airport and it is considered that if the growth to19 mmpa is permitted, this regime should be introduced as a condition of permission being granted in advance of the progress of the proposed NSIP. This is discussed further below.

2.0 The Authorities' position

2.1 Each of the four authorities raised objections to this application and the aforementioned appended representations set out the reasons for objection. The key issues raised by the authorities are summarised in Section 4.

2.2 In broad terms, the authorities consider that the proposal is contrary to the development plan in respect of the accepted significant adverse effects on the communities around the Airport as a result of increased noise. Moreover, the alleged economic benefits that would weigh against such negative effects in favour of the application proposal have not been quantified or justified and are not considered sufficiently significant to outweigh the harm, even were such a balance to be considered appropriate. The authorities have equally expressed their objection on the basis of the impact of the proposals on climate change objectives. Specific issues have been raised on other issues including *inter alia*, air quality, surface access and travel plan targets and impact on the Chilterns Area of Outstanding Natural Beauty.

2.3 The authorities share a common view that should the Secretary of State decide to approve this application clear and enforceable controls are required to ensure that the conditions as varied are not breached, as has been the case in respect of current controls, and that a range of control documents should be agreed now rather than left to future approvals.

3.0 Structure of the remainder of this statement

3.1 The remainder of this statement considers the following matters :-

- The key issues for the authorities in considering this application;
- Changes in context since the authorities made their representations including the overall context of national aviation and climate change policy, which has 'moved on' since the representations made by the authorities to the application;
- Issues which the authorities consider need to be resolved through the public inquiry process;
- Compliance with the development plan;
- Material considerations
- Overall planning balance
- Further engagement.

4.0 Key Issues raised by the authorities

4.1 The key issues for the authorities can be summarised as follows.

History of breaches of existing conditions, future baseline, 'reasonable alternatives' and outstanding technical issues

4.2 Part of the reason for this application being made is that controls set out in the "parent" consent to limit passenger throughput and the noise envelope were, from 2017 until the impact of the Covid-19 pandemic in 2019/early 2020, being breached. In effect, the reason a 19 mppa proposal is seen by LLAOL as being required to facilitate additional throughput in advance of 2027/8 (the timeframe within which the operator was supposed to reach 18 mppa had the terms of the consent been honoured) is that it has failed to manage its operations in accordance with the terms of the 2014 planning consent. The authorities object to this approach as it implies that there is no option but to allow the Airport to grow.

4.3 This approach has implications for the way in which the environmental assessment of the proposals has been undertaken as it goes to the heart of the concept of 'reasonable alternatives.' LLAOL accept that the only potential alternative to the proposed variation to conditions is to continue to operate at the 18 mppa cap, although argues that *"to progress with this alternative would not have delivered the anticipated economic growth."* (para. 2.3.3) As we set out below the economic impacts of the proposed increase in passenger number has not been quantified and failing to achieve economic growth is no justification for arguing that the existing cap is not a reasonable alternative.

4.4 The ES goes on to state that to achieve the alternative would mean that *"restrictions would have to be placed on airlines to be confident that compliance with conditions attached to the 2014 Planning Permission was achievable"* and that *"Furthermore, without restrictions on airlines there would be a risk of repeated breaches of Condition 10. As such, the 'doing nothing' option was not considered to be a reasonable alternative."* (para. 2.3.3)

4.5 This suggests that LLOAL believe that that if the proposed changes are not permitted, any restrictions themselves would not be reasonable and in all likelihood breaches would simply continue.

4.6 Although the 18 mppa cap is used in the ES as the 'do-nothing' it is indicative of the approach of LLAOL to suggest that the planning regime should simply be adjusted to meet their operational requirements rather than seek to quite reasonably control them. It is also an issue of significant contention for the authorities (see Appendix 3) and others that have made representations to the application that because of previous breaches there is a lack of clarity as to the future baseline and consequentially between the with/without development scenarios and therefore clarity in relation to the baseline from which the impacts of the proposal are then assessed.

4.7 A number of detailed technical concern/queries, including and particularly the baseline issue, have been raised by the authorities and by other third parties (in particular LADACAN who will no doubt participate in the Inquiry process) that remained unresolved when the application was reported to LBC Development Management Committee.

Noise and health

4.8 If this application were to be approved, in the worst case scenario, in advance of 2028 it would expose an additional:

Daytime

- 2,430 households/5,721 people to levels of noise above which adverse effects on health and quality of life can be detected (a 17% increase) and 85 households/252 people to levels of noise exposure above which significant adverse effects on health and quality of life occur (an 12% increase).

Night-time

- 5,416 households/13,087 people to levels of noise above which adverse effects on health and quality of life can be detected (a 28% increase) and 724 households/1,743 people to levels of noise exposure above which significant adverse effects on health and quality of life occur (a 61% increase).

- 1,877 dwellings to a notable exceedance (by at least 1 dB) of the SOAEL criteria in the night-time which are assessed as being significant.

Beyond 2028 it would expose an additional:

Daytime

- 273 households/683 people to levels of noise above which adverse effects on health and quality of life can be detected (a 3% increase) and 49 households/99 people to levels of noise exposure above which significant adverse effects on health and quality of life occur (an 12% increase).

Night-time

- 4,040 households/9,509 people to levels of noise above which adverse effects on health and quality of life can be detected (a 26% increase) and 373 households/922 people to levels of noise exposure above which significant adverse effects on health and quality of life occur (a 37% increase).

4.9 The authorities object to this application on the basis of the impact of noise on the health and well-being of the local community. A much greater number will be impacted by noise and overflights more generally (summarised in paragraphs 8.11-8.13 of Appendix 1) , and noise sensitive locations such as primary schools, care homes and churches will be impacted, as well the enjoyment of public open space within the areas around the Airport.

4.10 Many of these residents will be in the administrative areas of the authorities represented here; in areas that have already seen an adverse impact on amenity, health and well-being due to the rapid increase in passenger numbers and Air Traffic Movements (ATMs) at the Airport in recent years. The fact that the increase in ATMs was much more rapid than forecast has meant that 'fleet modernisation' with quieter aircraft being gradually introduced has failed to compensate for the greater number of aircraft over-flying the surrounding areas.

4.11 The applicant's ES accepts that the proposals to increase passenger throughput will have significant adverse noise impacts on health and quality of life. It proposes mitigation in the form of noise insulation, and argues that all impacts are thus addressed and the proposals are therefore acceptable. However, it also accepts that the proposed mitigation will only minimise the noise when windows are closed and there remains a potentially significant (minor to moderate) residual health effect on some residents experiencing noise above the daytime and night-time SOAEL levels.

4.12 Indeed, it is inevitable that most people will always need to or want to have their windows open for ventilation purposes at various times, including at night. The vast majority of existing properties have no other means of ventilation and even at new properties that might be built taking account of the noise climate, the Airport's activities should not prevent the ability of residents to enjoy fresh air within their dwellings and within private and public open spaces. It is therefore considered that receptor based sound insulation that relies on windows being closed is a serious admission that the amenity of residents will not be protected if this proposal is permitted.

4.13 We also consider that the assumptions underpinning the noise assessment need to be fully scrutinised. The failure of previous assessments to accurately predict matters such as fleet mix, passenger numbers, aircraft type and ATMs is a fundamental reason for changes to conditions. As noted above, passenger numbers and ATMs were allowed to increase more rapidly than previously forecast and this meant that noise limitations were breached. The Inspector and SoS should be convinced that the assumptions as to fleet modernisation in particular are robust.

4.14 Fundamentally, however, in respect of noise impacts, the proposals are contrary to NPPF para. 185 which requires that development should *"mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life."* It is also contrary to Luton Local Plan policies LLP6 and LLP38 (discussed further below).

4.15 The proposed changes to noise contours also contradict commitments made by LLAOL in their Environmental Noise Directive Noise Action Plan 2019-2023 London Luton Airport (NAP). Key Performance Indicator 3 states that LLAOL will, with respect to the night-time contour *"Limit and where possible reduce the population within the contour over the course of the action plan."* At Section 3 LLAOL state that "*Where restrictions are in place we are focused on ensuring that they are adhered to fully."* Item 3.4 states that LLAOL will *"operate within our agreed contour area limits"* whilst item 3.5 states that they will *"Develop a noise contour reduction strategy to define methods to reduce the area of the noise contours."* The proposals run entirely counter to these commitments.

4.16 The implications of the proposed increases in noise levels including adverse health outcomes were considered by Luton Borough Council ("LBC") as the Local Planning Authority ("LPA"). As set out in the LPAs assessment in their officers' report to the Development Management Committee of 30 November 2021:-

"Since the proposed variation to the capacity cap and noise conditions will see more people exposed to daytime and night-time noise levels between the LOAEL and SOAEL and also above the SOAEL, the ESA notes that this is likely to have some

adverse health effects, with additional cases of, amongst other things, hypertension, stroke, heart disease, as well as annoyance and sleep disturbance, impacting upon the population's health and wellbeing.

The ESA notes that these adverse health effects are of moderate significance in 2022 (the worst case year) as well as 2028 (the year in which noise reduction was required to have been achieved by the 2014 planning permission. The ESA recognises that mitigation for all those exposed to these adverse health effects will not be achieved, since windows and doors will not always be closed, whilst it will also not be possible to insulate all properties that are eligible under the Noise Insulation Scheme within the period that they will be most exposed to noise." (para. 164 and 165).

4.17 Given the above analysis, the authorities object to the proposal on noise and health and well-being grounds.

Noise Insulation scheme

4.18 Given the above harm, the LPA has rightly considered that the Noise Insulation Scheme is not 'mitigation' but 'compensation' and that it will only partially prevent the adverse effects arising. As stated at paragraph 129 of the Officers Report:-

"The airport's 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 experience noise above the SOAEL. However, it is 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 is considered that the measures proposed are compensation rather than mitigation."

4.19 In our submission, this is a fundamental flaw in respect of the application proposals. The Noise Insulation Scheme cannot and does not make the proposals compliant with the development plan.

Air Quality

4.20 The authorities continue to have concerns as to the impact of the proposals on air quality in their respective areas. Whilst the proposals to improve public transport use as part of a new travel plan are welcomed, they are highly aspirational. Both NHDC (Appendix 5, paragraphs 22 – 25) and DBC share concerns that the cumulative impact of traffic to the east and west of the Airport respectively has the potential to generate air quality issues.

4.21 Whilst the authorities do not necessary doubt the finding in the ES that the proposal will not have any unacceptable impact on air quality, they share a view that the applicant should provide an Air Quality Plan (AQP) to be subject to scrutiny and taken into consideration in determining the application. The Plan would be incorporated into any consent, should one be forthcoming, and any limits incorporated into a Green Controlled Growth control mechanism, were this to be progressed. If this arrangement is not forthcoming, the provision of an AQP should be secured by way of condition.

Economic Benefits

4.22 No-where in the planning application documents are the economic benefits of the development properly enumerated, or any analysis provided of the negative economic impact of maintaining current operational levels at the Airport.

4.23 The application makes general and indeed contradictory claims about the extent of alleged economic benefits of the proposal. Paragraph 8.1.9 of the Planning Statement concludes that there are 'significant' economic benefits:-

'8.1.9 In conclusion, whilst the Proposed Amendments will result in some adverse environmental effects, these have been mitigated so far as possible. Taking into account the significant economic benefits associated with expansion of the airport to 19 mppa ……"

4.24 This compares to paragraph 6.4.3 of the same document which simply described that there will be 'more' economic benefits:

'6.4.3 The Proposed Amendments would deliver more economic benefits than the 'do-nothing' scenario (i.e. maintaining operations under the Original Planning Permission).'

4.25 The ES is even less clear as to the benefits - there *'could be potential for beneficial affects'*:-

'4.4.34 The 2012 ES assessed the effects upon employment and the local economy during operation of the 2014 Planning Permission as substantial and significant. There could be potential for beneficial effects upon employment and the local economy associated with the increase in passenger numbers.'

4.26 No attempt is therefore made to define the scale of economic benefits and how they would be distributed within the local, regional or national population. It is therefore impossible to reach the conclusion that the economic benefits outweigh the environmental harm, were this to be considered an appropriate balance to be struck. This is a clear and significant failing of the application.

4.27 Indeed it is difficult to understand how the planning statement considers that there will be 'significant economic benefits.' LLAOL themselves accept that such economic benefits would not be significant since socio-economic impacts have been scoped out of the EIA process (ES, para. 4.4.33 – 4.4.36). Whilst the ES states that *"There could be potential for beneficial effects upon employment and the local economy associated with the increase in passenger numbers"* the fact is that LLAOL have scoped out this effect, on the basis that, as with all scoped out topics, *"there is limited scope for likely significant effects as a result of the Proposed Scheme"* on this topic. (4.4.9)

4.28 The failure to properly consider the extent of economic benefits was also evident in the Officer's Report to committee. The report simply provides generic statements about the economic benefits of aviation and of the Airport and makes unsubstantiated judgements in this regard:-

'Real social and economic benefits will be delivered to the local area and sub region which weigh heavily in favour of the proposed development and should be given significant weight.' (171)

'It would therefore be likely that the proposal, which involves a variation to the original permission for the expansion of the airport, would have a significant benefit to the wider area.' (169)

'……that the proposed development would have significant beneficial effects for not only the local economy within Luton, but also within the wider area'. (169)

'It is considered that real economic benefits will be delivered as a result of the expansion proposals, and these weigh heavily in favour of the proposed development and in accordance with the NPPF should be given significant weight'. (211)

4.29 The authorities remain of the view that these unsubstantiated 'real', 'significant beneficial', 'weigh heavily in favour' judgements are not evidenced by any of the material presented in the planning application and hence are manufactured, misplaced and potentially misleading.

Surface access

4.30 The Environmental Statement and Transport Assessment set out that the increase from 18mppa to 19mppa will result in a worse-case minor increase in traffic flows of 3.7% in the AM peak and 3.2% in PM peak between the 2019 and 2024. They further state that in discussions with Highways England and LBC, it was established that this level of flow increase is unlikely to have a significant impact on the operation of the network and as such does not warrant any further detailed transport modelling analysis at this stage.

4.31 However, the authorities remain concerned about *any* increases in traffic associated with the increase in passenger numbers. As it has been agreed between the aforementioned parties that no further modelling is necessary, it is not possible to determine whether there would be any impacts on the local highway network. In addition, in previous comments through the DCO consultation process, the authorities have made clear their concerns regarding the cumulative impacts of growth at the Airport with significant residential development proposed in close proximity to Luton. Additional passenger growth will exacerbate any potential cumulative impacts.

4.32 Whilst the aspirations of the travel plan are welcomed, the authorities remain concerned that east-west public transport is significantly less well developed than north-south and this will result in a disproportionate impact on the highway network with the authorities' areas. In particular, the authorities remain seriously concerned as to the potential impact of additional passenger numbers on traffic and air quality conditions at specific locations, including, in the case of NHDC, in and around Hitchin, which are not considered at all in the application documentation. As set out further below, the authorities consider that growth should be managed to the extent that failures to meet the targets in the Travel Plan should result in controls on aircraft and passenger number until such time as the targets are met.

Impact on carbon commitments

4.33 The authorities are concerned that the proposal may not be compatible with national Net Zero commitments on Greenhouse Gas emissions. At a local level, all four authorities have declared a 'climate emergency.'

4.34 On 21 May 2019, NHDC passed a Climate Emergency motion which pledged to do everything within the Council's power to achieve zero carbon emissions in North Hertfordshire by 2030. This declaration asserted the Council's commitment toward climate action beyond government targets and international agreements. The Council also has a Climate Change Strategy that has been reviewed in 2021 to align the strategy with latest research regarding the impact of climate change. The new strategy contains an action plan, which sets out how NHDC aim to achieve a carbon neutral position by 2030.

4.35 DBC declared a climate and ecological emergency in July 2019 and made a pledge to become net zero by 2030. Although recognising wider carbon emissions are outside of its direct control, it has also pledged to support the borough to become net zero by 2050 working alongside other stakeholders. DBC recently published a draft Climate and Ecological Strategy and Action Plan for consultation.

4.36 HCC also declared a climate emergency in July 2019 and subsequently published the 'Sustainable Hertfordshire Strategy.'

4.37 SADC similarly declared a climate emergency at that time July and pledged to make the District carbon neutral by 2030. A Sustainability Strategy and Climate Crisis Action Plan has been produced and sets out all the actions the Council are taking over the period 2020 - 2023 to improve environmental sustainability and begin the process of reducing emissions as close to zero as possible.

4.38 In particular, the Airport's Carbon Reduction Plan should form part of the consideration of this application and should be more than simple aspirations. Moreover, it should go beyond cuts in emissions associated with Scope 1 and 2 and consider how the Airport can better influence emissions which are out of their direct controls (namely aircraft movements and vehicle movements to and from the Airport). In our submission it is an essential pre-requisite that should be considered now rather than be left to a future planning condition.

Impact on Chilterns Area of Outstanding Natural Beauty

4.39 The authorities have a particular concern regarding the impact of overflying on the Chilterns Area of Outstanding Natural Beauty and the Chilterns Beechwoods Special Area of Conservation (SAC) and are aware of representations made by the Chilterns Conservation Board.

4.40 The Chilterns AONB is nationally protected as one of the finest areas of countryside in the UK. Public bodies and statutory undertakers have a statutory duty of regard to the purpose of conserving and enhancing the natural beauty of the AONB (Section 85 of Countryside and Rights of Way Act 2000). The Chilterns AONB lies less than 3 miles from the Airport. The final approach to the runway is directly over the Chilterns AONB. Much of the closer area that is not designated AONB is in the setting of the Chilterns AONB. The Airport's operations have serious impacts on the tranquillity of the nationally protected landscape of the Chilterns AONB which given the increase in noise proposed by this application, will clearly be made worse.

4.41 As per paragraph 176 of the National Plan Policy Framework, *"great weight should be given to conserving and enhancing landscape and scenic beauty of…..Areas of Outstanding Natural Beauty which have the highest status of protection in relation to*

these issues." The authorities consider that the proposals are generally inconsistent to this ambition.

Future Control documents, monitoring and compliance

4.42 As highlighted earlier, mitigation of the environmental impacts of the development rely on a number of further documents, some of which are submitted for approval as part of the application (Car Parking Management Plan, Travel Plan) and some of which are not (Noise Reduction Strategy, Carbon Reduction Plan). However, all of these documents are critical to the acceptability of the proposal and should therefore be approved as part of the application. Without them being considered in detail and approved at this stage, there can be no reliance on the conclusions of the ES in terms of the significance of related environmental effects. There is a clear parallel with Development Consent Orders where compliance with certified documents is a requirement of the Order itself and allows the robustness of the mitigation proposed to be properly considered through the decision making process.

4.43 We do not consider that strategies and plans on which the acceptability of the proposals relies can be left to future consents. Detailed and viable targets in respect of matters such as carbon reduction, modal shift and noise reduction should and must be approved as part of the application now before the Secretary of State. Notwithstanding, each of these mitigation/compensation strategies must include clear, robust and funded monitoring arrangements and penalties and remedial actions for non-compliance or non-achievement of targets, agreements, or other criteria.

Green Controlled Growth

4.44 The application is underpinned by an expectation that the aviation sector and LLA particularly will recover from the pandemic such that the Airport will be operating at 18 mppa by 2023 and 19 mppa by 2024, should planning permission to be granted. The application contains a range of assessments based on this growth timeline.

4.45 Should the Secretary of State decide to approve this application, the authorities consider that it is necessary to integrate the principles of 'environmentally managed growth' into future expansion, providing a framework of controls to be put in place to allow growth whilst securing the intended environmental safeguards and surface access controls. This is particularly important in the context of an applicant with a poor track record in managing its operations in a manner that accords with planning conditions and other restrictions imposed upon the extant planning permission.

4.46 This approach is being taken by LR in developing its DCO proposal. As part of its statutory consultation in early 2022 LR published its draft 'Green Controlled Growth' (GCG) strategy. Given the historic failure of LLA to manage its operations to respect environmental limits, the authorities are of the view that such an approach should be required for this 19 mppa proposal – to ensure that key 'limits' in relation to noise, surface access modal splits, air quality, and GHG emissions are set and respected. This is similar to the Environmentally Managed Growth (EMG) approach at Heathrow. The approach embeds environmental and surface access targets into future management of growth/operations – and to limit growth if these limits/targets are not met. It also provides clarity on scrutiny arrangements and enforcement responsibilities.

4.47 The planning application assesses all four of these themes and considers whether limits or targets would be appropriate and if so, what these should be and the extent to which and how they should be integrated into any consent. With regard to air quality, the implications of the proposal in terms of air quality are claimed to be minimal and as a consequence there is no requirement for the consent itself to set specific limits. With regard to Carbon/GHG emissions the application similarly maintains the application does not raise any significant issues but also states that this is based on the provision of an outline Carbon Reduction Plan to inform the decision-making process and subject to a full CRP being produced post-decision. With regard to surface access the planning application proposes to introduce a new Travel Plan (TP) through amendments to Condition 24 and the TP contains a range of new modal share limits and targets. With regard to noise the application proposes amendments to Condition 10 to restrict noise contours and require the submission of a Noise Reduction Strategy. There are in-built assumptions being made about how the Airport will perform in relation to noise, surface access and Carbon/GHGs – though some of these are subject to the future preparation of control documents.

4.48 Should the SoS elect to approve this application he should ensure that there are clear, robust and enforceable mechanisms in place to manage operations in a way that respects any new planning consent and the assumptions and limits incorporated within it. The GCG approach to growth being conditional upon satisfying environmental and surface access limits is a mechanism that should have been explored at the application stage; we would ask the SoS to require this to be provided by the applicant as part of the application, to be considered in the context of whether planning permission should or should not be granted, as future enforcement is key to the acceptability of the proposals going forward.

5.0 Changing context since representation were made

5.1 As highlighted previously, to some degree, circumstances and context have changed since the authorities made their own representations, annexed hereto, although fundamentally their concerns are largely undiminished.

<u>National aviation and climate change policy</u>

5.2 The representations to the application highlighted the ‘state of flux’ of national aviation policy and that a decision on this application is problematic until the resolution of the apparent conflict between aviation policy and Government climate change aspirations.

5.3 It is accepted that at the present time there is government policy support for the principle of airports making best use of their runways, as set out by the government in Making Best Use of Existing Runways (June 2018) (“MBU policy”) alongside the proposals for a new runway at Heathrow set out in the Airports National Policy Statement (ANPS). The Government confirmed this in the July 2021 Jet Zero consultation, although it is emphasised that Jet Zero was just that - a consultation. It is understood that a new Aviation Strategic Framework will be published by the Government shortly and the final Jet Zero Strategy to follow later in the year.

5.4 The Inspectors in the recent Bristol Airport appeal decision considered the weight to be accorded MBU, as some parties to that appeal had argued that it should be afforded limited or no weight as it pre-dates the Government’s adoption of the 2050 net-zero

target and the Sixth Carbon Budget in June 2021, and was published before the inclusion of international aviation in domestic targets. The Inspectors concluded that:-

"Certainly, these are material considerations, and are issues which may or may not change the policy approach in the future. But MBU itself recognises there is uncertainty over climate change policy and over international measures, and notes that therefore matters might change after its publication." (Para. 72 our underlining)

5.5 The Inspectors concluded further that :-

"While there are many who may disagree with the direction of current Government aviation policy and specifically the approach set out in MBU, it is not the role of the Panel to question the merits or otherwise of current Government policy. APF and MBU therefore remain the most recent national policy statements and as such are material considerations. Though matters have to an extent moved on this does not make policy out of date." (Para. 74, our underlining)

5.6 It is therefore accepted that at the present time there is national policy support for the principle of making the best use of the existing runway at Luton. However, this is clearly only one factor in the overall planning balance, it is not a presumption in favour of development. MBU policy itself recognises that the development of airports can have negative as well as positive local impacts, including on noise levels and that "any proposals should be judged by the relevant planning authority [or in this case, the SoS], taking careful account of all relevant considerations, particularly economic and environmental impacts and proposed mitigations." (Making Best Use of Existing Runways (June 2018), para. 1.29)

5.7 We also accept that at the present time there is no apparent Government appetite for demand management in the aviation sector to be part of the toolkit to achieve net zero by 2050, with the draft Jet Zero consultation instead focussing on system efficiencies, Sustainable Aviation Fuels, zero emission flight, markets and removals and influencing consumers. This is clearly a national political as well as a policy issue. However, the Climate Change Committee's Report of October 2021 on the Government's Net Zero strategy criticised this, commenting that:-

"There is less emphasis [in the UK's Net Zero Strategy] on consumer behaviour change than in the Committee's scenarios. The Government does not address the role of…. limiting the growth of aviation demand in reducing emissions, while policies to reduce or reverse traffic growth are underdeveloped. These options must be explored further to minimise delivery risks from an increased reliance on technology and to unlock wider co-benefits for improved health, reduced congestion and increased well-being."[1]

5.8 In short, the exact position with national aviation policy, the weight accorded MBU and potential future changes to this policy in the context of net zero should be considered in the determination of this application at the time of the decision of the Secretary of State, including the Aviation Strategic Framework and Jet Zero Strategy as appropriate.

[1] Climate Change Committee's Report of October 2021 on the Government's Net Zero strategy, Page 4

Recent Aviation Decisions

5.9 There have also been a number of aviation related decisions

- Appeal by Bristol Airport to increase capacity to 12mppa allowed on 2 February 2022 (as noted above), although presently subject to legal challenge[2];

- Approved extension to the runway at Southampton Airport, allowing an increase in capacity from 2mppa to 5mmpa, approved by Eastleigh District Council but subject to legal challenge;

- Appeal by Stansted Airport to increase capacity to 43mppa, allowed on 26 May 2021, subject to a subsequent unsuccessful legal challenge[3];

5.10 These are clearly relevant to the Luton Airport proposals. Both these decisions and the letter on behalf of the Secretary of State in respect of this application have focussed on a number of key issues, some of which are common to the Luton Airport proposals and reflected in the authorities' concerns expressed above.

Chilterns Beechwoods SAC

5.11 A particular concern is raised regarding the potential impacts of the proposals on Chilterns Beechwoods Special Area of Conservation (SAC) which is situated within Dacorum's administrative area. On 14 March 2022 Natural England issued a letter to a number of Local Planning Authorities, including Dacorum Borough Council, raising concerns regarding impacts of development upon Chiltern Beechwoods SAC.

5.12 The Natural England letter notes that visitor survey work has identified a 12.6km Zone of Influence around the designated site, and notes that all planning applications which entail a net increase in dwellings within this zone could lead to an adverse impact on the integrity of the SAC. As such, it is the stated position of the statutory authority that all schemes within the 12.6km zone will now need to be subject to detailed assessment in light of the relevant test of the Habitats Regulations (specifically, Regulation 63), based on this new information. Competent authorities should undertake a screening opinion to ensure that plans and projects will not have a significant adverse effect on the SAC.

5.13 Whilst AQ impacts are not specifically identified as an issue by Natural England, DBC is concerned that synergistic effects comprising in-combination impacts of the recreational pressures highlighted with any AQ impacts that might arise from the proposals to expand the Airport should be assessed and would welcome this matter being considered by the Inspector and SoS.

[2] Appeal Decision APP/D0121/W/20/3259234
[3] Appeal Decision APP/C1570/W/20/325661

6.0 Issues for further consideration through the Inquiry process

Most significant issues

6.1 The authorities are of the view that the most significant issues raised by the application relate to noise impacts (accepted by the applicants and the LPA as causing significant adverse effects), clarity with regard to compatibility with emerging national climate change and GHG emissions policy and the extent to which these should be balanced against the alleged (but unquantified) economic benefits.

6.2 In addition, the authorities' representations raise a wide range of other concerns, summarised above and articulated in their attached representations. Whilst these may not be critical to the decision-making process, the authorities would welcome confirmation, to the satisfaction of the Inspector and the SoS, through the Inquiry process, that the case that there will be no significant impacts is well founded, to include:

- Impact on air quality including in amenity impacts in residential areas close to the Airport and the potential impact on the Chilterns Beechwoods SAC;
- Impact on the surface access network;
- Impact on the Chilterns Area of Outstanding Natural Beauty.

Range of technical issues

6.3 A number of detailed technical concern/queries have been raised by the authorities and by other third parties (in particular LADACAN who will no doubt participate in the Inquiry process) that remained unresolved when the application was reported to LBC Development Management Committee – for example relating to evidenced weaknesses in the calibration and fleet forecasting upon which the noise model and hence noise contours depend and a lack of clarity in relation to how the baseline has been identified against which impacts are measured. The Inquiry process gives an opportunity to further interrogate these issues and the authorities support this robust scrutiny.

6.4 The key technical issue in respect of the environment impact assessment process that remains to be resolved is in relation to how the baseline has been identified against which impacts are measured, given the persistent breaches of existing planning conditions and how this might be controlled in the future if planning permission is not forthcoming. A similar point can be made with regard to economic impacts. Not only is there no assessment of exactly what economic benefits would arise, there is no assessment of the economic baseline in the future should the 18mppa cap be retained as at present. Only with such information can the Inspector and SoS fully consider the 'with and without' scenarios. The authorities respectfully request that this matter is satisfactorily resolved through the Inquiry process.

Control mechanisms

6.5 The authorities have also raised how the operator and the LPA relies on control documents but sees these being largely approved after the grant of permission. The authorities do not agree with this approach, believing these controls are integral to the

acceptability of the proposals. The authorities respectfully request that the process ensures to the satisfaction of the Inspector and the SoS that the proposal would be acceptable in the absence of an air quality plan, carbon reduction plan and noise reduction strategy being in place and integrated into the consent at the point of approval. If that is the conclusion then the authorities would wish to comment further on proposed conditions and the S106 agreement.

6.6 As highlighted earlier, the authorities are disappointed that the applicant and LBC have not pursued opportunities to introduce a GCG approach to growth to make it contingent upon certain environmental safeguards being met. We invite the Inspector and SoS to consider this approach further through the inquiry process.

7.0 Development plan compliance

7.1 A detailed analysis of the compliance of the proposals with the development plan is provided in the representations of HCC Appendix 1 paragraphs 9.4-9.33. The key policy of relevance is Policy LLP6 - London Luton Airport Strategic Allocation.

7.2 Part B. states that *inter alia* that:

"Proposals for expansion of the airport and its operation, together with any associated surface access improvements, will be assessed against the Local Plan policies as a whole taking account of the wider sub-regional impact of the airport. Proposals for development will only be supported where the following criteria are met, where applicable/appropriate having regard to the nature and scale of such proposals:

i. they are directly related to airport use of development;'

ii. they contribute to achieving national aviation policies;'

iii. are in accordance with an up-to-date Airport Master Plan published by the operators of London Luton Airport and adopted by the Borough Council;'

iv. do not result in a significant increase in Air Transport Movements that would adversely affect the amenities of surrounding occupiers or the local environment (in terms of noise, disturbance, air quality and climate change impacts);'

v. Achieve further noise reduction or no increase in day or night time noise in accordance with any imposed planning condition or otherwise cause excessive noise including ground noise at any time of the day or night and in accordance with the airport's most recent Airport Noise Action Plan;

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

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

7.3 The authorities consider that the application is not consistent with criteria ii) as a consequence of the significant adverse noise and health impacts and failure to adequately and effectively mitigate for these, which is in itself contrary to national aviation policy, despite the general approach to MBU.

7.4 Whilst the case has been made by the applicant that Air Transport Movements will not significantly increase, nevertheless the increased movements do, however, contribute to the significant adverse noise and health effects that will harm the amenities of surrounding occupiers and the local environment. The proposals are therefore contrary to criterion iv.

7.5 The proposals would not result in a noise reduction or no increase in noise – the opposite is the case – the planning application proposes to increase noise level restrictions of conditions imposed on the parent planning consent. It is therefore contrary to criterion v.

7.6 The applicant has failed to come forward with an effective noise control, monitoring and management scheme as part of the application. As a consequence the application is contrary to criterion vi.

7.7 In respect of criterion vii, the application is partly generated by the inability of the Airport to run its operations in accordance with the noise restrictions placed upon its parent consent and the likely continuing breach of that consent in the short-medium term. In the longer term, the existing planning permission to 18 mppa requires the applicant to submit a strategy to reduce the size of day and night noise contours by 2028 to within specific spatial extents. This application seeks to amend the parent consent to enlarge those 2028+ contours. So in the longer term, whilst a reduction in noise contours is to be achieved in the same way as the existing planning permission, that reduction will be smaller than that required by the existing planning permission. The proposals will not therefore result in a significant diminution or betterment – the opposite is the case.

7.8 The proposal does not meet all LLP6 B policy criteria and does therefore not accord with the key Development Plan policy applying to this proposal.

7.9 Policy LLP38 - Pollution and Contamination Pollution is also relevant. This requires:-

Evidence on the impacts of development will need to demonstrate whether the scheme (individually or cumulatively with other proposals) will result in any significantly adverse effects with regard to air, land or water on neighbouring development, adjoining land, or the wider environment. Where adverse impacts are identified, appropriate mitigation will be required. This policy covers chemical, biological, and radiological contamination and the effects of noise, vibration, light, heat, fluid leakage, dust, fumes, smoke, gaseous emissions, odour, explosion, litter, and pests.'

7.10 For the reasons set out above and in the authorities' representations, the planning application will have a significant adverse impact on neighbouring development and the wider environment and does not contain proposals for appropriate mitigation. The application is in conflict with Policy LLP38 of the adopted Luton Local Plan.

7.11 The analysis referred to in paragraph 7.1 concludes that the on a range of other matters the proposal is generally in accordance with the development plan. However, with regard to climate change/carbon, surface access and air quality, the extent of that

compliance is contingent upon the application being informed by and putting in place effective control mechanisms in the form a Carbon Reduction Plan, Air Quality Management Plan and Travel Plan, within a Green Controlled Growth approach to management of the operations pursuant to any consent. In addition, the extent to which the application can be judged to perform against aspects of the Local Plan relating to the economy cannot be quantified because of the failure to assess economic dis/benefit.

7.12 The HCC rep at para 9.28 and 9.29 and at Annex 2 para A33 provides an indication that the proposal is likely to be generally not compliant with parts of the development plan within Hertfordshire.

7.13 If the Inspector is minded to pursue further the impact of the proposal on the Chilterns AONB, in addition to Luton Local Plan Policy 29 Landscape and Geological Conservation, there will be a range of relevant policy in adopted local plans within the sub-region [for example, Policy CS24 (The Chilterns Area of Outstanding Natural Beauty) of Dacorum's Adopted Core Strategy and Policy DM27 Landscape Character and Chilterns Area of Outstanding Natural Beauty of its draft Local Plan (2020-2038) Emerging Strategy for Growth].

8.0 Material Considerations

8.1 Section 10 of the HCC representation within Appendix 1 identifies a range of likely substantive material considerations:

- National Planning Policy Framework
- Aviation Policy Framework
- National Planning Practice Guidance
- Aviation 2050: The Future of UK Aviation
- Beyond the Horizon The future of UK Aviation Making best use of existing runways
- Airports National Policy Statement
- A Green Future: Our 25 Year Plan to Improve the Environment
- Noise Policy Statement for England
- Air Navigation Guidance
- London Luton Airport Operations Limited Revised Masterplan 2012
- Environmental Noise Directive Noise Action Plan 2019-2023 London Luton Airport
- Luton Borough Council Planning and Noise Guidance
- LLA Master Plan 19 MPPA Final Report January 2021
- Relevant Local Transport Plans
- LBC Climate Action Support January 2020

8.2 The authorities share the view that there is nothing within these material considerations that point towards a decision being made other than in accordance with the development plan. Indeed, on the whole these material considerations should draw the decision-maker to the same conclusions as is the case with the development plan.

8.3 If the Inspector is minded to pursue further the impact of the proposal on the Chilterns AONB, there are a range of material considerations he may wish to consider, including, for example, the Chilterns Conservation Board's Chilterns AONB Management Plan and Position statement: Development Affecting the Setting of the Chilterns AONB.

9.0 The Planning Balance

9.1 The proposal is contrary to the development plan by virtue of conflicts with the Luton Local Plan in respect of LLP6 and LLP38. This is accepted by the LPA. Compliance on other matters is contingent upon putting in place effective control mechanisms. It is also considered contrary to, on broadly similar grounds, to the more substantive likely material considerations.

9.2 The NPPF sets out a presumption in favour of sustainable development and sets out that there are three dimensions to this, namely economic, social and environmental and that these objectives need to be pursued in 'mutually supportive ways.' The wording of para. 8 on the environmental dimension has been amended in the July 2021 version of the NPPF by the replacement of "to contribute to protecting and enhancing" the environment to simply "…to protect and enhance" the environment. The NPPF does not suggest that positive effects of one objective can outweigh negative effects in respect of the others; whereas LLAOL adopt this approach.

9.3 Even if such a planning balance in deciding whether the application comprises sustainable development is a legitimate interpretation of the NPPF, the economic benefits have not been quantified. Moreover, LLAOL themselves consider that the economic impact is not significant in EIA terms given it was 'screened out.' It is therefore difficult to see how the accepted effects of noise on the health and wellbeing of the local community could be outweighed by the economic benefits of expansion.

9.4 On this basis the planning balance is against the proposals and the authorities jointly consider that on this basis the application should be refused.

10.0 Further engagement

10.1 The authorities are conscious that there are a number of technical issues (see paragraphs 4.6-4.7 and 6.4 – 6.4 above) raised by them and other third parties that remain to be resolved. On the assumption the Inspector shares this view, they would welcome the opportunity to have access to the applicant's response and contribute as necessary.

10.2 The authorities' representations and this written submission point to the absence of some key material that should be available to inform decision-making and some of that material, were it to be forthcoming, should be integrated into any consent. Should any of this material emerge through the Inquiry process, the authorities would welcome the opportunity to have access to it and to respond, as appropriate.

VINCENT+GORBING

Appendix 1
HCC response to the application
comprising a letter from Councillor Stephen Boulton dated 11 June 2021

(including Annex 1 : Response to Pre-application Engagement November 2020
and Annex 2 : Comments on the Planning Statement

Executive Member
Growth, Infrastructure & Planning

Hertfordshire

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11th June 2021

Dear Sir/Madam,

Variation of Conditions 8 (passenger throughput cap), 10 (noise contours), 22 (car parking management), 24 (travel plan) and 28 (approved plans and documents) to Planning Permission 15/00950/VARCON (dated 13th October 2017) to accommodate 19 million passengers per annum and to amend the day and night noise contours.

London Luton Airport, Airport Way, Luton.

21/00031/VARCON

Thank you for the opportunity to comment on the above.

The planning application rehearses the planning history of London Luton Airport (LLA). The County Council has recently responded to a number of consultations of particular relevance to this application, as follows:

i. the pre-application consultation carried out by LLAOL on its 19 mppa proposal (Annex 1).
ii. planning application to vary condition 10 of planning permission 15/00950/VARCON for a temporary period (to end of 2024) to enable the area enclosed by the 57 dB(A) daytime noise contour to increase from 19.4 sq km to 23.4 sq km and the area enclosed by the 48dB(A) night time contour to increase from 37.2 sq km to 44.1 sq km, 19/00428/EIA. (Appendix 1 to the response referred to in i.).
iii. discharge of Condition No. 10 (Noise Strategy) of Planning Permission No. 15/00950/VARCON dated 13th October 2017 (Appendix 4 to the response referred to in i.).

The County Council's responses to those proposals are important context for its response to this application. There are a number of consistent themes relating to ongoing management and proposed growth of the Airport that are relevant to this application. These themes are repackaged/updated as necessary within this representation for ease of reference.

This representation takes the following format. The sections set out the County Council's:

Section 1	Overall position, in summary.
Section 2	In-principle position based on recent historic operations at the Airport.
Section 3	Concerns in relation to evidence availability and engagement.
Section 4	Comments in relation to the new Master Plan to 19 mppa.
Section 5	Observations in relation to the absence of updated Government aviation policy generally and specifically in relation to Carbon/GHG/Covid-19.
Section 6	Comments in relation to the timing of the planning application.
Section 7	Comments in relation to the Planning Statement.
Section 8	Views on what it considers to be the key issues raised by the planning application, along with the County Council's position on those issues.
Section 9	Assessment of the planning application against the Development Plan.
Section 10	Assessment of the planning application against material considerations.
ANNEX 1	Hertfordshire County Council response to London Luton Airport Operations Limited 19 mppa consultation 2020.
ANNEX 2	Comments on the Planning Statement accompanying the planning application.

1. The County Council's position – in summary

In-principle objection

1.1 The County Council has an in-principle objection to growth proposals at LLA whose origins are founded in mismanagement of operations since planning permission was granted in 2014 for the Airport to grow to 18 mppa. That in-principle objection applies to this planning application.

Timing of the application/decision-making

1.2 The uncertainty that exists in relation to likely Covid recovery presents an opportunity to pause to address the shortfall in evidence highlighted, to explore and develop a package of effective control mechanisms and to take stock of any direction that might be forthcoming from Government on aviation and carbon policy matters, including the potential for a substantive shift in assumptions about future growth in the context of the Committee on Climate Change advice to Government in relation to demand management.

Noise and Health

1.3 The significant adverse noise and health implications of the proposal, the failure to offer mitigation to all those significantly adversely affected and the ineffectiveness of the mitigations that are proposed, make the proposal totally unacceptable.

1.4 The Noise Reduction Strategy should be submitted and consulted upon and it and views on it taken into consideration in the determination of the planning application and integrated into any consent, should one be forthcoming.

The economy/'balance' between significant adverse effects and economic benefit

1.5 The planning application fails to assess the scale of the alleged economic benefits of the proposal (which are variously described by the applicant as 'significant', 'more', 'could be potential for'). As a consequence it is not possible for the planning authority to come to a properly informed judgement on whether, as the applicant alleges, the economic benefits of the proposal outweigh the significant adverse environmental impacts. The County Council would advise a cautionary approach to assumptions about economic benefit given growth is predominantly achieved by increasing load factors with *'only minor operational changes to aircraft movements to accommodate the additional 1 mppa'* – with benefit therefore more restricted than has historically been the case, with less benefit experienced from aircraft movements.

Surface access

1.6 The planning application is considered to adequately assess the surface access implications and contains proposals in the form of a Travel Plan and Car Parking Management Plan to manage future surface access arrangements, including the incorporation of a range of measures to achieve modal shift and the setting of targets. However, there needs to be suitable control mechanisms agreed and put in place on any consent, should one be forthcoming, to ensure the in-practice implementation of any commitments and the measures to be employed should operations fall short of those commitments.

GHG/Carbon

1.7 The application concludes that the overall effect of projected GHGs associated with the proposal on the global climate is not significant. Luton Borough Council (LBC) has commissioned specialist advice to advise on the application from a GHG/Carbon perspective. The County Council will make further separate representations, as necessary. Notwithstanding this, the application findings appear to be substantively dependent upon the preparation and delivery of a Carbon Reduction Plan (CRP). The County Council is of the view that:

- the outline CRP should be consulted upon and it and views upon it taken into consideration in the determination of the planning application.
- consideration should be given to whether the full CRP should be submitted and consulted upon and it and views upon it taken into consideration in determination of the planning application.
- should a full CRP not be required by LBC to inform decision-making, the future provision of one should be secured by means of planning condition.

Drainage and Water Supply Infrastructure Appraisal

1.8 The County Council has no reasons to doubt the findings of the Drainage and Water Supply Infrastructure Appraisal and the proposed approach to imposition of a planning condition on any planning permission, should one be forthcoming, to restrict throughput at the Airport to a maximum terminal flow capacity.

Waste Management

1.9 The County Council has no reason to doubt the findings of the appraisal of the waste management implications of the proposal and is content with the intention to incorporate the Site Waste Management Plan (SWMP) into the consent by way of planning condition.

Air quality

1.10 The County Council has no reason to doubt the finding that the proposal will not have any unacceptable impact on air quality, but is of the view that the applicant should provide an Air Quality Plan (AQP) to be subject to consultation and it and views upon it taken into consideration in determining the planning application. The Plan would be incorporated into any consent, should one be forthcoming, and any limits incorporated into an Environmentally/Green Managed Growth control mechanism if considered appropriate. If this arrangement is not forthcoming, the provision of an AQP should be secured by way of condition.

Control mechanisms/Scrutiny

1.11 Effective control mechanisms need to be explored, negotiated as necessary and incorporated into any consent, should one be forthcoming. Those potential mechanisms should include the imposition of a condition restricting Annual Air Traffic Movements and the potential of Environmentally/Green Managed Growth (likely covering noise, surface access and potentially carbon reduction and air quality) as a means of controlling operations to ensure agreed commitments and controls on operations are honoured and to restrict growth to achievement of those limits.

1.12 If LBC and the applicant cannot agree to these control mechanisms in advance of determination, the applicant should be required to undertake a sensitivity assessment test to explore a worst case scenario that involves less positive assumptions with regard to fleet modernisation and loads levels/ATMs (greater than an additional 1,085 ATMs per annum assumed in the planning application).

Development Plan

1.13 The planning application is considered to be consistent with the development plan insofar as it relates to the economy, surface access, air quality, waste management, drainage and water supply, GHG/Carbon (subject to submission of a satisfactory CRP), subject to a number of these matters being subject to introduction of effective controlling mechanisms.

1.14 However, in relation to noise and its health impacts, the scale of the significant adverse impacts are such that the application is considered to be fundamentally at odds with key policies of the Luton Local Plan (particularly LLP6 and LLP38) and not

consistent with the general approach of the development plan of adjoining districts. The alleged economic benefits of the proposal have not been assessed and as a consequence any attempt to suggest, as the applicant does, that these benefits outweigh the significant adverse noise and health impacts, cannot be founded.

1.15 The application should be refused.

Material considerations

1.16 There are not considered to be any material considerations that would indicate that the decision on this planning application should be other than its accordance or otherwise with the development plan.

1.17 An assessment of the planning application against material circumstances points towards the same conclusion of the development plan assessment - the planning application should be refused.

Master Plan

1.18 The Master Plan (MP) is considered not to be fit-for-purpose in its current form and requires further work and consultation.

1.19 The master plan preparation and approval process should be completed before the planning application is determined.

One-off grants

1.20 The County Council is of the view that the failure of the application to provide any clarity on the operation of and beneficiaries to the proposed one-off grants is unacceptable and should be provided. Given the impacts of the proposal on communities the one-off nature of the grants is similarly considered to be unacceptable and the levels proposed derisory.

2. The County Council's in-principle position

2.1 The County Council has an in-principle position on proposals at LLA whose origins are founded in mismanagement of operations since planning permission was granted in 2014 (as subsequently revised in 2017, referred to in this response as the 'parent consent') for the Airport to grow to 18 mppa. This position is set out in response to the LLAOL 19 mppa public consultation:

> *'2. You will of course be aware that this proposal comes forward within the context of other current live planning applications/growth proposals at the Airport (LLA):*
>
> *i. London Luton Airport Operations Limited (LLAOL) planning application to vary condition 10 in an attempt to regularise breaches of the 2014 planning consent to grow throughput at LLA to 18 mppa.*
> *ii. London Luton Airport Limited's (LLAL) Development Consent Order proposal to grow LLA to 32 mppa.*

3. The County Council's responses (attached Appendices 1 and 2 by way of context) to these proposals set out its broad position with regard to management of growth at LLA, aspects of which are relevant to the proposal the subject of this consultation.

Mismanagement of operations at LLA in relation to the current planning permission

4. The County Council's representations on i. and ii. above raise very serious concerns relating to the mis-management of the operations of LLA resulting in it failing to comply with its 2014 planning consent and the knock-on adverse implications this has had for communities. By way of example:

Condition 10

'1.7 The County Council is of the view that the behaviour of the Airport has not been within the spirit of the planning application originally submitted and the planning consent granted, represents an abrogation of its environmental responsibilities and is disrespectful of communities. The Airport should have proactively managed its operations to respect the regulatory regime imposed upon it. In failing to do so it has acted irresponsibly.

1.8 Within its emerging aviation policy (Aviation 2050), Government is clear that it supports aviation growth, but on the condition that it is sustainable, environmental impacts are managed better and that communities are protected from the adverse impacts of growth and should directly benefit from it. Key to delivery of Government expectations is a 'Partnership' approach involving all partners, including communities. The Government sees the setting of noise caps as part of planning approvals as a means to balance noise and growth and to provide future certainty over noise levels to communities. The 'contract' between the Partnership in this case (the Airport operator, the local planning authority, highways authorities, communities and others) entered into for growth of the Airport to 18 mppa and the setting of noise caps to provide certainty for communities is in large part the terms of the planning permission. In failing to manage its operations to comply with that consent and committing to comply with it in the future, the Airport has betrayed the other partners, particularly those communities currently suffering from the adverse consequences of the breaches of planning control. The County Council is of the view that the actions of the Airport have fallen considerably short of Government expectations.'

Development Consent Order

*'**The County Council's position***

You will be aware that recent history of operations at London Luton Airport, from a Hertfordshire perspective, has been one that could hardly be more negative. Unmanaged accelerated growth at the Airport has proceeded in the full knowledge that restrictions on operations to safeguard communities from adverse noise impacts would be compromised. Breaches of planning control have occurred, are occurring and are predicted to continue to do so. There is a current live planning application seeking planning permission to, in effect, authorise those breaches for a temporary period of 5 years. Meanwhile,

airspace change processes continue to seek to address the adverse noise impacts of an airspace change brought into effect in 2015 – impacts exacerbated by the mismanagement of recent accelerated growth. On top of this, communities are now expecting a planning application to raise the consented passenger throughput cap from 18mppa to 19mppa - again, because the Airport has mismanaged growth.

The consultation material states:

'Since the conclusion of our first round of consultation, we have published our Sustainability Strategy. This sets out a range of targets over the medium and long term. We will work with the airport operator, London Luton Airport Operations Limited (LLAOL), to deliver against the targets. Our aims are to be a better neighbour, protect our planet, and enable growth and support for our future communities.'

Whilst the commitment to be a better neighbour is welcomed, Hertfordshire communities do not consider London Luton Airport to be a good, considerate, neighbour. The County Council has every sympathy with that view.

Unless and until there is evidence to demonstrate, and mechanisms to ensure, that the Airport can grow and be operated in a responsible manner, in the spirit of the Government's aspiration for a partnership for sustainable growth set out in Aviation 2050, which contains its environmental impacts to within prescribed acceptable and agreed limits that are enforceable, can achieve an overall betterment in the amenity and health of the communities impacted by it – both immediate and further afield, and can adequately provide for the surface access needs required of it, the County Council has an in-principle objection to growth of the Airport. This evidence does not currently exist.'

5. The reason a 19 mppa proposal is seen by LLAOL as being required to facilitate additional throughput in advance of 2027/8 (the timeframe within which LLA was supposed to reach 18 mppa had the terms of the consent been honoured) is that it has failed to manage its operations within the spirit of the 2014 planning consent. Fundamentally, therefore, the County Council has an in-principle objection to the current s73 planning application to vary Condition 10 and any further potential planning application relating to 19 mppa.

6. Whilst in no way attempting to downplay the impacts of Covid-19 on the aviation sector and on LLA, one positive that could be achieved would be to reset throughput growth of LLA and management of it to be consistent with the growth trajectory of the 2012 master plan and of the 2014 planning consent. That would be the right thing to do to honour the commitments made to stakeholders and communities.'

2.2 This planning application continues to perpetuate the operator's claim that the growth of the Airport and therefore breaches of imposed planning controls and of the contract between it, communities and stakeholders was out of its control. For example:

'1.1.4 The subsequent success of the airport has been well documented, with passenger throughput increasing from 10.5 mppa in 2014 to 18 mppa in 2019, a 71% increase in just six years……..

2.3.2 LLAOL secured planning permission in 2014 for the development of the necessary infrastructure to increase passenger throughput at the airport from 12 to 18 million passengers a year. The forecast at the time estimated that an 18 mppa cap would accommodate steady growth in passenger numbers up until 2028. However, growth in passenger numbers has occurred at a much more rapid rate than was originally forecasted and the 18 mppa cap was reached in 2019.

3.9 19/00428/EIA (Section 73 to 15/00950/VARCON permission)

3.9.1 The noise monitoring by LLAOL revealed that the summer night-time contour as set out in Condition 10 (Noise contours) of the 15/00950/VARCON permission was exceeded in 2017 for the first time. The summer night-time contour was exceeded again for the second time in 2018. In March 2019, a Section 73 application was submitted to temporarily enlarge the noise contours to the end of 2024 whilst the development of newer, quieter aircraft progresses and comes into operation.

4.2.3 LLA is one the busiest airports in the UK and one that has experienced steady growth over the last decade. The passenger level reached the 18 mppa cap in 2019, almost a decade earlier than originally anticipated in the original permission……..

4.3.2 LLAOL is seeking to modify the wording of the condition such that it provides for a less restrictive day and night contour than that currently set out, through adjustments to the area enclosed by both the daytime and night-time contours. The amendments are considered by LLAOL to provide an appropriate balance between environmental protection and growth. As detailed in Section 3.9, when the airport was operating at its existing capacity of 18mppa there were breaches of the noise contours due to the higher than predicted growth in passenger demand, the delay in delivery of modernised aircraft (e.g. Airbus Neo and grounded B737 MAX) and disruption in European Air Traffic Control from significant weather events and industrial action resulting in flight delays. Therefore the need to enlarge the noise contour exists independently of the proposed increase of the 18 mppa cap to 19 mppa. The noise contours required for the 19 mppa would not be significantly different to the enlarged contours that would have been needed to operate at 18 mppa.

4.3.5 The modification to Condition 10 is required in order to account for the fact that the introduction of new quieter aircraft has not kept pace with the unprecedented growth in passenger demand. The passenger level at LLA reached the 18 mppa cap in 2019, almost a decade earlier than originally anticipated in the 2014 Planning Permission. An amended condition is necessary in order to safeguard against factors that are beyond the airport's direct control, including delays to the technological aircraft development and delays to flying times due to European Air Traffic Control disruptions and extreme weather events.'

2.3 The County Council does not accept the operator's continued assertions that the pace of growth and breaches of controls were not within its control. The package of passenger throughout and noise monitoring and reporting requirements required of the parent consent, meaningful cooperation between the operator's Flight Operations Department and Business Development Department, and effective liaison with LBC should collectively have comfortably foreseen the possibility of breaches and put in place appropriate management and operational restrictions. As a consequence of the failure to have done so, the County Council's position remains as rehearsed in paragraph 2.1 above - it has a fundamental in-principle objection to this planning application.

3. Evidence availability and engagement

3.1 The planning application refers to the LLAOL 19 mppa public consultation, the responses made to the consultation, how the proposal has allegedly been informed by those responses and how some issues have been further informed/addressed by the documentation making up the application.

3.2 The County Council's response to the consultation highlighted a number of concerns relating to the adequacy of the evidence made available and lack of engagement in taking the proposals forward. The response called for the evidence to be made available and meaningful engagement to take place in advance of submission of any planning application, with the draft Master Plan providing the focus for this.

> *'**The Consultation Material - evidence and engagement***
>
> *9. Attached (Appendix 3) are some detailed comments on the published consultation material. These are by no means exhaustive, but sit behind a number of the issues that follow. Two key messages are:*
>
> - *the consultation material presents a position on a wide range of issues based on evidence prepared to date to inform the development of the proposal and presents a range of proposals for mitigation. However, very little of the evidence referred to is available for review and comment and as a consequence the opportunity to effectively engage with the consultation and shape the proposal has been somewhat limited.*
> - *there has been no meaningful engagement (to the County Council's knowledge) with key informed stakeholders on the technical work underpinning the findings and conclusions and mitigation proposals.*
> - *how transparency of evidence and informed engagement is to happen in advance of submission of any planning application.*

3.3 However, the applicant has chosen not to engage with stakeholders further in advance of submission of the planning application – stakeholders are in a position of simply responding to the information/evidence presented. Whilst this is the prerogative of the applicant, the planning application fails to present all of the evidence/intelligence required for consultees to come to a fully informed view on the proposal and for the planning authority to come to a balanced decision. For example:

Noise Reduction Strategy

3.4 Condition 10 of the parent consent sets out noise contour limits to restrict the impact of the Airport as it grows – and those contours are based on assumptions about throughput growth and aircraft fleet modernisation. The Condition also requires the operator to submit a Noise Reduction Strategy (NRS) to reduce noise contour areas to specified levels by 2028.

3.5 In February 2020, LLAOL submitted its NRS, but was considered by the local planning authority to be not fit-for-purpose and is still in the process of being developed and remains to be approved. The County Council's response to the proposed NRS is reproduced within Annex 1.

3.6 The applicant proposes that Condition 10 be varied, amongst other matters, to require the applicant to submit a NRS within 12 months of the date of the planning consent for reduction of noise contours by 2028. But there have already been longstanding negotiations for over a year now in relation to the existing NRS submitted as a requirement of the parent consent and there must be a reasonable degree of certainty regarding the mechanisms that need to be employed to reduce noise contours. Those mechanisms must surely be broadly the same as those that would be required to achieve the proposed new NRS to be provided to satisfy the requirements of the proposed new Condition.

3.7 Given the failure of the operator to be able to manage its operations to comply with the parent consent and the apparent inability to come forward with a NRS to satisfy LBC, the County Council is strongly of the view that the NRS should be submitted as part of the application, consulted upon and taken into consideration in determination of the application, along with any views upon it. Another planning consent cannot be granted in the absence of certainty about how noise reduction is to be achieved - how, when and by whom – and in the event of evidence of failure or likely failure, what should happen to control operations (see paragraphs 8.47-8.51 dealing with E/GMG).

3.8 In much the same way as the Travel Plan and Car Parking Management Plan accompany the planning application and are proposed to be integrated into any consent by the proposed wording of Conditions 22 and 24, so should the NRS. So instead of the wording proposed by the applicant, the relevant part of proposed revised Condition 10 would instead read something along the following lines:

> *'……..*
> *The Noise Reduction Strategy (document reference XXXXXXXXX) shall be complied with ~~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 ~~15.2 sq km~~ 15.5 sq km for the area exposed to 57dB(A) Leq16hr (0700-2300) and above and for night-time noise to ~~31.6 sq km~~ 35.5 sq km for the area exposed to 48dB(A) Leq8hr (2300-0700) and above.*
> *……'*

Carbon

3.9 The Planning Statement and Environmental Statement make reference to the intended preparation of a Carbon Reduction Plan (CRP). For example:

Planning Statement

'6.5.28 LLAOL has also committed to produce a Carbon Reduction Plan. This will set out the roadmap for achieving a net zero airport for Scope 1 and 2 emissions, as well as indicating the approaches by which LLAOL can influence Scope 3 emissions. An outline version of the Carbon Reduction Plan will be produced during the consideration of this ES, and ahead of the determination of the planning application.

6.5.30 The proposed scheme:

Summary

- *Is unlikely to materially affect the ability of LC to meet its carbon neutral borough by 2040 aim, on the basis that a Carbon Reduction Plan is produced.*
- *Is consistent with the NPPF requirement for developments to 'support the transition to a low carbon future in a changing climate', on the basis that a Carbon Reduction Plan is produced.'*

Environmental Statement

'UK Carbon Target for 2050 and UK Carbon Budgets (non-international aviation)

'7.11.25 The mitigations required to achieve LLAOL's net zero aim will be detailed in a Carbon Reduction Plan, which will include emissions reduction targets. The Carbon Reduction Plan will set out the roadmap for achieving a net zero airport for Scope 1 and 2 emissions, as well as indicating the approaches by which LLAOL can influence Scope 3 emissions. An outline version of the Carbon Reduction Plan will be produced during the consideration of this ES, and ahead of the determination of the planning application. Further details are described in Section 7.13.

Summary

7.11.26 On the basis of the commitment to produce a Carbon Reduction Plan, the scale of GHG emissions from the Proposed Scheme are such that they will have a negligible effect on the ability of the UK to meet its carbon targets. Additionally, the scale of GHG emissions from the Proposed Scheme are such that they are unlikely to affect the ability of Luton Borough Council to meet its carbon neutral borough aim.

Summary of predicted effects

7.11.30 The mitigations set out in Section 7.8, show that the GHG emissions associated with the Proposed Scheme have been mitigated wherever

practicable, with a further commitment to producing a Carbon Reduction Plan as described in further detailed in Section 7.13. The Carbon Reduction Plan will be required to set out the ambition and actions required for ensuring LLA's Scope 1 and 2 emissions are in-line with the UK net zero 2050 target, and how LLA will use its influence to reduce Scope 3 emissions where possible.

7.11.31 LLAOL is committed to annually reporting its GHG emissions through annual carbon footprinting, which is publicly available.

7.11.32 Therefore, the Proposed Scheme:

- *Is very unlikely to materially affect the ability of the UK Government to meet the 37.5 MtCO2/yr 'planning assumption' for UK international aviation GHG emissions in 2050.*
- *Is unlikely to materially affect the ability of the UK Government to meet its carbon targets for net zero in 2050, on the basis that a Carbon Reduction Plan is produced.*
- *Is unlikely to materially affect the ability of Luton Borough Council to meet its carbon neutral borough by 2040 aim, on the basis that a Carbon Reduction Plan is produced.*
- *Is consistent with the National Planning Policy Framework (NPPF) requirement for developments to 'support the transition to a low carbon future in a changing climate', on the basis that a Carbon Reduction Plan is produced.*

7.13 Consideration of additional mitigation

7.13.2 A Carbon Reduction Plan will be produced which will set out the roadmap for achieving a net zero airport for Scope 1 and 2 emissions, as well as indicating the approaches by which LLAOL can influence Scope 3 emissions. An outline version of the Carbon Reduction Plan will be set out ahead of the determination of the planning application by LBC.

Airport building and ground operations

7.13.4 Through the Responsible Business Strategy, LLAOL has committed to being aligned with the UK net zero target for 2050. LLAOL has therefore committed to develop a Carbon Reduction Plan, which will set out the ambition and actions required for ensuring LLA's Scope 1 and 2 emissions are in-line with the UK net zero 2050 target. An outline version of the Carbon Reduction Plan will be produced during consideration of the ES, and ahead of determination of the planning application. The full version would be provided following planning approval, as a time-bound condition of the planning permission. This forms part of the wider commitment to reaching more ambitious levels of certification within the Airport Carbon Accreditation Scheme, which would ultimately result in carbon neutral operations.'

3.10 The County Council is of the view that if the CRP is key to supporting the conclusions of the performance of the proposal in carbon terms, as appears to be the case, then the full (and fully evidenced) CRP should be produced, subject to public consultation and views upon it used to inform the decision-making process. It should then be incorporated into the consent, by way of condition, similar to that for the Car Parking Management Plan (Condition 22) and Travel Plan (Condition 24), or at least

listed amongst the approved plans and documents in the proposed Variation of Condition 28 (Approved plans and documents).

3.11 If LBC takes the view that an outline CRP is acceptable to inform its decision-making, then that outline should be made available and consulted upon and views upon it taken into consideration in the decision-making process. The proposed variation to Condition 28 does not currently refer to an outline CRP and it should.

3.12 Paragraph 7.13.4 of the ES states, in relation to the CRP, states that '……..*The full version would be provided following planning approval, as a time-bound condition of the planning permission.'*. But the applicant makes no commitment to a time-bound condition within the Planning Statement and LBC should seek that commitment from the applicant. If LBC takes the view that an outline CRP is acceptable to inform its decision-making then a time bound condition should be imposed with regard to the submission of a full CRP.

Air Quality

3.13 The Planning Statement, supported by the ES, concludes that the proposal will not have any unacceptable impact on air quality. Elsewhere in this representation the County Council rehearses the compatibility of the proposal with, amongst other matters, existing and emerging Government policy on matters relating to aviation. Government's emerging Aviation Strategy (Aviation 2050) states that it intends to require all major airports to develop air quality plans to manage emissions within local air quality targets.

3.14 The applicant's own 'Our Responsible Business Strategy 2020 – 2025, December 2019' commits to developing an air quality strategy by end of 2022 that will include measures to limit the airport's contribution to air pollution.

3.15 Given Government expectations, the fact the planning application process has had to assess and predict the air quality implications of the proposal and that the Airport has already committed to producing an air quality strategy, it would have been the perfect opportunity to bring forward an air quality plan to accompany the planning application and to integrate air quality commitments into any planning consent, should one be forthcoming – in much the same way as it proposed for waste management, Carbon Reduction Plan, etc.

3.16 LBC should require the applicant to prepare and submit an air quality management plan and that plan should be consulted upon and views upon it taken into consideration in determination of the planning application and incorporated within any consent, should one be forthcoming. If this option is not considered appropriate then any planning consent should require the provision of an air quality management plan by means of planning condition.

Forecasting assumptions/sensitivity testing

3.17 Paragraphs 5.3-5.6 below raise concerns regarding and calls for a reassessment of the applicant's Covid recovery assumptions and forecasts. Notwithstanding this, fundamental to the assessment of the impacts of the proposal are assumptions made within traffic forecasts with regard to fleet modernisation/load factors/ATMs and the consequential impact this will have on noise reduction.

3.18 As rehearsed in Section 2, since the 2014 parent consent the Airport operator has facilitated growth considerably in excess of that assumed within the consent, to the extent that fleet modernisation and the assumed noise impact benefits that come with that has not occurred. This has resulted in a breach of noise controls integrated into the consent, which are in part the driver for this planning application.

3.19 Elsewhere in this representation the County Council calls for effective control mechanisms to be integrated into any consent to embed within it the assumptions and forecasts underpinning the proposal – those control mechanisms include E/GMG, a condition limiting annual ATMs and a condition linking Airport growth to future noise reduction set out in a Noise Reduction Strategy.

3.20 But at this stage there is no certainty that such controls will be imposed on any consent and unless there is agreement between the applicant and LBC that they should be, there is a need to understand a worst case scenario involving planning permission being granted and fleet modernisation not occurring at the pace predicted within the planning application - a sensitivity test involving less positive assumptions with regard to fleet modernisation and loads levels/ATMs (greater than an additional 1,085 ATMs per annum assumed in the planning application). That worse case sensitivity test should be available to inform LBC decision-making.

4. The new Master Plan to 19 mppa

4.1 The County Council's response to the LLAOL 19 mppa consultation raised a range of issues with regard to the draft MP, as follows:

> *'**An all-encompassing master plan***
>
> *10. You will of course be aware of Government consultation and liaison expectations in relation to master plans, set out in its Aviation Policy Framework (APF):*
>
> *'4.13 Government also recommends that airport operators consult on proposed changes to master plans, and engage more widely with local communities prior to publication, for example liaising more closely with local authorities and also through drop-in sessions and public meetings……..'*
>
> *11. And also its position on availability of technical evidence:*
>
> *'4.14 Research carried out by the DfT on the effectiveness of master plans has indicated that drafting for all audiences produces a tension between communicating future plans and providing a technical reference source. We therefore recommend that, where possible, the body of the document should be accessible to a lay person, and the technical detail clearly annexed.'*
>
> *12. You will also be aware that the APF states that:*
>
> *'4.5 Airports, in partnership with local communities, should:*
>
> - *……*

- *review their consultative timetables, for example for master plans and Noise Action Plans, with a view to aligning these where possible and reducing the consultative burden on all concerned;*
- *review the extent and detail of information that is published and set out clearly the methodology used. Airports should provide transparency and ensure that sufficient relevant information and opportunities for consultation reach a wide audience; and*
- *combine their ASASs into their published master plans to ensure a joined-up approach and make it easier for people to access information about the 'airport's plans.'*

'Mitigation

B.6 Proposals for mitigation measures across the major impact areas identified will be an important component of master plans; for example emission controls, noise abatement measures, sound insulation, surface access schemes and traffic management and measures to address landscape and biodiversity impacts.

B.7 It will be appropriate for master plans to address any proposals for compensation measures that may be required where the scale of impacts is such that they cannot adequately be mitigated. Such measures might include appropriate voluntary purchase schemes and assistance with relocation costs where the extent of property and land-take is clear.'

13. The consultation material seems to propose to amend or add to the contents of publications that already exist but without giving specific details of what these are to be – for example, see the 'Noise management/mitigation' section below. There also appears to be a new Transport Assessment, Travel Plan and Car Parking Management Plan which are not available at this stage and which appear to introduce new assumptions – for example (from the EIA Progress Report).

'8.1.3 The TP has been developed with the objective of reviewing the latest Airport Surface Access Strategy Report (ASAS) 2018 - 2022 (2019 Reissue) and updating objectives, targets and measures based on a policy appraisal and site assessment. This analysis has been translated into a concrete action plan to be monitored periodically.'

14. There also appear to be other assessment, such as an Air Quality Assessment and Greenhouse Gas Assessment. Moving forward, the availability of technical evidence and engagement on it with key stakeholders will be important. As far as is practicable, this should take place in advance of submission of any planning application and there is an opportunity to do so as part of the master plan preparation process. The master plan needs to be drafted to be accessible to the lay person, but contain evidence (appended) to substantiate its proposals, about which it needs to be much more transparent rather than making general statements of intent. It also needs to be clear on the implications for other publications such as the noise action plan and surface access strategy. Consideration should be given to whether there is an opportunity to draw the various plans/strategies together into a whole, with the master plan fronting up a range of subsidiary plans/strategies/evidence. This

will take time – more time than the consultation material and processes currently appear to allow.'

4.2 The County Council's response summarised its position on the MP, as follows:

*'**Summary***

42. In summary, the County Council's position is as follows:

……..

ii. There should be further engagement on the preparation of the master plan, including sharing of the evidence underpinning the findings and mitigation proposals within the draft in advance of finalisation/publication/approval.

iii. The finalised/published/approved master plan needs to contain evidence (along with technical appendices) to substantiate the findings and conclusions reached and to justify proposed mitigations.

iv. The opportunity should be taken to take a fresh approach to the master plan preparation – with a view to putting in place an all-encompassing framework that draws the various strategies together into a whole and fronting up a range of subsidiary plans/strategies/evidence.'

4.3 Much of the technical evidence that was not available to consultees to support the judgements made in the draft MP now accompanies the planning application. Consultees therefore now have an opportunity to access and interrogate that evidence to establish whether those judgements are indeed correct.

4.4 The applicant has chosen not to act upon many of the County Council's recommendations in relation to the process for preparation of the MP and the approach taken and considers that, as a consequence, it falls short of a number of Government expectations, as set out above.

4.5 The County Council is of the view that LBC does not adopt the MP until such time as it is revised to sit more comfortably with Government guidance and the above other issues raised by the County Council.

4.6 The MP review process should also address the following:

- Section 1.1 sets out the need for a Master Plan, which is described as:

'…….The airport's traffic numbers are predicted to continue to increase, requiring consideration of the next planning stage for LLA development. As a result, IDOM was appointed to develop LLA's Master Plan for 19 mppa.'

But this section fails to register the fact that the main reason that MPs are to be produced is because they are a Government expectation *'to provide a clear statement of intent on the part of an airport operator to enable future development of the airport to be given due consideration in local planning processes. They also provide transparency and aid long-term planning for other businesses.'* (Aviation Policy Framework).

Neither does it refer to Government expectations that MPs are *'updated at least once every five years'* and the existing MP for the Airport is now over 8 years old, so it should have already been updated in any event.

It makes no reference to the existing MP for 18 mppa and the obvious need for it to be updated/replaced.

- Section 2.2 of the MP states the following:

'2.2 Forecasting Approach

2.2.1 The 2012 planning application has led to an investment plan of £160 million to transform the airport and increase capacity to 18 million passengers per year by 2020. The so-called Curium Project reached its culmination in 2018 with the opening of the expanded terminal facility.'

The *'2012 planning application'* did not lead to an investment plan, it was the 2014 planning permission.

The 2014 planning permission was granted on the assumption that 18 mppa would be achieved by circa 2028 and limits and controls imposed on that basis (particularly in relation to controlling noise impacts). Unless it really was the intention of LLAOL to achieve 18 mppa by 2020, this needs to be reworded (probably easiest to simply delete 'by 2020').

- the MP has been submitted with the planning application, but in places it still refers to the planning application in the future tense. For example, with regard to air quality it states:

  '0.8.1 ……A detailed air quality assessment will accompany the planning application.

  6.3.1 The increase in maximum capacity of passengers from 18 mppa to 19 mppa, whist modest in percentage terms, may entail an increase in road transport related air emissions and it will be necessary to undertake a detailed assessment of the likely impact of this when the formal planning application is made. The method will entail a detailed consideration of those receptors adjacent to the transport routes at highest risk of exceeding the relevant objectives as specified in the Air Quality Standards Regulations 2010. If any exceedances of air quality objectives are indicated, mitigation measures will need to be developed based on specific findings of the study.'

The air quality assessment accompanies the planning application and it, and the findings reported in the ES should be reflected within the MP.

- Carbon Reduction Plan. The MP provides a framework for the planning application and repeatedly refers to assessments that have been undertaken or are ongoing (see above, this needs to be rectified) and to future plans and measures that will be put in place. But despite commitments made in the planning application to production of a CRP and the importance attached to this, the MP makes no reference to it.

4.7 The County Council's response to the LLAOL 19 mppa public consultation also identified a range of issues in relation to the status and process for approval of the master plan to take the airport to a throughput of 19 mppa.

'***Status and process for approval of the master plan***

15. The usual and logical course of events is for an airport to consult widely on a master plan, setting out its aspirations for the future and covering those matters advised by Government in the APF. In this way all stakeholders and communities have a common understanding of what lies ahead – likely scale of growth, infrastructure provision, environmental management and mitigation, noise insultation, community benefits, and so on. Amongst other matters that master plan would form the framework within which future planning applications for development and throughput growth are brought forward.

16. Indeed, this is exactly what happened in the last master plan/planning application cycle at LLA. Somewhat bizarrely, LLAOL and LLAL consulted separately on different master plans for different proposed levels of growth during 2012, following which a joint master plan was published in September 2012 that provided a framework for growth of LLA to 18 mppa. Some months later, a planning application for that scale of growth was duly submitted.

17. The consultation material makes no reference to the in-force master plan at LLA and it is therefore assumed that it is to be completely superseded by the one published as part of this consultation, as suitably amended following feedback received.

18. The material contains no guidance on the process for and timing of approval/adoption/publication of the master plan, but states that a planning application is to be submitted by the end of 2020. No information is provided with regard to the process for 'approval' of the master plan and whether there is any intention to release and consult upon the evidence that underpins it.

19. You will of course be aware that Luton Local Plan Policy LLP6 requires any growth proposal at LLA to be consistent with a master plan submitted to and approved by Luton Borough Council (LBC). The material makes no reference to this policy and provides no clarity on whether the master plan is to be submitted to LBC for its approval and if so, whether that is to happen in advance of any planning application or perhaps even at the same time.

20. Clarity is required on the process for approval/publication of the master plan and how that relates to the timing of submission of any planning application. If a planning application is to be submitted before the end of 2020, it is difficult to see how:

- *in the spirit of Government guidance in the APF, meaningful engagement can take place with stakeholders on the technical evidence that underpins the assumptions behind and findings of the master plan.*
- *the master plan can be approved by LBC.*

21. Paragraphs 29-30 call for a delay in the submission of the proposed planning application. Such a delay would enable a master plan preparation

process that is able to more effectively engage with communities and stakeholders, with a view to building a more productive and trusting relationship in response to recent experience.'

Summary

42. In summary, the County Council's position is as follows:

v. Clarity is required with regard to the process for finalisation/publication/approval of the master plan.

vi. The master plan preparation and 'approval' process should be completed in advance of the submission of any planning application.

vii. Given Luton Local Plan policy, the master plan should be approved by Luton Borough Council in advance of the submission of any planning application.'

4.8 With regard to the two bullets in paragraph 20 of the above extract we are now clear that there has been no meaningful engagement on the technical evidence underpinning the MP in advance of submission of the planning application (as discussed above). With regard to the second bullet, the planning application has been submitted in advance of adoption of the MP by LBC. The planning application does not contain any guidance on its understanding of the process for adoption of the MP by LBC. The MP should be adopted by LBC, as suitably revised, in advance of determination of any planning application (it would have been far preferable, however, if this were to have happened in advance of application submission).

5. Aviation 2050/Carbon/Covid-19

5.1 The County Council's response to LLAOL's 19 mppa consultation observed:

'22. The County Council's response to the consultation on the DCO highlights the scale of uncertainty that exists in relation to national aviation policy, which, amongst a wide range of other matters, will set out the Government's approach to aviation with regard to how it will contribute to meeting its net-zero carbon commitment.

*'**National aviation policy and the Climate Change Act 2008***

The consultation material assesses the proposal in terms of its compatibility with existing national aviation policy [Aviation Policy Framework (APF) (2013), Making best use of existing runways (MBUER) (June 2018) and the Airports National Policy Statement (ANPS) (June 2018)] and the carbon budgets set in accordance with the historic Climate Change Act 2008 target of an 80% reduction of greenhouse gas emissions compared to 1990 levels (with the 5th Carbon Budget setting a limit that aviation emissions for the UK being capped at 37.5MtCO_2 in 2050 based on 2005 levels, excluding emissions from international aviation).

The assessment concludes that the increase in carbon emissions resulting from the proposed development is considered (with mitigations in place) not to have a material impact on the ability of Government to meet its carbon reduction targets, including carbon budgets. This conclusion is consistent with that of the Government more generally in terms of the compatibility between policy to make best use of existing runways/Heathrow third runway and 80% reduction Climate Change Act target and related carbon budgets.

In a joint letter (15th October 2018) to the Committee on Climate Change (CCC) the Governments of the UK, Scotland and Wales requested advice from the Committee on their respective long-term CO_2 emissions targets:

1. the date by which the UK should achieve (a) a net zero greenhouse gas target and/or (b) a net zero carbon [dioxide] target in order to contribute to the global ambitions set out in the Paris Agreement.
2. whether now is the right time for the UK to set such a target.
3. the range which UK greenhouse gas emissions reductions would need to be within, against 1990 levels, by 2050 as an appropriate contribution to the global goal of limiting global warming to well below 2°C" and "towards global efforts to limit the increase to 1.5°C.
4. how reductions in line with your recommendations might be delivered in key sectors of the economy.
5. the expected costs and benefits across the spectrum of scenarios in comparison to the costs and benefits of meeting the current target.
6. updated advice on the long-term emissions targets for Scotland and Wales provided with regards to the respective devolved statutory frameworks on climate change.

In December 2018 Government consulted on its Aviation Green Paper 'Aviation 2050 - The future of UK aviation', reaffirming Government's commitment to provide additional capacity through the development of a third runway at Heathrow Airport and airports throughout the UK making best use of their existing runways. The Strategy is based on the 80% reduction Climate Change Act target and related planning assumptions. In its response (February 2019) to the consultation the CCC stated that it would write to Government specifically about the implications of its forthcoming net-zero recommendations for the emerging national Aviation Strategy.

'The UK's currently legislated 2050 target is to reduce economy-wide greenhouse gas emissions by at least 80% from 1990 levels. Since the Climate Change Act became law, the UK has ratified the Paris Agreement, implying even stronger action. You will be aware that my Committee has been asked by Ministers to offer advice on the implications of the Paris Agreement for the UK's statutory framework, including when 'net-zero' emissions can be achieved. A stronger UK target would require more effort from all sectors, including aviation. We intend to provide an updated view on the appropriate long-term ambition for aviation emissions within our advice on the UK's long term targets. We will publish our report in spring. Following that, we will write to you directly to set out the implications for the Aviation Strategy.

Our present planning assumption, which underpins the fifth carbon budget and the current 2050 target, is that UK aviation emissions in 2050 should be around

their 2005 level (i.e. 37.5 $MtCO_2e$). Your acceptance of this planning assumption in the consultation is a very welcome step. The final white paper should further clarify that this will be met on the basis of actual emissions, rather than by relying on international offset credits.

Aviation emissions in the UK have more than doubled since 1990, while emissions for the economy as a whole have fallen by around 40%. Achieving aviation emissions at or below 2005 levels in 2050 will require contributions from all parts of the aviation sector, including from new technologies and aircraft designs, improved airspace management, airlines' operations, and use of sustainable fuels. It will also require steps to limit growth in demand. In the absence of a true zero-carbon plane, demand cannot continue to grow unfettered over the long-term.'

In May 2019, the CCC published its report ('Net Zero The UK's contribution to stopping global warming Committee on Climate Change' May 2019) to the UK Governments. Its overarching recommendation was that the UK should amend its legislation to commit to net zero greenhouse gas emissions by 2050 and in relation to aviation, that this target should include the UK's share of international aviation and be met through domestic action rather than international offset credits – 'This will require immediate steps from Government, industry and the public. Challenges that have not yet been confronted – such as aviation and shipping emissions – must now be addressed'. The UK should legislate as soon as possible to reach net-zero greenhouse gas emissions by 2050. The target can be legislated as a 100% reduction in greenhouse gases (GHGs) from 1990 and should cover all sectors of the economy, including international aviation and shipping.'

'We will set out our recommended policy approach for aviation in follow-up advice to the Government later in 2019…….Reducing emissions from aviation will require a combination of international and domestic polices, and these should be implemented in ways that avoid perverse outcomes (e.g. carbon leakage). A package of policy measures should be put in place that include carbon pricing, support for research, innovation and deployment, and measures to manage growth in demand.'

In May 2019 Parliament declared an environment and climate emergency and in June The Climate Change Act 2008 (2050 Target Amendment) Order 2019 came into force, revising the 2050 GHG target of an 80% reduction of GHG emissions compared to 1990 levels to a net zero carbon target. In July 2019 the County Council joined the ranks of over 200 local authorities across the country in declaring a climate emergency.

In September 2019 the CCC wrote to the Secretary of State for Transport advising that the planning assumption for international aviation should be to achieve net-zero emissions by 2050 and that this should be reflected within the Government's forthcoming Aviation Strategy. To achieve this would require reduction in actual emissions and would be likely to require some use of greenhouse gas removals to offset remaining emissions. Key to reducing emissions will be limiting demand growth to at most 25% above current levels, with potential to reduce emissions further with lower levels of demand. The CCC advises that 'The Government should assess its airport capacity strategy

in this context. Specifically, investments will need to be demonstrated to make economic sense in a net-zero world and the transition towards it.'

All in force and emerging national aviation policy precedes the June 2019 Climate Change Act net-zero declaration/legislation. The Department of Transport has stated that the implications of the declaration/legislation and the CCC's recommended policy approach to aviation will be taken into account in further developing is aviation policy through the Aviation 2050 process. It has also stated that it will provide advice and a recommendation to the Secretary of State on whether the statutory criteria for a review of part or all of the Aviation National Policy Statement (the Government's national planning policy commitment to Heathrow third runway) are met and whether or not it is appropriate to carry out such a review.

In its 'Leading on Clean Growth - The Government Response to the Committee on Climate Change's 2019 Progress Report to Parliament – Reducing UK emissions' (October 2019), Government has stated that it will publish an ambitious Aviation Strategy next year and in doing so will 'continue to consider the implications of our 2050 net zero target……..'.

The consultation material states that the revised carbon legislation has not been specifically addressed in the greenhouse gas assessment 'due to the timing of its introduction into UK law', but recognises that 'this is a significant piece of legislation that will have an impact on the Proposed Development and as such will be further considered in the ES. Our assessment of greenhouse gas emissions will continue to be updated to consider the latest proposals and the developing government policy on the net-zero carbon target'.

It is clear that a state of considerable national uncertainty exists regarding the relationship between the Government's net zero declaration/legislation and the implications this has for both existing national aviation policy and its emerging Aviation Strategy.

Government has been called upon to intervene and restrict the grant of planning permission for aviation growth-related planning applications until new national aviation policy is in place.

Given the current programmed timeframe for the Development Consent Order (DCO) process, new national aviation policy should be in place and therefore national uncertainty resolved by the time a decision is made. However, should this prove not to be the case the County Council is strongly of the view that the proposed project timeframe should be reprogrammed to ensure that any decision is made in the context of new Government aviation policy, when published. Only in these circumstances can a properly informed and robust decision be made.'

23. In addition, of course, that national strategy/policy will now also need to reflect upon the implications of Covid-19 and develop policy that reflects how Government sees the aviation industry moving forward in response to and within a continuing Covid-19 environment – the implications of which, at least in the short term, are potentially profound.

24. Clarity in the form of revised national aviation policy would be a more preferable environment within which this proposal (and indeed those at other airports) could be brought forward and assessed. The County Council has sought an update on the timetable for production of Aviation 2050, but this has yet to be forthcoming. The process for master plan preparation and application submission would benefit from being aligned with the publication of new Government policy.

'19 mppa traffic horizon will be achieved around 2024'

25. The consultation material contains a number of statements with regard to the anticipated timeframe for LLA to potentially reach a throughput of pre-Covid levels and onward to 19 mppa. For example:

'In accordance with industry expectations and current pandemic situation, it is expected that the airport will recover to the 18mppa traffic horizon around 2023 and the 19mppa traffic horizon will be achieved around 2024.'

'In light of the COVID-19 pandemic, it is anticipated that the 19mppa traffic horizon will be reached around 2024 ("planning horizon").'

'Based on industry expectations and on current pandemic situation, it is expected that the airport will recover to the 18mppa traffic horizon around 2023 and the 19mppa traffic horizon will be around 2024.'

26. The consultation material provides little background intelligence about these 'industry expectations' and, importantly, whether and to what extent they are considered plausible by the Department for Transport and compatible with any new national aviation forecasts it may be undertaking to inform the national aviation strategy process. As we know, IATA takes the view that traffic will not return to pre-COVID levels before 2024 (not 2023 assumed within these proposals), and this is view sits within a significant range of uncertainty – 'upside could see travel demand return to 2019 levels in 2023, while the downside could be much more severe'. The downside forecast indicates that in 2024 recovery will only be at 2015 levels globally.

27. Similarly, Eurocontrol's latest five-year forecast offers three scenarios for recovery from Covid-19:

- *a most-optimistic forecast of a recovery to 2019 levels by 2024 assumes a vaccine is widely made available for travellers by summer 2021.*
- *should a vaccine only be widely available, or the pandemic end, by summer 2022, a recovery to 2019 levels may be pushed back to 2026.*
- *a worst-case scenario that there is no effective vaccine and the infection lingers suggests recovery could be delayed until 2029.*

28. Despite recent Government announcements in relation to vaccine availability and deployment, there are significant further stages to come and considerable uncertainty exists in relation to the speed with which widespread access to and roll out a vaccine could be achieved. Moving forward there needs to be greater clarity on the reasons why LLA feels an optimistic scenario should be applied to growth of throughput.'

5.2 As there has been no further substantive clarity on Government intentions in relation to revised national aviation policy the County Council's concerns with regard to the absence of an up to date national policy that addresses all of the issues facing the aviation sector remain. There has been national progress on Carbon/GHG and these have (in part) been reported in the consultation material, but again, the Government's position on the aviation sector's role in a zero carbon future remain to be clarified. The CCC recommendations on the sixth carbon budget – the UK's path to net zero, includes within the 'balanced pathway' demand management providing for a 25% growth in passengers by 2050 compared to 2018 (compared to 65% in baseline unconstrained DfT forecasts). The timeline for growth sees capacity increasing by only 5 mppa by 2035 (from 2092 mppa in 2018 to 297 mppa in 2035). The CCC states that *'We assume that, unlike in the baseline, this occurs without any net increase in UK airport capacity, so that any expansion is balanced by reductions in capacity elsewhere in the UK'*. Given the Government's commitment to a third runway at Heathrow there would be likely to be no scope for additional capacity at other airports – indeed, the proposed increased use of the existing two runways in advance of third runway coming onstream would utilise all the 5 mppa additional capacity to 2035 in the balanced pathway scenario. The Government has already confirmed that its sixth Carbon Budget will incorporate the UK's share of international aviation emissions – the first budget to do so. Whilst Government has not accepted the CCC's specific policy recommendations it will be producing a vision for net zero, and ambitious plans across key sectors of the economy to meet carbon budgets.

5.3 With regard to Covid-19 recovery, the application presents the results of a poll of a panel of air traffic forecasting experts, which the applicant then uses to extrapolate those recovery rates beyond December 2021. This sees recovery to 18mppa by 2022. No date is put on the polling exercise, but as it sought views on recovery through 2020, it is assumed it occurred early/mid 2020.

5.4 The County Council's response to the LLAOL 19 mppa consultation highlighted the scenarios presented by IATA/Eurocontrol, suggesting a more likely later recovery scenario. Since then, the Committee on Climate Change has issued its Sixth Carbon Budget advice to Government in which it recognises uncertainties generated by Covid *'……There remain major uncertainties as to the size of the aviation industry that will emerge post-COVID, particularly as the pandemic continues to spread globally……...CCC have estimated a drop in UK flights and emissions during 2020-2023……..., with a return to previously projected to demand levels from 2024 in most scenarios.'*.

5.5 The way in which the pandemic appears to be progressing and the extent to which it is able to be managed is changing at a rapid pace. With regard to aviation and the prospects of renewed international travel there remains considerable uncertainty and one wonders whether the ACI poll has been superseded by events and/or whether it contains a degree of optimism bias. It might be helpful if the applicant could present an updated balanced view on recovery taking into account more up to date intelligence and the less optimistic scenarios of IATA/Eurocontrol/CCC.

5.6 An updated view on Covid recovery would be useful context in terms of the timeframe that may be available to pursue those matters identified in paragraph 6.2.

6. Timing of the planning application

6.1 The County Council's response to LLAOL's 19 mppa consultation called for the proposed timing of submission of any planning application to be delayed for, amongst other reasons, those matters in Section 5. The County Council is disappointed that the applicant has chosen to ignore calls for a pragmatic approach to the timing of submission of the application, but accepts that LBC is duty bound to consider and determine the application it has before it.

6.2 Whilst it is desirable and there is a requirement for the application to be determined expeditiously, the uncertainty that exists in relation to likely Covid recovery would suggest that there is an opportunity to pause to address the shortfall in evidence highlighted in section 3, to explore and develop a package of effective control mechanisms rehearsed in paragraphs 8.47-8.54, and to take stock of any direction that might be forthcoming from Government on aviation and carbon policy matters, including the potential for a substantive shift in assumptions about future growth in the context of the CCC advice to Government in relation to demand management.

7. The Planning Statement

7.1 The Planning Statement (PS) is where the application draws together evidence contained within supporting documents and assesses the proposal against relevant development plan policy and material considerations. Annex 2 presents a range of comments on the PS submitted with the planning application. The County Council is of the view that it is not fit-for-purpose.

- it is surprisingly poor in its identification and review of relevant national and local policy;
- where it correctly identifies relevant policy it occasionally conveniently leaves out relevant text with which the application is likely to be non-compliant;
- the appraisal of the application against policy is at times so blatantly incorrect and misleading as to fundamentally undermine its credibility – this is particularly true of the key Development Plan policy for this application – Policy LLP6 of the Luton Local Plan.

7.2 The critique of the PS within Annex 2 is by way of example and is not intended to be exhaustive. Your authority will, of course, identify for itself all relevant policy considerations and interpret and apply these accordingly. However, the County Council would urge considerable caution in relying in any substantive way on the PS accompanying the application.

8. The Planning Application – the County Council's position on the key issues

8.1 The key issues upon which the PS and ES focus are noise, health, the economy, surface access, GHG/Carbon, drainage and water supply, waste management and air quality. The County Council's views on these are set out below, along with what it believes should be an additional key issue - the extent to which the application presents and LBC should impose an effective package of control mechanisms into any consent, should one be forthcoming.

8.2 Sections 9 and 10 go on to assess the performance of the planning application on these key issues against the development plan and material considerations.

Noise

Noise implications of the proposals in relation to operational noise contour levels

8.3 The ES assesses the noise implications of the proposals on households, amongst other receptors in relation to operational noise contour levels. In the short term, at a throughput of 18 mppa in 2022 the proposal would generate in the daytime an additional (compared to expectations of the existing planning permission):

In the daytime:

- 2,430 households/5,721 people that would be newly exposed to levels of noise above which adverse effects on health and quality of life can be detected than would be the case with the existing parent consent. This represents a 17% increase.
- 85 households/252 people that would be newly exposed to levels of noise exposure above which significant adverse effects on health and quality of life occur. This represents a 12%/13% increase respectively.

In the night-time:

- 5,416 households/13,087 people that would be newly exposed to levels of noise exposure above which adverse effects on health and quality of life can be detected than would be the case with the existing parent consent. This represents a 28%/29% increase respectively.
- 724 households/1,743 people that would be newly exposed to levels of noise exposure above which significant adverse effects on health and quality of life occur than would be the case with the existing parent consent. This represents a 61%/55% increase respectively.

8.4 In the short term, at a throughput of 19 mppa in 2024 the proposal would generate in the daytime an additional (compared to expectations of the existing planning permission):

In the daytime:

- 663 households/1,584 people that would be newly exposed to levels of noise exposure above which adverse effects on health and quality of life can be detected than would be the case with the existing parent consent. This represents a 4.7% increase.
- No households to levels of noise exposure above which significant adverse effects on health and quality of life occur.

In the night-time:

- 2,838 households/6,659 people that would be newly exposed to levels of noise exposure above which adverse effects on health and quality of life can be detected than would be the case with the existing parent consent. This represents a 15% increase.
- 558 households/1,373 people to levels of noise exposure above which significant adverse effects on health and quality of life occur than would be the case with the existing parent consent. This represents a 47% increase.

8.5 In the medium to long term beyond 2028, at a throughput of 19 mppa the proposal would generate in the daytime an additional (compared to expectations of the existing planning permission):

In the daytime:

- 273 households/683 people to levels of noise exposure above which adverse effects on health and quality of life can be detected than would be the case with the existing parent consent. This represents a 3%/4% increase respectively.
- 49 households/99 people to levels of noise exposure above which significant adverse effects on health and quality of life occur than would be the case with the existing parent consent. This represents a 12%/9% increase respectively.

In the night-time:

- 4,040 households/9,509 people to levels of noise exposure above which adverse effects on health and quality of life can be detected than would be the case with the existing parent consent. This represents a 26% increase.
- 373 households/922 people to levels of noise exposure above which significant adverse effects on health and quality of life occur than would be the case with the existing parent consent. This represents a 37%/34% increase respectively.

8.6 So in terms of the worst case scenario impacts of the proposals the applicant is of the view that it is acceptable:

In the period up to 2028:

Daytime

- when compared to the existing parent consent, to expose an additional 2,430 households/5,721 people to levels of noise above which adverse effects on health and quality of life can be detected (a 17% increase) and 85 households/252 people to levels of noise exposure above which significant adverse effects on health and quality of life occur (an 12% increase).

Night-time

- when compared to the existing parent consent, to expose an additional 5,416 households/13,087 people to levels of noise above which adverse effects on health and quality of life can be detected (a 28% increase) and 724 households/1,743 people to levels of noise exposure above which significant adverse effects on health and quality of life occur (a 61% increase).

Beyond 2028

Daytime

- when compared to the existing parent consent, to expose an additional 273 households/683 people to levels of noise above which adverse effects on health and quality of life can be detected (a 3% increase) and 49 households/99 people to levels of noise exposure above which significant adverse effects on health and quality of life occur (an 12% increase).

Night-time

- when compared to the existing parent consent, to expose an additional 4,040 households/9,509 people to levels of noise above which adverse effects on health and quality of life can be detected (a 26% increase) and 373 households/922 people to levels of noise exposure above which significant adverse effects on health and quality of life occur (a 37% increase).

Notable exceedances of LOAEL and SOAEL criteria

8.7 The ES also assesses where there are notable exceedances of the LOAEL and SOAEL criteria (exceeding LOAEL by at least 3 dB and SOAEL by at least 1 dB).

8.8 When compared to existing parent Condition 10 parent permission, in 2022 and 2023 1,877 additional dwellings would be subject to a notable exceedance of the SOAEL criteria in the night-time which are assessed as being significant. The equivalent figure for 2024 is 1,470 dwellings, which is similarly assessed as being significantly adverse.

8.9 In terms of non-residential receptors in 2022 there would be changes of 1 dB or more above the threshold criteria at Caddington (schools), Park Town (academy, nursery), Breachwood Green (school), St Pauls Walden (church), Slip End (school) and at Stevenage Station (college). These impacts are assessed as being significantly adverse. There would be ongoing significant effects in Park Town, Luton to 2024 and at Slip End to 2023.

Dwellings/population exposed to disturbance by overflight

8.10 As ICCAN (*'ICCAN report on the future of aviation noise management, March 2021'*) notes:

> *'The way that metrics are being used continues to evolve. There has been concern that the averaging calculation in the LAeq metrics masks some of the impacts perceived in the community. Consequently, other noise metrics have emerged such as N70, N65 and N60. These are the number of aircraft events overflights (CAA, 2017) at a location in a given time period where the maximum sound level of the event is at least 70 dB(A), 65 dB(A) and 60 dB(A) respectively.'*
>
> *……..*
>
> *N70 [70 dB(A)] Provides an indication of the number of events likely to cause disturbance.*
> *N65 [65 dB(A)] Provides an indication of the number of events likely to cause disturbance.*
> *N60 [60 dB(A)] Increasingly being used at night (over the period 23:00 hours to 07:00 hours) to provide an indication of the extent of potential sleep disturbance.'*

8.11 The planning application assesses the numbers of overflights by aircraft causing 65 dB(A) during the day and 60 dB(A) at night.

8.12 It finds that during the daytime the application would subject, when compared to the parent permission, the following to overflight by aircraft causing 65 dB(A) and likely to cause disturbance during the day to:

In the short term to end 2027 an additional:

- 1,129 dwellings and 2,696 people to overflight by 25 flights or more. This represents a 5% increase.
- 1,982 dwellings and 4,721 people to overflight by 50 flights or more. This represents an 18% increase.
- 879 dwellings and 2,696 people to overflight by 100 flights or more. This represents a 14% increase.
- 1 dwelling and 4 people to overflight by 200 flights or more

In the longer term 2028 onwards the additional overflight generated by the proposals is limited.

8.13 It finds that during the night-time the application would subject, when compared to the parent permission, the following to overflight by aircraft causing 60 dB(A) during the night:

In the short term to end 2027 an additional:

- 3,686 dwellings and 8,520 people to overflight by 25 flights or more. This represents a 1,350% increase.

In the longer term 2028 onwards:

- 1,685 dwellings (671% increase) and 4,405 people (636% increase) to overflight by 25 flights or more.

Health implications of proposed increases in noise levels

8.14 The ES assesses the significance of the health effects of the noise impacts of the proposal.

8.15 By way of illustration, at worst case short term pre-2028 timeframe:

- **residential population** (daytime 51 - 62 dB LAeq 16hr and night-time 45 - 54 dB LAeq 8hr): the magnitude of change is judged to be low to medium adverse with the health effect is judged to be of potentially significance (moderate). [This takes into account an increase in noise exposure indoors and associated health effects (including with windows open and closed) and outdoors (changing the amenity value of public spaces); a minor magnitude of change on children's learning and cognition outdoors (outdoor play is an important part of children's learning), and a minor magnitude of change on social capital through a small reduction in social interaction and helpful behaviours.]
- **residential population** (daytime at or above 63 dB LAeq 16hr and night-time at or above 55 dB LAeq 8hr): the magnitude of change is judged to be medium adverse with the health effect is judged to be of moderate significance [This takes account of the more disruptive effect of noise during sleep and consequent effects on wellbeing, work performance

and learning because of lower quality sleep and the higher occurrence of health effects at these higher exposure levels]. With proposed noise insulation there is expected to continue to be a potentially significant (minor to moderate) residual health effect on some residents experiencing noise above the daytime and night-time SOAEL levels because insultation will not be able to mitigate the increase in noise indoors when windows and patio doors are open [e.g. highly sensitive residents with pre-existing cardiovascular conditions and some children and older people with learning or other disabilities or chronic health conditions that may be exacerbated by increases in noise].

- **noise-sensitive facilities:** the magnitude of change Caddington (Caddington Village School, Heathfield Lower School), Park Town, Breachwood Green (Breachwood Green JMI School), St Pauls Walden (All Saints Church),Slip End (Slip End Lower School) and at Stevenage Station (North Hertfordshire College) is judged to be medium to high adverse overall and the health effect is judged to be significant (moderate to high).
- **public open spaces and recreational green spaces:** the magnitude of change is judged to be low to medium adverse. When taking children and older people into account, public open spaces, and recreational green spaces nearer to the airport could experience a magnitude of change that is medium adverse. Therefore, the health effect on public open spaces and recreational green spaces is judged to be potentially significant (minor-moderate).

8.16 By way of illustration, at worst case long term post-2028 timeframe:

- residential population (daytime 51 - 62 dB LAeq 16hr and night-time 45 - 54 dB LAeq 8hr): the magnitude of change is judged to be low to medium adverse and the effect is judged to be of significance (moderate). [This takes into account an increase in noise exposure indoors and associated health effects (including with windows open and closed) and outdoors (changing the amenity value of public spaces); a minor magnitude of change on children's learning and cognition outdoors (outdoor play is an important part of children's learning) and a minor magnitude of change on social capital through a small reduction in social interaction and helpful behaviours].
- residential population (daytime at or above 63 dB LAeq 16hr and night-time at or above 55 dB LAeq 8hr): the magnitude of change is judged to be medium adverse and the heath effect is judged to be of significance (moderate). [this takes account of the more disruptive effect of noise during sleep and consequent effects on wellbeing, work performance and learning because of lower quality sleep, and the higher occurrence of health effects at these higher exposure levels]. With proposed noise insulation there is expected to continue to be a potentially significant (minor to moderate) residual health effect on some residents experiencing noise above the daytime and night-time SOAEL levels because insultation will not be able to mitigate the increase in noise indoors when windows and patio doors are open [e.g. highly sensitive residents with pre-existing cardiovascular conditions and some children and older people with learning or other disabilities or chronic health conditions that may be exacerbated by increases in noise].

- Public open spaces and recreational green spaces: the magnitude of change is judged to be low-medium adverse, though when taking children and older people into account, public open spaces, and recreational green spaces nearer to the airport could experience a magnitude of change that is medium adverse and the effect is judged to be of significance (minor-moderate).

Proposed mitigation

8.17 In addition to existing mitigation embedded into the scheme, the application contains proposals to provide additional resources to fund noise insultation of additional properties exposed to levels of noise above the SOAEL threshold.

> *'8.14.10 The additional budget of £1,700,000 (further to the £1,300,000 funding existing) would be sufficient to noise insulate properties in areas above SOAEL as a result of proposed variation to Condition 10 assuming no more than 78% (567 properties) take-up (i.e. the pick-up of residents offered noise insulation in the past). The current take-up of insulation is approximately 50%, therefore the contribution is considered sufficient. Based on the current acceptance rate, the enhanced Noise Insulation Fund would cover additional dwellings above SOAEL by the end of 2022.'*

8.18 The applicant accepts that its proposals will have significant adverse noise impacts on health and quality of life, but suggests that the mitigations proposed in the form of noise insulation, along with existing mitigations, satisfactorily addresses those impacts and render the proposals acceptable.

> *Planning Statement*
>
> *'Table 6.1 Assessment against Policy LLP6*
>
> *The ES Addendum found that there would be significant adverse effects in relation to noise and health. Noise insulation would be offered to minimise the effects of noise to those properties above the SOAEL.*
>
> *Therefore these are considered to have the potential significant effects. Whilst 1,877 dwellings will experience noise levels that are considered significant, all of those properties will be offered mitigation in the form of noise insulation to minimise the effects of noise.*
>
> *Properties that experience an increase in noise above the SOAEL will be offered mitigation in the form of noise insulation to minimise the effects of noise. With this mitigation, the Proposed Amendments therefore comply with this criterion.*
>
> *6.5.39 Overall, the ES Addendum demonstrates that the Proposed Amendments will have significant adverse effects on health due an increase in noise. In order to minimise this effect, all properties that will experience a level that is identified to have potential significant health effects will be eligible for noise insulation to minimise the effects of noise. In addition, the airport will continue to implement current noise mitigation measures. With this mitigation*

the Proposed Amendments are compliant with the NPPF and the development plan.

6.5.47 ……...Properties that experience noise above SOAEL will be eligible to apply for noise insulation to minimise the effects of increased noise.

6.5.47 ……. Properties that experience noise above SOAEL will be eligible to apply for noise insulation to minimise the effects of increased noise.

6.5.49 …….In order to minimise this effect, all properties that will experience a level that is identified to have potential significant health effects will be eligible for noise insulation to minimise the effects of noise. In addition, the airport will continue to implement current noise mitigation measures.

8.1.5 Section 6 of this Planning Statement (with reference to the ES which includes a full assessment of the likely significant effects on the Proposed Amendments) identifies that no properties will experience unacceptable noise levels and no properties will experience significant adverse effects in the day. However, the expansion will lead to significant noise effects at night-time because of an increase in noise compared to the existing situation above a level that is identified in planning policy to have potential significant effects on health and quality of life.

8.1.6 In order to minimise this effect, all properties that will experience a level that is identified in planning policy to have a significant observed adverse effect will be offered mitigation in the form of noise insulation to minimise the effects of noise. The Proposed Amendments therefore complies with this criterion.'

Environmental Statement

'8.14.10 The additional budget of £1,700,000 (further to the £1,300,000 funding existing) would be sufficient to noise insulate properties in areas above SOAEL as a result of proposed variation to Condition 10 assuming no more than 78% (567 properties) take-up (i.e. the pick-up of residents offered noise insulation in the past). The current take-up of insulation is approximately 50%, therefore the contribution is considered sufficient. Based on the current acceptance rate, the enhanced Noise Insulation Fund would cover additional dwellings above SOAEL by the end of 2022.

8.15.1 It is considered that existing mitigation and enhanced mitigation are sufficient to meet the Government's policy aim to mitigate and minimise adverse impacts on health and quality of life as stated in the NPSE.'

Luton Borough Council Environmental Protection

8.19 Luton Borough Council Environmental Protection opposes the proposed Variation to Condition 10 on the basis that it is in conflict with Local Planning Policy LL38 (Pollution and Contamination) because:

- it will increase noise levels to dwellings and other noise sensitive property exceeding the Local Planning Authority's limits.

- the application has not referred to the Local Planning Authority's planning and noise guidance.
- the incremental improvements the Local Planning Authority has secured over the long term in reducing noise exposure through regeneration and development will be retrenched if the spread and level of aircraft noise increases.
- there is no clear end point to the increase; only an anticipation that future aircraft will be quieter, quieter aircraft will be used at London Luton Airport and this can be achieved through third parties.
- breaches of the existing allowed noise footprint of the airport occur and the reduction in noise levels anticipated by the airport in back in 2014 has not happened. At this time, now in 2021 the Local Planning Authority is asked to allow more increase in noise and footprint area.
- the applicant anticipates a better future after 2028 by adopting forecasts of newer, quieter aircraft fleets operating from Luton. But, it is apparent either such aircraft do not currently exist in the airlines' ownership or it is not within their intention to deploy and operate them from London Luton Airport.

Luton Borough Council specialist noise advice

8.20 The County Council welcomes the commissioning by the LPA of expert specialist aviation noise advice to assist it in coming to a suitably informed position on the planning application. The County Council is broadly supportive of these findings, which in summary are:

> *'Following my review of Noise Chapter 8 and the associated Appendices, the following are the key findings that require further information and/or careful consideration in determining whether noise is a reason for refusing the application.*
>
> - *The requested variation for Condition 10 is no longer temporary. The application seeks to increase not only the limits for the period up to 2028 (referred to in the ES as the short term (ST) limits) but also the more restrictive limits applicable post 2028 (referred to in the ES as the long term (LT) limits).*
> - *This, in my view, changes the complexion of the application and calls into question whether the proposals are strictly in line with current government policy which seeks to minimise and where possible reduce the number of people significantly affected by aircraft noise. It also requires operators to share the benefits of noise reducing technology with affected communities.*
> - *If permitted, the application is forecast to give rise to significant adverse noise effects at 1,877 dwellings by virtue of night-time noise level increases of more than 1dB arising in locations exposed to average noise above the SOAEL (55dB LAeq,8h).*
> - *Mitigation in the form of enhanced sound insulation is proposed as a response to these significant adverse effects, and the funding of the noise insulation scheme is to be increased substantially (more than doubled). However, there will be insufficient funding to cover the cost of mitigation for all dwellings experiencing significant adverse effects, and in the year in which the worst effects are forecast to arise (2022) funding*

will be have been made available for not more than 600 properties, leaving more than 1,300 properties exposed to significant effects with no opportunity for mitigating them.

- *Some clarification on the measures incorporated into the noise model would be helpful in order to ensure that it fully reflects actual movements at Luton Airport as accurately as possible. It would be useful to get further information on matters such aircraft tracks and operational procedures, noise data used for new generation aircraft and the extent of validation exercise that have been carried out.*
- *The structure of Noise Chapter 8 is difficult to follow and the content is not sufficient to enable the claimed outcomes to be clearly understood. Some further information and/or clarification is therefore required in order to ensure that the full technical noise case is properly put.'*

The County Council's position

8.21 The County Council is strongly of the view that the scale of additional and significant noise exposure and potential health impacts that the proposal would generate in both the short-medium and long term are totally unacceptable.

8.22 The applicant makes much of its proposed mitigation proposals but, according to the applicant, the sound insulation offer of an additional £1.7 million only seeks to provide additional mitigation to three quarters of those properties subject to significant adverse effects (based on likely uptake). LBC's specialist noise advisor takes the view that in the year in which the worst effects are forecast to arise (2022) funding will be have been made available for not more than 600 properties, leaving more than 1,300 properties exposed to significant effects with no opportunity for mitigating them. And as the ES acknowledges, these measures can only minimise the increase in noise and potential adverse health effects when windows and patio doors are closed and as a consequence there would still be a potentially significant (minor to moderate) residual health effect on some residents experiencing noise above the daytime and night-time SOAEL levels.

8.23 The County Council is of the view that the failure to offer insulation to 100% of those properties significantly adversely affected and that even when insulated households are subject to potentially significant residual health effects render the additional mitigation noise insulation proposals entirely unacceptable.

8.24 For the reasons set out in paragraphs 3.4-3.8 above, the County Council believes that the NRS that it is proposed be submitted within 12 months of the date of planning permission should have been submitted with the planning application, been subject to public consultation and be an integral element of the decision-making process. In its absence, there is not a sufficient degree of certainty on the longer term 2028 noise environment and given the track record of the applicant, this is unacceptable.

Economic benefit

8.25 The application is contradictory regarding the alleged economic benefits of the proposal. At paragraph 8.1.9 the PS concludes that there are 'significant' economic benefits:

'8.1.9 In conclusion, whilst the Proposed Amendments will result in some adverse environmental effects, these have been mitigated so far as possible. Taking into account the significant economic benefits associated with expansion of the airport to 19 mppa ……..'

8.26 Whereas at 6.4.3 the PS makes a rather more lacklustre assessment that there are 'more' economic benefits:

'6.4.3 The Proposed Amendments would deliver more economic benefits than the 'do-nothing' scenario (i.e. maintaining operations under the Original Planning Permission).'

8.27 The ES is even more lacklustre - there *'could be potential for beneficial affects'*:

'4.4.34 The 2012 ES assessed the effects upon employment and the local economy during operation of the 2014 Planning Permission as substantial and significant. There could be potential for beneficial effects upon employment and the local economy associated with the increase in passenger numbers.'

…….

'4.4.36 Therefore, as there are no additional significant socio-economic effects that would require further consideration as a result of the Proposed Scheme the conclusions made within the 2014 Planning Permission 2012 ES remain valid, and the socio-economics topic has been scoped out from further assessment.'

8.28 Section 5 of the PS sets out relevant national and local policy in relation to economic benefits and in Section 8 explains why the benefits are such that it is compliant with policy. In summing up the assessment, the planning statement presents the alleged economic benefits of the proposal as a counterbalance to the environmental disbenefits:

'8.1.9 In conclusion, whilst the Proposed Amendments will result in some adverse environmental effects, these have been mitigated so far as possible. Taking into account the significant economic benefits associated with expansion of the airport to 19 mppa and considering the existing and enhanced mitigation on balance it is considered that the Proposal is compliant with the Development Plan, national planning policy and other material considerations.'

8.29 It would be reasonable to assume that additional growth at the Airport will generate some economic benefit – though given growth is predominantly achieved by increasing load factors and *'only minor operational changes to aircraft movements to accommodate the additional 1 mppa'* it is also reasonable to assume that the economic benefit will be more restricted than has historically been the case, with less benefit experienced from aircraft movements. But if the applicant is reliant on that economic benefit to allege that it compensates for, counterbalances or outweighs environmental disbenefit, it is incumbent upon it to assess/quantify those alleged benefits.

8.30 But the application is not accompanied by any assessment of the economic benefits associated with the proposal. Only generic information is provided in relation to the existing/general economic attributes of the Airport.

The County Council's position

8.31 In the absence of any intelligence relating to the additional economic benefits specifically relating to the additional proposed 1 mppa throughput, the planning authority cannot come to an informed view on whether any alleged economic benefit is of a scale to warrant outweighing the environmental disbenefit (if it were indeed minded to entertain such a balance given the scale of those disbenefits).

Surface Access

8.32 At paragraphs 6.5.54-6.5.57 the planning application states that *'the estimated increase in passengers from 18 mppa to 19 mppa is likely to have a very minimal impact in traffic volumes…….data shows a continuous increase in public transport modal share, and, as such, the volumes of car borne traffic are likely to be significantly less going forward……...Through a combination of controlled car parking capacity and pricing (monitored through the new targets set out in the Travel Plan), car parking facilities are expected to be sufficient for Proposed Scheme……...The airport has already achieved several of the targets as set in their current Airport Surface Access Strategy ahead of schedule and continues to push further with new targets for 2024. These measures will encourage passengers to use public transport as an alternative to private and single occupancy vehicles.'*

8.33 The Environmental Statement states:

> *'10.9.13 A detailed analysis of the proposed measures for achieving the above presented targets is included in the Travel Plan document. LLAOL's Travel Plan Co-ordinator (under the Surface Access team) will manage the delivery of the Travel Plan. Their role will be to develop the Travel Plan measures and identify a more detailed implementation programme. The Travel Plan Coordinator is expected to increase awareness of sustainable travel options such as car sharing, public transport or cycling and its associated benefits.*
>
> *10.9.15 A monitoring programme will be discussed and agreed between the Travel Plan coordinator and Luton Borough Council. Continuous monitoring of the Travel Plan will assess:*
>
> - *Progress against the SMART targets of the Travel Plan;*
> - *The need for refinements to the Travel Plan; and*
> - *The effectiveness of the Travel Plan for encouraging sustainable travel.'*

The County Council's position

8.34 The County Council is content with the analysis of surface access issues within the transport assessment and welcomes the preparation of a Travel Plan setting out measures to achieve new more challenging modal shift targets than those within the existing Airport Surface Access Strategy.

8.35 Whilst the new Travel Plan proposed to be incorporated into Condition 24 puts in place a range of new measures to achieve the proposed new modal shift targets, the PS, ES and TP do not set out what will happen if the modal shift targets are not met – there are no failure remedies. It appears that the success of the Travel Plan will

be monitored by LLAOL Travel Plan Co-ordinator (TPC) and reported to LBC and where measures underperform *'…….these would need to be reviewed and revised as appropriate, for implementation by the TPC…… If Travel Plan targets are not met, monitoring will be required, and remedial measures introduced to help meet the targets of the Travel Plan.'*. There is no clarity on what happens if the TP fails substantively - for example in relation to the modal shift assumptions underpinning the planning application and targets within the TP. Growth of the Airport should be tied to the ongoing success and predicted success of the targets within the TP. Paragraphs 8.47-54 present options the County Council believes should be explored to ensure there are effective control mechanisms associated with growth.

Carbon/GHG Emissions

8.36 The application material maintains that:

'6.5.30 The proposed scheme:

- *Is very unlikely to materially affect the ability of the UK Government to meet the 37.5 MtCO2/yr 'planning assumption' for UK international aviation GHG emissions in 2050.*
- *Is unlikely to materially affect the ability of the UK Government to meet its carbon targets for net zero in 2050, on the basis that a Carbon Reduction Plan is produced.*
- *Is unlikely to materially affect the ability of LC to meet its carbon neutral borough by 2040 aim, on the basis that a Carbon Reduction Plan is produced.*
- *Is consistent with the NPPF requirement for developments to 'support the transition to a low carbon future in a changing climate', on the basis that a Carbon Reduction Plan is produced.*

6.5.31 The Proposed Amendments are considered to have a low GHG emissions magnitude, and the overall effect of projected GHGs associated with the Proposed Amendments on the global climate is considered minor adverse, and therefore not significant based on the commitment for further mitigations. The proposal is therefore considered to be in compliance with Policy LLP37 and LLP38 of the development plan and the NPPF.

The County Council's position

8.37 The County Council welcomes the commissioning by LBC of specialist advice in relation to the Carbon/GHG implications of the proposal. The County Council will review that advice and make further representations, as necessary.

8.38 The findings of the PS/ES are to some considerable extent predicated upon the production by the applicant of a Carbon Reduction Plan. The County Council's views on the process for its preparation, consultation and approval are set out in paragraphs 3.10-3.12.

8.39 Experience would suggest that if the in-operation Airport does not meet expectations and commitments of the planning permission, it is the operation that continues regardless. Dependent upon the GHG/Carbon advice to LBC on the criticality of the CRP, opportunities should be explored to phase growth of the Airport

to the success of delivery of actions and targets within it. Paragraphs 8.47-51 present options the County Council believes should be explored to ensure there are effective control mechanisms associated with growth.

Air quality

8.40 The Planning Statement, supported by the ES, concludes that *'Overall, in respect of air quality, the Proposed Amendments will not have any unacceptable impact on air quality and is therefore compliant with Policy LLP6 and LLP38 of the development plan and the NPPF'*. This reflects the findings of the ES that *'Overall, the air quality impacts are considered to be not significant. All impacts on human receptors are classified as negligible in terms of the IAQM/EPUK guidance, and all impacts on ecological receptors are classified as not significant under Environment Agency guidance. Overall, the potential impacts of the proposed variation to Condition 8 (Passenger throughput cap) of the Proposed Scheme is considered not significant'*.

8.41 Luton Borough Council's Environmental Protection advice is that *'…….Having reviewed the Environmental Impact Assessment submitted in support of this application, its conclusion that the requested changes will not have a significant detrimental effect on air quality is accepted.'*.

The County Council's position

8.42 The County Council has no reason to doubt the findings and conclusions of the PS/ES in relation to air quality and the advice of LBC Environmental Protection. The County Council's position on the approach to air quality is set out in paragraphs 3.13-3.16 above.

Drainage and Water Supply Infrastructure

8.43 The Planning Statement states that LLA has adequate drainage and water infrastructure available in place to accommodate 19 mppa, as long as the peak hour passenger throughput remains the same as that of the existing 18 mppa scenario. A planning condition is proposed to integrate that throughput int any consent.

The County Council's position

8.44 The County Council has no reasons to doubt the findings of the Drainage and Water Supply Infrastructure Appraisal and the proposed approach to imposition of a planning condition on any planning permission, should one be forthcoming, to restrict throughput to a maximum terminal flow capacity.

Waste Management

8.45 The Planning Statement states that LLA has adequate waste management capacity and waste management procedures to accommodate the proposal.

The County Council's position

8.46 The County Council has no reason to doubt the findings of the appraisal of the waste management implications of the proposal and is content with the intention to

incorporate the Site Waste Management Plan (SWMP) into the consent by way of planning condition.

Control Mechanisms/Scrutiny

Environmentally/Green Managed Growth

8.47 The application is underpinned by an expectation that the aviation sector and LLA particularly will recover from the pandemic such that the Airport will be operating at 18 mppa by 2023 and 19 mppa by 2024, were planning permission to be granted. The application contains a range of assessments of the application based on this growth timeline.

8.48 The County Council's response to LLAOL's 19 mppa public consultation called for LLAOL to come forward with proposals in its MP and any planning application to integrate the principles of environmentally managed growth into its 19 mppa proposal – so that there could be a framework of controls put in place to support any consent to facilitate growth whilst securing the intended environmental safeguards and surface access controls.

> *'**Environmentally/Green Managed Growth***
>
> *41. Paragraphs 4 and 5 above and related attachments raise fundamental concerns in relation to the ability of LLA to manage its operations in accordance with restrictions placed on its 2014 planning consent. The extract within paragraph 36 refers to the Environmentally Managed Growth (EMG) proposals of Heathrow Airport Ltd in relation to its 3rd runway proposal – the basic purpose of which is to have the effect of limiting the growth of the airport unless agreed Environmental Limits are observed. A similar approach is being taken by LLAL [Green Managed Growth (GMG)] in developing its DCO proposal. Given the historic failure of LLA to manage its operations to respect environmental limits, the County Council is of the view that it should explore with stakeholders and communities the extent to which it is possible to put in place an E/GMG approach for this 19 mppa proposal – to ensure that key 'limits' (exploring those in relation to noise, surface access modal splits, air quality, GHG emissions) are set and respected. This could be articulated in the master plan and set in place upon the grant of planning permission, were this to be forthcoming.*
>
> ***Summary***
>
> *42. In summary, the County Council's position is as follows:*
> *…….*
> *xii. LLAOL should explore with stakeholders and communities the extent to which it is possible to set up an Environmental Managed Growth approach for the 19 mppa proposal.'*

8.49 The Heathrow approach to EMG covers four themes – noise, air quality, surface access and climate change. It is highly likely LLAL will similarly adopt these themes in moving forward with its approach to Green Managed Growth. The E/GMG approach is essentially to embed environmental and surface access targets into future management of growth/operations – and to limit growth if these limits/targets are not

met. It also provides clarity on scrutiny arrangements and enforcement responsibilities.

8.50 The planning application assesses all four of these themes and considers whether limits or targets would be appropriate and if so, what these should be and the extent to which and how they should be integrated into any consent. With regard to air quality, the implications of the proposal in terms of air quality are minimal and as a consequence there is no requirement for the consent itself to set specific limits. With regard to Carbon/GHG emissions the application similarly maintains the application does not raise any significant issues but also states that this is based on the provision of an outline CRP to inform the decision-making process and subject to a full CRP being produced post-decision. With regard to surface access the planning application proposes to introduce a new TP through amendments to Condition 24 and the TP contains a range of new modal share limits and targets. With regard to noise the application proposes amendments to Condition 10 to restrict noise contours and require the submission of a NRS. In other words, there are assumptions being made about how the Airport will perform in relation to noise, surface access and Carbon/GHGs – though some of these are subject to the future preparation of a NRS and CRP.

8.51 But the planning authority is dealing with an application from an operator with a poor track record in managing its operations in a manner to honour restrictions imposed upon the planning consent and the contract held with communities and stakeholders that was forged when consent was granted. Every day communities suffer from the adverse consequences of that failure. It is the responsibility of both the operator and the planning authority to do everything in their power to ensure that, should planning permission be granted, there are sufficient mechanisms in place to manage operations in a way that respects any new planning consent and the assumptions and limits incorporated within it. The E/GMG approach to growth being conditional upon satisfying environmental and surface access limits is a mechanism that should have been explored. But when one looks at the analysis of the public consultation and LLAOL's response, the potential for E/GMG does not feature, nor the reasons why it is not considered to be appropriate to take forward.

Movement Levels

8.52 The application states that there will be *'only minor operational changes to aircraft movements to accommodate the additional 1 mppa'* - an uplift from 141,481 to 142,566 per annum. The assessment of the environmental impacts and surface access implications of the proposal are based upon an additional 1,085 movements (0.8%) movements. But no restrictions are proposed to be placed on ATMs - for example as is the case in relation to the planning consent at London Stansted Airport (UTT/0717/06/FUL, Secretaries of State decision 8th October 2008), which has both an air transport movement and a passenger throughput condition, as follows.

> *'Air transport movements*
>
> *ATM1 Subject to ATM2 below, from the date that the terminal extension hereby permitted within 'Site A' opens for public use, there shall be at Stansted Airport a limit on the number of occasions on which aircraft may take-off or land at Stansted Airport of 264,000 ATMs(Air Transport Movements) during any twelve month calendar period, of which no more than 243,500 shall be PATMs*

(Passenger Air Transport Movements) and no more than 20,500 shall be CATMs (Cargo Air Transport Movements).

Passenger throughput

MPPA1 The passenger throughput at Stansted Airport shall not exceed 35 million passengers in any twelve month calendar period.'

The County Council's position

8.53 If the planning application is to be approved, the County Council is of the view that an E/GMG approach to growth should be explored:

i. because of its inability to manage its operations to respect the planning permission to 18 mppa, the applicant needs to earn the right to obtain further growth to 19 mppa.
ii. to obtain that right the applicant needs to prove that it is able to meet its proposed revisions to the 18 mppa consent.
iii. should the operator be successful with regard to ii., it can only then move on to growth beyond 18 mppa, phased if necessary to ensure the proposed 19 mppa controls are effectively managed and can be met.
iv. if the 19 mppa controls are not met, what actions will be employed to ensure that breaches are remedied.

8.54 Aircraft movement numbers should be restricted by means of an annual ATM movement limit.

'One-off grants'

8.55 The planning application does not propose to provide any additional funding to the community fund operated at the Airport, but does state that *'LLA intends to provide one-off grants between £12,000 and £15,000 to local councils to be used to provide community improvements'* (Planning Statement, paragraph 6.4.4). No clarity is provided on which councils are to be the recipients of these grants.

The County Council's position

8.56 The County Council is of the view that the failure of the application to provide any clarity on the operation of and beneficiaries to the proposed grants is unacceptable and should be provided. Given the impacts of the proposal on communities the one-off nature of the grants is similarly considered to be unacceptable and the levels proposed derisory.

9. Assessing the planning application against the Development Plan

9.1 Section 8 identifies what the County Council believes to be the key issues generated by the proposal that are key to the decision-making process and its position on these.

9.2 To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise [section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004]. This Section appraises the planning application against those development plan policies that are of most relevance to it. Section 10 appraises the application against material considerations.

9.3 The development plan for this planning application is predominantly the Luton Local Plan 2011-2031 dated November 2017. This is the key policy context against which this planning application needs to be assessed. The development plan making up the wider sub-region over which the proposal would have impacts is also relevant.

Luton Local Plan

The Airport

9.4 Policy LLP6 – London Luton Airport Strategic Allocation is a key development plan policy for the planning application.

> ***'Policy LLP6 - London Luton Airport Strategic Allocation***
>
> ***Airport Expansion***
>
> *B. Proposals for expansion of the airport and its operation, together with any associated surface access improvements, will be assessed against the Local Plan policies as a whole taking account of the wider sub-regional impact of the airport. Proposals for development will only be supported where the following criteria are met, where applicable/appropriate having regard to the nature and scale of such proposals:*
>
> *i. they are directly related to airport use of development;'*

9.5 The proposal is related to use of the Airport.

> *'ii. they contribute to achieving national aviation policies;'*

9.6 For the reasons set out below in Section 10 in relation to compliance with national policy, the application is not consistent with LLP6 B. ii) as a consequence of the significant adverse noise and health impacts and failure to adequately and effectively mitigate for these.

> *'iii. are in accordance with an up-to-date Airport Master Plan published by the operators of London Luton Airport and adopted by the Borough Council;'*

9.7 Luton Borough Council has not adopted a Master Plan for the Airport. At the time of writing this criterion is not relevant.

> *'iv. do not result in a significant increase in Air Transport Movements that would adversely affect the amenities of surrounding occupiers or the local environment (in terms of noise, disturbance, air quality and climate change impacts);'*

9.8 The application does not propose a significant increase in Air Transport Movements and so the application is not in conflict with this criterion. The increased movements do, however, contribute to the significant adverse noise and health impacts on communities and the environment on the amenities of surrounding communities as rehearsed in the application and in paragraphs 8.3-8.24.

> *'v. Achieve further noise reduction or no increase in day or night time noise in accordance with any imposed planning condition or otherwise cause excessive noise including ground noise at any time of the day or night and in accordance with the airport's most recent Airport Noise Action Plan;'*

9.9 For the reasons set out in paragraphs 8.3-8.24 the proposal would not result in a noise reduction or no increase in noise – the opposite in fact – the planning application is to increase noise level restrictions of conditions imposed on the parent planning consent. It would increase the number of households/people to excessive noise. For the reasons set out in paragraphs 10.84-10.88 the planning application is not in accordance with the Airport's most recent Airport Noise Action Plan (it is fundamentally at odds with Action ref 3.4 and KP3). The application is in conflict with this criterion.

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

9.10 For the reasons set out in paragraphs 8.3-8.24 the applicant has failed to come forward with an effective noise control, monitoring and management scheme that would enable the application to be in accordance with the Luton Local Plan or potentially any planning consent granted. As a consequence the planning application is contrary to this criterion.

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

9.11 The application is partly generated by the inability of the Airport to run its operations to honour the noise restrictions placed upon its parent consent and the likely continuing breach of that consent in the short-medium term.

9.12 In the longer term, the existing planning permission to 18 mppa requires the application to submit a strategy to reduce the size of day and night noise contours by 2028 to within specific spatial extents. This application seeks to amend the parent consent to enlarge those 2028+ contours. So in the longer term, whilst a reduction in noise contours is to be achieved in the same way as the existing planning permission, that reduction will be smaller than those that are required by the existing planning permission.

9.13 For the reasons set out in paragraphs 8.3-8.24, the proposal can only be in conflict with this criterion – it will not result in a significant diminution or betterment – the opposite in fact.

viii.

9.14 not relevant.

ix.

9.15 not relevant.

9.16 The proposal does not meet **all** LLP6 B policy criteria and does therefore not accord with the key Development Plan policy applying to this proposal.

Climate change/Carbon/Waste reduction/Sustainable Energy

9.17 With regard to climate change, energy and sustainable energy Policy LLP37 states that *'The Council will support development proposals that contribute towards mitigation, and adaptation to climate change through energy use reduction, efficiency, and renewable, and decentralised energy'* and that LBC *'will support development that reduces energy demand; considers energy generation from low and zeros carbon sources on site; considers decentralised energy networks and generation; and off-site solutions, retro fitting, and carbon reduction schemes'*.

9.18 The planning application is considered to be generally compliant with the development plan, but the CRP appears to be of key importance to that compliance. As a consequence, paragraphs 3.10-3.12 set out the County Council's position on how the preparation of, consultation upon and integration of the CRP into decision-making and any consent should be managed.

9.19 With regard to waste, Policy LLP37 states that the Council encourages an overall reduction in the amount of waste generated, treated and disposed of to reduce the need for land for waste management. Proposals that are likely to generate significant volumes of waste through development or operational phases will be required to include a waste audit as part of the application.

9.20 The application has assessed waste management capacity and waste management procedures and concluded that these are sufficient to manage waste arising to accommodate the Proposed Amendments and the Site Waste Management Plan (SWMP) contains strategies for improved management and minimisation of waste at the airport, with targets to reduce passenger waste rates that should further reduce the impact of Proposed Amendments on waste arisings. The planning application is considered to be compliant with this aspect of Policy LLP37.

Pollution and contamination

9.21 Policy LLP38 'Pollution and Contamination Pollution' states that evidence on the impacts of development will need to demonstrate whether the scheme (individually or cumulatively with other proposals) will result in any significantly adverse effects with regard to air, land or water on neighbouring development, adjoining land, or the wider environment. Where adverse impacts are identified, appropriate mitigation will be required.

9.22 For the reasons set out in paragraphs 8.3-8.24 the planning application would generate significant adverse noise effects on health and the environment and does not propose and cannot effectively mitigate against those impacts. The planning application can only be in conflict with Policy LLP38.

9.23 The planning application is considered to be broadly consistent with the development plan with regard to air quality, but for the reasons set out in paragraphs 3.13-3.16 the preparation of an air quality management plan should be progressed to inform decision-making and be integrated into any consent, along with the introduction of wider control mechanisms (paragraphs 8.47-8.54).

The economy

9.24 Strategic Objective 1 of the economic strategy is to *'retain and enhance Luton's important sub-regional role as a place for economic growth and opportunity including the safeguarding of London Luton Airport's existing operations and to support the airport's sustainable growth over the Plan period based on its strategic importance'* and Policy LLP13: Economic Strategy states that *'…….planning applications will be granted where they deliver sustainable economic growth and prosperity to serve the needs of Luton and the wider sub region. Jobs will be generated through business and industry development on strategic employment allocations,…… The strategic allocations for delivery are:……..ii. London Luton Airport (Century Park): mixed aviation related B1b-c, B2 and B8, small scale ancillary service uses and hotel use (see Policy LLP6);……..'*

9.25 The planning application contains no evidence of the economic benefits of the proposal, despite these alleged benefits (variously described by the applicant as 'significant', 'more', 'could be potential for') being presented as compensating for and outweighing the acknowledged significant environmental harm. Given the scale of the economic benefits have not been assessed, the extent to which the application can be judged to perform against these aspects of the LLP cannot be quantified and therefore neither can the extent to which is complies with LLP13.

Surface access

9.25 Paragraph 11.5 states that mitigation will be required against and any additional load on the local transport network arising from airport growth and paragraph 11.6 states that Government policy requires significant traffic generating uses to be supported by a Transport Statement or Transport Assessment (NPPF paragraph 32).

9.26 Policy LLP31 - Sustainable Transport Strategy states that planning permission will be granted for proposed developments that meet a range of criteria (were relevant to individual proposals) that include minimising the need to travel, providing sustainable transport choice with priority for buses, pedestrians, and cyclists, reduce road congestion (particularly at peak times), provides cycle parking / storage; and ensures the quality of the local environment is not compromised. Transport Assessments, Transport Statements, and Travel Plans should be provided for developments and should conform to the stated requirements. With regard specifically to LLA Policy LLP31 states that support for the continued economic success of the Airport as a transport hub will be delivered through measures to ensure there is capacity at strategically important junctions and continued enhancement of

sustainable modes of transport. Policy LLP32 – Parking states that parking provision will be stringently controlled at the Airport.

9.27 The County Council is of the view that the planning application is broadly compliant with the Luton Local Plan in relation to surface access, but for the reasons set out in paragraphs 8.34-8.35, 8.47-51 there is a need to explore how the commitments within the Travel Plan can be integrated into any consent in such a way that growth is conditional upon measures, commitments and targets within it being met.

The Development Plan of adjoining districts

9.28 As rehearsed in Annex 2 paragraph A33, relevant policies in adjoining existing and emerging local plans seek to minimise and protect against the impact of the Airport on development in their areas and policies relating to noise generally seek to reduce noise pollution and keep it to a minimum, to levels acceptable to human health and safety and refusal of proposals that would cause harm from a significant increase in noise pollution.

9.29 For the reasons set out in paragraphs 8.3-8.24, the planning application is considered not to be compatible with the thrust of the development plan of adjoining areas.

Conclusion on accordance with the development plan

9.30 In relation to noise and health, the County Council considers the significant noise and health impacts of the proposal are such that it brings it fundamentally into conflict with the key Luton Local Plan development plan policies for this application – LLP6 and LLP38. It is also considered to be generally non-compliant with the development plan of adjoining boroughs/districts.

9.31 On matters relating to climate change, surface access, drainage and water supply, waste and energy management and air quality the application is considered to be broadly compliant with the development plan. However, with regard to carbon, surface access and air quality that compliance is to some and varying extent dependent on the provision of and consultation upon further information and commitments from the applicant and their consideration through the decision-making process, along with potential integration of control mechanisms into any consent, were one to be forthcoming.

9.32 The planning application is considered to be broadly consistent with Luton Local Plan policies relating to the economic benefits, but because the scale of those benefits has not been assessed they cannot be used to outweigh the significant environmental disbenefits of the planning application.

9.33 On balance, the scale of non-compliance with the development plan is such that the application should be refused.

10. Assessing the planning application against material considerations

10.1 Material considerations are likely to include:

- National Planning Policy Framework
- Aviation Policy Framework
- National Planning Practice Guidance
- Aviation 2050: The Future of UK Aviation
- Beyond the Horizon The future of UK Aviation Making best use of existing runways
- Airports National Policy Statement
- A Green Future: Our 25 Year Plan to Improve the Environment
- Noise Policy Statement for England
- Air Navigation Guidance
- London Luton Airport Operations Limited Revised Masterplan 2012
- Environmental Noise Directive Noise Action Plan 2019-2023 London Luton Airport
- Luton Borough Council Planning and Noise Guidance
- LLA Master Plan 19 MPPA Final Report January 2021
- Relevant Local Transport Plans
- LBC Climate Action Support January 2020

National Planning Policy Framework

Presumption in favour of sustainable development

10.2 Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. Criteria a and b relate to plan-making and criteria d) relates to circumstances in which there is not an up to date development plan in place or where policies are out of date, neither of which apply in this case. Only criteria c), requiring approval of development proposals without delay where they accord with an up-to-date development plan is of relevance to this planning application. For the reasons set out above in paragraphs 9.30-33 this planning application is not in accordance with the development plan and therefore in conflict with the presumption in favour of sustainable development.

Economic growth

10.3 Paragraph 80 of the NPPF states that *'Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt'* and that *'Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development……..'*.

10.4 The planning application would create conditions for business investment and expansion, but the application has not made a sufficient case for the economic benefit of the proposal being of such a scale as to outweigh the significant adverse noise and health disbenefits, for the reasons set out in paragraphs 8.25-8.31.

Promoting sustainable transport

10.5 Paragraph 102 states that transport issues should be considered from the earliest stages of development proposals, so that the potential impacts of development on transport networks can be addressed; opportunities to promote walking, cycling and public

transport use are identified and pursued; the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

10.6 Paragraph 108 states that applications should ensure that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location safe and suitable access to the site can be achieved for all users; and any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

10.7 Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

10.8 Paragraph 110 states that planning applications for development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use; address the needs of people with disabilities and reduced mobility in relation to all modes of transport; create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

10.9 Paragraph 111 states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

10.11 The planning application would not have a severe impact upon the road network, a transport assessment has been prepared, sustainable modes and modal shift targets are pursued, and a Travel Plan is presented and proposed to be incorporated into any consent. The application is considered to be generally consistent with the thrust of NPPF with regard to transportation issues.

Meeting the challenge of climate change, flooding and coastal change

10.12 Paragraph 150 states that new development should be planned for in ways that *'……..can help to reduce greenhouse gas emissions, such as through its location, orientation and design……..'*.

10.13 Whilst the planning application does not relate to 'new' development', the planning application will increase greenhouse gas emissions, though there are proposals to prepare a Carbon Reduction Plan. For the reasons set out in paragraphs 8.37-9, there need to be effective mechanisms to ensure carbon/GHG emission reduction is integrated into any consent. The extent to which the proposal would sit comfortable with the NPPF is therefore dependent upon that process.

Conserving and enhancing the natural environment

10.14 Paragraph 170 states that decisions should contribute to and enhance the natural and local environment by, amongst other matters:

> *'……..*
> *e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and……'*

10.15 For the reasons set out in paragraphs 8.3-8.24, this proposal would not prevent development from contributing to existing development being put at unacceptable risk from or being adversely affected by noise pollution, nor would it improve local environmental conditions. The application is in conflict with paragraph 170 of the NPPF.

Ground conditions and pollution

10.16 Paragraph 180 of the NPPF states that planning decisions should ensure that new development is *'appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

> *'a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;'*

10.17 For the reasons set out in paragraphs 8.3-8.24 this proposal is not appropriate for its location as a consequence of its impact on pollution and health and living conditions. It does not and cannot successfully mitigate against adverse noise impacts. The application is in conflict with paragraph 180 of the NPPF.

10.18 Paragraph 181 states that '*decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement……...'.*

10.19 For the reasons set out in paragraphs 8.42 the planning application is considered to be compliant with the NPPF in relation to air quality matters.

Aviation Policy Framework (APF)

Best use of existing airport capacity

10.20 Paragraphs 1.24 and 1.60 state that *'1.24 The Government wants to see the best use of existing airport capacity……...However, we recognise that the development of airports can have negative as well as positive local impacts, including*

on noise levels. We therefore consider that proposals for expansion at these airports should be judged on their individual merits, taking careful account of all relevant considerations, particularly economic and environmental impacts' and *'1.60 In the short term, to around 2020, a key priority for Government is to continue to work with the aviation industry and other stakeholders to make better use of existing runways at all UK airports'*.

10.21 Whilst the application seeks to make better use of the Airport's existing runway:

- for the reasons set out in paragraphs 8.3-8.24 it does not , this proposal does not and cannot adequately manage environmental and community impacts as a consequence of the significant adverse noise impacts.
- for the reasons set out in paragraphs 8.25-8.31 it is not possible to assess the significance of economic impacts.
- and on balance the negative impacts of the proposal are unacceptable.

Noise

10.22 At paragraph 3.3 the APF states:

> *'3.3 We want to strike a fair balance between the negative impacts of noise (on health, amenity (quality of life) and productivity) and the positive economic impacts of flights. As a general principle, the Government therefore expects that future growth in aviation should ensure that benefits are shared between the aviation industry and local communities. This means that the industry must continue to reduce and mitigate noise as airport capacity grows. As noise levels fall with technology improvements the aviation industry should be expected to share the benefits from these improvements.'*

10.23 For the reasons set out in paragraphs 8.25-8.31 the alleged economic benefits of allowing this proposal have not been quantified (variously described by the applicant as 'significant', 'more', 'could be potential for') and as a consequence it is not possible to come to an informed judgement about what a 'fair balance' might be.

10.24 This proposal does not propose to reduce noise – the opposite in fact.

10.25 This proposal does not and cannot fully mitigate against noise impacts created by it.

10.26 It is difficult to see how this application shares the benefits of growth with local communities.

10.27 The application is considered to be in conflict with paragraph 3.3 of the APF.

10.28 At paragraph 3.12 the APF states:

> *'3.12 The Government's overall policy on aviation noise is to limit and, where possible, reduce the number of people in the UK significantly affected by aircraft noise, as part of a policy of sharing benefits of noise reduction with industry.'*

10.29 The application does propose to put in place limits of the number of people significantly affected by aircraft noise, but those limits increase the number of those so affected – so the proposed limits do not reduce those significantly impacted, it

increases them. In the longer term there are limits proposed which would reduce those significantly affected by 2028 and beyond, but those reductions are less than those that are currently in place. On balance, whilst the application does propose limits, those limits increase those significantly affected and for the reasons set out in paragraphs 8.3-8.24 the application is considered to be in conflict with paragraph 3.12 of the APF.

10.30 At paragraph 3.24 the APF states:

> *'3.24 The acceptability of any growth in aviation depends to a large extent on the industry tackling its noise impact. The Government accepts, however, 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 numbers of people affected.'*

10.31 And at paragraph 3.28 the APF states:

> *'3.28 The Government expects airports to make particular efforts to mitigate noise where changes are planned which will adversely impact the noise environment. This would be particularly relevant in the case of proposals for new airport capacity, changes to operational procedures or where an increase in movements is expected which will have a noticeable impact on local communities. In these cases, it would be appropriate to consider new and innovative approaches such as noise envelopes or provision of respite for communities already affected.'*

10.32 For the reasons set out in paragraphs 8.3-8.24 this proposal does not and cannot compensate impacted communities in the form of insulation and is therefore in conflict with paragraphs 3.24 and 3.28 of the APF.

Night noise

10.33 At paragraphs 3.34 and 3.35 Government sets out its position on night noise.

> *'3.34 <u>The Government recognises that the costs on local communities are higher from aircraft noise during the night, particularly the health costs associated with sleep disturbance. Noise from aircraft at night is therefore widely regarded as the least acceptable aspect of aircraft operations.</u> However, we also recognise the importance to the UK economy of certain types of flights, such as express freight services, which may only be viable if they operate at night. As part of our current consultation on night flying restrictions at the noise-designated airports, we are seeking evidence on the costs and benefits of night flights.*
>
> *3.35 <u>In recognising these higher costs upon local communities, we expect the aviation industry to make extra efforts to reduce and mitigate noise from night flights through use of best-in-class aircraft, best practice operating procedures, seeking ways to provide respite wherever possible and minimising the demand for night flights where alternatives are available.</u> We commend voluntary approaches such as the curfew at Heathrow which ensures that early morning arrivals do not land before 4.30am.'*

10.34 The most significant adverse noise and health impacts of the proposal are caused by night time operations. For the reasons set out in paragraphs 8.3-8.24 those impacts are considered to be totally unacceptable. The planning application can only be in conflict with Government policy on night noise.

10.35 At paragraphs 3.37-3.39 the APF states:

> *'3.37 The Government also expects airport operators to offer acoustic insulation to noise-sensitive buildings, such as schools and hospitals, exposed to levels of noise of 63 dB LAeq,16h or more. Where acoustic insulation cannot provide an appropriate or cost-effective solution, alternative mitigation measures should be offered.*
>
> *3.38 If no such schemes already exist, airport operators should consider financial assistance towards acoustic insulation for households. Where compensation schemes have been in place for many years and there are few properties still eligible for compensation, airport operators should review their schemes to ensure they remain reasonable and proportionate.*
>
> *3.39 Where airport operators are considering developments which result in an increase in noise, they should review their compensation schemes to ensure that they offer appropriate compensation to those potentially affected. As a minimum, the Government would expect airport operators to 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.*
>
> *……..'*

10.36 For the reasons set out in paragraphs 8.3-8.24 this proposal does not and cannot compensate impacted communities in the form of insulation and is therefore in conflict with paragraphs 3.37-3.39 of the APF.

Air quality and other local environmental impacts

10.37 Paragraphs 3.48, 3.51 and 3.52 set out Government policy in relation to air quality as being:

> '3*.48 Our policy on air quality is to seek improved international standards to reduce emissions from aircraft and vehicles and to work with airports and local authorities as appropriate to improve air quality, including encouraging HGV, bus and taxi operators to replace or retrofit with pollution-reducing technology older, more polluting vehicles.*
>
> *3.51 Studies have shown that NOx emissions from aviation-related operations reduce rapidly beyond the immediate area around the runway. Road traffic remains the main problem with regard to NOx in the UK. Airports are large generators of surface transport journeys and as such share a responsibility to minimise the air quality impact of these operations. The Government expects them to take this responsibility seriously and to work with the Government, its agencies and local authorities to improve air quality.*

3.52 Whilst our policy is to give particular weight to the management and mitigation of noise in the immediate vicinity of airports, there may be instances where prioritising noise creates unacceptable costs in terms of local air pollution. For example, displacing the runway landing threshold to give noise benefits could lead to significant additional taxiing and emissions. For this reason, the impacts of any proposals which change noise or emissions levels should be carefully assessed to allow these costs and benefits to be weighed up.

10.38 For the reasons set out in paragraphs 8.40-8.42 the planning application is considered to be compliant with the APF in relation to air quality matters.

Surface access

10.39 Paragraphs 5.11 and 5.12 of the APF set out Government policy in airport surface access issues:

'5.11 All proposals for airport development must be accompanied by clear surface access proposals which demonstrate how the airport will ensure easy and reliable access for passengers, increase the use of public transport by passengers to access the airport, and minimise congestion and other local impacts.
5.12 The general position for existing airports is that developers should pay the costs of upgrading or enhancing road, rail or other transport networks or services where there is a need to cope with additional passengers travelling to and from expanded or growing airports. Where the scheme has a wider range of beneficiaries, the Government will consider, along with other relevant stakeholders, the need for additional public funding on a case-by-case basis.'

10.40 For the reasons set out in paragraphs 8.32-8.35 the planning application is considered to be broadly consistent with Government policy.

National Planning Practice Guidance (NPPG)

10.41 Amongst other matters, NPPG states:

'Local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider:

- *whether or not a significant adverse effect is occurring or likely to occur;*
- *whether or not an adverse effect is occurring or likely to occur; and*
- *whether or not a good standard of amenity can be achieved.*

……..

As the exposure increases further, it crosses the lowest observed adverse effect level boundary above which the noise starts to cause small changes in behaviour and attitude, for example, having to turn up the volume on the television or needing to speak more loudly to be heard. The noise therefore starts to have an adverse effect and consideration needs to be given to mitigating and minimising those effects (taking account of the economic and social benefits being derived from the activity causing the noise).

……..

Increasing noise exposure will at some point cause the significant observed adverse effect level boundary to be crossed. Above this level the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. If the exposure is above this level the planning process should be used to avoid this effect occurring, by use of appropriate mitigation such as by altering the design and layout. Such decisions must be made taking account of the economic and social benefit of the activity causing the noise, but it is undesirable for such exposure to be caused.

……..

At the highest extreme, noise exposure would cause extensive and sustained changes in behaviour without an ability to mitigate the effect of noise. The impacts on health and quality of life are such that regardless of the benefits of the activity causing the noise, this situation should be prevented from occurring.

……

In cases where existing noise sensitive locations already experience high noise levels, a development that is expected to cause even a small increase in the overall noise level may result in a significant adverse effect occurring even though little to no change in behaviour would be likely to occur.

……

……..In general, for noise making developments, there are 4 broad types of mitigation:

……

- *mitigating the impact on areas likely to be affected by noise including through noise insulation when the impact is on a building.'*

10.42 For the reasons set out in paragraphs 8.3-8.24 the noise impacts are significant and unacceptable. This proposal does not introduce any additional mitigation measures for those newly subjected to LOAEL. It is unable to avoid the Airport crossing the SOAEL threshold and cannot provide effective mitigation. The economic and social benefits of the proposal are not assessed and therefore, for the reasons set out in paragraphs 8.25-8.31, and the application must be considered 'undesirable'. The application is in conflict with the NPPG.

10.43 With regard to air quality NPPG states that '……*It is important that the potential impact of new development on air quality is taken into account where the national assessment indicates that relevant limits have been exceeded or are near the limit, or where the need for emissions reductions has been identified……..Whether air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to have an adverse effect on air quality in areas where it is already known to be poor, particularly if it could affect the implementation of air quality strategies and action plans and/or breach legal obligations (including those relating to the conservation of habitats and species). Air*

quality may also be a material consideration if the proposed development would be particularly sensitive to poor air quality in its vicinity.

Where air quality is a relevant consideration the local planning authority may need to establish:

- *the 'baseline' local air quality, including what would happen to air quality in the absence of the development;*
- *whether the proposed development could significantly change air quality during the construction and operational phases (and the consequences of this for public health and biodiversity); and*
- *whether occupiers or users of the development could experience poor living conditions or health due to poor air quality.*

……..'

10.44 For the reasons set out in paragraphs 8.40-8.42 the proposal is considered to be generally consistent with the NPPG with regard to air quality.

10.45 NPPG contains a whole section on Travel Plans, Transport Assessments and Statements from paragraph: 001 Reference ID: 42-001-20140306 through to 015 Reference ID: 42-015-20140306. Amongst a range of other matters NPPG identifies:

- Travel Plans, Transport Assessments and Statements are all ways of assessing and mitigating the negative transport impacts of development in order to promote sustainable development……
- Travel Plans are long-term management strategies for integrating proposals for sustainable travel into the planning process. They are based on evidence of the anticipated transport impacts of development and set measures to promote and encourage sustainable travel (such as promoting walking and cycling)…….
- Transport Assessments and Statements are ways of assessing the potential transport impacts of developments (and they may propose mitigation measures to promote sustainable development. Where that mitigation relates to matters that can be addressed by management measures, the mitigation may inform the preparation of Travel Plans).
    - Travel Plans, Transport Assessments and Statements can positively contribute to:
    - encouraging sustainable travel;
    - lessening traffic generation and its detrimental impacts;
    - reducing carbon emissions and climate impacts;
    - creating accessible, connected, inclusive communities;
    - improving health outcomes and quality of life;
    - improving road safety; and
    - reducing the need for new development to increase existing road capacity
- Transport Assessments and Statements can be used to establish whether the residual transport impacts of a proposed development are likely to be "severe", which may be a reason for refusal, in accordance with the National Planning Policy Framework.

10.46 For the reasons set out in paragraphs 8.32-8.35 the proposal is considered to be generally consistent with the NPPG with regard to transport assessment and travel planning.

Aviation 2050: The Future of UK Aviation (A2050)

Making best use

10.47 At paragraph 1.21, 3.6, 3.11 and 4.3 A2050 states:

'1.21 …….It is also supportive of airports throughout the UK making best use of their existing runways, subject to environmental issues being addressed. However, there is a need for clarity on what the future framework will be for providing additional capacity to meet demand, while managing environmental and community impacts.

3.6 ……...The government has also expressed support for other airports making best use of their existing runway capacity, subject to economic and environmental issues being addressed.

3.11 The government believes that forecasted aviation demand up to 2030 can be met through a Northwest runway at Heathrow and by airports beyond Heathrow making best use of their existing runways subject to environmental issues being addressed. ……...

4.3 The government has also confirmed that it is supportive of airports beyond Heathrow making best use of their existing runways, subject to proposals being assessed in light of environmental and economic impacts.'

10.48 Whilst the application seeks to make better use of the Airport's existing runway:

- for the reasons set out in paragraphs 8.3-8.24 it does not, this proposal does not and cannot adequately manage environmental and community impacts as a consequence of the significant adverse noise impacts.
- for the reasons set out in paragraphs 8.25-8.31 it is not possible to assess the significance of economic impacts.

A partnership for sustainable growth

10.49 At paragraph 1.33, 1.35 and 3.112 A2050 states:

'1.33 Together, these trends present significant opportunities to be exploited, but also challenges to overcome and manage. Global and domestic trends show that with the right economic conditions, the year-on-year growth in passenger numbers and air freight can be expected to continue. There are also signs of change in the market which could which transform business models and the offer for consumers. Meeting this increased demand will require a new partnership between the government, the industry, the regulator and communities that balances the economic benefits of growth with its impact on communities and the environment.

1.35 This is the motivation behind a new Aviation Strategy which will:
……...

- ***ensure that aviation can grow sustainably** – moving beyond an artificial 'choice' between growth and environmental protection by building a new partnership that actively supports sustainable growth with actions taken to mitigate environmental impacts*

- ***support regional growth and connectivity*** *– ensuring aviation enables all regions of the UK to prosper and grow, providing jobs and economic opportunities and a meaningful contribution to the life of communities up and down the country*
- ……..

3.112 The government expects the industry to show continuing commitment to noise reduction and mitigation as part of its contribution to the partnership for sustainable growth……'

10.50 The County Council believes that a partnership was entered into when the original parent planning consent was granted which balanced the economic benefits of growth with the impacts upon communities and the environment. This proposal betrays that partnership. It cannot be considered to rise to Government expectations for the industry to commit to noise reduction and mitigation.

Managing noise/Ensure aviation can grow sustainably

10.51 At paragraphs 3.3, 3.102, 3.105, 3.106, 3.112, 3.113, 3.114 and 3.115 A2050 states:

'3.3 Even with these improvements there are challenges that need to be addressed. Growth can have significant environmental impacts which affect local communities and increase emissions. There are also significant infrastructure constraints which require urgent attention, such as the need to modernise our airspace, improve transport links to airports and consider whether new runways are required. Therefore, while the government supports continued growth in aviation over the next 30 years, it also believes that the UK must be more ambitious on environmental protection to ensure that growth is sustainable.

The impact of aviation noise

3.102 The growth of the aviation sector brings many benefits but the government recognises that disturbance from aircraft noise has negative impacts on the health and quality of life of people living near airports and under flightpaths.
……

3.105 However, the government recognises that statistics showing past and future improvements in noise do not necessarily match the experience of some people living under flightpaths, for whom the benefits of quieter aircraft can be cancelled out by greater frequency of movements or the effects of concentrated traffic associated with more accurate navigation technology (see paragraph 3.19). The CAA's report also shows that the number of people affected will be higher as a result of population increases.

3.106 There is also evidence that the public is becoming more sensitive to aircraft noise, to a greater extent than noise from other transport sources, and that there are health costs associated from exposure to this noise. ……

3.112 The government expects the industry to show continuing commitment to noise reduction and mitigation as part of its contribution to the partnership for sustainable growth. The government has shown that it is committed to this by setting out in the Airports NPS its expectations that the developer put in place a comprehensive mitigations package. The proposals in this consultation are aligned with the principles in the NPS, but the implementation of those document principles must be proportionate to the local situation (recognising that the scale of the noise impacts at Heathrow is much greater than at other airports due to the number of movements and local population density). The picture below shows a noise monitor at Heathrow Airport.

Towards a stronger noise policy framework

3.113 The government sets the high level policy framework on aviation noise and also sets noise controls at Heathrow, Gatwick and Stansted. The current overarching policy, originally set out in the 2013 Aviation Policy Framework, is "to limit and, where possible, reduce the number of people in the UK significantly affected by aircraft noise as part of a policy of sharing benefits of noise reduction with industry in support of sustainable development."

3.114 The government recognises that there has been uncertainty on how this policy should be interpreted, measured and enforced. The government intends to put in place a stronger and clearer framework which addresses the weaknesses in current policy and ensures industry is sufficiently incentivised to reduce noise, or to put mitigation measures in place where reductions are not possible.

3.115 The proposed new measures are:

- *setting a new objective to limit, and where possible, reduce total adverse effects on health and quality of life from aviation noise. This brings national aviation noise policy in line with airspace policy updated in 2017*
- *developing a new national indicator to track the long term performance of the sector in reducing noise. This could be defined either as a noise quota or a total contour area based on the largest airports*
- *routinely setting noise caps as part of planning approvals (for increase in passengers or flights). The aim is to balance noise and growth and to provide future certainty over noise levels to communities. It is important that caps are subject to periodic review to ensure they remain relevant and continue to strike a fair balance by taking account of actual growth and the introduction of new aircraft technology. It is equally important that there are appropriate compliance mechanisms in case such caps are breached and the government wants to explore mechanisms by which airports could 'pay for' additional growth by means of local compensation as an alternative to the current sanctions available*
- *requiring all major airports to set out a plan which commits to future noise reduction, and to review this periodically. This would only apply to airports which do not have a noise cap approved through the planning system and would provide similar certainty to communities on future noise levels. The government wants to see better noise monitoring and a mechanism to enforce these targets as for noise caps. The noise action planning process could potentially be*

developed to provide the basis for such reviews, backed up by additional powers as necessary for either central or local government or the CAA.'

10.52 For the reasons set out in paragraphs 8.3-8.24 this proposal is not consistent with Government intentions to put in place a stronger and clearer framework where industry reduces noise/puts in place mitigation measures where reductions are not possible. The original planning consent put in place appropriate limits to restrict adverse effects on health and quality of life from aviation noise. The noise contour restrictions put in place in the original planning consent are consistent with Government expectations that noise caps are set as part of planning approvals to balance noise and growth and to provide future certainty over noise levels to communities. This proposal seeks to increase limits and take away certainty to communities achieved by the original parent planning consent. The proposal is not consistent with these paragraphs of A2050 and is considered to be unacceptable for the reasons set out in paragraphs 8.3-8.24.

10.53 Paragraphs 3.121 and 3.122 of A2050 state:

3.121 The government is also:

- *proposing new measures to improve noise insulation schemes for existing properties, particularly where noise exposure may increase in the short term or to mitigate against sleep disturbance*

3.122 Such schemes, while imposing costs on the industry, are an important element in giving impacted communities a fair deal. The government therefore proposes the following noise insulation measures:

- *to extend the noise insulation policy threshold beyond the current 63dB LAeq 16hr contour to 60dB LAeq 16hr*
- *to require all airports to review the effectiveness of existing schemes. This should include how effective the insulation is and whether other factors (such as ventilation) need to be considered, and also whether levels of contributions are affecting take-up*
- *the government or ICCAN to issue new guidance to airports on best practice for noise insulation schemes, to improve consistency*
- *for airspace changes which lead to significantly increased overflight, to set a new minimum threshold of an increase of 3dB LAeq, which leaves a household in the 54dB LAeq 16hr contour or above as a new eligibility criterion for assistance with noise insulation*

10.54 For the reasons set out in paragraphs 8.3-8.24 the noise insulation mitigation package presented in the proposal is inadequate and ineffective. The ES takes the level of 63dB LAeq, 16hr as a suitable value for the SOAEL for the assessment of likely significant adverse effects. This is based on paragraphs 3.37-3.39 of the APF and is the level at which the Government expects airport operators to offer acoustic insulation to noise-sensitive buildings, such as schools and hospitals and residential properties exposed to levels of noise of 63 dB LAeq,16h or more. A2050 proposes to extend the noise insulation policy threshold beyond the current 63dB LAeq 16hr contour to 60dB LAeq 16hr and sees this is *'an important element in giving impacted communities a fair deal'*. The County Council is of the view that the planning application should also have used the 60dB LAeq 16hr as an alternative suitable value

for SOAEL for the assessment of likely significant adverse effects as it represents an indication of where Government currently stands on protection of communities in terms of mitigation.

Surface access/Sustainable journeys to the airport

10.55 A2050 states:

'3.67 It is important to have good surface access links with airports. All proposed airport developments need to be accompanied by clear surface access proposals which demonstrate how the airport will ensure easy and reliable access for passengers, increase the use of public transport and minimise congestion, emissions and other local impacts.

3.99 The government's expectation is that airports, through their surface access strategies, set targets for sustainable passenger and staff travel to the airport which meet, where possible, the ambitions set by the government and for these to be monitored by their respective Airport Transport Forums.

3.101 The government expects airports to make the most of their regional influence to provide innovative solutions and incentives against ambitious targets which reduce carbon and congestion and improve air quality.

10.56 For the reasons set out in paragraphs 8.32-8.35 the application is considered to be broadly consistent with A2050.

Air quality

10.57 A2050 states:

'3.123 The government recognises that air pollution is the top environmental risk to health in the UK and it remains determined to improve air quality. A cleaner, healthier environment benefits people and the economy.

Proposed measures

3.127 The government recognises the need to take further action to ensure aviation's contribution to local air quality issues is properly understood and addressed and is proposing the following measures:

- *requiring all major airports to develop air quality plans to manage emissions within local air quality targets. This will be achieved through establishing minimum criteria to be included in the plans……..'*

10.58 For the reasons set out in paragraphs 8.40-8.42 the planning application is considered to be broadly consistent with A2050 with regard to air quality matters.

Community engagement and sharing benefits from growth

10.59 A2050 states:

'3.71 In recognition of their impact on local communities and as a matter of good corporate social responsibility, a number of airports have community funds which exist to provide funding for local community projects. There is currently no national policy on such funds. In relation to the proposed Heathrow Northwest runway, the Airports NPS expects ongoing community compensation will be proportionate to environmental impacts.

3.72 The government believes all major airports should establish and maintain community funds, to invest sufficiently in these so that they are able to make a difference in the communities impacted and to raise the profile of these funds. The levels of investment should be proportionate to the growth at the airport. Community funds are complementary measures to ensure communities get a fair deal and do not substitute for noise reduction. The government proposes to:

- *produce guidance on minimum standards for community funds……..'*

10.60 The planning application does not propose to provide any additional funding to the community fund operated at the Airport, but does state that *'LLA intends to provide one-off grants between £12,000 and £15,000 to local councils to be used to provide community improvements'* (Planning Statement, paragraph 6.4.4). No clarity is provided on which councils are to be the recipients of these grants and the levels proposed are considered to be derisory.

10.61 The planning application is therefore considered to be generally non-compliant with Government policy in relation to community funds.

A 2050 vision for tackling emissions

10.62 A2050 states that:

'3.85 The government recognises that international action takes time, so will also consider appropriate domestic action to support international progress. The UK's trajectory to meeting its Climate Change Act 2050 target is set out in five-yearly carbon budgets that currently exclude emissions from international aviation. However, the Committee on Climate Change (CCC), established by the Climate Change Act as the independent advisory body on climate change, recommends that international aviation should be included by 2050.

3.86 In order to implement the government's long term vision for addressing UK aviation emissions, the government will maintain its current policy not to mandate sector specific emissions reduction targets to ensure reductions are made wherever it is most cost effective across the economy.

3.87 The government agrees with the current CCC advice that international aviation emissions should, for now, continue to be formally excluded from carbon budgets. The government proposes therefore, to continue using the CCC advice and leave 'headroom' for international aviation when setting carbon budgets so that the economy as a whole is on a trajectory to meeting the 2050 Climate Change Act target (including international aviation). To set a clear level of ambition for the sector, the government proposes to:

accept the CCC's recommendation that emissions from UK-departing flights should be at or below 2005 levels in 2050'

10.63 This aspect of A2050 has been superseded by changing national policy. Nevertheless, for the reasons set out in paragraphs 8.36-8.39 the planning application is considered to be broadly compatible with the A2050 in relation to GHG/Carbon.

Beyond the Horizon The future of UK Aviation Making best use of existing runways (MBUER) June 2018

10.64 Paragraphs 1.22, 1.24 and 1.29 of MBUER state:

'Local environmental impacts

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

1.24 As part their planning applications airports will need to demonstrate how they will mitigate local environmental issues, which can then be presented to, and considered by, communities as part of the planning consultation process. This ensures that local stakeholders are given appropriate opportunity to input into potential changes which affect their environment and have their say on airport applications.'

'1.29 Therefore the government is supportive of airports beyond Heathrow making best use of their existing runways. However, we recognise that the development of airports can have negative as well as positive local impacts, including on noise levels. We therefore consider that any proposals should be judged by the relevant planning authority, taking careful account of all relevant considerations, particularly economic and environmental impacts and proposed mitigations. This policy statement does not prejudge the decision of those authorities who will be required to give proper consideration to such applications. It instead leaves it up to local, rather than national government, to consider each case on its merits.'

10.65 For the reasons set out in paragraphs 8.3-8.24 the proposals would result in unacceptable noise impacts, and whilst mitigation is proposed, this cannot address impacts in full. The economic benefits of the proposal have not been assessed (and are variously described by the applicant as 'significant', 'more', 'could be potential for'). The planning application is considered to be in conflict with paragraphs 1.22, 1.24 and 1.29 of MBUER.

Airports National Policy Statement (ANPS)

10.66 The ANPS states:

'1.39 On 21 July 2017, the Government issued a call for evidence on a new Aviation Strategy. Having analysed the responses, the Government has

confirmed that it is supportive of airports beyond Heathrow making best use of their existing runways. However, we recognise that the development of airports can have positive and negative impacts, including on noise levels. We consider that any proposals should be judged on their individual merits by the relevant planning authority, taking careful account of all relevant considerations, particularly economic and environmental impacts.'

Noise

Introduction

5.44 The impact of noise from airport expansion is a key concern for communities affected, and the Government takes this issue very seriously. High exposure to noise is an annoyance, can disturb sleep, and can also affect people's health. Aircraft operations are by far the largest source of noise emissions from an airport, although noise will also be generated from ground operations and surface transport, and during the construction phase of a scheme.

5.45 Aircraft noise is not only determined by the number of aircraft overhead, but also by engine technologies and airframe design, the paths the aircraft take when approaching and departing from the airport, and the way in which the aircraft are flown.

Decision making

5.67 The proposed development must be undertaken in accordance with statutory obligations for noise. Due regard must have been given to national policy on aviation noise, and the relevant sections of the Noise Policy Statement for England, the National Planning Policy Framework, and the Government's associated planning guidance on noise. However, the Airports NPS must be used as the primary policy on noise when considering the Heathrow Northwest Runway scheme, and has primacy over other wider noise policy sources.

5.68 Development consent should not be granted unless the Secretary of State is satisfied that the proposals will meet the following aims for the effective management and control of noise, within the context of Government policy on sustainable development:

- *Avoid significant adverse impacts on health and quality of life from noise;*
- *Mitigate and minimise adverse impacts on health and quality of life from noise; and*
- *Where possible, contribute to improvements to health and quality of life.'*

10.67 For the reasons set out in paragraphs 8.3-8.24 the proposal would result in significant adverse effect on health and quality of life, cannot effectively mitigate/minimise adverse impacts and will not contribute to improvements to health and quality of life.

Surface access

10.68 In relation to surface access, the ANPS states that '*5.5 The Government's objective for surface access is to ensure that access to the airport by road, rail and public transport is high quality, efficient and reliable for passengers, freight operators and airport workers who use transport on a daily basis. The Government also wishes to see the number of journeys made to airports by sustainable modes of transport maximised as much as possible. This should be delivered in a way that minimises congestion and environmental impacts, for example on air quality. '*

10.69 For the reasons set out in paragraphs 8.32-8.35 the planning application is considered to be broadly compliant with the surface access expectations of the ANPS. However, that compliance is considered to be subject to the integration of effective control and monitoring arrangements as set out in paragraphs 8.47-8.54.

Carbon emissions

10.70 Paragraphs 5.69 and 5.70 of the ANPS set out Government objectives in relation to GHG emissions.

Introduction

5.69 The Planning Act 2008 requires that a national policy statement must give reasons for the policy set out in the statement and an explanation of how the policy set out in the statement takes account of Government policy relating to the mitigation of, and adaptation to, climate change. The Government has a number of international and domestic obligations to limit carbon emissions. Emissions from both the construction and operational phases of the project will be relevant to meeting these obligations.

5.70 The Government's key objective on aviation emissions, as outlined in the Aviation Policy Framework, is to ensure that the aviation sector makes a significant and cost-effective contribution towards reducing global emissions.

10.71 For the reasons set out in paragraphs 8.36-8.39, the planning application is considered to be generally consistent with the ANPS in relation to GHG emissions.

A Green Future: Our 25 Year Plan to Improve the Environment

10.72 The 25 year Plan states:

'Over the next 25 years, we must significantly cut all forms of pollution and ease the pressure on the environment. We must ensure that noise and light pollution are managed effectively.'

10.73 For the reasons set out in paragraphs 8.3-8.24 the proposal would not ensure that noise pollution is effectively managed. The planning application is considered to be in conflict with the Government's 25 Year Plan.

Noise Policy Statement for England (NPSE)

10.74 The NPSE states:

'Noise Policy Aims

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

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

The first aim of the Noise Policy Statement for England

Avoid significant adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

2.23 The first aim of the NPSE states that significant adverse effects on health and quality of life should be avoided while also taking into account the guiding principles of sustainable development (paragraph 1.8).

The second aim of the Noise Policy Statement for England

Mitigate and minimise adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

2.24 The second aim of the NPSE refers to the situation where the impact lies somewhere between LOAEL and SOAEL. It requires that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development (paragraph 1.8). This does not mean that such adverse effects cannot occur.

The third aim of the Noise Policy Statement for England

Where possible, contribute to the improvement of health and quality of life through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

2.25 This aim seeks, where possible, positively to improve health and quality of life through the pro-active management of noise while also taking into account the guiding principles of sustainable development (paragraph 1.8), recognising that there will be opportunities for such measures to be taken and that they will deliver potential benefits to society. The protection of quiet places and quiet times as well as the enhancement of the acoustic environment will assist with delivering this aim.'

10.75 For the reasons set out in paragraphs 8.3-8.24 the proposal would result in significant adverse effect on health and quality of life, cannot effectively mitigate/minimise adverse impacts and will not contribute to improvements to health and quality of life.

Air Navigation Guidance 2017 (ANG)

10.76 One of the four key objectives of ANG is to:

> *'• emphasise that the environmental impact of aviation must be mitigated as much as is practicable and realistic to do so.'*

10.77 For the reasons set out in paragraphs 8.3-8.24 this proposal does not and cannot mitigate against the environmental impact.

10.78 ANG goes on to state:

> *'Assessing the noise implications of proposed airspace changes*
>
> *3.4 As stated in section 1.2(a) of this guidance, one of the government's three key environmental objectives is to limit and, where possible, reduce the number of people in the UK significantly affected by adverse impacts from aircraft noise.*
>
> *3.5 For the purpose of assessing airspace changes, the government wishes the CAA to interpret this objective to mean that the total adverse effects on people as a result of aviation noise should be limited and, where possible, reduced, rather than the absolute number of people in any particular noise contour. Adverse effects are considered to be those related to health and quality of life. There is no one threshold at which all individuals are considered to be significantly adversely affected by noise. It is possible to set a Lowest Observed Adverse Effect Level (LOAEL) that is regarded as the point at which adverse effects begin to be seen on a community basis. As noise exposure increases above this level, so will the likelihood of experiencing an adverse effect. In line with this increase in risk, the proportion of the population likely to be significantly affected can be expected to grow as the noise level increases over the LOAEL. For the purposes of assessing and comparing the noise impacts of airspace changes, the government has set a LOAEL of 51dB LAeq16hr for daytime noise and 45dB LAeq8hr for night time noise and the CAA should ensure that these metrics are considered.*
>
> *3.11 For communities further away from airports that will not be affected by noise above the LOAELs identified above, it is important that other aspects of noise are also taken into account where the total adverse effects of noise on people between different options are similar. Metrics that must be considered for these purposes include the overall number of overflights and number above metrics: N65 for daytime noise and N60 for night time noise. The CAA's overflights metric is a means of portraying those locations where residents will experience being overflown. These supplementary metrics must also be used to inform communities about the likely impact of proposed changes.*
>
> *3.12 The CAA should also verify that sponsors have used any other noise metrics that may be appropriate for allowing communities to understand the noise impacts that could result from the proposed change. This could include the use of 100% mode contours for average noise or frequency-based metrics, or consideration of the interaction with other sources of aircraft noise, such as those from other local airports.*

4. Detailed Management of aircraft noise: guidance for airports, airlines and air navigation service providers and CAA in respect of CAA's noise management function

Introduction

4.1 For communities living close to airports, and some further away under arrival and departure routes, aircraft noise is one of the most important environmental impacts created by the aviation sector. The government's long-term view, most recently expressed in the 2013 Aviation Policy Framework, is that there must be a fair balance between the economic benefits derived from the aviation industry, and the negative impacts of noise for affected communities. The benefits of any future growth in aviation and/or technological development must be shared between those benefitting from a thriving aviation industry and those close to the airports that experience its impacts.'

10.79 For the reasons set out in paragraphs 8.3-8.24 this proposal would have significant and unacceptable adverse noise impacts upon communities. This does not represent a fair balance between the economic benefits and the negative impacts of noise.

London Luton Airport Operations Limited Revised Masterplan document Consultation prior to submission of planning application - London's local airport – September 2012 (AMP)

10.80 The existing Master Plan for the Airport provides a framework for and assesses the implications of and makes commitment in relation to a LLA operating at 18 mppa:

'1.5 LLAOL and LLAL have subsequently reviewed their respective proposals and agreed that a single planning application should be prepared and submitted by LLAOL. Both parties have agreed that the planning application should seek consent to improve passenger facilities and enable the Airport to accommodate 18 mppa by 2031.

5.5 The proposals have also been designed to be as efficient and effective as possible and to use existing infrastructure to the fullest extent commensurate with this.'

10.81 The planning application seeks to grow the airport to a throughput of beyond 18 mppa and can therefore only be non-compliant with the published Master Plan for the Airport.

10.82 Paragraphs 9.26 and 9.27 of the Master Plan state:

'9.27 The management and control of noise continues to be a major element of the Airport's policy of seeking to be the best neighbour it can be. The Airport's approach to noise management was recently reviewed, and led to the production of the Luton Airport Noise Action Plan 2010-2015 (NAP), which was approved by the DfT and Defra. In its recent consultation on airport development, LLAOL made clear that the 55 action items identified in the approved NAP should be developed and supplemented to address "possible" future noise impacts. The NAP therefore forms the first part of the approach to

noise management contained in this revised masterplan and will be reviewed on a five yearly cycle. However, LLAOL has identified six new initiatives all designed to supplement the content of the NAP with the intention of both reducing and mitigating airport related noise. These initiatives also respond to the consultation undertaken in Spring 2012 and are described below.

9.28 A key issue for LLAOL is to minimise and manage all noise but in particular night noise. Future aircraft operations are likely to be inherently less noisy as a result of re-engining of the fleet at Luton, in particular the Boeing 737 and Airbus A320 family of aircraft. However, the timing of these changes is not certain. As a result, LLAOL seeks to deliver improvements that will be effective regardless of fleet mix. Figure 9.4 highlights certain current NAP actions, and those supplementary measures (in italics) we now propose, which are related to the planning application to grow the Airport to accommodate 18 mppa.

9.29 The development and inclusion of supplementary measures, are proposed in order to minimise noise impact from the proposed growth of the Airport. The measures will be subject to regular review such that future changes can be incorporated if found beneficial. It is anticipated that the measures will be incorporated into conditions and/or a section 106 agreement associated with the grant of any planning permission.

9.30 Together these measures constitute a robust and comprehensive approach, responding to the government's clearly stated objective of achieving tougher noise management regimes at airports.

10.83 History tells us that the commitments made within the published Master Plan and the terms of the subsequent planning permission have failed – to the extent that breaches in noise controls have occurred. Amongst other matters the planning application seeks to simply remedy that failure. The planning application can only be in conflict with the Master Plan.

Environmental Noise Directive Noise Action Plan 2019-2023 London Luton Airport (NAP)

10.84 The NAP states:

'London Luton Airport is committed to being a good neighbour and endeavours to minimise the impact of its operations on local communities. Continued and enhanced consultation with the community is essential so that an appropriate balance can be struck between the socio-economic benefits of airport operations and its environmental impacts. This Noise Action Plan, once adopted by DEFRA, will provide a meaningful framework for London Luton Airport and its Consultative Committee to build upon it's established approach to the proactive management of aircraft noise in and around the airport.'

'Framework for Noise Management

Demand for air travel across the UK is increasing rapidly. In response to increased demand, we are making the biggest investment in LLA's history to transform the airport. The redevelopment of our terminal will bring huge benefits for passengers, but it is vitally important to us that the local community also

shares in the success of the airport. At LLA, our aim is always to work constructively with the local community and our partners to strike the right balance between maximising the positive social and economic benefits to the local area and the UK as a whole while minimising the impact of aircraft noise.

Once the current development is complete, LLA will contribute £1.4 billion per year to the local economy and £2.3billion nationally. By 2031 we expect to support over 37,700 jobs, which on average pay £11,000 per year more than the national average wage. But we recognise that the airport's growth may give rise to questions about noise levels. LLA already operates under the most stringent noise restrictions of any major UK airport. But we are continually looking to do more. As the airport continues its growth and development, we are evolving our approach to noise management and this can be seen through the development of our Noise Action Plan.'

10.85 The balance to be struck between the economic benefits of growth at the Airport and the management of noise and protection of communities was established when the original parent planning consent was granted. The NAP commits to the restrictions placed on the planning permission:

'…….This plan details our actions over a five year period (2019-2023) and the policy framework that would support these actions. It is aligned with London Luton Airport's S106 Legal Agreement (2014) with Luton Borough Council which outlines how the airport's operation, growth and environmental impacts will be managed responsibly and laid the foundation of our Noise Action Plan.'

10.86 Key to achieving the balance between the economic benefits of growth and managing adverse environmental impacts was the imposition of a noise contour condition on the planning permission. This NAP contains a commitment in Action ref 3.4:

'We will operate within our agreed contour area limits'

10.87 It also contains a Key Performance Indicator (KP3):

'Population inside 45dBLAeq (8hr) Night time contour – limit and where possible reduce the population within the contour over the course of the action plan.'

10.88 The NAP was developed and submitted to DEFRA under the full knowledge that operations at the Airport were failing to comply with night time noise contour restrictions and that a planning application was in preparation to seek to vary both day and night noise contour areas. This planning application is in part required to address breaches of planning control at the Airport and must be considered to be fundamentally at odds with Action ref 3.4 and KP3 of the Noise Action Plan 2019-2023 approved by DEFRA.

Luton Borough Council Planning and Noise Guidance

10.89 Amongst other matters Luton Borough Council's Planning and Noise Guidance states:

Time	Area	Maximum noise level
Daytime noise 07:00 – 23:00	Living rooms	40 dBL_{Aeq} (16hr)
	Outdoor amenity	55 dBL_{Aeq} (1hr)
Night time noise 23:00 – 07:00	Bedrooms	30 dBL_{Aeq} (8hr) 45 dBL_{Amax}

10.90 Luton Borough Council's Environmental Protection has confirmed that the proposal is in conflict with these limits.

LLA Master Plan 19 MPPA Final Report January 2021

10.91 The Master Plan is prepared as a framework for this planning application and as a consequence the application is consistent with it. However, at the time of writing the Master Plan has no status. Were it to have status at the time the planning application is determined, Section 4 of this representation applies – the MP is currently not fit-for-purpose.

Local Transport Plans

10.92 The ***Luton Local Transport Plan*** (2011-2026) is supportive of generating continued employment and prosperity by improving access to employment and skills/training opportunities for local residents, giving people the opportunity to choose more sustainable travel habits by implementing transport schemes and travel planning initiatives to maximise the role of public transport, walking and cycling, supporting Luton's growth as an international gateway (in the context of both the growth of London Luton Airport and ease of access to the new Channel Tunnel Rail Link terminus at St Pancras); reducing single occupancy car journeys within, to and from Luton in part by increasing the use of more sustainable modes of transport (particularly through travel planning processes). The planning process is seen as having an important role to play in requiring travel plans for a range of different developments - to ensure the successful delivery and implementation of development travel plans LBC will develop an effective travel plan monitoring and enforcement regime.

10.93 The ***Central Beds Local Transport Plan 3*** (April 2011-March 2026) similarly seeks to increase the ease of access to employment by sustainable modes and sees new developments not impacting negatively on the surrounding areas and providing sufficient travel choices, with all new developments incorporating measures that would support a minimum 20% modal shift from the private car to more sustainable travel modes based upon existing local travel patterns.

10.94 The ***Hertfordshire Local Transport Plan*** (2018-2031) similarly promotes and supports a shift to sustainable modes of transport, including through the widespread adoption of travel plans. With regard specifically to airports, the LTP states that the county council, working in partnership with neighbouring local authorities and airport operators, will seek improvements to surface access to Luton Airport and promote and where possible facilitate a modal shift of both airport passengers and employees towards sustainable modes of transport.

10.95 The proposal is consistent with the Luton Local Transport Plan in relation to growth of London Luton Airport and generally consistent with all three LTPs with regard to seeking to achieve modal shift and in bringing forward a Travel Plan with modal shift targets. However, that compliance is considered to be subject to the integration of effective control and monitoring arrangements as set out in paragraphs 8.47-8.54.

Luton Borough Council Climate Action Plan Support January 2020

10.96 The recommendations within this Plan (the aim of which is to provide an evidence base which will inform the Council's Climate Action Plan, which has yet to be published) include:

- Emissions from flights are a significant source of emissions, and if aviation emissions continue to increase as currently modelled by national government, the airline sector will reduce the available carbon budget for Luton borough(assuming aircraft technology and efficiency remains at today's levels). As mentioned in the previous sections of this report, this finite budget is already diminishing and will require significant investment and action from all stakeholders to keep within.
- The majority of flights taken from Luton Airport are for leisure rather than business, suggesting that the council could look at engaging with leisure travel passengers to consider alternative low carbon options. The Citizen's Assembly could provide a good forum for engagement with the public on this topic to help highlight the impact of aviation.
- There is a significant contribution to emissions as a result of transport to and from the airport. This will be a key opportunity for Luton Borough Council to influence activities of Luton Airport passengers. It is anticipated that the opening of the Luton Direct Air Rail Transit (DART) will help to reduce the number of passengers arriving and leaving the airport by private vehicle, however a strong community engagement plan will be needed to support this to encourage more uptake of public transport by airport staff and passengers.
- 67% of Luton Airport passengers arrive at the airport in private vehicles. In order to reduce emissions from surface transport, it will be imperative that passengers have access to affordable, regular public transport options to shift away from current high levels of private vehicle use. Infrastructure capacity improvements to support the growth in electric vehicles will also be a key enabler for emissions reduction.
- Luton Airport reports that emissions from the airport's operations have decreased by 40% since 2015 as a result of efficiency measures put in place. There is scope to continue these reductions.
- Luton Airport participates in the Airport Carbon Accreditation Programme and has achieved the Mapping accreditation for measuring and reporting on their direct and indirect emissions. The next steps for the scheme are to provide evidence of carbon management and reduction measures, measure third party emissions and aim for carbon neutrality by offsetting the remaining direct and indirect emissions.

10.97 These recommendations serve to reinforce the importance of the proposed Carbon Reduction Plan. Until the process proposed in paragraphs 3.10-12 has taken place it is not possible to fully assess the proposal in terms of its compatibility with LBC's approach to GHG/Carbon/Climate Change.

Yours sincerely,

Stephen Boulton

Executive Member
Growth, Infrastructure & Planning

ANNEX 1

[to Hertfordshire County Council response (dated 11th June 2021) to planning application 21/00031/VARCON]

HERTFORDSHIRE COUNTY COUNCIL RESPONSE TO LONDON LUTON AIRPORT OPERATIONS LIMITED 19 MPPA CONSULTATION 2020

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11th November 2020

Dear Sir/Madam,

London Luton Airport 19 mppa Consultation 2020

1. Thank you for the opportunity to comment on the above.

2. You will of course be aware that this proposal comes forward within the context of other current live planning applications/growth proposals at the Airport (LLA):

   iii. London Luton Airport Operations Limited (LLAOL) planning application to vary condition 10 in an attempt to regularise breaches of the 2014 planning consent to grow throughput at LLA to 18 mppa.
   iv. London Luton Airport Limited's (LLAL) Development Consent Order proposal to grow LLA to 32 mppa.

3. The County Council's responses (attached Appendices 1 and 2 by way of context) to these proposals set out its broad position with regard to management of growth at LLA, aspects of which are relevant to the proposal the subject of this consultation.

Mismanagement of operations at LLA in relation to the current planning permission

4. The County Council's representations on i. and ii. above raise very serious concerns relating to the mis-management of the operations of LLA resulting in it failing to comply with its 2014 planning consent and the knock-on adverse implications this has had for communities. By way of example:

Condition 10

'1.7 The County Council is of the view that the behaviour of the Airport has not been within the spirit of the planning application originally submitted and the planning consent granted, represents an abrogation of its environmental responsibilities and is disrespectful of communities. The Airport should have proactively managed its operations to respect the regulatory regime imposed upon it. In failing to do so it has acted irresponsibly.

1.8 Within its emerging aviation policy (Aviation 2050), Government is clear that it supports aviation growth, but on the condition that it is sustainable, environmental impacts are managed better and that communities are protected from the adverse impacts of growth and should directly benefit from it. Key to delivery of Government expectations is a 'Partnership' approach involving all partners, including communities. The Government sees the setting of noise caps as part of planning approvals as a means to balance noise and growth and to provide future certainty over noise levels to communities. The 'contract' between the Partnership in this case (the Airport operator, the local planning authority, highways authorities, communities and others) entered into for growth of the Airport to 18 mppa and the setting of noise caps to provide certainty for communities is in large part the terms of the planning permission. In failing to manage its operations to comply with that consent and committing to comply with it in the future, the Airport has betrayed the other partners, particularly those communities currently suffering from the adverse consequences of the breaches of planning control. The County Council is of the view that the actions of the Airport have fallen considerably short of Government expectations.'

Development Consent Order

*'**The County Council's position***

You will be aware that recent history of operations at London Luton Airport, from a Hertfordshire perspective, has been one that could hardly be more negative. Unmanaged accelerated growth at the Airport has proceeded in the full knowledge that restrictions on operations to safeguard communities from adverse noise impacts would be compromised. Breaches of planning control have occurred, are occurring and are predicted to continue to do so. There is a current live planning application seeking planning permission to, in effect, authorise those breaches for a temporary period of 5 years. Meanwhile, airspace change processes continue to seek to address the adverse noise impacts of an airspace change brought into effect in 2015 – impacts exacerbated by the mismanagement of recent accelerated growth. On top of this, communities are now expecting a planning application to raise the consented passenger throughput cap from 18mppa to 19mppa - again, because the Airport has mismanaged growth.

The consultation material states:

'Since the conclusion of our first round of consultation, we have published our Sustainability Strategy. This sets out a range of targets over the medium and long term. We will work with the airport operator, London Luton Airport Operations Limited (LLAOL), to deliver against the targets. Our aims are to be a better neighbour, protect our planet, and enable growth and support for our future communities.'

Whilst the commitment to be a better neighbour is welcomed, Hertfordshire communities do not consider London Luton Airport to be a good, considerate, neighbour. The County Council has every sympathy with that view.

Unless and until there is evidence to demonstrate, and mechanisms to ensure, that the Airport can grow and be operated in a responsible manner, in the spirit of the Government's aspiration for a partnership for sustainable growth set out in Aviation 2050, which contains its environmental impacts to within prescribed acceptable and agreed limits that are enforceable, can achieve an overall betterment in the amenity and health of the communities impacted by it – both immediate and further afield, and can adequately provide for the surface access needs required of it, the County Council has an in-principle objection to growth of the Airport. This evidence does not currently exist.'

5. The reason a 19 mppa proposal is seen by LLAOL as being required to facilitate additional throughput in advance of 2027/8 (the timeframe within which LLA was supposed to reach 18 mppa had the terms of the consent been honoured) is that it has failed to manage its operations within the spirit of the 2014 planning consent. Fundamentally, therefore, the County Council has an in-principle objection to the current s73 planning application to vary Condition 10 and any further potential planning application relating to 19 mppa.

6. Whilst in no way attempting to downplay the impacts of Covid-19 on the aviation sector and on LLA, one positive that could be achieved would be to reset throughput growth of LLA and management of it to be consistent with the growth trajectory of the 2012 master plan and of the 2014 planning consent. That would be the right thing to do to honour the commitments made to stakeholders and communities.

7. However, the County Council fully understands that any 19 mppa planning application must be considered on its own merits by the relevant responsible planning body. It also appreciates that if it is LLA's intention to pursue such a planning application, then that should take place within the context of a master plan. The proposed preparation of such a plan is in the spirit of Government expectations and is welcomed.

8. The County Council has the following comments in relation to the published consultation material and process issues.

The Consultation Material - evidence and engagement

9. Attached (Appendix 3) are some detailed comments on the published consultation material. These are by no means exhaustive, but sit behind a number of the issues that follow. Two key messages are:

- the consultation material presents a position on a wide range of issues based on evidence prepared to date to inform the development of the proposal and presents a range of proposals for mitigation. However, very little of the evidence referred to is available for review and comment and as a consequence the opportunity to effectively engage with the consultation and shape the proposal has been somewhat limited.
- there has been no meaningful engagement (to the County Council's knowledge) with key informed stakeholders on the technical work underpinning the findings and conclusions and mitigation proposals.
- how transparency of evidence and informed engagement is to happen in advance of submission of any planning application.

An all-encompassing master plan

10. You will of course be aware of Government consultation and liaison expectations in relation to master plans, set out in its Aviation Policy Framework (APF):

> *'4.13 Government also recommends that airport operators consult on proposed changes to master plans, and engage more widely with local communities prior to publication, for example liaising more closely with local authorities and also through drop-in sessions and public meetings……...'*

11. And also its position on availability of technical evidence:

> *'4.14 Research carried out by the DfT on the effectiveness of master plans has indicated that drafting for all audiences produces a tension between communicating future plans and providing a technical reference source. We therefore recommend that, where possible, the body of the document should be accessible to a lay person, and the technical detail clearly annexed.'*

12. You will also be aware that the APF states that:

> *'4.5 Airports, in partnership with local communities, should:*
> - *……*
> - *review their consultative timetables, for example for master plans and Noise Action Plans, with a view to aligning these where possible and reducing the consultative burden on all concerned;*
> - *review the extent and detail of information that is published and set out clearly the methodology used. Airports should provide transparency and ensure that sufficient relevant information and opportunities for consultation reach a wide audience; and*
> - *combine their ASASs into their published master plans to ensure a joined-up approach and make it easier for people to access information about the 'airport's plans.'*
>
> *'Mitigation*
>
> *B.6 Proposals for mitigation measures across the major impact areas identified will be an important component of master plans; for example emission controls, noise abatement measures, sound insulation, surface access schemes and*

traffic management and measures to address landscape and biodiversity impacts.

B.7 It will be appropriate for master plans to address any proposals for compensation measures that may be required where the scale of impacts is such that they cannot adequately be mitigated. Such measures might include appropriate voluntary purchase schemes and assistance with relocation costs where the extent of property and land-take is clear.'

13. The consultation material seems to propose to amend or add to the contents of publications that already exist but without giving specific details of what these are to be – for example, see the 'Noise management/mitigation' section below. There also appears to be a new Transport Assessment, Travel Plan and Car Parking Management Plan which are not available at this stage and which appear to introduce new assumptions – for example (from the EIA Progress Report).

'8.1.3 The TP has been developed with the objective of reviewing the latest Airport Surface Access Strategy Report (ASAS) 2018 - 2022 (2019 Reissue) and updating objectives, targets and measures based on a policy appraisal and site assessment. This analysis has been translated into a concrete action plan to be monitored periodically.'

14. There also appear to be other assessment, such as an Air Quality Assessment and Greenhouse Gas Assessment. Moving forward, the availability of technical evidence and engagement on it with key stakeholders will be important. As far as is practicable, this should take place in advance of submission of any planning application and there is an opportunity to do so as part of the master plan preparation process. The master plan needs to be drafted to be accessible to the lay person, but contain evidence (appended) to substantiate its proposals, about which it needs to be much more transparent rather than making general statements of intent. It also needs to be clear on the implications for other publications such as the noise action plan and surface access strategy. Consideration should be given to whether there is an opportunity to draw the various plans/strategies together into a whole, with the master plan fronting up a range of subsidiary plans/strategies/evidence. This will take time – more time than the consultation material and processes currently appear to allow.

Status and process for approval of the master plan

15. The usual and logical course of events is for an airport to consult widely on a master plan, setting out its aspirations for the future and covering those matters advised by Government in the APF. In this way all stakeholders and communities have a common understanding of what lies ahead – likely scale of growth, infrastructure provision, environmental management and mitigation, noise insultation, community benefits, and so on. Amongst other matters that master plan would form the framework within which future planning applications for development and throughput growth are brought forward.

16. Indeed, this is exactly what happened in the last master plan/planning application cycle at LLA. Somewhat bizarrely, LLAOL and LLAL consulted separately on different master plans for different proposed levels of growth during 2012, following which a joint master plan was published in September 2012 that provided a framework

for growth of LLA to 18 mppa. Some months later, a planning application for that scale of growth was duly submitted.

17. The consultation material makes no reference to the in-force master plan at LLA and it is therefore assumed that it is to be completely superseded by the one published as part of this consultation, as suitably amended following feedback received.

18. The material contains no guidance on the process for and timing of approval/adoption/publication of the master plan, but states that a planning application is to be submitted by the end of 2020. No information is provided with regard to the process for 'approval' of the master plan and whether there is any intention to release and consult upon the evidence that underpins it.

19. You will of course be aware that Luton Local Plan Policy LLP6 requires any growth proposal at LLA to be consistent with a master plan submitted to and approved by Luton Borough Council (LBC). The material makes no reference to this policy and provides no clarity on whether the master plan is to be submitted to LBC for its approval and if so, whether that is to happen in advance of any planning application or perhaps even at the same time.

20. Clarity is required on the process for approval/publication of the master plan and how that relates to the timing of submission of any planning application. If a planning application is to be submitted before the end of 2020, it is difficult to see how:

- in the spirit of Government guidance in the APF, meaningful engagement can take place with stakeholders on the technical evidence that underpins the assumptions behind and findings of the master plan.
- the master plan can be approved by LBC.

21. Paragraphs 29-30 call for a delay in the submission of the proposed planning application. Such a delay would enable a master plan preparation process that is able to more effectively engage with communities and stakeholders, with a view to building a more productive and trusting relationship in response to recent experience.

Aviation 2050/Covid-19

22. The County Council's response to the consultation on the DCO highlights the scale of uncertainty that exists in relation to national aviation policy, which, amongst a wide range of other matters, will set out the Government's approach to aviation with regard to how it will contribute to meeting its net-zero carbon commitment.

> *'**National aviation policy and the Climate Change Act 2008***
>
> *The consultation material assesses the proposal in terms of its compatibility with existing national aviation policy [Aviation Policy Framework (APF) (2013), Making best use of existing runways (MBUER) (June 2018) and the Airports National Policy Statement (ANPS) (June 2018)] and the carbon budgets set in accordance with the historic Climate Change Act 2008 target of an 80% reduction of greenhouse gas emissions compared to 1990 levels (with the 5th Carbon Budget setting a limit that aviation emissions for the UK being capped at 37.5MtCO_2 in 2050 based on 2005 levels, excluding emissions from international aviation).*

The assessment concludes that the increase in carbon emissions resulting from the proposed development is considered (with mitigations in place) not to have a material impact on the ability of Government to meet its carbon reduction targets, including carbon budgets. This conclusion is consistent with that of the Government more generally in terms of the compatibility between policy to make best use of existing runways/Heathrow third runway and 80% reduction Climate Change Act target and related carbon budgets.

In a joint letter (15th October 2018) to the Committee on Climate Change (CCC) the Governments of the UK, Scotland and Wales requested advice from the Committee on their respective long-term CO_2 emissions targets:

1. the date by which the UK should achieve (a) a net zero greenhouse gas target and/or (b) a net zero carbon [dioxide] target in order to contribute to the global ambitions set out in the Paris Agreement.
2. whether now is the right time for the UK to set such a target.
3. the range which UK greenhouse gas emissions reductions would need to be within, against 1990 levels, by 2050 as an appropriate contribution to the global goal of limiting global warming to well below 2°C" and "towards global efforts to limit the increase to 1.5°C.
4. how reductions in line with your recommendations might be delivered in key sectors of the economy.
5. the expected costs and benefits across the spectrum of scenarios in comparison to the costs and benefits of meeting the current target.
6. updated advice on the long-term emissions targets for Scotland and Wales provided with regards to the respective devolved statutory frameworks on climate change.

In December 2018 Government consulted on its Aviation Green Paper 'Aviation 2050 - The future of UK aviation', reaffirming Government's commitment to provide additional capacity through the development of a third runway at Heathrow Airport and airports throughout the UK making best use of their existing runways. The Strategy is based on the 80% reduction Climate Change Act target and related planning assumptions. In its response (February 2019) to the consultation the CCC stated that it would write to Government specifically about the implications of its forthcoming net-zero recommendations for the emerging national Aviation Strategy.

'The UK's currently legislated 2050 target is to reduce economy-wide greenhouse gas emissions by at least 80% from 1990 levels. Since the Climate Change Act became law, the UK has ratified the Paris Agreement, implying even stronger action. You will be aware that my Committee has been asked by Ministers to offer advice on the implications of the Paris Agreement for the UK's statutory framework, including when 'net-zero' emissions can be achieved. A stronger UK target would require more effort from all sectors, including aviation. We intend to provide an updated view on the appropriate long-term ambition for aviation emissions within our advice on the UK's long term targets. We will publish our report in spring. Following that, we will write to you directly to set out the implications for the Aviation Strategy.'

Our present planning assumption, which underpins the fifth carbon budget and the current 2050 target, is that UK aviation emissions in 2050 should be around their 2005 level (i.e. 37.5 $MtCO_2e$). Your acceptance of this planning assumption in the consultation is a very welcome step. The final white paper should further clarify that this will be met on the basis of actual emissions, rather than by relying on international offset credits.

Aviation emissions in the UK have more than doubled since 1990, while emissions for the economy as a whole have fallen by around 40%. Achieving aviation emissions at or below 2005 levels in 2050 will require contributions from all parts of the aviation sector, including from new technologies and aircraft designs, improved airspace management, airlines' operations, and use of sustainable fuels. It will also require steps to limit growth in demand. In the absence of a true zero-carbon plane, demand cannot continue to grow unfettered over the long-term.'

In May 2019, the CCC published its report ('Net Zero The UK's contribution to stopping global warming Committee on Climate Change' May 2019) to the UK Governments. Its overarching recommendation was that the UK should amend its legislation to commit to net zero greenhouse gas emissions by 2050 and in relation to aviation, that this target should include the UK's share of international aviation and be met through domestic action rather than international offset credits – 'This will require immediate steps from Government, industry and the public. Challenges that have not yet been confronted – such as aviation and shipping emissions – must now be addressed'. The UK should legislate as soon as possible to reach net-zero greenhouse gas emissions by 2050. The target can be legislated as a 100% reduction in greenhouse gases (GHGs) from 1990 and should cover all sectors of the economy, including international aviation and shipping.'

'We will set out our recommended policy approach for aviation in follow-up advice to the Government later in 2019……..Reducing emissions from aviation will require a combination of international and domestic polices, and these should be implemented in ways that avoid perverse outcomes (e.g. carbon leakage). A package of policy measures should be put in place that include carbon pricing, support for research, innovation and deployment, and measures to manage growth in demand.'

In May 2019 Parliament declared an environment and climate emergency and in June The Climate Change Act 2008 (2050 Target Amendment) Order 2019 came into force, revising the 2050 GHG target of an 80% reduction of GHG emissions compared to 1990 levels to a net zero carbon target. In July 2019 the County Council joined the ranks of over 200 local authorities across the country in declaring a climate emergency.

In September 2019 the CCC wrote to the Secretary of State for Transport advising that the planning assumption for international aviation should be to achieve net-zero emissions by 2050 and that this should be reflected within the Government's forthcoming Aviation Strategy. To achieve this would require reduction in actual emissions and would be likely to require some use of greenhouse gas removals to offset remaining emissions. Key to reducing emissions will be limiting demand growth to at most 25% above current levels,

with potential to reduce emissions further with lower levels of demand. The CCC advises that 'The Government should assess its airport capacity strategy in this context. Specifically, investments will need to be demonstrated to make economic sense in a net-zero world and the transition towards it.'

All in force and emerging national aviation policy precedes the June 2019 Climate Change Act net-zero declaration/legislation. The Department of Transport has stated that the implications of the declaration/legislation and the CCC's recommended policy approach to aviation will be taken into account in further developing is aviation policy through the Aviation 2050 process. It has also stated that it will provide advice and a recommendation to the Secretary of State on whether the statutory criteria for a review of part or all of the Aviation National Policy Statement (the Government's national planning policy commitment to Heathrow third runway) are met and whether or not it is appropriate to carry out such a review.

In its 'Leading on Clean Growth - The Government Response to the Committee on Climate Change's 2019 Progress Report to Parliament – Reducing UK emissions' (October 2019), Government has stated that it will publish an ambitious Aviation Strategy next year and in doing so will 'continue to consider the implications of our 2050 net zero target…….'.

The consultation material states that the revised carbon legislation has not been specifically addressed in the greenhouse gas assessment 'due to the timing of its introduction into UK law', but recognises that 'this is a significant piece of legislation that will have an impact on the Proposed Development and as such will be further considered in the ES. Our assessment of greenhouse gas emissions will continue to be updated to consider the latest proposals and the developing government policy on the net-zero carbon target'.

It is clear that a state of considerable national uncertainty exists regarding the relationship between the Government's net zero declaration/legislation and the implications this has for both existing national aviation policy and its emerging Aviation Strategy.

Government has been called upon to intervene and restrict the grant of planning permission for aviation growth-related planning applications until new national aviation policy is in place.

Given the current programmed timeframe for the Development Consent Order (DCO) process, new national aviation policy should be in place and therefore national uncertainty resolved by the time a decision is made. However, should this prove not to be the case the County Council is strongly of the view that the proposed project timeframe should be reprogrammed to ensure that any decision is made in the context of new Government aviation policy, when published. Only in these circumstances can a properly informed and robust decision be made.'

23. In addition, of course, that national strategy/policy will now also need to reflect upon the implications of Covid-19 and develop policy that reflects how Government sees the aviation industry moving forward in response to and within a continuing Covid-19 environment – the implications of which, at least in the short term, are potentially profound.

24. Clarity in the form of revised national aviation policy would be a more preferable environment within which this proposal (and indeed those at other airports) could be brought forward and assessed. The County Council has sought an update on the timetable for production of Aviation 2050, but this has yet to be forthcoming. The process for master plan preparation and application submission would benefit from being aligned with the publication of new Government policy.

'19 mppa traffic horizon will be achieved around 2024'

25. The consultation material contains a number of statements with regard to the anticipated timeframe for LLA to potentially reach a throughput of pre-Covid levels and onward to 19 mppa. For example:

> *'In accordance with industry expectations and current pandemic situation, it is expected that the airport will recover to the 18mppa traffic horizon around 2023 and the 19mppa traffic horizon will be achieved around 2024.'*
>
> *'In light of the COVID-19 pandemic, it is anticipated that the 19mppa traffic horizon will be reached around 2024 ("planning horizon").'*
>
> *'Based on industry expectations and on current pandemic situation, it is expected that the airport will recover to the 18mppa traffic horizon around 2023 and the 19mppa traffic horizon will be around 2024.'*

26. The consultation material provides little background intelligence about these *'industry expectations'* and, importantly, whether and to what extent they are considered plausible by the Department for Transport and compatible with any new national aviation forecasts it may be undertaking to inform the national aviation strategy process. As we know, IATA takes the view that traffic will not return to pre-COVID levels before 2024 (not 2023 assumed within these proposals), and this is view sits within a significant range of uncertainty – *'upside could see travel demand return to 2019 levels in 2023, while the downside could be much more severe'*. The downside forecast indicates that in 2024 recovery will only be at 2015 levels globally.

27. Similarly, Eurocontrol's latest five-year forecast offers three scenarios for recovery from Covid-19:

- a most-optimistic forecast of a recovery to 2019 levels by 2024 assumes a vaccine is widely made available for travellers by summer 2021.
- should a vaccine only be widely available, or the pandemic end, by summer 2022, a recovery to 2019 levels may be pushed back to 2026.
- a worst-case scenario that there is no effective vaccine and the infection lingers suggests recovery could be delayed until 2029.

28. Despite recent Government announcements in relation to vaccine availability and deployment, there are significant further stages to come and considerable uncertainty exists in relation to the speed with which widespread access to and roll out a vaccine could be achieved. Moving forward there needs to be greater clarity on the reasons why LLA feels an optimistic scenario should be applied to growth of throughput.

Timing of the planning application

29. The consultation material states that the intention is to submit a planning application by the end of 2020. As discussed above, the County Council is of the view that the process for the preparation of the master plan should be given sufficient time to genuinely engage with communities and stakeholders, with a view to building a more productive and trusting relationship. To enable this to happen, the timeframe for submission of the planning application should be delayed. It would be advantageous for any such delay to be of sufficient length to allow Government to put in place its revised national aviation policy/strategy.

30. LLA's concerns in relation to it being prepared for renewed aviation growth (*'If we do not plan for growth now we will limit our ability to play our part in the UK's economic recovery…….'*) need not be compromised. LLA will be aware of the Government's 'planning guarantee' that *'no application should spend more than a year with decision-makers, including any appeal. In practice this means that planning applications should be decided in no more than 26 weeks, allowing a similar period for any appeal……..'*. There appears to more than enough time for a master plan to be prepared and approved, a planning application and decision made, along with completion of any necessary works if permitted, within the next 4 years, in the event the optimistic approach to Covid recovery proves to be founded. If LLA has project management information to demonstrate that this is not tenable, then it would be useful if this could be shared.

Community funding and relationship to compensation schemes and FIRST proposals of LLA as part of the DCO

31. The consultation material is not as clear as it might be in relation to community funding. Much of the information within the 'Community Benefits' section of the Background section of the Consultation Document (page 8) relates to funding provided by the airport owner LLAL (albeit the origins of this funding come from the operator).

32. No reference is made to the community funding requirements to which LLAOL is committed to as part of the 2014 18 mppa planning consent and the consultation material is not as clear as it should be in relation to any additional community funding that might be being offered as part of this proposal. For example, the Consultation Document states:

> *'**Findings of the Assessment***
>
> *The initial conclusions of the noise assessment are that whilst no significant effects would be predicted in either 2021 or 2028, additional properties would experience noise above the SOAEL as a result of the proposed increase in passenger numbers.*
>
> *To mitigate this effect, we are proposing the following operational measures:*
>
> *…….*
>
> *The following compensatory measures are also proposed:*
>
> *……..*

- *One off grants to local councils to provide community improvements.*

33. And the EIA Progress Report similarly states:

'7.5.3 Mitigation will also include compensatory measures as follows:

……

- *one-off grants to local councils exposed to noise levels between LOAEL and SOAEL based on the predicted future noise contours. Grants are to be used to provide community improvements.'*

34. Further information is required on the scale and nature of the proposed grant scheme and how it is to operate.

35. You will be aware of LLAL's Future LuToN Impact Reduction Scheme for the Three counties ("FIRST") contained within its DCO proposal. This would be applied to growth in excess of the currently permitted 18 mppa '*……We propose that FIRST will provide £1 in funding for every passenger over the current 18 mppa cap. This is substantially in excess of the existing community funding provided by LLAL (which in 2018/19 was approximately £0.53p per passenger). FIRST will run alongside LLAL's existing offering, which will remain unaffected by the introduction of FIRST.*'. The consultation material provides no information on the relationship between the community benefits proposed as part of the 19 mppa proposal (whatever they may be) and the commitment of LLAL through the DCO process to introduce FIRST for growth beyond 18 mppa.

Noise management/mitigation

36. The consultation material states that none of the identified increases in noise level would be considered significant, but acknowledges that there will be a number (unspecified) of additional dwellings experiencing noise over SOAEL which constitutes a likely significant adverse effect. The master plan refers to a range of existing measures that are in place to manage noise at LLA. No reference is made to the current live application to discharge a requirement of Condition 10 of Planning Permission No. 15/00950/VARCON that a noise reduction strategy be submitted for approval of LBC of a noise reduction strategy (to reduce the area of the noise contours by 2028 for daytime noise to 15.2 sq km for the area exposed to 57 dB(A) Leq16hr (0700-2300) and above for nighttime noise to 31.6 sq km for the area exposed to 48 dB(A) Leq8hr (2300-0700) and above.'). The County Council's response to a consultation on that application is appended (as Appendix 4). In summary the response advises:

'11. The County Council had been expecting that to enable the effective discharge of Condition 10 requirements, LLAOL would submit for approval a clear, tangible and deliverable action plan to achieve the required 2028 noise contour reductions. But this is not what has happened. The submitted 'Strategy' appears to amount to little more than a wish list of things that might or might not happen and that might or might not result in delivery. This is totally unacceptable. The County Council supports the findings and conclusions of the independent expert noise advice (dated 23rd January 2020) secured by LBC to inform its consideration of this application, which in summary finds:

'Bickerdike Allen (BAP) have submitted an undated report entitled Application No: 15/00950/VARCON(FUL), Discharge of Planning Condition 10 (Pt. 3), Noise Strategy (w.r.t. 2028). We understand that the document is intended to secure discharge of the condition on the premise that it contains sufficient detail of the strategy to be adopted by LLOAL to ensure that daytime and night-time noise contours will meet the reduced limits set for 2028.

We do not believe that the report achieves this aim as it contains insufficient detail of the strategy to be adopted. Instead it contains a number of general and imprecise statements of intent, many of which are already contained in other documents submitted by the airport or by BAP on their behalf.'

The report indicates that the principle reasons that noise levels, and therefore noise contour areas, will reduce to meet the 2028 limits are twofold:

- *The future fleet mix will contain a sufficiently large proportion of new generation, low noise aircraft;*
- *Some improvements are expected as a matter of course from the NATS FASI-S airspace changes that are expected to occur.*

The main issue with this approach is that neither of these are under the control of the airport, and it is therefore inconsistent to suggest they can form part of the airport's strategy.

Another problem arises from the reliance placed on the current Noise Action Plan (NAP) as containing adequate descriptions of the measures that the airport will adopt in implementing the required strategy. The generic nature of the wording used in the NAP, repeated in the BAP report, is not adequate to describe the elements of the strategy the airport is expected to pursue. Furthermore, there is a circularity in relying on the NAP in that one of the Operational Restrictions described in the NAP (3.5) is to develop a noise contour reduction strategy, the very same strategy that, as currently drafted, relies on the measures defined in the NAP.'

12. What is required is a strategy that will deliver, without question, the 2028 noise contour reduction requirements of Condition 10. Some of the principles and commitments within Heathrow's Environmentally Managed Growth approach are very much the kinds of things the County Council had expected to see in the strategy the subject of this application - clear, rigorous and transparent monitoring, ensuring public/community confidence and trust, environmental limits permanent and never exceeded, enforcement of environmental limits, investment in measures or commercial strategies which mitigate the effects of growth, encouraging airline environmental performance, 'look forward' to forecast growth relationship to limits, independent scrutiny, responding to feedback from monitoring evidence (Graphic 4.2 above), limiting the growth unless the environmental limits are met, and so on.

13. A strategy is required which sets out:

- *the range of measures/actions required to achieve contour reduction ('wish-list' items such as airspace modernisation can feature but cannot be relied upon until evidence is available – see 'strategy review' below.*

- *details exactly what measures/actions will be introduced and when and who is responsible for their introduction - with indicators/targets for these.*
- *how the indicators/targets are to be monitored and reported.*
- *a contour reduction trajectory – with a phased timetable that enables progress to be tracked and to trigger remediation measures as necessary.*
- *a commitment to transparency and community engagement.*
- *a scrutiny/enforcement/management framework that clearly sets out the mechanisms to be engaged should monitoring demonstrate failure against trajectory (triggered remediation measures).*
- *a clear commitment, similar to that within Heathrow's Environmentally Managed Growth, that contour reduction failure is not an option - 'The overall framework could have the effect of limiting the growth of the airport unless the Environmental Limits are observed…….'.*
- *a commitment to strategy review (so that it can evolve and reflect changing circumstances – for example, if/when there is **evidence** in the future that airspace modernisation will have a positive impact on noise contour reduction.*

14. The strategy submitted to discharge Condition 10 does not achieve these requirements and should be refused or a substantively revised strategy prepared and submitted by the applicant in response to and addressing the above concerns.'

37. The consultation material refers to a 'Noise Assessment' that *'identifies a number of specific mitigation measures which are recommended as a result of the increase in the number of properties exposed to noise at levels in excess of the SOAEL'*. These are:

'6.2.14 In order to achieve this, LLAOL will enhance its existing noise mitigation measure as follows:

- *increase the contribution to the Noise Insulation Fund*
- *The cost of insulation is given to the dwellings with highest noise levels as priority, and the increase in funding of the scheme will allow dwellings to receive insulation at an accelerated rate; and*
- *One-off grants to local councils exposed to noise levels between LOAEL and SOAEL based on the forecasted noise contours. Grants are to be used to provide community improvements.*

6.2.15 In addition the following commitments will be made as part of the proposed variation to noise planning conditions

- *For Summer 2020 and all subsequent seasons, no night-time (23:30 to 07:00) slots will be allocated to aircraft with a value greater than QC1;*
- *No further day time slots will be allocated to aircraft greater than QC1 (06:00-21:59 GMT 1st June – 30th September);*
- *No "non-emergency" Diverted Flights will be accepted;*
- *New airline / aircraft slots at night not to exceed QC 0.5; and*
- *Differential charging will be implemented to incentivise the rapid modernisation of fleet.'*

[Draft Masterplan]

38. These measures appear to differ from/add to the contents of Condition 9 of the 2014 planning permission and the Noise Control Scheme the subject of that Condition. This raises the question as to whether a revised or rejuvenated Noise Control Scheme is required and as a consequence, whether planning permission should be sought to vary Condition 9.

39. Elsewhere in this response the County Council advises that a period of time is set aside to bring stakeholders and communities together in moving the master plan forward before any planning application is made. One of the key areas of focus for such a process would be in relation to noise management. As APF states:

> *'4.5 Airports, in partnership with local communities, should:*
> *……*
> *review their consultative timetables, for example for master plans and Noise Action Plans, with a view to aligning these where possible and reducing the consultative burden on all concerned;*
> *……..'*

40. Whilst integration of the various noise plans/strategies may be difficult, the master plan process could provide a mechanism through which to provide greater clarity in terms of determining tangible actions, processes, responsibilities and penalties (see also Environmentally Managed Growth/Green Managed Growth) in relation to noise management at LLA – bringing together all those that already exist, those proposed as part of this process (along with sharing of the 'Noise Assessment') and how these amount to delivery of the existing and proposed requirements – see 'An all-encompassing master plan' above. Those commitments would then be transferred into the terms of any planning consent/legal agreement, should consent be granted.

Environmentally/Green Managed Growth

41. Paragraphs 4 and 5 above and related attachments raise fundamental concerns in relation to the ability of LLA to manage its operations in accordance with restrictions placed on its 2014 planning consent. The extract within paragraph 36 refers to the Environmentally Managed Growth (EMG) proposals of Heathrow Airport Ltd in relation to its 3rd runway proposal – the basic purpose of which is to have the effect of limiting the growth of the airport unless agreed Environmental Limits are observed. A similar approach is being taken by LLAL [Green Managed Growth (GMG)] in developing its DCO proposal. Given the historic failure of LLA to manage its operations to respect environmental limits, the County Council is of the view that it should explore with stakeholders and communities the extent to which it is possible to put in place an E/GMG approach for this 19 mmpa proposal – to ensure that key 'limits' (exploring those in relation to noise, surface access modal splits, air quality, GHG emissions) are set and respected. This could be articulated in the master plan and set in place upon the grant of planning permission, were this to be forthcoming.

Summary

42. In summary, the County Council's position is as follows:

i. The County Council has an in-principle objection to planning applications whose ‘need’ is generated by mismanagement of the Airport with regard to the expectations of the 2014 18 mppa planning consent. The impact Covid-19 has had on the aviation sector and on LLA presents an opportunity to recalibrate management and growth to that set out in the 2012 masterplan and the 2014 planning consent.

ii. There should be further engagement on the preparation of the master plan, including sharing of the evidence underpinning the findings and mitigation proposals within the draft in advance of finalisation/publication/approval.

iii. The finalised/published/approved master plan needs to contain evidence (along with technical appendices) to substantiate the findings and conclusions reached and to justify proposed mitigations.

iv. The opportunity should be taken to take a fresh approach to the master plan preparation – with a view to putting in place an all-encompassing framework that draws the various strategies together into a whole and fronting up a range of subsidiary plans/strategies/evidence.

v. Clarity is required with regard to the process for finalisation/publication/approval of the master plan

vi. The master plan preparation and ‘approval’ process should be completed in advance of the submission of any planning application.

vii. Given Luton Local Plan policy, the master plan should be approved by Luton Borough Council in advance of the submission of any planning application.

viii. Clarity is required on community funding proposals and the relationship these have with the FIRST scheme being brought forward through the DCO process.

ix. Further information and justification are required in relation to the assumptions underpinning the contention that the Airport will recover to 2019 levels by 2023 and proposed 19 mppa by 2024.

x. Even if the 2024 19 mppa timeline is considered to be realistic there does not appear to be any immediate need for a planning application to be submitted by the end of 2020. The proposed timeframe for submission of a planning application should be reviewed with a view to it being substantively delayed facilitating meaningful engagement upon and approval of the master plan.

xi. Consideration should be given to using the master plan process to provide greater clarity in terms of determining tangible actions, processes, responsibilities and penalties in relation to noise management at LLA. Commitments would then be transferred into the

terms of any planning consent/legal agreement, should consent be granted.

xii. LLAOL should explore with stakeholders and communities the extent to which it is possible to set up an Environmental Managed Growth approach for the 19 mppa proposal.

Yours sincerely,

Derrick Ashley

Executive Member for Growth, Infrastructure, Planning and the Economy

Appendix 1

Hertfordshire County Council response to planning application to vary condition 10 of planning permission 15/00950/VARCON

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18th July 2019

Dear Ms Barnell,

Application to vary condition 10 of planning permission 15/00950/VARCON for a temporary period (to end of 2024) to enable the area enclosed by the 57 dB(A) daytime noise contour to increase from 19.4 sq km to 23.4 sq km and the area enclosed by the 48dB(A) night time contour to increase from 37.2 sq km to 44.1 sq km. 19/00428/EIA

Thank you for the opportunity to comment on the above.

Whilst this response is made on behalf of Hertfordshire County Council, it has the broad support of a number of Hertfordshire borough and district councils who will be responding to you separately.

1. Background Context

1.1 The original planning application was approved on the basis that growth in throughput would be accompanied by a range of safeguards to manage the noise impacts arising from the proposal and protect communities. This is clear from the following extracts from the report to Committee dated 20th December 2013 (text highlighted ***thus*** in this section and throughout represents emphasis added):

'95. ……... The timescales for the introduction of new aircraft (fleet modernisation) is to be secured both through condition and S106 Agreement attached to any permission.

110. An independent assessment of the ES in respect of the Noise implications of the development was carried out for LBC by Cole Jarman Ltd, Noise Consultants, and in so far as airborne aircraft noise is concerned there are no significant reservations about the methodology employed in the ES to quantify the expected noise levels. In numerical terms it was considered that the contours and footprints presented in the ES reasonably reflect the expected noise impact. However, in interpreting the findings it was considered that the following factors needed to be considered:
……...

- *Controlling the noise impact to the levels indicated for 2028 requires that a substantial part of the airline fleet is changed to modern, low noise variants of types currently operating.* ***The primary mechanism put forward by the applicant for ensuring that this will happen is by way of a condition limiting the extent of key daytime and night time aggregated noise contours****.*

- *Current Government Policy in respect of aircraft noise is contained in the APF published in March 2013. This states that „Our overall objective on noise is to limit and where possible reduce the number of people in the UK significantly affected by aircraft noise." The predicted future noise impact with the development in place would be greater than that assessed as prevailing at the present time. One consequence of this finding is that the number of people significantly affected by aircraft noise might be neither limited nor reduced and as such this would not meet the objectives set out in the APF.* ***To address this the applicant has made a commitment that the Airport will seek to continually increase the percentage of flights undertaken by modernised low noise variants of relevant aircraft types and it is proposed to secure this commitment by way of a legal agreement (S106). This measure would facilitate a reduction in the overall noise levels and minimise the impact on local residents and therefore meet the objectives of the APF****.*

- *Luton Local Plan Policy LLA1 states……By applying this tighter interpretation this would require lower noise levels in 2028 than are predicted for the partial modernisation scenario. Although this alternative interpretation is not accepted by the applicant, achieving the full modernisation scenario would ensure compliance with this alternative interpretation* ***and this would be likely to be secured by a commitment (in the S106 Agreement) by the Airport that they will continually increase the percentage of fights undertaken by modernised low noise variants of relevant aircraft types****.*

111. Although the assessment of the ES in terms of noise did initially identify areas of concern relating to the interpretation of policy LLA1, predicted noise levels, night time noise issues and necessary mitigation measures, ***further negotiation with the applicant has resulted in the applicant accepting additional controls and mitigation measures by way of condition and or inclusion within the S106 Agreement****.*

112. ***The Local Planning Authority, in consultation with its noise consultant Cole Jarman Ltd, considers that there is a remedy to ensure that the numbers of people affected by aircraft noise does not increase****. The two tables below show a comparison for daytime noise (Table 1) and night time noise (Table 2) for a number of*

years – including the predictive and actual noise levels in 1999. The 2028 predicted figures are taken form the ES

113. It can be seen that the predicted 1999 taken from the 1997 ES levels were higher than actual 1999 levels (0.2 square kilometres for daytime noise and 22.8 square kilometres for night time noise). Further it can also be seen that the current operation of the Airport is well below these levels. The requirement for Condition 12 for night time noise to be limited to an area of 37.2 sq.km for the 48-72 Leq dBA 8 hour (23.00 – 07.00) contour is ambitious but will ensure that lower noise levels are achieved in 2028 than currently predicted by LLAOL. ***<u>However with strict controls on growth and measures such as fleet modernisation being maximised, this lower area is considered to be practicable and achievable. It also ensures additional benefits in terms of residential amenity in accordance with policy</u>****.*

114. Even though some weight should be given to Local Plan Policy LLA1 as it is site specific and has been based on evidence the subject of previous planning decisions in relation to development of the Airport, it is considered that greater weight should be given to current Government policy, which is seeking where possible to reduce the number of people significantly affected by aircraft noise in the UK. It is therefore considered that the condition restricting the 57 dB daytime contour and the 48 dB night time contour could reflect the actual 1999 levels and thereby ensure that the area affected by aircraft noise would be any worse than at that time.

115. The applicant has raised concerns regarding the independent Noise assessment of the ES by Cole Jarman Ltd in terms of some of the conclusions reached in respect of issues relating to night time noise and the level of mitigation proposed. The applicant was of the view that this had been fully assessed within the ES. ***<u>However the purpose of LBC carrying out an independent assessment was to examine the proposal and proposed mitigation in terms of seeking to secure on balance the best practicable outcomes for the surrounding community while enabling the development to be implemented in accordance with government and local policy.</u>*** *Clearly within this process there will be differences of opinion. The proposed modifications to the Noise Insulation Scheme are not at a scale that could be considered unreasonable given the potential long term impact of the development as proposed.*

116. ***<u>The conditions and S106 requirements as proposed therefore reflect both the aspirations of the APF and the NPPF</u>****. The comments received by the applicants are contained in full within Appendix (8) of the Report.*

205. As set out within the report, the proposed expansion of the Airport will have an impact in terms of additional noise from aircraft movements and traffic generation. ***<u>However, the proposal does afford the opportunity to put in place a range of controls through the use of a mix of planning conditions and obligations contained within a S106 Agreement, in respect of issues such as night time noise, noise insulation, limitation on the passenger numbers and type of aircraft etc. Current controls are limited in their effectiveness and/or do not meet the requirements or objectives of current national aviation and planning policy.</u>****'*

1.2 Similarly, the Committee report relating to the Variation of condition 11 (i) – Noise Violation Limits states:

'69. Commenting on condition 11(i), Cole Jarman Ltd note that the noise violation limits graduated according to the QC classification seek to ensure that all aircraft, and not just the noisiest, are operated in a manner that ensures the noise levels generated are commensurate with what is to be expected. However, they conclude from the analysis of the data that "setting noise violation limits based on the departure QC rating of an individual aircraft is unreliable. Transgression of a noise violation limit set in this way cannot be absolutely determined as evidence that any given aircraft is being operated in an unacceptable manner." Consequently they confirm that the data indicates an alternative means of setting noise violation limits and controlling average noise levels generated in the community around the airport is required.

70. Cole Jarman Ltd state that "if condition 11(i) is to be modified to include absolute noise limits unrelated to the QC rating of aircraft, then it is vital that the noise envelope restrictions set out in condition 12 are applied using the full knowledge of the actual noise levels generated by aircraft operating at Luton Airport." Condition 12 requires the area encapsulated by the 48dBL Aeq,8h contour to be reduced by the year 2028 from 37.2km2 to 31.6km2 for the night period and for the daytime the 57dB L Aeq,16h contour to be reduced from 19.4km2 to 15.2km2.

79. With regard to LADACAN's comments concerning the noise violation limits being a blunt tool that would not encourage a change to quieter aircraft, it should be noted that condition 11 is not the primary mechanism for constraining and reducing the overall levels of aircraft noise in the community. ***Condition 12 is the main tool setting limits on the areas enclosed in the daytime (57dB L Aeq,16h) and night time (48dB L Aeq,16h) and also requiring the Airport to develop and implement a strategy for ensuring that the areas within these contours reduces by 22% and 15% respectively by 2028. Such a reduction in the areas means there will be a reduction in noise generated by aircraft overflying all locations in the community around the Airport.*** *This also addresses one of the concerns raised by the Chilterns Countryside Board.'*

1.3 The planning conditions/s106 agreements attached to the 2014 and 2016 planning consents (subsequently referred to as 'the original approval, consent or permission) contain a suite of measures to restrict the noise impact of the development to safeguard potentially impacted communities and to make the development acceptable. The importance of and commitment to noise contours is clear from the decision-making process and these were duly incorporated into the planning consent.

1.4 The planning application summarises why the Airport has failed to comply with these key restrictions and why it is seeking them to be relaxed, as follows:

'In summary, the number of passengers has grown more quickly than that forecast at the time of the 2012 Environmental Statement, and the introduction of new generation aircraft has not kept pace. These factors, combined with unforeseen delays arising from European industrial issues and severe weather events, have resulted in a situation whereby the airport cannot operate to its full permitted limit whilst being confident that the restrictions of Condition 10 can be met.'

1.5 European industrial issues and severe weather events may well be outside the control of the Airport, but this statement seems to suggest that the Airport has no control over the growth in the number of passengers or the introduction of new

generation aircraft. This is of course nonsense. The Airport has actively pursued throughput growth towards its 18 mppa planning restriction in the full knowledge this:

- was proceeding at a pace far in excess of that anticipated when the planning application was submitted;
- was not being accompanied by fleet modernisation assumptions set out within the planning application which were integral to the decision and planning conditions/agreement imposed;
- would inevitably result in a breach of the noise restrictions imposed by the planning consent;
- would inevitably result in adverse noise consequences on local communities.

1.6 The adverse implications arising from this failure are of course not confined to those communities within the noise contour areas subject to Condition 10 and its breach and the proposed new revised contours, but much further afield. A range of communities further afield in Hertfordshire have been subject to a significant and unacceptable worsening of their noise environment and quality of life. The significance of these impacts has been recognised by the Airport in pursuing Airspace Change processes to seek to address them.

1.7 The County Council is of the view that the behaviour of the Airport has not been within the spirit of the planning application originally submitted and the planning consent granted, represents an abrogation of its environmental responsibilities and is disrespectful of communities. The Airport should have proactively managed its operations to respect the regulatory regime imposed upon it. In failing to do so it has acted irresponsibly.

1.8 Within its emerging aviation policy (Aviation 2050), Government is clear that it supports aviation growth, but on the condition that it is sustainable, environmental impacts are managed better and that communities are protected from the adverse impacts of growth and should directly benefit from it. Key to delivery of Government expectations is a ‘Partnership’ approach involving all partners, including communities. The Government sees the setting of noise caps as part of planning approvals as a means to balance noise and growth and to provide future certainty over noise levels to communities. The ‘contract’ between the Partnership in this case (the Airport operator, the local planning authority, highways authorities, communities and others) entered into for growth of the Airport to 18 mppa and the setting of noise caps to provide certainty for communities is in large part the terms of the planning permission. In failing to manage its operations to comply with that consent and committing to comply with it in the future, the Airport has betrayed the other partners, particularly those communities currently suffering from the adverse consequences of the breaches of planning control. The County Council is of the view that the actions of the Airport have fallen considerably short of Government expectations.

2. The Planning Application - The Planning Statement

2.1 The County Council is of the view that the Planning Statement is not fit-for-purpose. It is surprisingly poor in its assessment of the compliance or otherwise of the proposal with planning policy. It recites planning policy in Chapter 4 (but is occasionally selective in extracting relevant text from key local and national policies, is in parts wrong and in other parts misleading); Chapter 5 assesses the environmental and (briefly) the economic implications of the proposal but nowhere does it provide an assessment of the scheme against relevant planning policy. Only in Section 7 ("Planning Balance") does the Statement accept that the application may result in *'potential non-compliance'* with individual LLP6 criteria, without stating which ones or the degree of non-compliance. It argues that one should simply consider the *'wider emphasis of the plan as whole'* on economic development and the contribution of the Airport and such that there could be non-compliance, this must be *'balanced with a considered understanding of the economic benefits that the proposal would accommodate.'* Yet the Local Planning Authority (LPA) is provided with no information on which to base a *'considered understanding'*.

2.2 The following analysis of the Planning Statement is by way of example and does not represent an exhaustive critique. Your authority will, of course, identify for itself all relevant policy considerations and interpret and apply these accordingly, but the County Council would urge caution in relying in any substantive way on the Planning Statement accompanying the application.

3. Requirement to vary Condition 10

3.1 Rationale for variation

2.3 *'Requirement to vary Condition 10'* – it is not a 'Requirement'. The operator could simply comply with the planning permission. The terminology used in the planning statement that the applicant 'requires' the condition to be varied is inappropriate and seems to suggest that the breach is inevitable and that it is only by approving this variation that the Airport can continue to operate successfully. This seems to suggest that reverting to a different form of operation to comply with the existing condition is not possible and that the LPA have no choice but to approve the application. This cannot be the correct approach to considering this proposal. This is a 'request' to vary condition 10.

2.4 Paragraph 4 – details of the *'incentives to introduce the next generation aircraft'* should be provided by the applicant.

2.5 Paragraphs 5 – 8 – these paragraphs summarise the three main reasons why the night-time noise contours have been breached in recent years. What this section does not do is:

- assuming the Airport must have recognised that its operations were heading towards a breach of planning control, explain why measures were not introduced earlier to prevent breach.
- explain the rationale for proposals to amend the day-time noise contour of Condition 10 in circumstances where there has been no breach of restrictions and where no future breach is predicted.

2.6 This intelligence and explanation should be provided by the applicant.

3.2 Mitigation measures

2.7 Paragraph 1 states *'……Following the breach in 2017, LLAOL took immediate action to reduce the number of flights……The degree of seriousness which LLAOL take any breach of their obligations is demonstrated by the wide ranging restrictions implemented.'*

2.8 The applicant should be required to explain why measures were not introduced in advance of the breach in an attempt to ensure compliance with planning control and protect the amenity of communities.

2.9 The County Council would wish to be assured that the planning authority is content that the mitigation measures currently in use represent a robust response to breaches and that other potential measures (all other measures, including restricting flight numbers) have been explored to regularise operations at the Airport and enable compliance with the planning permission.

2.10 The Noise Control Scheme and Noise Management Plan required by the planning consent(s) specify a wide range of mechanisms necessary to restrict and regulate operations/noise at the Airport. These include arrangements for monitoring and reporting. Clearly, one of the main reasons for the monitoring and reporting process is for the operator and the LPA to be satisfied that the operations at the Airport were being managed in a manner to comply with the restrictions of the planning permission. It will surely have been very clear from this intelligence that the Airport was growing far more rapidly and without or in advance of fleet modernisation envisaged when consented.

2.11 Both the Airport and Luton Borough Council (LBC) must have been well aware that operations at the Airport were heading towards a potential breach of planning control. They were also very well aware that the operation of the Airport was creating very real and substantial adverse noise conditions for communities. Despite this, this section of the statement seems to take the breach as its starting point for the rationale for the proposed variation. To present a complete picture, the applicant should be required to provide:

- intelligence on the data provided within annual monitoring reports in relation to passenger growth and fleet modernisation.
- a summary of those matters within the approved Noise Control Scheme(s) and Noise Management Plan(s) of direct relevance to this planning application.
- a summary of the discussions/negotiations that have taken place between the applicant and the LPA in advance of the breach and the outcome of those discussions/negotiations.
- an explanation as to why the 'Mitigation measures' outlined in section 3.2 of the Planning Statement were not introduced in advance of the breach, and any other potential mitigations that may have been appropriate.
- the measures put in place in response to the letter from LBC to the Airport dated 16th February 2018 (and in response to any other correspondence from LBC).
- any further ongoing measures being explored/negotiated with LBC to restrict the scale of the on-going breach.

3.3 Proposed variation wording

2.12 Paragraph 1 states that *'LLAOL is committed to operating within the requirements of its relevant planning permissions and takes any actual or potential breach seriously'*. Clearly LLAOL is not committed to operating within its planning restrictions as it has not managed its operations in a manner to achieve this.

2.13 *'The breaches which did occur in 2017 and 2018 were the result of a number of factors which were outside the immediate control of the airport'*. This is not true. The most effective way in which the breaches could have been prevented would have been for the Airport to manage its operations in a manner which restricted the number of flights to those that would enable it to operate within its agreed environmental limits.

2.14 Paragraph 2 states that *'Whilst LLAOL now have the mitigation measures in place it does recognise that such measures restrict the operational movements of airlines and would represent a hiatus in the continued growth of the airport with the consequence that the airport would become potentially less attractive to airlines in the future'*. This seems to suggest that the intention, were permission to be granted for the Condition 10 variation, the Airport would simply abandon these mitigation measures with the consequential impact this would have on communities.

2.15 Paragraph 3 raises the proposal to also vary the day time noise contour. None of the preceding text provides any specific rationale or evidence to indicate why the existing day time restrictions should not remain in place. The applicant should be required to provide evidence and justification.

4. Planning Policy

4.1 National planning and aviation policy

National Planning Policy Framework (NPPF)

Building a strong, competitive economy

2.16 Reference is made to Paragraph 81. This is irrelevant to this planning application as it relates to the guidance on what planning policies should do. This process is not a planning policy formulation process.

2.17 Reference is made to paragraph 82 that decisions should recognise and address the specific location requirements of different sectors. This is irrelevant. There are no locational requirements for this planning application – the Airport is already in place.

Promoting sustainable transport

2.18 Reference is made to Paragraph 104e relating to large scale transport facilities. This is irrelevant to this planning application as it relates to the guidance on what planning policies should do. This is not a planning policy formulation process.

2.19 Reference is made to Paragraph 104f to suggest that the NPPF has strengthened policy in respect of aviation. This is misleading. 104f relates to general aviation, not large scale nationally significant airports like London Luton. It actually states:

'recognise the importance of maintaining a national network of general aviation airfields, and their need to adapt and change over time – taking into account their economic value in serving business, leisure, training and emergency service needs, and the Government's General Aviation Strategy'

2.20 Paragraph 104 is also irrelevant to this planning application as it relates to the guidance on what planning policies should do. This process is not a planning policy formulation process.

Conserving and enhancing the natural environment

2.21 The statement fails to recognise NPPF paragraph 170 which states that decisions should contribute to and enhance the natural and local environment by, amongst other matters:

'……..
e) ***preventing new and existing development from contributing to****, being put at unacceptable risk from, or being adversely affected by,* ***unacceptable levels of*** *soil, air, water or* ***noise pollution*** *or land instability.* ***Development should, wherever possible, help to improve local environmental conditions*** *such as air and water quality, taking into account relevant information such as river basin management plans; and……'*

NPPF conclusion

2.22 The application states *'The presumption in favour of sustainable development recognises the need to balance social, economic and environment objectives but is sufficiently pragmatic to recognises that for some types of development there is a need to take into account the specific local opportunities that may present themselves'*. The NPPF does not state this - the presumption in favour of sustainable development:

- does not itself refer to the need to balance social, economic and environmental objectives. The objectives referred to are the objectives of the planning system to achieve sustainable development. The 'balance' between these objectives is within the supporting text and relates to achieving sustainable development more generally through the planning system.
- does not in any way recognise that some types of development need to take into account specific local opportunities that may present themselves.

2.23 Reference is made to *'a recognition in the case of aviation that needs may not be fixed but may change over time'*. The NPPF does no such thing – where it does comment on *'the need to adapt and change over time'* is in relation to general aviation only.

2.24 *'Nevertheless, aviation development should be environmentally appropriate and should undertake measures to mitigate potential adverse impacts from noise recognising that it could potentially give rise to significant adverse impacts upon health'*. None of this features within the NPPF. The NPPF makes no reference to aviation development (only general aviation – see above), being *'environmentally appropriate'* (whatever that is supposed to mean), to *'undertake measures to mitigate'* or that it *'could potentially give rise to significant adverse impacts upon health'*.

National Planning Practice Guidance

2.25 Paragraph 2 states that *'With specific regard to aviation and airport planning, the NPPG does not introduce any additional guidance beyond that which is already captured by the NPPF'*. The NPPF does not provide any guidance specific to aviation and airport planning, other than general aviation.

2.26 No reference is made to the following in paragraph 005 Reference ID: 30-005-20140306:

'At the highest extreme, noise exposure would cause extensive and sustained changes in behaviour without an ability to mitigate the effect of noise. The impacts on health and quality of life are such that regardless of the benefits of the activity causing the noise, this situation should be prevented from occurring.'

2.27 No reference is made to the following within paragraph 006 Reference ID: 30-006-20141224

'The subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. This will depend on how various factors combine in any particular situation.
These factors include:

- *the source and absolute level of the noise together with the time of day it occurs. Some types and level of noise will cause a greater adverse effect at night than if they occurred during the day – this is because people tend to be more sensitive to noise at night as they are trying to sleep. The adverse effect can also be greater simply because there is less background noise at night;*
- *for non-continuous sources of noise, the number of noise events, and the frequency and pattern of occurrence of the noise;……..'*

Noise Policy Statement for England (NPSE)

2.28 The Planning Statement fails to recognise:

'2.14 It is recognised that noise exposure can cause annoyance and sleep disturbance both of which impact on quality of life. It is also agreed by many experts that annoyance and sleep disturbance can give rise to adverse health effects. The distinction that has been made between 'quality of life' effects and 'health' effects recognises that there is emerging evidence that long term exposure to some types of transport noise can additionally cause an increased risk of direct health effects. The Government intends to keep research on the health effects of long term exposure to noise under review in accordance with the principles of the NPSE.'

2.29 The Planning Statement does not highlight the aims of the NPSE:

*'**The first aim of the Noise Policy Statement for England***

Avoid significant adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

2.23 The first aim of the NPSE states that significant adverse effects on health and quality of life should be avoided while also taking into account the guiding principles of sustainable development (paragraph 1.8).

The second aim of the Noise Policy Statement for England

Mitigate and minimise adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

2.24 The second aim of the NPSE refers to the situation where the impact lies somewhere between LOAEL and SOAEL. It requires that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development (paragraph 1.8). This does not mean that such adverse effects cannot occur.

The third aim of the Noise Policy Statement for England

Where possible, contribute to the improvement of health and quality of life through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

2.25 This aim seeks, where possible, positively to improve health and quality of life through the pro-active management of noise while also taking into account the guiding principles of sustainable development (paragraph 1.8), recognising that there will be opportunities for such measures to be taken and that they will deliver potential benefits to society. The protection of quiet places and quiet times as well as the enhancement of the acoustic environment will assist with delivering this aim.'

Aviation Policy Framework (APF)

2.30 The second paragraph in this section repeats from paragraph 1.24 the following:

'1.24 The Government wants to see the best use of existing airport capacity.'

2.31 Strangely this paragraph then fails to go on to repeat the text immediately following this sentence which is very relevant context for this planning application:

'1.24 The Government wants to see the best use of existing airport capacity. We support the growth of airports in Northern Ireland, Scotland, Wales and airports outside the South East of England. ***<u>However, we recognise that the development of airports can have negative as well as positive local impacts, including on noise levels. We therefore consider that proposals for expansion at these airports should be judged on their individual merits, taking careful account of all relevant considerations, particularly economic and environmental impacts.'</u>***

2.32 The APF contains a whole chapter on 'Noise and other local environmental impacts' and yet no reference of this is made within the planning statement. Some of the most relevant highlights of Government policy include:

'3.1 ***Whilst the aviation industry brings significant benefits to the UK economy, there are costs associated with its local environmental impacts which are borne by those living around airports, some of whom may not use the airport or directly benefit from its operations.*** *This chapter considers noise, air quality and other local environmental impacts.*

Noise

3.2 The Government recognises that noise is the primary concern of local communities near airports. The extent to which noise is a source of tension between airports and local communities will vary depending on factors such as the location of an airport in relation to centres of population and the quality of its relations and communications with its local communities. We are aware that many airports already make considerable efforts to engage their local communities and that the relationship is well managed.

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

3.7 The Government fully recognises the ICAO Assembly 'balanced approach' principle to aircraft noise management. The 'balanced approach' consists of identifying the noise problem at an airport and then assessing the cost-effectiveness of the various measures available to reduce noise through the exploration of four principal elements, which are:

- *reduction at source (quieter aircraft);*
- *land-use planning and management;*
- *noise abatement operational procedures (optimising how aircraft are flown and the routes they follow to limit the noise impacts); and*
- *operating restrictions (preventing certain (noisier) types of aircraft from flying either at all or at certain times).*

Policy objective

3.12 ***The Government's overall policy on aviation noise is to limit and, where possible, reduce the number of people in the UK significantly affected by aircraft noise, as part of a policy of sharing benefits of noise reduction with industry****.*

3.13 This is consistent with the Government's Noise Policy, as set out in the Noise Policy Statement for England (NPSE) which aims to avoid significant adverse impacts on health and quality of life.

3.14 Although there is some evidence that people's sensitivity to aircraft noise appears to have increased in recent years, there are still large uncertainties around the precise change in relationship between annoyance and the exposure to aircraft noise. ***There is evidence that there are people who consider themselves annoyed by aircraft noise who live some distance from an airport in locations where***

aircraft are at relatively high altitudes. *Conversely, some people living closer to an airport seem to be tolerant of such noise.*

3.15 To provide historic continuity, the Government will continue to ensure that noise exposure maps are produced for the noise-designated airports on an annual basis providing results down to a level of 57dB LAeq 16 hour. To improve monitoring of the specific impact of night noise, we will also ensure that separate night noise contours for the eight-hour night period (11pm–7am) are produced for the designated airports.

3.17 ***We will continue to treat the 57dB LAeq 16 hour contour as the average level of daytime aircraft noise marking the approximate onset of significant community annoyance. However, this does not mean that all people within this contour will experience significant adverse effects from aircraft noise. Nor does it mean that no-one outside of this contour will consider themselves annoyed by aircraft noise.***

3.19 Average noise exposure contours are a well established measure of annoyance and are important to show historic trends in total noise around airports. ***However, the Government recognises that people do not experience noise in an averaged manner and that the value of the LAeq indicator does not necessarily reflect all aspects of the perception of aircraft noise. For this reason we recommend that average noise contours should not be the only measure used when airports seek to explain how locations under flight paths are affected by aircraft noise. Instead the Government encourages airport operators to use alternative measures which better reflect how aircraft noise is experienced in different localities,*** *developing these measures in consultation with their consultative committee and local communities.* ***The objective should be to ensure a better understanding of noise impacts and to inform the development of targeted noise mitigation measures***.

Measures to reduce and mitigate noise – the role of industry

3.24 ***The acceptability of any growth in aviation depends to a large extent on the industry tackling its noise impact. The Government accepts, however, 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 numbers of people affected.***

3.25 As a general principle, ***the Government expects that at the local level, individual airports*** *working with the appropriate air traffic service providers* ***should give particular weight to the management and mitigation of noise,*** *as opposed to other environmental impacts, in the immediate vicinity of airports, where this does not conflict with the Government's obligations to meet mandatory EU air quality targets. Any negative impacts that this might have on CO_2 emissions should be tackled as part of the UK's overall strategy to reduce aviation emissions, such as the EU Emissions Trading System (ETS). Further guidance on this principle will be published when the Department for Transport updates its guidance to the Civil Aviation Authority (CAA) on environmental objectives relating to the exercise of its air navigation functions (see Chapter 5).*

3.27 ***As part of the range of options available for reducing noise, airports should consider using differential landing charges to incentivise quieter aircraft.***

The Government has asked the CAA to investigate the use of these charges and the CAA will be publishing its findings later this year.

3.28 ***The Government expects airports to make particular efforts to mitigate noise where changes are planned which will adversely impact the noise environment.*** *This would be particularly relevant in the case of proposals for new airport capacity, changes to operational procedures or where an increase in movements is expected which will have a noticeable impact on local communities. In these cases, it would be appropriate to consider new and innovative approaches such as noise envelopes or provision of respite for communities already affected.*

Night noise

3.34 ***The Government recognises that the costs on local communities are higher from aircraft noise during the night, particularly the health costs associated with sleep disturbance. Noise from aircraft at night is therefore widely regarded as the least acceptable aspect of aircraft operations.*** *However, we also recognise the importance to the UK economy of certain types of flights, such as express freight services, which may only be viable if they operate at night. As part of our current consultation on night flying restrictions at the noise-designated airports, we are seeking evidence on the costs and benefits of night flights.*

3.35 ***In recognising these higher costs upon local communities, we expect the aviation industry to make extra efforts to reduce and mitigate noise from night flights through use of best-in-class aircraft, best practice operating procedures, seeking ways to provide respite wherever possible and minimising the demand for night flights where alternatives are available.*** *We commend voluntary approaches such as the curfew at Heathrow which ensures that early morning arrivals do not land before 4.30am.*

Noise insulation and compensation

3.36 The Government continues to expect airport operators to offer households exposed to levels of noise of 69 dB LAeq,16h or more, assistance with the costs of moving.

3.37 ***The Government also expects airport operators to offer acoustic insulation to noise-sensitive buildings, such as schools and hospitals, exposed to levels of noise of 63 dB LAeq,16h or more. Where acoustic insulation cannot provide an appropriate or cost-effective solution, alternative mitigation measures should be offered.***

3.38 If no such schemes already exist, airport operators should consider financial assistance towards acoustic insulation for households. Where compensation schemes have been in place for many years and there are few properties still eligible for compensation, airport operators should review their schemes to ensure they remain reasonable and proportionate.

3.39 ***Where airport operators are considering developments which result in an increase in noise, they should review their compensation schemes to ensure that they offer appropriate compensation to those potentially affected. As a minimum, the Government would expect airport operators to 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.

3.40 Any potential proposals for new nationally significant airport development projects following any Government decision on future recommendation(s) from the Airports Commission would need to consider tailored compensation schemes where appropriate, which would be subject to separate consultation.

3.41 Airports may wish to use alternative criteria or have additional schemes based on night noise where night flights are an issue. Airport consultative committees should be involved in reviewing schemes and invited to give views on the criteria to be used.

Planning policies

5.6 In preparing their local plans, local authorities are required to have regard to policies and advice issued by the Secretary of State. This includes the Aviation Policy Framework, to the extent it is relevant to a particular local authority area, along with other relevant planning policy and guidance. The Aviation Policy Framework may also be a material consideration in planning decisions depending on the circumstances of a particular application.'

Aviation 2050: The Future of UK Aviation

2.33 Paragraph 3 summarises the content of part of paragraph 1.21 as follows *'The need for further aviation capacity is highlighted and the Government is supportive of a new runway at London Heathrow Airport as well as other airports throughout the UK making best use of their existing runways'*. Unfortunately the statement fails to recognise what paragraph 1.21 goes on to say in relation to best use of existing runways. Paragraph 1.21 states:

'1.21 This is why the government is supportive of the development of a third runway at Heathrow Airport…… It is also supportive of airports throughout the UK making best use of their existing runways, ***subject to environmental issues being addressed. However, there is a need for clarity on what the future framework will be for providing additional capacity to meet demand, while managing environmental and community impacts****.*

2.34 Paragraph 4 at least recognises that there is a 'Managing noise' section within Aviation 2050, but its analysis amounts to simply stating that the section *'notes that the Government is looking into creating new enforcement powers for Independent Commission on Civil Aviation Noise or Civil Aviation Authority if other measures prove insufficient to drive the outcome it wants'*. This reference is of virtually no relevance to this planning application in terms of Government policy direction. Some much more relevant policy within the 'Managing noise' section of the Aviation 2050 and elsewhere within it includes:

'Environmental impacts

1.26 ***Disturbance from aircraft noise has negative impacts on the health and quality of life of people living near airports and under flightpaths.*** *There is also evidence that the public is becoming more sensitive to aircraft noise, to a greater*

extent than noise from other transport sources, and that there are health costs associated from exposure to this noise. The government is supporting the industry to deliver airspace modernisation and has also established a new Independent Commission on Civil Aviation Noise (ICCAN), but efforts to reduce and manage noise impacts must continue.

What this means for Aviation 2050
1.33 Together, these trends present significant opportunities to be exploited, but also challenges to overcome and manage. Global and domestic trends show that with the right economic conditions, the year-on-year growth in passenger numbers and air freight can be expected to continue. There are also signs of change in the market which could which transform business models and the offer for consumers. ***Meeting this increased demand will require a new partnership between the government, the industry, the regulator and communities that balances the economic benefits of growth with its impact on communities and the environment.***

1.34 The eastward shift in aviation markets and the growth in new technologies mean that aviation could look very different to how it does today, both globally and domestically. To remain competitive on the global stage, and to safeguard its role as one of the leaders in both aviation and aerospace, the UK must be well positioned to take advantage of these new opportunities, while managing the potential economic, political and environmental headwinds along the way.

1.35 This is the motivation behind a new Aviation Strategy which will:
……..

- *ensure that aviation can grow sustainably – moving beyond an artificial 'choice' between growth and environmental protection by building a new partnership that actively supports sustainable growth with actions taken to mitigate environmental impacts*
- ***support regional growth and connectivity** – ensuring aviation enables all regions of the UK to prosper and grow, providing jobs and economic opportunities and a meaningful contribution to the life of communities up and down the country*

……..

Ensure aviation can grow sustainably

3.3 ***Even with these improvements there are challenges that need to be addressed. Growth can have significant environmental impacts which affect local communities and increase emissions.*** *There are also significant infrastructure constraints which require urgent attention, such as the need to modernise our airspace, improve transport links to airports and consider whether new runways are required.* ***Therefore, while the government supports continued growth in aviation over the next 30 years, it also believes that the UK must be more ambitious on environmental protection to ensure that growth is sustainable.***

A partnership for sustainable growth

3.5 The government's forecasts show that demand for aviation will continue to grow in the period to 2050. The government intends to discuss its modelling approach with stakeholders in the first half of 2019, which will inform future decisions on whether there is a case for additional runways.

3.6 The government accepted the independent Airports Commission's conclusion that there is a need to increase capacity in the South East of England by 2030 by constructing one new runway and supports a new Northwest runway at Heathrow Airport, through the designation of the Airports National Policy Statement (NPS). This sets out the requirements that an applicant will need to meet in order for development consent to be granted. ***The government has also expressed support for other airports making best use of their existing runway capacity, subject to economic and environmental issues being addressed.***

Managing noise
The impact of aviation noise

3.102 ***The growth of the aviation sector brings many benefits but the government recognises that disturbance from aircraft noise has negative impacts on the health and quality of life of people living near airports and under flightpaths.***
……

3.105 ***However, the government recognises that statistics showing past and future improvements in noise do not necessarily match the experience of some people living under flightpaths, for whom the benefits of quieter aircraft can be cancelled out by greater frequency of movements or the effects of concentrated traffic associated with more accurate navigation technology (see paragraph 3.19).*** *The CAA's report also shows that the number of people affected will be higher as a result of population increases.*

3.106 There is also evidence that the public is becoming more sensitive to aircraft noise, to a greater extent than noise from other transport sources, and that there are health costs associated from exposure to this noise. ……

3.112 ***The government expects the industry to show continuing commitment to noise reduction and mitigation as part of its contribution to the partnership for sustainable growth.*** *The government has shown that it is committed to this by setting out in the Airports NPS its expectations that the developer put in place a comprehensive mitigations package. The proposals in this consultation are aligned with the principles in the NPS, but the implementation of those document principles must be proportionate to the local situation (recognising that the scale of the noise impacts at Heathrow is much greater than at other airports due to the number of movements and local population density). The picture below shows a noise monitor at Heathrow Airport.*

Towards a stronger noise policy framework

3.113 The government sets the high level policy framework on aviation noise and also sets noise controls at Heathrow, Gatwick and Stansted. The current overarching policy, originally set out in the 2013 Aviation Policy Framework, is "to limit and, where possible, reduce the number of people in the UK significantly affected by aircraft noise as part of a policy of sharing benefits of noise reduction with industry in support of sustainable development."

3.114 The government recognises that there has been uncertainty on how this policy should be interpreted, measured and enforced. ***The government intends to put in place a stronger and clearer framework which addresses the weaknesses in current policy and ensures industry is sufficiently incentivised to reduce noise, or to put mitigation measures in place where reductions are not possible.***

3.115 The proposed new measures are:

- ***setting a new objective to limit, and where possible, reduce total adverse effects on health and quality of life from aviation noise. This brings national aviation noise policy in line with airspace policy updated in 2017***
- ***developing a new national indicator to track the long term performance of the sector in reducing noise.*** *This could be defined either as a noise quota or a total contour area based on the largest airports*
- ***routinely setting noise caps as part of planning approvals (for increase in passengers or flights).*** *The aim is to balance noise and growth and to provide future certainty over noise levels to communities. It is important that caps are subject to periodic review to ensure they remain relevant and continue to strike a fair balance by taking account of actual growth and the introduction of new aircraft technology. It is equally important that there are appropriate compliance mechanisms in case such caps are breached and the government wants to explore mechanisms by which airports could 'pay for' additional growth by means of local compensation as an alternative to the current sanctions available*
- ***requiring all major airports to set out a plan which commits to future noise reduction, and to review this periodically.*** *This would only apply to airports which do not have a noise cap approved through the planning system and would provide similar certainty to communities on future noise levels.* ***The government wants to see better noise monitoring and a mechanism to enforce these targets as for noise caps.*** *The noise action planning process could potentially be developed to provide the basis for such reviews, backed up by additional powers as necessary for either central or local government or the CAA*

3.121 The government is also:

- ***proposing new measures to improve noise insulation schemes for existing properties, particularly where noise exposure may increase in the short term or to mitigate against sleep disturbance***

3.122 Such schemes, while imposing costs on the industry, are an important element in giving impacted communities a fair deal. The government therefore proposes the following noise insulation measures:

- ***to extend the noise insulation policy threshold beyond the current 63dB LAeq 16hr contour to 60dB LAeq 16hr***
- ***to require all airports to review the effectiveness of existing schemes. This should include how effective the insulation is and whether other factors (such as ventilation) need to be considered, and also whether levels of contributions are affecting take-up***
- ***the government or ICCAN to issue new guidance to airports on best practice for noise insulation schemes, to improve consistency***

- ***for airspace changes which lead to significantly increased overflight, to set a new minimum threshold of an increase of 3dB LAeq, which leaves a household in the 54dB LAeq 16hr contour or above as a new eligibility criterion for assistance with noise insulation***

Support regional growth and connectivity

4.3 The government has also confirmed that it is supportive of airports beyond Heathrow making best use of their existing runways, subject to proposals being assessed in light of environmental and economic impacts.'

Airports National Policy Statement (ANPS)

2.35 No reference is made to relevant text within the ANPS. For example:

'1.39 On 21 July 2017, the Government issued a call for evidence on a new Aviation Strategy. ***Having analysed the responses, the Government has confirmed that it is supportive of airports beyond Heathrow making best use of their existing runways. However, we recognise that the development of airports can have positive and negative impacts, including on noise levels. We consider that any proposals should be judged on their individual merits by the relevant planning authority, taking careful account of all relevant considerations, particularly economic and environmental impacts.****'*

Noise

Introduction

5.44 ***The impact of noise from airport expansion is a key concern for communities affected, and the Government takes this issue very seriously. High exposure to noise is an annoyance, can disturb sleep, and can also affect people's health. Aircraft operations are by far the largest source of noise emissions from an airport,*** *although noise will also be generated from ground operations and surface transport, and during the construction phase of a scheme.*

5.45 Aircraft noise is not only determined by the number of aircraft overhead, but also by engine technologies and airframe design, the paths the aircraft take when approaching and departing from the airport, and the way in which the aircraft are flown.

Decision making

5.67 The proposed development must be undertaken in accordance with statutory obligations for noise. Due regard must have been given to national policy on aviation noise, and the relevant sections of the Noise Policy Statement for England, the National Planning Policy Framework, and the Government's associated planning guidance on noise. However, the Airports NPS must be used as the primary policy on noise when considering the Heathrow Northwest Runway scheme, and has primacy over other wider noise policy sources.

5.68 Development consent should not be granted unless the Secretary of State is satisfied that the proposals will meet the following aims for the effective management

and control of noise, within the context of Government policy on sustainable development:

- ***Avoid significant adverse impacts on health and quality of life from noise;***
- ***Mitigate and minimise adverse impacts on health and quality of life from noise; and***
- ***Where possible, contribute to improvements to health and quality of life.***

Air Navigation Guidance 2017 (ANG)

2.36 The Planning Statement references the ANG objective to *'ensure that aviation can continue to make its important contribution to the UK economy and at the same time seek to improve the sustainable development and efficiency of our airspace.'*

2.37 What the Planning Statement fails to recognise is that one of the other three key objectives of ANG is to:

'• emphasise that the environmental impact of aviation must be mitigated as much as is practicable and realistic to do so.'

2.38 The Planning Statement fails to reference other relevant aspects of ANG. For example:

Assessing the noise implications of proposed airspace changes

3.4 As stated in section 1.2(a) of this guidance, one of the government's three key environmental objectives is to limit and, where possible, reduce the number of people in the UK significantly affected by adverse impacts from aircraft noise.

3.5 For the purpose of assessing airspace changes, the government wishes the CAA to ***interpret this objective to mean that the total adverse effects on people as a result of aviation noise should be limited and, where possible, reduced, rather than the absolute number of people in any particular noise contour****. Adverse effects are considered to be those related to health and quality of life. There is no one threshold at which all individuals are considered to be significantly adversely affected by noise.* ***It is possible to set a Lowest Observed Adverse Effect Level (LOAEL) that is regarded as the point at which adverse effects begin to be seen on a community basis.*** *As noise exposure increases above this level, so will the likelihood of experiencing an adverse effect. In line with this increase in risk, the proportion of the population likely to be significantly affected can be expected to grow as the noise level increases over the LOAEL.* ***For the purposes of assessing and comparing the noise impacts of airspace changes, the government has set a LOAEL of 51dB LAeq16hr for daytime noise and 45dB LAeq8hr for night time noise and the CAA should ensure that these metrics are considered.***

3.11 For communities further away from airports that will not be affected by noise above the LOAELs identified above, it is important that other aspects of noise are also taken into account where the total adverse effects of noise on people between different options are similar. ***Metrics that must be considered for these purposes include the overall number of overflights and number above metrics: N65 for daytime noise and N60 for night time noise.*** *The CAA's overflights metric is a means of portraying those locations where residents will experience being overflown. These*

supplementary metrics must also be used to inform communities about the likely impact of proposed changes.

3.12 The CAA should also verify that sponsors have used any other noise metrics that may be appropriate for allowing communities to understand the noise impacts that could result from the proposed change. This could include the use of 100% mode contours for average noise or frequency-based metrics, or consideration of the interaction with other sources of aircraft noise, such as those from other local airports.

Introduction

4.1 For communities living close to airports, and some further away under arrival and departure routes, aircraft noise is one of the most important environmental impacts created by the aviation sector. The ***government's long-term view, most recently expressed in the 2013 Aviation Policy Framework, is that there must be a fair balance between the economic benefits derived from the aviation industry, and the negative impacts of noise for affected communities. The benefits of any future growth in aviation and/or technological development must be shared between those benefitting from a thriving aviation industry and those close to the airports that experience its impacts.****'*

Beyond the Horizon The Future of UK Aviation – Making best use of existing runways June 2018

2.39 No reference is made within the Planning Statement to Government policy contained within 'Beyond the Horizon The Future of UK Aviation – Making best use of existing runways', which contains some very relevant policy context for this planning application. For example:

'1.5 ***The Aviation Strategy call for evidence set out that government agrees with the Airports Commission's recommendation and was minded to be supportive of all airports who wish to make best use of their existing runways, including those in the South East, subject to environmental issues being addressed.*** *The position is different for Heathrow, where the government's proposed policy on expansion is set out in the proposed Airports NPS.*

Call for evidence response summary
1.6 The Aviation Strategy call for evidence document asked specifically for views on the government's proposal to support airports throughout the UK making best use of their existing runways, subject to environmental issues being addressed.

…….
1.8 The main issues raised included the need for environmental issues such as noise, air quality, and carbon to be fully addressed as part of any airport proposal; the need for improved surface access and airspace modernisation to handle the increased road / rail and air traffic; and clarification on the planning process through which airport expansion decisions will be made.

Role of local planning

1.9 Most of the concerns raised can be addressed through our existing policies as set out in the 2013 Aviation Policy Framework, or through more recent policy updates

such as the new UK Airspace Policy or National Air Quality Plan. ***For the majority of environmental concerns, the government expects these to be taken into account as part of existing local planning application processes. It is right that decisions on the elements which impact local individuals such as noise and air quality should be considered through the appropriate planning process*** *and CAA airspace change process.*

1.10 Further, local authorities have a duty to consult before granting any permission, approval, or consent. This ensures that local stakeholders are given appropriate opportunity to input into potential changes which affect their local environment and have their say on airport applications.

Local environmental impacts

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

1.23 For the majority of local environmental concerns, the government expects these to be taken into account as part of existing local planning application processes.

1.24 ***As part their planning applications airports will need to demonstrate how they will mitigate local environmental issues, which can then be presented to, and considered by, communities as part of the planning consultation process. This ensures that local stakeholders are given appropriate opportunity to input into potential changes which affect their environment and have their say on airport applications.***

Policy statement

1.25 As a result of the consultation and further analysis to ensure future carbon emissions can be managed, ***government believes there is a case for airports making best of their existing runways across the whole of the UK…….***

1.26 Airports that wish to increase either the passenger or air traffic movement caps to allow them to make best use of their existing runways will need to submit applications to the relevant planning authority. We expect that applications to increase existing planning caps by fewer than 10 million passengers per annum (mppa) can be taken forward through local planning authorities under the Town and Country Planning Act 1990. As part of any planning application ***airports will need to demonstrate how they will mitigate against local environmental issues, taking account of relevant national policies, including any new environmental policies emerging from the Aviation Strategy****. This policy statement does not prejudge the decision of those authorities who will be required to give proper consideration to such applications. It instead leaves it up to local, rather than national government, to consider each case on its merits.*

1.29 ***Therefore the government is supportive of airports beyond Heathrow making best use of their existing runways. However, we recognise that the***

development of airports can have negative as well as positive local impacts, including on noise levels. We therefore consider that any proposals should be judged by the relevant planning authority, taking careful account of all relevant considerations, particularly economic and environmental impacts and proposed mitigations. This policy statement does not prejudge the decision of those authorities who will be required to give proper consideration to such applications. It instead leaves it up to local, rather than national government, to consider each case on its merits.*'*

A Green Future: Our 25 Year Plan to Improve the Environment November 2017 HMG

2.40 No reference is made to the Government's 25 Year Plan, which states:

'Over the next 25 years, we must significantly cut all forms of pollution and ease the pressure on the environment. ***We must ensure that noise and light pollution are managed effectively.****'*

4.2 National planning and aviation policy conclusions

2.41 The first paragraph states that *'The NPPF does however recognise that in some cases, the benefits to one of the three objectives of sustainable development may give rise to consequential negative effects upon another. However, it might be considered that the wider need for the development and specific local circumstances may still justify a consent'*. The NPPF does not say this. What the NPPF does say is that the three objectives are interdependent and mutually supportive:

'8. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):……'

2.42 This section does not present an adequate representation of national policy and guidance. From the above it is clear that Government national policy and guidance:

- is supportive of aviation growth and the economic benefits it generates.
- is supportive of airports making best use of their existing runways but recognises that development can have negative local impacts, including on noise levels. As such proposals need to be judged on their individual merits taking careful account of economic and environmental impacts.
- there must be a fair balance between the economic benefits derived from the aviation sector and the negative impacts of noise for affected communities.
- managing increased demand will require a new partnership between the government, the industry, the regulator and communities that balances the economic benefits of growth with its impact on communities and the environment.
- the UK must be more ambitious on environmental protection to ensure that growth is sustainable.
- industry must show continuing commitment to noise reduction and mitigation as part of its contribution to the partnership for sustainable growth.
- development should contribute to and enhance the natural and local environment by preventing new and existing development from contributing or being

put at unacceptable risk from or being adversely affected by unacceptable levels of noise pollution.

- the overall noise policy objective is to limit and where possible reduce the number of people in the UK significantly affected by aircraft noise, but this is moving towards a new objective to limit and where possible reduce the total adverse effects on health and quality of life from aviation noise.
- the setting of noise caps on planning approvals should provide certainty over noise levels to communities.
- the 57dB LAeq 16 hour contour is the average noise level of daytime noise marking the approximate onset of significant community annoyance.
- people do not experience noise in an averaged manner and recommend that average noise contours should not be the only measure used to explain how locations under flight paths are affected by aircraft noise. Encouragement of the use of alternative measures.
- the costs on local communities are higher from aircraft noise during the night, particularly the health costs associated with sleep disturbance Government expects the industry to make extra efforts to reduce and mitigate noise from night flights.
- airport operators to offer acoustic insulation to noise-sensitive buildings exposed to levels of noisier of 63 dB LAeq or more. Where insulation cannot provide an appropriate or cost-effective solution, alternative mitigation measures should be offered. Government is moving towards lowering this threshold to 60dB LAeq 16hr.
- avoid significant adverse impacts on health and quality of life from noise, mitigate and minimise adverse impacts and where possible contribute to improvement of health and quality of life through effective management and control of noise.
- the Lowest Observed Adverse Effect Level should be taken to be 51 for day and 45 for night.
- increasing noise exposure will at some point cause the Significant Observed Adverse Effect Level (SOAEL) boundary to be crossed. Above this level the noise causes a material change in behaviour. The planning process should be used to avoid this effect occurring, by use of appropriate mitigation.
- For communities further away from airports that are not affected by LOAEL, metrics must include the overall number of overflights and number above metrics (N65 for daytime and N60 for night time).

4.3 The development plan

2.43 Given that the noise impacts of the Airport and of this planning application are felt much further afield than the administrative boundary of the LBC, the County Council would have expected the Planning Statement to have reviewed and summarised any relevant development plan policies in the wider sub region (Local Plans and Neighbourhood Plans). By way of example:

Stevenage Local Plan

'Policy FP7: Pollution

All development proposals should minimise, and where possible, reduce air, water, light and noise pollution. Applications for development where pollution is suspected must contain sufficient information for the Council to make a full assessment of potential hazards and impacts.

Planning permission will be granted when it can be demonstrated that the development will not have unacceptable impacts on:

a. The natural environment, general amenity and the tranquillity of the wider area, including noise and light pollution;
b. Health and safety of the public; and
c. The compliance with statutory environmental quality standards.

13.41 *Air, water, light and noise pollution arising from new development can individually and cumulatively have a significantly damaging impact on the countryside, on peoples' living environment and on wildlife. Whilst lighting is desirable for safety, recreation and the enhancement of some buildings, inappropriate lighting can cause sky glow, glare and light spill and represents energy waste.*

13.42 *We will seek to ensure that levels of pollution are kept to a minimum and are acceptable to human health and safety, the environment and the amenity of adjacent or nearby land users. Environmental Health legislation regulates many forms of pollution, but it is clearly preferable to prevent conflict from new development arising in the first place. The weight given to each criterion will depend on the particular circumstances and relevant control authorities will be consulted as necessary.*

Policy FP8: Pollution sensitive uses

Planning permission for pollution sensitive uses will be granted where they will not be subjected to unacceptably high levels of pollution exposure from either existing, or proposed, pollution generating uses. Planning permission in areas having the potential to be affected by unacceptable levels of aircraft noise will be subject to conditions or planning obligations to ensure an adequate level of protection against noise impacts.

13.45 Pollution sensitive uses, such as housing, schools and hospitals, should ideally be separated from pollution generating uses, such as industrial units and airports, wherever possible.

13.46 *Stevenage is located in close proximity to London Luton Airport and is, therefore, affected by aircraft noise generated from it. The direction of the runway means that some planes fly over Stevenage to take off and land. However, national guidance defines the levels of noise experienced as being acceptable. An application has been granted for work to facilitate the growth of London Luton Airport. This would see the airport cater for up to 18 million passengers per annum before the end of our Local Plan period.*

13.47 *Noise contours identified in the London Luton Noise Action Plan, 2013 - 2018, extend in close proximity to the western extent of the proposed development west of Stevenage. Development in this area, particularly, will need to ensure that any noise impacts are mitigated.'*

Dacorum Core Strategy 25th September 2013

*'**Pollution and Waste Management***

18.33 The planning system plays a key role in the location and standard of development. Together with other consent regimes and processes, it can limit the

impact of (and prevent) polluting emissions – i.e. noise, light, fumes, chemicals, noxious and hazardous substances and waste in general. Standards set nationally should continue to be achieved. When standards become more stringent, efforts must be made to enhance the quality of the air, water and/or soils.

18.34 In Dacorum special consideration needs to be given to:

- *the quality of the groundwater supplying the chalk aquifer;*
- *protecting the habitat and biodiversity of chalk streams;*
- *the maintenance of higher quality agricultural areas and the sand and gravel belt;*
- *limiting the effects of noise and air pollution along major routes (i.e. road, rail and aircraft from Luton Airport);*
- *retaining tranquil parts of the Chilterns Area of Outstanding Natural Beauty and Boarscroft Vale; and*
- *the risks associated with Buncefield Oil Terminal.*

18.35 The planning system has a role to play in the minimization of waste at or near source and in the disposal of household, commercial and construction waste. Unnecessary waste should be reduced and managed nearer to its source. To avoid unnecessary waste going to landfill sites, developers will be expected to avoid potentially polluting developments, the creation of additional waste, and the location of new development near existing sources of pollution. Where waste is unavoidable it will need to be transferred and managed. Waste recycling and management will be appropriate in many General Employment Areas. New facilities may be provided through the relocation of the existing Household Waste Recycling Centre and Waste Disposal Centre in East Hemel Hempstead.

……...

POLICY CS32: Air, Soil and Water Quality

Development will be required to help:

(a) support improvements in identified Air Quality Management Areas and maintain air quality standards throughout the area;
(b) maintain soil quality standards and remediate contaminated land in line with Environment Agency, Defra and Natural England guidance; and
(c) improve water quality standards in line with the Water Framework Directive, Environment Agency and Natural England guidance.

Any development proposals which would cause harm from a significant increase in pollution (into the air, soil or any water body) by virtue of the emissions of fumes, particles, effluent, radiation, smell, heat, light, noise or noxious substances, will not be permitted.

Advice on the storage and handling of hazardous substances will be taken from the Health and Safety Executive.'

North Hertfordshire District Council Local Plan 2011-2031
Proposed Submission October 2016

*‘**Policy SP19: Sites EL1, EL2 and EL3 – East of Luton***

Land to the east of Luton, as shown on the Proposals Map, is allocated as a Strategic Housing Site for a new neighbourhood of approximately 2,100 homes.

Planning permission for residential-led development will be granted where the following site-specific measures requirements are met:

……..
j. Appropriate noise mitigation measures, to potentially include insulation and appropriate orientation of living spaces;

……..

4.224 The site is in close proximity to the Luton Airport noise corridors and mitigation measures may be required, particularly towards the south-east of the site which lies closest to the flight path.

King’s Walden

Infrastructure and mitigation

13.180 Breachwood Green is located on the approach and departure flightpaths from Luton airport and any schemes will need to demonstrate that noise issues have been appropriately addressed and that internal noise levels within any new homes are within relevant guideline levels.

Policy D3: Protecting living conditions

Planning permission will be granted for development proposals which do not cause unacceptable harm to living conditions.

Where the living conditions of proposed developments would be affected by an existing use or the living conditions of an existing development would be affected by a proposed use, the Council will consider whether there are mitigation measures that can be taken to mitigate the harm to an acceptable level. If the Council is not satisfied that mitigation proposals would address the identified harm, development proposals will not be permitted.

9.19 All development has the potential to have an adverse impact on its neighbours, in a wide variety of ways. Such harm may arise from traffic generation, parking, loss of daylight and sunlight, noise, overlooking, pollution (including light pollution) and dominance as well as other issues.

9.22 There are two ways mitigation may occur. Either the development can incorporate measures to reduce the effect it has, or it can fund works off site to reduce the impact on those affected by it. This latter course of action may be appropriate for development such as the expansion of airfields, where there will inevitably be an increase in noise, but it may be possible to provide sound protection to those buildings affected by that noise.’

Noise and Vibration

5.47 Noise can have a detrimental effect on the environment and on quality of life. PPG 24 'Noise' provides guidance on the use of planning powers to minimise the adverse impact of noise. In accordance with that advice the Council will seek to ensure that noise-sensitive developments, such as housing, are separated from major sources of noise. It will also seek to ensure that new development with a potential for causing noise nuisance is sited away from noise-sensitive land uses, both existing and known proposed developments. Noise can be accompanied by vibration that can cause disturbance. British Standard 6472:1992 will be used to evaluate exposure to vibration in buildings. The Council has powers under Environmental Health legislation in respect of statutory noise nuisances.

5.48 In considering proposals for development the Council will take into account:

- *Possible future increases in noise levels;*
- *That the introduction of noisy activities into some residential and rural areas can be especially disruptive because of their existing very low background noise levels;*
- *That intermittent sources of noise can be more disruptive than constant sources;*
- *That particular difficulties are posed by fast food restaurants, public houses, night clubs etc, both from noise generated within the establishments and by customers in the vicinity, traffic and parking, especially in view of their evening and late night activity;*
- *That whilst design measures such as orientation, layout and double-glazing can reduce noise levels within buildings, such measures are less effective in reducing the level of noise experienced in public or private amenity areas.'*

Welwyn Hatfield District Plan 2005

'Policy R19 - Noise and Vibration Pollution

Proposals will be refused if the development is likely:

i. To generate unacceptable noise or vibration for other land uses; or
ii. To be affected by unacceptable noise or vibration from other land uses.

Planning permission will be granted where appropriate conditions may be imposed to ensure either:

iii. An adequate level of protection against noise or vibration; or
iv. That the level of noise emitted can be controlled.

Proposals should be in accordance with the Supplementary Design Guidance.'

The East Herts District Plan 2018

'24 Environmental Quality

24.1 Introduction

24.1.1 *The control of pollution is critical to achieving the District Plan's strategic objectives by promoting healthy lifestyles and an enhanced quality of life for residents*

and visitors to the district. Pollution control through development also plays a significant role in planning for climate change and working in harmony with the environment to conserve natural resources and increase biodiversity.

24.1.2 *Proposals for all types of development must therefore take into account nearby land uses to ensure that the right development is located in the right place across the district, in order to safeguard the quality of the environment. Policies relating to water quality and water pollution are contained within Chapter 23: Water.*

……

24.3 Noise Pollution

24.3.1 *The impact of noise on the environment can be detrimental to health and quality of life. There is therefore a need to control the introduction of noise sources into the environment, as well as ensuring that new noise sensitive development is located away from existing sources of significant noise……..*

Policy EQ2 Noise Pollution

I. Development should be designed and operated in a way that minimises the direct and cumulative impact of noise on the surrounding environment. Particular consideration should be given to the proximity of noise sensitive uses, and in particular, the potential impact of development on human health.

II. Applications should be supported by a Noise Assessment in line with the Council's Noise Assessment Planning Guidance Document.

III. Noise sensitive development should be located away from existing noise generating sources or programmed developments where possible to prevent prejudicing the continued existing operations. The use of design, layout, landscaping tools and construction methods should be employed to reduce the impact of surrounding noise sources.'

London Luton Airport Development Brief September 2001

2.44 This Development Brief is out of date and is no longer listed by LBC as Supplementary Planning Guidance:

https://www.luton.gov.uk/Environment/Planning/Planning%20applications%20(Building%20Control)/Planning%20application%20forms%20and%20validation%20guidance/Supplementary%20planning%20documents/Pages/default.aspx

2.45 Nevertheless, some of the more relevant aspects of the Brief not included in the Planning Statement include:

'Non-Technical Summary

……..

Growth in business at LLA will assist the economy of the Luton and Dunstable conurbation which is one of the South East's Priority Areas for Economic Regeneration.

……...

Current Government policy on airports ***supports demand-led growth within acceptable environmental limits****. This policy is now under review. Various options for addressing airport development in the South East and throughout the country are under consideration.*

Within the Brief LLAOL advocates a "capacity approach" to environmental management, which allows the company greater flexibility and creativity in meeting the agreed thresholds than controls on passenger throughput. That system is essentially the method in operation with the current Phase 1 developments and LLAOL believes that this approach will foster development of the airport in a manner that combines economic and social benefits, with environmental responsibility.

The London Luton Airport Development Brief outlines a future form for the airport in which the benefits of its ***future expansion can be shared between the operating company, the local community, and the travelling public, in an environmentally responsible manner****.*

8.6 Airports are major generators of local employment and wealth, and ***growing airports impact positively by providing more jobs, greater economic growth****, and continued local investment and partnership.*

8.7 ***Airports also bring with them a number of other environmental and community impacts****, including impacts on water, air and soil quality; noise; local transport system; landscape and ecology, and demand on utilities. In general, growing airports are likely to cause growing impacts, although the rate of growth of each impact will differ.*

8.16 Since LLA is located very close to a major conurbation, ***aircraft noise and its impact on local communities has been, and will continue to be, the most significant environmental impact****. Of rising importance are the issues of surface transport; air quality; and ecology. Improvements to these aspects, plus waste and energy management, emissions to water, air and land, and chemicals handling, are targeted within the LLAOL Environmental Management System (EMS) summarised later.*

8.42 The most useful policy element on sustainable development for the Brief is contained in the World Bank definition of 1991, where it is stated that the ***rate of pollution emission should not exceed the assimilative capacity of the environment****.*

8.43 This then relates to the previous section on environmental capacity; ***the non-excedence of agreed limits on environmental capacity implies that one component of sustainable development (under the World Bank definition) is thereby achieved****.*

8.58 ***Sustainable airport development can be attained by the non-excedence of agreed limits on environmental capacity (under the World Bank definition); and***

by balancing economic, social and environmental considerations (UK Government strategy for sustainable development).

ENVIRONMENTAL CAPACITY

9.21 The principle of Environmental Capacity is explored in Chapter 8 above and is specifically detailed in terms of noise issues in Appendix B.

9.22 The concept that ***noise is an issue in terms of sustainable development*** *is being addressed by the Government's Round Table on Sustainability,* ***as one of the environmental concerns that must be considered in balancing the economic, social and environmental effects of development. This suggests that in creating economic or social benefits from a development, such as the expansion of LLA, some environmental burden will result****.*

9.23 The principle being adopted by LLAOL is that seeking this balance will be one of the key criteria that will provide the framework for any ES to accompany a future planning application.'

9.24 The ES to accompany the future planning application will fully assess noise impact of both ground and air activities.

9.25 In terms of air noise it is anticipated that LLAOL will use the INM model and, following Government criteria together with 'best practice' that has arisen from the Heathrow and Manchester proposals, the assessment will:

9.25.1 develop day and night noise contours for air traffic using both easterly and westerly modes;

9.25.2 enable comparison with both the 1984 noise levels and the relevant current (baseline) levels; and

9.25.3 assess the impact at specific locations to be agreed with the local authorities.

9.26 Full use would be made of the data obtained from the fixed and mobile monitors to assist with the assessment process.

9.27 The use of potential mitigation measures for all forms of noise impacts will be considered in relation to the specific forecast noise impact. ***Appropriate measures will be proposed directed at addressing any predicted significant impact whilst taking into account the principles of sustainability****.'*

London Luton Airport Operations Limited Revised Masterplan document Consultation prior to submission of planning application - London's local airport – September 2012

2.46 No reference is made within the Planning Statement to the latest up to date masterplan for the Airport dated September 2012. This was the framework within which the original planning application was made and consent granted. The Noise and Vibration section of the masterplan is particularly relevant.

'Noise and vibration

9.27 ***The management and control of noise continues to be a major element of the Airport's policy of seeking to be the best neighbour it can be.*** *The Airport's approach to noise management was recently reviewed, and led to the production of the Luton Airport Noise Action Plan 2010-2015 (NAP), which was approved by the DfT and Defra. In its recent consultation on airport development, LLAOL made clear that the 55 action items identified in the approved NAP should be developed and supplemented to address "possible" future noise impacts. The NAP therefore forms the first part of the approach to noise management contained in this revised masterplan and will be reviewed on a five yearly cycle. However, LLAOL has identified six new initiatives all designed to supplement the content of the NAP with the intention of both reducing and mitigating airport related noise. These initiatives also respond to the consultation undertaken in Spring 2012 and are described below.*

9.28 ***A key issue for LLAOL is to minimise and manage all noise but in particular night noise. Future aircraft operations are likely to be inherently less noisy as a result of re-engining of the fleet at Luton, in particular the Boeing 737 and Airbus A320 family of aircraft. However, the timing of these changes is not certain.*** *As a result, LLAOL seeks to deliver improvements that will be effective regardless of fleet mix. Figure 9.4 highlights certain current NAP actions, and those supplementary measures (in italics) we now propose, which are related to the planning application to grow the Airport to accommodate 18 mppa.*

9.29 ***The development and inclusion of supplementary measures, are proposed in order to minimise noise impact from the proposed growth of the Airport. The measures will be subject to regular review such that future changes can be incorporated if found beneficial. It is anticipated that the measures will be incorporated into conditions and/or a section 106 agreement associated with the grant of any planning permission.***

9.30 Together these measures constitute a robust and comprehensive approach, responding to the government's clearly stated objective of achieving tougher noise management regimes at airports.*'*

Noise Action Plan 2019-2023

2.47 No reference is made within the Planning Statement to the Noise Action Plan for the Airport, which has been approved by DEFRA. Particularly relevant extracts from the Noise Action Plan include:

*'****London Luton Airport is committed to being a good neighbour and endeavours to minimise the impact of its operations on local communities. Continued and enhanced consultation with the community is essential so that an appropriate balance can be struck between the socio-economic benefits of airport operations and its environmental impacts.*** *This Noise Action Plan, once adopted by DEFRA, will provide a meaningful framework for London Luton Airport and its Consultative Committee to build upon it's established approach to the proactive management of aircraft noise in and around the airport.'*

'Framework for Noise Management

Demand for air travel across the UK is increasing rapidly. In response to increased demand, we are making the biggest investment in LLA's history to transform the airport. The redevelopment of our terminal will bring huge benefits for passengers, but it is vitally important to us that the local community also shares in the success of the airport. ***At LLA, our aim is always to work constructively with the local community and our partners to strike the right balance between maximising the positive social and economic benefits to the local area and the UK as a whole while minimising the impact of aircraft noise****.*

Once the current development is complete, LLA will contribute £1.4billion per year to the local economy and £2.3billion nationally. By 2031 we expect to support over 37,700 jobs, which on average pay £11,000 per year more than the national average wage. ***But we recognise that the airport's growth may give rise to questions about noise levels. LLA already operates under the most stringent noise restrictions of any major UK airport. But we are continually looking to do more. As the airport continues its growth and development, we are evolving our approach to noise management and this can be seen through the development of our Noise Action Plan.****'*

'…….This plan details our actions over a five year period (2019-2023) and the policy framework that would support these actions. ***It is aligned with London Luton Airport's S106 Legal Agreement (2014) with Luton Borough Council which outlines how the airport's operation, growth and environmental impacts will be managed responsibly and laid the foundation of our Noise Action Plan.****'*

'Action ref 3.4 We will operate within our agreed contour area limits'

'KP3 Population inside 45dBLAeq (8hr) Night time contour – limit and where possible reduce the population within the contour over the course of the action plan.'

4.4 Development plan conclusion

2.48 The Planning Statement presents a poor reflection of the conclusions that should be reached from analysis of the development plan and local documents associated with it/of relevance.

2.49 The Luton Local Plan supports the safeguarding of LLA's existing operations and its sustainable growth over the Plan period based on its strategic importance in support of Luton's important sub-regional role, subject to a range of criteria, the most relevant of which are:

- that they are directly related to the use of the Airport.
- must comply with national policy.
- are in accordance with an up-to-date masterplan published and adopted by LBC.
- would not adversely affect the amenities of surrounding occupiers or the local environment.
- achieve further reduction or no increase in day or night time noise in accordance with any imposed planning condition or otherwise cause excessive noise and be in accordance with the Airport's most recent Noise Action Plan.

- include noise control, monitoring and management scheme that ensures the current and future operations are fully in accordance with the policies of the Local Plan and planning permission.
- include proposals which will over time result in a significant diminution and betterment of the effects of aircraft operations on the amenity of local residents through measures to include fleet modernisation.

2.50 In addition the Luton Local Plan requires proposals to demonstrate they will not result in significant adverse effects, including noise, on neighbouring development.

2.51 Relevant policies in adjoining local plans seek to minimise and protect the impact of the Airport on development in their areas and policies relating to noise generally seek to reduce noise pollution and keep it to a minimum, to levels acceptable to human health and safety and refusal of proposals that would cause harm from a significant increase in noise pollution.

2.52 The masterplan for the Airport stresses that the management and control of noise continues to be a major element of the Airport's policy of seeking to be the best neighbour it can be. The key issue is to minimise and manage all noise, but in particular night noise.

2.53 The NAP approved by DEFRA contains specific commitments to operate within agreed contour area limits and to limit and where possible reduce the population within the night time contour over the course of the plan.

5.6 Economic Impacts

Economic contributions/Passenger forecasts

2.54 This analysis simply repeats generic economic statements at a strategic level and are of very little relevance to this planning application.

Economic impacts of no variation

2.55 No evidence is presented that the original economic benefits of the planning application as assessed and judged when planning permission was granted will not be forthcoming. It must therefore be assumed that all these economic gains will ultimately materialise.

2.56 The alleged economic disbenefits presented are the direct consequence of irresponsible management of the operations of the Airport and are not robustly quantified.

6. Section 106 deed of variation

2.57 For the reasons set out in paragraph 4.5 the proposed sound insulation mitigation is entirely insufficient in its scale and completely ineffective in mitigating against the significant impacts arising.

7. Planning balance/8. Conclusion

2.58 For the reasons set out in section 4, the alleged planning balance and conclusion set out in these sections is considered to be inadequate and wrong.

3. The Planning Application - The Environmental Statement (ES)

3.1 The ES states that:

2.2 Consideration of alternatives

'Alternatives to varying Condition 1 have not been considered as part of this assessment. A 'do-nothing' scenario would mean that the airport operates in line with the 2012 consented scheme, already assessed within the 2012 ES but would result in either an unacceptable economic impact resulting from restrictions that would be placed on operators or repeated breaches of Condition 10.

Only where alternatives have been considered do they need to be assessed. As no reasonable alternatives to the proposed variation to Condition 10 have been considered by the Client, this ES is compliant with the requirements relating to alternatives under the EIA Regulation.'

3.2 The County Council is of the view that the applicant should indeed have considered at least one obvious reasonable alternative – one involving the applicant reversing its irresponsible behaviour and scaling back its operations to a point that would bring it within the terms of the planning consent, not breaching Condition 10. Had this reasonable alternative been considered and assessed, it would have been possible for the ES to have assessed that alternative and meaningfully compared it with the proposal the subject of this planning application.

3.3 Without this alternative the ES fails to present a picture of the socio-economic consequences of restricting operations.

3.4 *'…but would result in either an unacceptable economic impact resulting from restrictions……'* - without an assessment of the economic consequences of continuing with the present restrictions compared to the economic benefits of approval of this application it is impossible for the applicant to claim that there will be an *'unacceptable economic impact'* or for the decision maker to assess whether there will be. Moreover, only when armed with this information can the local planning authority itself reach any reasonable conclusion.

5. Legislative and policy overview

3.5 For the reasons set out in section 2 the planning context for the planning application is inadequate.

6. Topics Scoped-out of Further Assessment

6.8 Traffic and transport

3.6 It is true that this planning application does not introduce any additional total vehicular movements on the highways network in addition to those assessed as part of the original planning application and the mitigation measures introduced into the planning consent. However, the applicant should also be required to present a rationale (and evidence if necessary) for why the enhanced rate in growth of the Airport

in excess of that assumed when the original planning permission was granted does not impact upon the original surface access assessment and mitigations secured.

Section 7. Noise

3.7 The County Council welcomes the advice secured by LBC with regard to the noise implications of the proposal and the analysis provided and conclusions reached. The County Council broadly supports the findings of that advice.

Mitigation Hierarchy

3.8 The Environmental Statement should have considered more explicitly as a matter of standard practice, the mitigation hierarchy, namely ensuring that the key focus of mitigation actions are on:

- preventative measures that avoid the occurrence of environmental impacts and thus avoid harm or even produce positive outcomes.
- measures that focus on managing the severity and the duration of the impacts.
- compensatory mitigation of those impacts that are unavoidable and cannot be reduced further.

3.9 It is unclear if or how this hierarchy has been deployed in order to minimise the extent of the breach of condition 10 now proposed. It is also unclear as to how the compensatory mitigation (an additional for noise insulation £100,000) has been arrived and whether this will be sufficient.

4. The County Council's position

4.1 The planning application focusses on two main planning issues that need to be accounted for in coming to a view on the planning application – economic and noise. The County Council would agree with this – they are two key themes running through policy and guidance at both local and national level. Given their fundamental importance in the interpretation of policy in determining tis application, the County Council's position is as follows:

Economy

4.2 The County Council is of the view that:

- the economic benefits associated with the original planning application were a key consideration in the decision to grant planning permission for the growth of the Airport.
- the application does not contain any evidence to indicate that the economic benefits originally envisaged will not materialise were this planning application to vary condition 10 refused. It must therefore be assumed these will still be forthcoming.
- the application suggests that there will be adverse economic consequences were permission not to be granted for a variation of Condition 10. But these economic consequences are generic in nature, not robustly quantified or evidenced, and in part appear to amount to the applicant having had a discussion with businesses operating at the Airport. Neither the Planning or the Environmental Statement robustly quantify the economic implications of:
  - scaling back operations to remedy the breach.
  - managing future operations to ensure no further breach occurs.
  - allowing the Airport to vary condition 10.
- any economic consequences of refusal of the planning application would be the direct responsibility of the failure of the applicant to manage the operation of the Airport in accordance with the terms of the planning consent.
- the applicant makes a rather sweeping claim that the economic benefits can compensate for the health effects of increased noise as '*the continued economic benefits to the local communities that the airport would generate if the proposal were approved would bring health benefits in themselves through improved lifestyles and living conditions.'* This is very high level and unevidenced.
- the Airport will have operated in the full knowledge that remedying breaches in in planning control would have economic consequences, and will presumably have fully accounted for this in its forward-looking financial planning/business management.

4.3 The County Council is strongly of the view that the 'case' presented in relation to the economic benefits of the proposal (or the economic disbenefits of regularising the breach of planning control) have not been robustly assessed and cannot be relied upon in any way as a justification for overriding the significant environmental consequences of the proposal. A proper robust economic impact assessment is required which should look at the impact of approval as against refusal on the basis usual economic indicators including job creation and GVA generated by the Airport during the years where the restriction could limit ATMs, etc.

Noise

4.4 The County Council welcomes the commissioning by the LPA of expert specialist aviation noise advice to assist it in coming to a suitably informed positon on the planning application. The County Council is broadly supportive of these findings, which in summary are:

'We therefore believe that the noise assessment reported in the ES is inadequate in that it does not provide a sufficient description of the adverse effects likely to arise and offers no effective means of mitigating significant adverse effects.

We reach this view in the context of the government's policy regarding the use of noise envelopes, namely that they give local communities certainty about the levels of noise they can expect in the future. That certainty has clearly vanished given that breaches of the night-time noise envelope have already occurred, and this application now seeks to formalise a position whereby breaches are effectively permitted for a number of years.

In supporting such an application, we would expect the ES to clearly describe the full implications of the noise changes. It should then go on to set out what practical and effective measured can be implemented to mitigate or compensate for noise levels that are higher than the affected community had a right to expect. In our opinion it fails to deliver on either of these counts. Instead it gives the impression that since predicted noise level changes are small, and people in the surrounding areas will therefore hardly notice, minor tweaks to operational controls and a completely ineffective change to the sound insulation grant scheme are all that are required to make it acceptable.

We do not consider that to be an adequate position given that the application tests the robustness of an important strand of government policy on aviation noise.'

4.5 Specifically, in relation to effects and mitigation the findings are:

Residential receptors

- during daytime the proposal would increase the number of dwellings exposed to noise levels above LOAEL constituting a likely adverse effect by 5,760 and 213 dwellings exposed to noise levels above SOAEL constituting a likely significant adverse effect.
- during night-time the proposal would increase the number of dwellings exposed to noise levels above LOAEL constituting a likely adverse effect by 5,893 and 470 dwellings exposed to noise levels above SOAEL constituting a likely significant adverse effect (but these figures could actually be 6,388 and 1,047 respectively).
- during the daytime the N65 contour at all values (25, 50, 100 and 200) would encompass a substantially increased number of dwellings with the value at 200 events increasing by 15,300%. No intelligence is provided on what this means, who is affected and what can be done about it.
- during the night dwellings are only affected at N60 values of 25 and 50 events, very substantial increases would arise.
- it is unacceptable to present such limited information about the N60 and N65 noise metric that can provide an important insight into the likely effects of the proposed changes. It is even more unacceptable to undertake no analysis and provide no commentary whatsoever on the implications of these changes.

Non-residential receptors

- the assessment of non-residential noise sensitive receptors is incoherent and cannot be accepted – it confuses impact for effect, no reference is made to the thresholds for significant effects and fails to anywhere near adequately identify receptors by type or assess them against assessment criteria.

Mitigation

Greater than SOAEL

- no changes are proposed to the existing Sound Insulation Grant Scheme (SIGS) beyond the enhanced contribution to funding of £100,000 per annum.
- the proposition that the existing SIGS with enhanced funding is sufficient to address the assessed significant adverse effects is fundamentally flawed.
- for daytime, the total cost of applying SIGS to all of the 213 dwellings newly exposed to SOAEL would cost £639,000 (higher when index linked). At a funding rate of £200,000 per annum it would take 3 years and 2 months to insulate all newly eligible properties.
- for night-time the situation is materially worse. The total cost of applying SIGS to all of the 1,047 dwellings newly exposed to SOAEL would cost £3,141,000 (higher when index linked). At a funding rate of £200,000 per annum it would take 15 years and 8 months to insulate all newly eligible properties.
- the enhanced funding proposed to protect dwellings affected will not be available by summer operations this year. Only if funds of more than £3 million had been made available in time to ensure that all residences newly affected by noise above the night-time SOAEL could have had sound insulation installed in advance of summer 2019 would SIGS have been a viable response to the forecast significant effects.

Greater than LOAEL

- the mitigation proposals to address the substantial numbers of people affected by aircraft noise above LOAEL do not appear to introduce anything substantive in additional to existing commitments/requirement.

4.6 The specialist noise advice to LBC does not comment upon the applicant's view:

'……..The proposed variation would……..cause an additional 470 dwellings to be within the SOAEL area than at present……...In effect, the noise increase requested would comprise an increase of 1dB, which is unlikely to be distinguishable……..'

'……..the effect of moving properties from one noise threshold to another, whilst accepting that the new threshold is significant, would in practice result in a 1dB change in their day to day experience of noise.'

'whilst the change in noise levels may have some effects on human health, the impact is reported to be slight-moderate and measures to mitigate the impact are being provided.'

4.7 The County Council is of the view that whilst it may well be true that it is not possible to distinguish a 1db change in noise levels, this is of little relevance. What is relevant is that the increase results in individuals/communities being subjected to significant adverse noise impacts and that those generate health impacts up to moderately significant. Also, communities do not hear in averages, they perceive the peak noise of individual flights and numbers of flights. The adverse noise and health impacts cannot be mitigated for the reasons set out by LBC's noise advisers. In the absence of effective mitigation, potentially significant adverse health impacts arise.

4.8 Given this the County Council is strongly of the view that:

- the application is fundamentally flawed in its assessment of the noise impacts of the proposal.
- on the basis of evidence currently available, the scale of noise and health impacts on individuals/communities is totally unacceptable.
- the application fails to introduce any practical and effective mitigation against adverse noise and health impacts and is unable to do so.

The development plan and material considerations

4.9 To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise [section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004].

Development Plan

4.10 The development plan for this planning application is predominantly the Luton Local Plan 2011-2031 dated November 2017. This is the key policy context against which this planning application needs to be assessed. The development plan making up the wider sub-region over which the proposal would have impacts is also relevant.

Material considerations:

4.11 Material considerations are likely to include:

- National Planning Policy Framework
- Aviation Policy Framework
- National Planning Practice Guidance
- Aviation 2050: The Future of UK Aviation
- Beyond the Horizon The future of UK Aviation Making best use of existing runways
- Airports National Policy Statement
- A Green Future: Our 25 Year Plan to Improve the Environment
- Noise Policy Statement for England
- Air Navigation Guidance
- London Luton Airport Development Brief
- London Luton Airport Operations Limited Revised Masterplan

- Environmental Noise Directive Noise Action Plan 2019-2023 London Luton Airport

Development Plan

Luton Local Plan

Policy LLP6 - London Luton Airport Strategic Allocation

Airport Expansion

B. Proposals for expansion of the airport and its operation, together with any associated surface access improvements, will be assessed against the Local Plan policies as a whole taking account of the wider sub-regional impact of the airport. Proposals for development will only be supported where the following criteria are met, where applicable/appropriate having regard to the nature and scale of such proposals:

i. they are directly related to airport use of development;

4.12 The proposal is related to use of the Airport.

ii. they contribute to achieving national aviation policies;

4.13 For the reasons set out below in relation to compliance with national policy, the application is not consistent with LLP6 B. ii).

iii. are in accordance with an up-to-date Airport Master Plan published by the operators of London Luton Airport and adopted by the Borough Council;

4.14 The up-to-date Airport Master Plan has not been adopted by the Borough Council. Policy LLP6 B. iii) is not relevant.

iv. do not result in a significant increase in Air Transport Movements that would adversely affect the amenities of surrounding occupiers or the local environment (in terms of noise, disturbance, air quality and climate change impacts);

4.15 The proposal does not seek to increase Air Transport Movements above those contained within the extant planning permission. It does, however, seek to remedy a breach of planning control brought about by a significant rate of increase in Air Transport Movements in excess of those assumed when permission was granted. For the reasons set out in paragraphs 4.4-4.7 above this has resulted in the amenity of surrounding occupiers and the local environment being adversely affected. The proposal is contrary to LLP6 B. iv).

v. Achieve further noise reduction or no increase in day or night time noise in accordance with any imposed planning condition or otherwise cause excessive noise including ground noise at any time of the day or night and in accordance with the airport's most recent Airport Noise Action Plan;

4.16 The proposal is in contradiction to condition 10 of the planning consent in that it will not achieve a reduction in day or night time noise and proposes to increase it.

The proposal is not in accordance with the Airport's most recent Airport Noise Action Plan (it is fundamentally at odds with Action ref 3.4 and KP3).

4.17 The application is contrary to LLP6 B. v).

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

4.18 A noise control, monitoring and management scheme was put in place by the original planning consent (as amended). The planning application is designed to seek to remedy an historic, existing and anticipated future breach of a condition attached to the planning permission. As a consequence the planning application is contrary to LLP6 B. vi.

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

4.19 The application is designed to seek to remedy an historic, existing and anticipated future breach of a condition attached to the planning permission. It will not result in a significant diminution and betterment of the effects of aircraft operations on the amenity of local residents and users of sensitive premises. The planning application is contrary to LLP6 B vii).

viii.

4.20 not relevant.

ix.

4.21 not relevant.

4.22 The proposal does not meet **all** LLP6 B policy criteria. The proposal is not in accord with the key Development Plan policy applying to this proposal.

*'**Policy LLP38***

Policy approach

11.62 Government policy requires development plans to include policies to minimise waste and pollution (NPPF paragraph 7, bullet 3 and paragraph 17, bullet 7).

11.63 The planning authority should prevent both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate (NPPF paragraph 109).'

4.23 For the reasons set out in paragraph 4.4-4.7, the application is considered to be in conflict with Policy LLP38 due to existing development being put at an

unacceptable risk from and being adversely affected by unacceptable levels of noise pollution.

*'**Policy LLP38 - Pollution and Contamination Pollution***

Evidence on the impacts of development will need to demonstrate whether the scheme (individually or cumulatively with other proposals) will result in any significantly adverse effects with regard to air, land or water on neighbouring development, adjoining land, or the wider environment. Where adverse impacts are identified, appropriate mitigation will be required. This policy covers chemical, biological, and radiological contamination and the effects of noise, vibration, light, heat, fluid leakage, dust, fumes, smoke, gaseous emissions, odour, explosion, litter, and pests.'

4.24 For the reasons set out in paragraph 4.4-4.7, the planning application will have a significant adverse impact on neighbouring development and the wider environment and does not contain proposals for appropriate mitigation. The application is in conflict with Policy LLP38 of the adopted Luton Local Plan.

*'**Economic Strategy***

Strategic Objectives

Strategic Objective 1: *Retain and enhance Luton's important sub-regional role as a place for economic growth and opportunity including the safeguarding of London Luton Airport's existing operations and to support the airport's sustainable growth over the Plan period based on its strategic importance.*

Strategic Objective 2: *To utilise Luton's economic, social and environmental resources efficiently and sustainably including appropriate mitigation within the limited physical land capacity of the borough whilst ensuring the permanence of the Green Belt.*

5.7 The development of, and improved access to, the London Luton Airport Strategic Allocation, which includes Century Park, is needed to serve aviation engineering, business and logistics related growth and some small scale B2 accommodation for local businesses.

Policy LLP13: Economic Strategy

A. Planning applications will be granted where they deliver sustainable economic growth and prosperity to serve the needs of Luton and the wider sub region Jobs will be generated through business and industry development on strategic employment allocations,…… The strategic allocations for delivery are:
……..
ii. London Luton Airport (Century Park): mixed aviation related B1b-c, B2 and B8, small scale ancillary service uses and hotel use (see Policy LLP6);……..'

4.25 Whilst the application is not in conflict with Policy LLP13, neither does the policy provide sufficient justification for the application, for the following reasons:

- the contribution that growth at the Airport to 18mppa was a key consideration in determining the original planning application.

- this planning application is not required to achieve the economic benefits of growth to 18 mppa anticipated when the original planning application was approved.
- the economic consequences of the restricting the Airport's operations to bring it in line with the planning consent have not been properly quantified to a sufficiently robust degree for these to be used by the LPA as justification to overcome environmental and health disbenefits/impacts.

The Development Plan of adjoining districts

4.26 As highlighted in paragraph 2.43, relevant policies in adjoining existing and emerging local plans seek to minimise and protect the impact of the Airport on development in their areas and policies relating to noise generally seek to reduce noise pollution and keep it to a minimum, to levels acceptable to human health and safety and refusal of proposals that would cause harm from a significant increase in noise pollution.

4.27 For the reasons set out in paragraph 4.4-4.7, the planning application is considered not to be compatible with the thrust of the development plan of adjoining areas.

National Policy and Guidance

National Planning Policy Framework

Presumption in favour of sustainable development

4.28 Criteria a and b of the presumption in favour of sustainable development relate to plan-making and criteria d) relates to circumstances in which there is not an up to date development plan in place or where policies are out of date, neither of which apply in this case. Only criteria c), requiring approval of development proposals without delay where they accord with an up-to-date development plan is of relevance to this planning application. For the reasons set out above in paragraphs 4.12-4.27 this planning application is not in accordance with the development plan.

4.29 Paragraph 170 states that decisions should contribute to and enhance the natural and local environment by, amongst other matters:

'……..
e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and……'

4.30 For the reasons set out in paragraphs 4.4-4.7, this proposal would not prevent development from contributing to existing development being put at unacceptable risk from or being adversely affected by noise pollution, nor would it improve local environmental conditions.

4.31 Paragraph 180 states that planning decisions should ensure that new development is *'appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

'a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;'

4.32 For the reasons set out in paragraphs 4.4-4.7 this proposal is not appropriate for its location as a consequence of its impact on pollution and health and living conditions. It does not and cannot successfully mitigate against adverse noise impacts. The proposal does not seek to reduce to a minimum potential adverse impacts because it requests an extended day time noise contour even though there is no forecast future breach.

Aviation Policy Framework (APF)

4.33 At paragraph 3.3 the APF states:

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

4.34 For the reasons set out in paragraphs 4.2-4.3 the alleged economic benefits of allowing this proposal have not been robustly quantified and any disbenefits of refusal of planning permission would only be temporary. There is no robust economic case for this proposal.

4.35 This proposal does not propose to reduce noise – the opposite in fact.

4.36 This proposal does not and cannot mitigate against noise impacts created by it.

4.37 At paragraph 3.12 the APF states:

3.12 The Government's overall policy on aviation noise is to limit and, where possible, reduce the number of people in the UK significantly affected by aircraft noise, as part of a policy of sharing benefits of noise reduction with industry.

4.38 This proposal seeks to increase the number of people significantly affected by aircraft noise at the Airport. As a consequence the Airport is not contributing to a national policy objective to reduce the number of people in the UK significantly affected by aircraft noise.

4.39 Paragraph 3.19 of the APF states:

3.19 Average noise exposure contours are a well established measure of annoyance and are important to show historic trends in total noise around airports. However, the Government recognises that people do not experience noise in an averaged manner and that the value of the LAeq indicator does not necessarily reflect all aspects of the perception of aircraft noise. For this reason we recommend that average noise contours should not be the only measure used when airports seek to explain how locations under flight paths are affected by aircraft noise. Instead the Government encourages airport operators to use alternative measures which better reflect how aircraft noise is experienced in different localities, developing these measures in consultation with their consultative committee and local communities. The objective should be to ensure a better understanding of noise impacts and to inform the development of targeted noise mitigation measures.

4.40 For the reasons set out in paragraphs 4.4-4.7 this planning application fails to present evidence on a range of measures alternative to LAeq noise contours to ensure a better understanding of noise impacts to inform the development of targeted noise mitigation measures.

4.41 At paragraph 3.24 the APF states:

'3.24 The acceptability of any growth in aviation depends to a large extent on the industry tackling its noise impact. The Government accepts, however, 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 numbers of people affected.'

4.42 For the reasons set out in paragraphs 4.4-4.7 this proposal fails to identify proportionate mitigation for the scale of the noise problem created and the numbers of people affected.

4.43 At paragraphs 3.37-3.41 the APF states:

'3.37 The Government also expects airport operators to offer acoustic insulation to noise-sensitive buildings, such as schools and hospitals, exposed to levels of noise of 63 dB LAeq,16h or more. Where acoustic insulation cannot provide an appropriate or cost-effective solution, alternative mitigation measures should be offered.

3.38 If no such schemes already exist, airport operators should consider financial assistance towards acoustic insulation for households. Where compensation schemes have been in place for many years and there are few properties still eligible for compensation, airport operators should review their schemes to ensure they remain reasonable and proportionate.

3.39 Where airport operators are considering developments which result in an increase in noise, they should review their compensation schemes to ensure that they offer appropriate compensation to those potentially affected. As a minimum, the Government would expect airport operators to 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.

……..'

4.44 For the reasons set out in paragraphs 4.4-4.7 this proposal does not and cannot compensate impacted communities in the form of insulation.

National Planning Practice Guidance (NPPG)

4.45 Amongst other matters, NPPG states:

'Local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider:

- *whether or not a significant adverse effect is occurring or likely to occur;*
- *whether or not an adverse effect is occurring or likely to occur; and*
- *whether or not a good standard of amenity can be achieved.*

……..

As the exposure increases further, it crosses the lowest observed adverse effect level boundary above which the noise starts to cause small changes in behaviour and attitude, for example, having to turn up the volume on the television or needing to speak more loudly to be heard. The noise therefore starts to have an adverse effect and consideration needs to be given to mitigating and minimising those effects (taking account of the economic and social benefits being derived from the activity causing the noise).

……..

Increasing noise exposure will at some point cause the significant observed adverse effect level boundary to be crossed. Above this level the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. If the exposure is above this level the planning process should be used to avoid this effect occurring, by use of appropriate mitigation such as by altering the design and layout. Such decisions must be made taking account of the economic and social benefit of the activity causing the noise, but it is undesirable for such exposure to be caused.
……..

At the highest extreme, noise exposure would cause extensive and sustained changes in behaviour without an ability to mitigate the effect of noise. The impacts on health and quality of life are such that regardless of the benefits of the activity causing the noise, this situation should be prevented from occurring.

……

In cases where existing noise sensitive locations already experience high noise levels, a development that is expected to cause even a small increase in the overall noise level may result in a significant adverse effect occurring even though little to no change in behaviour would be likely to occur.

……

…….In general, for noise making developments, there are 4 broad types of mitigation:

……

- *mitigating the impact on areas likely to be affected by noise including through noise insulation when the impact is on a building.'*

4.46 This proposal does not introduce any additional mitigation measures for those newly subjected to LOAEL and is unable to avoid the Airport crossing the SOAEL threshold and cannot provide effective mitigation. The application is unacceptable for the reasons set out in paragraphs 4.4-4.7.

Aviation 2050: The Future of UK Aviation (A2050)

4.47 At paragraph 1.21 A2050 states:

'1.21 This is why the government is supportive of the development of a third runway at Heathrow Airport…… It is also supportive of airports throughout the UK making best use of their existing runways, subject to environmental issues being addressed. However, there is a need for clarity on what the future framework will be for providing additional capacity to meet demand, while managing environmental and community impacts.'

4.48 For the reasons set out in paragraphs 4.4-4.7, this proposal does not and cannot adequately manage environmental and community impacts.

4.49 At paragraph 1.33, 1.35 and 3.112 A2050 states:

'1.33 Together, these trends present significant opportunities to be exploited, but also challenges to overcome and manage. Global and domestic trends show that with the right economic conditions, the year-on-year growth in passenger numbers and air freight can be expected to continue. There are also signs of change in the market which could which transform business models and the offer for consumers. Meeting this increased demand will require a new partnership between the government, the industry, the regulator and communities that balances the economic benefits of growth with its impact on communities and the environment.

1.35 This is the motivation behind a new Aviation Strategy which will:
……...

- ***ensure that aviation can grow sustainably** – moving beyond an artificial 'choice' between growth and environmental protection by building a new partnership that actively supports sustainable growth with actions taken to mitigate environmental impacts*
- ***support regional growth and connectivity** – ensuring aviation enables all regions of the UK to prosper and grow, providing jobs and economic opportunities and a meaningful contribution to the life of communities up and down the country*
- ……..

3.112 The government expects the industry to show continuing commitment to noise reduction and mitigation as part of its contribution to the partnership for sustainable growth……'

4.50 The County Council believes that a partnership was entered into when the original planning permission was granted which balanced the economic benefits of growth with the impacts upon communities and the environment. For the reasons set out in paragraphs 4.4-4.7 this proposal betrays that partnership. It cannot be considered to rise to Government expectations for the industry to commit to noise reduction and mitigation.

4.51 At paragraphs 3.114 and 3.115 A2050 state:

3.114 The government recognises that there has been uncertainty on how this policy should be interpreted, measured and enforced. The government intends to put in place a stronger and clearer framework which addresses the weaknesses in current policy and ensures industry is sufficiently incentivised to reduce noise, or to put mitigation measures in place where reductions are not possible.

3.115 The proposed new measures are:

- *setting a new objective to limit, and where possible, reduce total adverse effects on health and quality of life from aviation noise. This brings national aviation noise policy in line with airspace policy updated in 2017.*

- *routinely setting noise caps as part of planning approvals (for increase in passengers or flights). The aim is to balance noise and growth and to provide future certainty over noise levels to communities. It is important that caps are subject to periodic review to ensure they remain relevant and continue to strike a fair balance by taking account of actual growth and the introduction of new aircraft technology. ……'*

4.52 For the reasons set out in paragraphs 4.4-4.7 this proposal is not consistent with Government intentions to put in place a stronger and clearer framework where industry reduces noise/puts in place mitigation measures where reductions are not possible. The original planning consent put in place appropriate limits to restrict adverse effects on health and quality of life from aviation noise. The noise contour restrictions put in place in the original planning consent are consistent with Government expectations that noise caps are set as part of planning approvals to balance noise and growth and to provide future certainty over noise levels to communities. This proposal seeks to increase limits and take away certainty to communities achieved by the original planning consent. The proposal is not consistent with paragraphs 3.114 and 3.115 of A2050 and is considered to be unacceptable for the reasons set out in paragraphs 4.4-4.7.

4.53 Paragraphs 3.121 and 3.122 of A2050 state:

'3.121 The government is also:

proposing new measures to improve noise insulation schemes for existing properties, particularly where noise exposure may increase in the short term or to mitigate against sleep disturbance

3.122 Such schemes, while imposing costs on the industry, are an important element in giving impacted communities a fair deal. The government therefore proposes the following noise insulation measures:

- *to extend the noise insulation policy threshold beyond the current 63dB LAeq 16hr contour to 60dB LAeq 16hr*
- *to require all airports to review the effectiveness of existing schemes. This should include how effective the insulation is and whether other factors (such as ventilation) need to be considered, and also whether levels of contributions are affecting take-up*
- *the government or ICCAN to issue new guidance to airports on best practice for noise insulation schemes, to improve consistency*
- *for airspace changes which lead to significantly increased overflight, to set a new minimum threshold of an increase of 3dB LAeq, which leaves a household in the 54dB LAeq 16hr contour or above as a new eligibility criterion for assistance with noise insulation'*

4.54 For the reasons set out in paragraphs 4.4-4.7 the noise insulation mitigation package presented in the proposal is inadequate and ineffective. The ES takes the level of 63dB LAeq, 16hr as a suitable value for the SOAEL for the assessment of likely significant adverse effects. This is based on paragraphs 3.37-3.39 of the APF and is the level at which the Government expects airport operators to offer acoustic insulation to noise-sensitive buildings, such as schools and hospitals and residential properties exposed to levels of noise of 63 dB LAeq,16h or more. A2050 proposes to extend the noise insulation policy threshold beyond the current 63dB LAeq 16hr contour to 60dB LAeq 16hr and sees this is *'an important element in giving impacted communities a fair deal'*. The County Council is of the view that the planning application should also have used the 60dB LAeq 16hr as an alternative suitable value for SOAEL for the assessment of likely significant adverse effects as it represents an indication of where Government currently stands on protection of communities in terms of mitigation.

4.55 At paragraph 4.3 A2050 states:

'Support regional growth and connectivity

4.3 The government has also confirmed that it is supportive of airports beyond Heathrow making best use of their existing runways, subject to proposals being assessed in light of environmental and economic impacts.'

4.56 For the reasons set out in paragraphs 4.2-4.3 the potential adverse economic impacts of this proposal have not been robustly assessed, if they exist are considered to be temporary and have arisen as a consequence of the Airport failing to responsibly manage its operations. The adverse environmental impacts are considered to be unacceptable for the reasons set out in 4.4-4.7.

Beyond the Horizon The future of UK Aviation Making best use of existing runways (MBUER) June 2018

4.57 Paragraphs 1.22 and 1.24 of MBUER state:

'Local environmental impacts

1.22 The government recognises the impact on communities living near airports and understands their concerns over local environmental issues, particularly noise, air quality and surface access. As airports look to make the best use of their existing

runways, it is important that communities surrounding those airports share in the economic benefits of this, and that adverse impacts such as noise are mitigated where possible.

1.24 As part their planning applications airports will need to demonstrate how they will mitigate local environmental issues, which can then be presented to, and considered by, communities as part of the planning consultation process. This ensures that local stakeholders are given appropriate opportunity to input into potential changes which affect their environment and have their say on airport applications.'

4.58 For the reasons set out in paragraphs 4.2-4.3, the economic benefits to be shared on growth of the Airport were assessed when permission was granted and those economic benefits are assumed to continue to be forthcoming. Adverse impacts were also assessed when permission was granted and mitigation put in place. This proposal seeks to increase adverse noise impacts and does not and cannot bring forward meaningful effective mitigation.

4.59 At paragraph 1.29 MBUER states:

'1.29 Therefore the government is supportive of airports beyond Heathrow making best use of their existing runways. However, we recognise that the development of airports can have negative as well as positive local impacts, including on noise levels. We therefore consider that any proposals should be judged by the relevant planning authority, taking careful account of all relevant considerations, particularly economic and environmental impacts and proposed mitigations. This policy statement does not prejudge the decision of those authorities who will be required to give proper consideration to such applications. It instead leaves it up to local, rather than national government, to consider each case on its merits.'

4.60 The economic benefits of growth in the Airport were assessed and accepted when planning permission was granted. These economic benefits will continue to come forward as anticipated. There is no economic case to override the environmental impacts for the reasons set out in paragraphs 4.2-4.3.

Airports National Policy Statement (ANPS)

4.61 The ANPS states:

'1.39 On 21 July 2017, the Government issued a call for evidence on a new Aviation Strategy. Having analysed the responses, the Government has confirmed that it is supportive of airports beyond Heathrow making best use of their existing runways. However, we recognise that the development of airports can have positive and negative impacts, including on noise levels. We consider that any proposals should be judged on their individual merits by the relevant planning authority, taking careful account of all relevant considerations, particularly economic and environmental impacts.'

Noise

Introduction

5.44 The impact of noise from airport expansion is a key concern for communities affected, and the Government takes this issue very seriously. High exposure to noise is an annoyance, can disturb sleep, and can also affect people's health. Aircraft operations are by far the largest source of noise emissions from an airport, although noise will also be generated from ground operations and surface transport, and during the construction phase of a scheme.

5.45 Aircraft noise is not only determined by the number of aircraft overhead, but also by engine technologies and airframe design, the paths the aircraft take when approaching and departing from the airport, and the way in which the aircraft are flown.

Decision making

5.67 The proposed development must be undertaken in accordance with statutory obligations for noise. Due regard must have been given to national policy on aviation noise, and the relevant sections of the Noise Policy Statement for England, the National Planning Policy Framework, and the Government's associated planning guidance on noise. However, the Airports NPS must be used as the primary policy on noise when considering the Heathrow Northwest Runway scheme, and has primacy over other wider noise policy sources.

5.68 Development consent should not be granted unless the Secretary of State is satisfied that the proposals will meet the following aims for the effective management and control of noise, within the context of Government policy on sustainable development:

- *Avoid significant adverse impacts on health and quality of life from noise;*
- *Mitigate and minimise adverse impacts on health and quality of life from noise; and*
- *Where possible, contribute to improvements to health and quality of life.'*

4.62 For the reasons set out in paragraphs 4.4-4.7 the proposal would result in significant adverse effect on health and quality of life, cannot effectively mitigate/minimise adverse impacts and will not contribute to improvements to health and quality of life.

A Green Future: Our 25 Year Plan to Improve the Environment

4.63 The 25 year Plan states:

'Over the next 25 years, we must significantly cut all forms of pollution and ease the pressure on the environment. ***We must ensure that noise and light pollution are managed effectively.****'*

4.64 For the reasons set out in paragraphs 4.4-4.7 the proposal would not ensure that noise pollution is effectively managed.

Noise Policy Statement for England (NPSE)

4.65 The NPSE states:

'Noise Policy Aims

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

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

The first aim of the Noise Policy Statement for England

Avoid significant adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

2.23 The first aim of the NPSE states that significant adverse effects on health and quality of life should be avoided while also taking into account the guiding principles of sustainable development (paragraph 1.8).

The second aim of the Noise Policy Statement for England

Mitigate and minimise adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

2.24 The second aim of the NPSE refers to the situation where the impact lies somewhere between LOAEL and SOAEL. It requires that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development (paragraph 1.8). This does not mean that such adverse effects cannot occur.

The third aim of the Noise Policy Statement for England

Where possible, contribute to the improvement of health and quality of life through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

2.25 This aim seeks, where possible, positively to improve health and quality of life through the pro-active management of noise while also taking into account the guiding principles of sustainable development (paragraph 1.8), recognising that there will be opportunities for such measures to be taken and that they will deliver potential benefits to society. The protection of quiet places and quiet times as well as the enhancement of the acoustic environment will assist with delivering this aim.'

4.66 For the reasons set out in paragraphs 4.4-4.7 the proposal would result in significant adverse effect on health and quality of life, cannot effectively mitigate/minimise adverse impacts and will not contribute to improvements to health and quality of life.

Air Navigation Guidance 2017 (ANG)

4.67 One of the four key objectives of ANG is to:

‘• emphasise that the environmental impact of aviation must be mitigated as much as is practicable and realistic to do so.’

4.68 For the reasons set out in paragraphs 4.4-4.7 this proposal does not and cannot mitigate against the environmental impact.

4.69 ANG goes on to state:

‘Assessing the noise implications of proposed airspace changes

3.4 As stated in section 1.2(a) of this guidance, one of the government’s three key environmental objectives is to limit and, where possible, reduce the number of people in the UK significantly affected by adverse impacts from aircraft noise.

3.5 For the purpose of assessing airspace changes, the government wishes the CAA to interpret this objective to mean that the total adverse effects on people as a result of aviation noise should be limited and, where possible, reduced, rather than the absolute number of people in any particular noise contour. Adverse effects are considered to be those related to health and quality of life. There is no one threshold at which all individuals are considered to be significantly adversely affected by noise. It is possible to set a Lowest Observed Adverse Effect Level (LOAEL) that is regarded as the point at which adverse effects begin to be seen on a community basis. As noise exposure increases above this level, so will the likelihood of experiencing an adverse effect. In line with this increase in risk, the proportion of the population likely to be significantly affected can be expected to grow as the noise level increases over the LOAEL. For the purposes of assessing and comparing the noise impacts of airspace changes, the government has set a LOAEL of 51dB LAeq16hr for daytime noise and 45dB LAeq8hr for night time noise and the CAA should ensure that these metrics are considered.

3.11 For communities further away from airports that will not be affected by noise above the LOAELs identified above, it is important that other aspects of noise are also taken into account where the total adverse effects of noise on people between different options are similar. Metrics that must be considered for these purposes include the overall number of overflights and number above metrics: N65 for daytime noise and N60 for night time noise. The CAA’s overflights metric is a means of portraying those locations where residents will experience being overflown. These supplementary metrics must also be used to inform communities about the likely impact of proposed changes.

3.12 The CAA should also verify that sponsors have used any other noise metrics that may be appropriate for allowing communities to understand the noise impacts that could result from the proposed change. This could include the use of 100% mode contours for average noise or frequency-based metrics, or consideration of the interaction with other sources of aircraft noise, such as those from other local airports.

4. Detailed Management of aircraft noise: guidance for airports, airlines and air navigation service providers and CAA in respect of CAA’s noise management function

Introduction

4.1 For communities living close to airports, and some further away under arrival and departure routes, aircraft noise is one of the most important environmental impacts created by the aviation sector. The government's long-term view, most recently expressed in the 2013 Aviation Policy Framework, is that there must be a fair balance between the economic benefits derived from the aviation industry, and the negative impacts of noise for affected communities. The benefits of any future growth in aviation and/or technological development must be shared between those benefitting from a thriving aviation industry and those close to the airports that experience its impacts.'

4.70 For the reasons set out in paragraphs 4.4-4.7 this proposal would have significant and unacceptable adverse noise impacts upon communities. This does not represent a fair balance between the economic benefits and the negative impacts of noise.

London Luton Airport Development Brief September 2001 (LLADB)

4.71 The LLADB does not feature on the LBC list of Supplementary Planning Guidance, though it appears from the LBC Regulation 25 request that it has not been revoked. The adopted Luton local Plan makes no reference to the Development Brief and instead refers to *'This is supported by Policy LLP6, which includes criteria to allow additional proposals to be considered in accordance with the most up-to-date Master Plan (i.e. that Master Plan which is applicable at the time of determining any planning application)'*. The County Council is of the view that the Development Brief can only be considered to carry limited weight in decision-making given its age and that it has been superseded by the London Luton Airport Operations Limited Revised Masterplan document Consultation prior to submission of planning application - London's local airport – September 2012.

4.72 Nevertheless, some of the more relevant aspects of the Brief are highlighted in paragraph 2.45. Of particular relevance to this planning application are the following extracts:

Within the Brief LLAOL advocates a "capacity approach" to environmental management, which allows the company greater flexibility and creativity in meeting the agreed thresholds than controls on passenger throughput. That system is essentially the method in operation with the current Phase 1 developments and LLAOL believes that this approach will foster development of the airport in a manner that combines economic and social benefits, with environmental responsibility.

The London Luton Airport Development Brief outlines a future form for the airport in which the benefits of its future expansion can be shared between the operating company, the local community, and the travelling public, in an environmentally responsible manner.

8.6 Airports are major generators of local employment and wealth, and growing airports impact positively by providing more jobs, greater economic growth, and continued local investment and partnership.

8.16 Since LLA is located very close to a major conurbation, aircraft noise and its impact on local communities has been, and will continue to be, the most significant environmental impact. Of rising importance are the issues of surface transport; air quality; and ecology. Improvements to these aspects, plus waste and energy

management, emissions to water, air and land, and chemicals handling, are targeted within the LLAOL Environmental Management System (EMS) summarised later.

8.42 The most useful policy element on sustainable development for the Brief is contained in the World Bank definition of 1991, where it is stated that the rate of pollution emission should not exceed the assimilative capacity of the environment.

8.43 This then relates to the previous section on environmental capacity; the non-excedence of agreed limits on environmental capacity implies that one component of sustainable development (under the World Bank definition) is thereby achieved.

8.58 Sustainable airport development can be attained by the non-excedence of agreed limits on environmental capacity (under the World Bank definition); and by balancing economic, social and environmental considerations (UK Government strategy for sustainable development).

ENVIRONMENTAL CAPACITY

9.21 The principle of Environmental Capacity is explored in Chapter 8 above and is specifically detailed in terms of noise issues in Appendix B.

9.22 The concept that noise is an issue in terms of sustainable development is being addressed by the Government's Round Table on Sustainability, as one of the environmental concerns that must be considered in balancing the economic, social and environmental effects of development. This suggests that in creating economic or social benefits from a development, such as the expansion of LLA, some environmental burden will result.

9.23 The principle being adopted by LLAOL is that seeking this balance will be one of the key criteria that will provide the framework for any ES to accompany a future planning application.'

9.27 The use of potential mitigation measures for all forms of noise impacts will be considered in relation to the specific forecast noise impact. Appropriate measures will be proposed directed at addressing any predicted significant impact whilst taking into account the principles of sustainability.'

4.73 The Brief recognises the economic and social benefits of the Airport and its growth. For the reasons set out in paragraphs 4.2-4.3 the potential adverse economic impacts of this proposal have not been robustly assessed, if they exist are considered to be temporary and have arisen as a consequence of the Airport failing to responsibly manage its operations.

4.74 In terms of '*sustainable development …….. the environmental concerns that must be considered in balancing the economic, social and environmental effects of development……. creating economic or social benefits from a development, such as the expansion of LLA, some environmental burden will result* – that *'balance'* and *'environmental burden'* was established when the original consent was granted. For the reasons set out in paragraphs 4.4-4.7 this proposal would have significant and unacceptable adverse noise impacts upon communities – the environmental burden is unacceptable and would introduce an imbalance in the *'balancing the economic, social and environmental effects of development'*.

4.75 In terms of *'the non-excedence of agreed limits on environmental capacity implies that one component of sustainable development (under the World Bank definition) is thereby achieved'* the noise contours attached to the original consent represent a key element of the *'agreed limits'* attached to the original planning consent. The Brief sees the *'non-excedence'* of limits as one of the components of sustainable development. This planning application proposes to exceed agreed limits and for the reasons set out in paragraphs 4.4-4.7 would have significant and unacceptable adverse noise and health impacts upon communities. It is therefore not consistent the definition of sustainable development within the Brief.

4.76 In terms of introducing '*Appropriate measures …….. directed at addressing any predicted significant impact…..'*, for the reasons set out in paragraphs 4.4-4.7 the proposal would result in significant adverse noise impacts, up to moderate health impacts and cannot effectively mitigate/minimise these impacts. In the absence of effective mitigation, the health impacts potential rise to likely significant adverse health impact.

London Luton Airport Operations Limited Revised Masterplan document Consultation prior to submission of planning application - London's local airport – September 2012 (AMP)

4.77 Paragraphs 9.26 and 9.27 of the AMP state:

'Noise and vibration

9.26 Noise and vibration is a key issue with the majority of aviation developments, particularly where there is residential development in the vicinity of the airport. As discussed in section 3 of this masterplan, LLAOL takes a proactive approach to the monitoring and management of noise associated with airport activities and actively engages with the local community on this issue. An objective of the masterplan development is that the Airport continues to be a good neighbour and the potential changes in the local noise environment have been an important factor in determining the proposed scale of development.

9.27 Whilst there will be increases in the number of flights, the proposed magnitude of this increase will be within acceptable limits. It is also likely that other improvements associated with the development proposals such as the more effective taxiway and dualling of Airport Way will help to reduce noise levels in these areas.

9.28 We understand the impact of night flights on our neighbours and commit to reducing the current proportion of night flights. We will seek to balance the commercial value of operational flexibility against the community disturbance we recognise it can cause, in order to deliver socially as well as environmentally sustainable growth at the Airport.'

4.78 For the reasons set out in paragraph 4.4-4.7 above, the application is considered to be in conflict with paragraph 9.27 of the masterplan in that it would not keep the noise implications of the Airport *'within acceptable limits'* and in not maintaining an appropriate balance between commercial value and community disturbance is not consistent with paragraph 9.28.

Environmental Noise Directive Noise Action Plan 2019-2023 London Luton Airport (NAP)

4.79 The NAP states:

'London Luton Airport is committed to being a good neighbour and endeavours to minimise the impact of its operations on local communities. Continued and enhanced consultation with the community is essential so that an appropriate balance can be struck between the socio-economic benefits of airport operations and its environmental impacts. This Noise Action Plan, once adopted by DEFRA, will provide a meaningful framework for London Luton Airport and its Consultative Committee to build upon it's established approach to the proactive management of aircraft noise in and around the airport.'

'Framework for Noise Management

Demand for air travel across the UK is increasing rapidly. In response to increased demand, we are making the biggest investment in LLA's history to transform the airport. The redevelopment of our terminal will bring huge benefits for passengers, but it is vitally important to us that the local community also shares in the success of the airport. At LLA, our aim is always to work constructively with the local community and our partners to strike the right balance between maximising the positive social and economic benefits to the local area and the UK as a whole while minimising the impact of aircraft noise.

Once the current development is complete, LLA will contribute £1.4billion per year to the local economy and £2.3billion nationally. By 2031 we expect to support over 37,700 jobs, which on average pay £11,000 per year more than the national average wage. But we recognise that the airport's growth may give rise to questions about noise levels. LLA already operates under the most stringent noise restrictions of any major UK airport. But we are continually looking to do more. As the airport continues its growth and development, we are evolving our approach to noise management and this can be seen through the development of our Noise Action Plan.'

4.80 The balance to be struck between the economic benefits of growth at the Airport and the management of noise and protection of communities was established when the original planning permission was granted. The NAP commits to the restrictions placed on the planning permission:

'…….This plan details our actions over a five year period (2019-2023) and the policy framework that would support these actions. It is aligned with London Luton Airport's S106 Legal Agreement (2014) with Luton Borough Council which outlines how the airport's operation, growth and environmental impacts will be managed responsibly and laid the foundation of our Noise Action Plan.'

4.81 Key to achieving the balance between the economic benefits of growth and managing adverse environmental impacts was the imposition of a noise contour condition on the planning permission. This NAP contains a commitment in Action ref 3.4:

'We will operate within our agreed contour area limits'

4.82 It also contains a Key Performance Indicator (KP3):

'Population inside 45dBLAeq (8hr) Night time contour – limit and where possible reduce the population within the contour over the course of the action plan.'

4.83 The NAP was developed and submitted to DEFRA under the full knowledge that operations at the Airport were failing to comply with night time noise contour restrictions and that a planning application was in preparation to seek to vary both day and night noise contour areas. The planning application is fundamentally at odds with Action ref 3.4 and KP3 of the Noise Action Plan 2019-2023 approved by DEFRA.

In summary:

4.84 As a matter of principle, for the reasons set out in paragraphs 1.1-1.8 the County Council very strongly objects to this planning application. The original proposal to grow the Airport to 18 mppa weighed up the economic benefits and environmental impacts. The balance achieved resulted in a planning permission incorporating appropriate environmental safeguards required to protect communities against the adverse impacts of noise. Night and day time noise contours are fundamental safeguards. The planning consent is fundamental to the 'Partnership' approach promoted by Government and crucial to offering the certainty to communities that Government expects to secure their health and well-being. The applicant has operated the Airport in the full knowledge that its operations would lead to a breach of the safeguards in the planning consent and its commitment to protect communities from the adverse impacts of growth. The actions of the applicant represent a betrayal of the other partners of the Partnership, particularly communities.

4.85 Notwithstanding this, the County Council is fully aware that every planning application must be considered on its own merits. For the reasons set out above, the County Council is of the view that on balance the planning application is not in accordance with the up to date development plan, with national planning policy and planning practice guidance and with other material policy and guidance. As such the application should be refused.

4.86 The County Council is aware that further information has been sought from the applicant with respect to both the noise and economic implications of the proposal. Assuming the applicant provides additional material and further public consultation follows, the County Council will review its position at that time and respond further as necessary.

Yours sincerely,

Derrick Ashley
Executive Member for Growth, Infrastructure, Planning and the Economy

Appendix 2

Hertfordshire County Council response to London Luton Airport Limited - Future LuToN Making best use of our runway Public consultation – 16 October to 16 December 2019

FREEPOST FUTURE LUTON LLAL

Derrick Ashley
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24th December 2019

Dear Sir/Madam,

London Luton Airport Limited - Future LuToN Making best use of our runway
Public consultation – 16 October to 16 December 2019

Thank you for the opportunity to comment on the above and for your extension to the consultation deadline until 24th December.

This County Council response is separate and in addition to the collective response *'Response to Statutory Consultation on behalf of the Host Authorities'* (dated 23rd December 2019) of Central Bedfordshire, Luton, North Hertfordshire and Hertfordshire County councils.

National aviation policy and the Climate Change Act 2008

The consultation material assesses the proposal in terms of its compatibility with existing national aviation policy [Aviation Policy Framework (APF) (2013), Making best use of existing runways (MBUER) (June 2018) and the Airports National Policy Statement (ANPS) (June 2018)] and the carbon budgets set in accordance with the historic Climate Change Act 2008 target of an 80% reduction of greenhouse gas emissions compared to 1990 levels (with the 5th Carbon Budget setting a limit that aviation emissions for the UK being capped at 37.5MtCO_2 in 2050 based on 2005 levels, excluding emissions from international aviation).

The assessment concludes that the increase in carbon emissions resulting from the proposed development is considered (with mitigations in place) not to have a material impact on the ability of Government to meet its carbon reduction targets, including carbon budgets. This conclusion is consistent with that of the Government more generally in terms of the compatibility between policy to make best use of existing

runways/Heathrow third runway and 80% reduction Climate Change Act target and related carbon budgets.

In a joint letter (15th October 2018) to the Committee on Climate Change (CCC) the Governments of the UK, Scotland and Wales requested advice from the Committee on their respective long-term CO_2 emissions targets:

> 1. the date by which the UK should achieve (a) a net zero greenhouse gas target and/or (b) a net zero carbon [dioxide] target in order to contribute to the global ambitions set out in the Paris Agreement.
> 2. whether now is the right time for the UK to set such a target.
> 3. the range which UK greenhouse gas emissions reductions would need to be within, against 1990 levels, by 2050 as an appropriate contribution to the global goal of limiting global warming to well below 2°C" and "towards global efforts to limit the increase to 1.5°C.
> 4. how reductions in line with your recommendations might be delivered in key sectors of the economy.
> 5. the expected costs and benefits across the spectrum of scenarios in comparison to the costs and benefits of meeting the current target.
> 6. updated advice on the long-term emissions targets for Scotland and Wales provided with regards to the respective devolved statutory frameworks on climate change.

In December 2018 Government consulted on its Aviation Green Paper *'Aviation 2050 - The future of UK aviation',* reaffirming Government's commitment to provide additional capacity through the development of a third runway at Heathrow Airport and airports throughout the UK making best use of their existing runways. The Strategy is based on the 80% reduction Climate Change Act target and related planning assumptions. In its response (February 2019) to the consultation the CCC stated that it would write to Government specifically about the implications of its forthcoming net-zero recommendations for the emerging national Aviation Strategy.

> *'The UK's currently legislated 2050 target is to reduce economy-wide greenhouse gas emissions by at least 80% from 1990 levels. Since the Climate Change Act became law, the UK has ratified the Paris Agreement, implying even stronger action. You will be aware that my Committee has been asked by Ministers to offer advice on the implications of the Paris Agreement for the UK's statutory framework, including when 'net-zero' emissions can be achieved. A stronger UK target would require more effort from all sectors, including aviation. We intend to provide an updated view on the appropriate long-term ambition for aviation emissions within our advice on the UK's long term targets. We will publish our report in spring. Following that, we will write to you directly to set out the implications for the Aviation Strategy.'*
>
> *Our present planning assumption, which underpins the fifth carbon budget and the current 2050 target, is that UK aviation emissions in 2050 should be around their 2005 level (i.e. 37.5 $MtCO_2e$). Your acceptance of this planning assumption in the consultation is a very welcome step. The final white paper should further clarify that this will be met on the basis of actual emissions, rather than by relying on international offset credits.*

Aviation emissions in the UK have more than doubled since 1990, while emissions for the economy as a whole have fallen by around 40%. Achieving aviation emissions at or below 2005 levels in 2050 will require contributions from all parts of the aviation sector, including from new technologies and aircraft designs, improved airspace management, airlines' operations, and use of sustainable fuels. It will also require steps to limit growth in demand. In the absence of a true zero-carbon plane, demand cannot continue to grow unfettered over the long-term.'

In May 2019, the CCC published its report (*'Net Zero The UK's contribution to stopping global warming Committee on Climate Change'* May 2019) to the UK Governments. Its overarching recommendation was that the UK should amend its legislation to commit to net zero greenhouse gas emissions by 2050 and in relation to aviation, that this target should include the UK's share of international aviation and be met through domestic action rather than international offset credits – *'This will require immediate steps from Government, industry and the public. Challenges that have not yet been confronted – such as aviation and shipping emissions – must now be addressed'*. *The UK should legislate as soon as possible to reach net-zero greenhouse gas emissions by 2050. The target can be legislated as a 100% reduction in greenhouse gases (GHGs) from 1990 and should cover all sectors of the economy, including international aviation and shipping*.'

'We will set out our recommended policy approach for aviation in follow-up advice to the Government later in 2019……..Reducing emissions from aviation will require a combination of international and domestic polices, and these should be implemented in ways that avoid perverse outcomes (e.g. carbon leakage). A package of policy measures should be put in place that include carbon pricing, support for research, innovation and deployment, and measures to manage growth in demand.'

In May 2019 Parliament declared an environment and climate emergency and in June The Climate Change Act 2008 (2050 Target Amendment) Order 2019 came into force, revising the 2050 GHG target of an 80% reduction of GHG emissions compared to 1990 levels to a net zero carbon target. In July 2019 the County Council joined the ranks of over 200 local authorities across the country in declaring a climate emergency.

In September 2019 the CCC wrote to the Secretary of State for Transport advising that the planning assumption for international aviation should be to achieve net-zero emissions by 2050 and that this should be reflected within the Government's forthcoming Aviation Strategy. To achieve this would require reduction in actual emissions and would be likely to require some use of greenhouse gas removals to offset remaining emissions. Key to reducing emissions will be limiting demand growth to at most 25% above current levels, with potential to reduce emissions further with lower levels of demand. The CCC advises that *'The Government should assess its airport capacity strategy in this context. Specifically, investments will need to be demonstrated to make economic sense in a net-zero world and the transition towards it.'*

All in force and emerging national aviation policy precedes the June 2019 Climate Change Act net-zero declaration/legislation. The Department of Transport has stated that the implications of the declaration/legislation and the CCC's recommended policy approach to aviation will be taken into account in further developing is aviation policy

through the Aviation 2050 process. It has also stated that it will provide advice and a recommendation to the Secretary of State on whether the statutory criteria for a review of part or all of the Aviation National Policy Statement (the Government's national planning policy commitment to Heathrow third runway) are met and whether or not it is appropriate to carry out such a review.

In its *'Leading on Clean Growth - The Government Response to the Committee on Climate Change's 2019 Progress Report to Parliament – Reducing UK emissions'* (October 2019), Government has stated that it will publish an ambitious Aviation Strategy next year and in doing so will *'continue to consider the implications of our 2050 net zero target……..'*.

The consultation material states that the revised carbon legislation has not been specifically addressed in the greenhouse gas assessment *'due to the timing of its introduction into UK law'*, but recognises that *'this is a significant piece of legislation that will have an impact on the Proposed Development and as such will be further considered in the ES. Our assessment of greenhouse gas emissions will continue to be updated to consider the latest proposals and the developing government policy on the net-zero carbon target'*.

It is clear that a state of considerable national uncertainty exists regarding the relationship between the Government's net zero declaration/legislation and the implications this has for both existing national aviation policy and its emerging Aviation Strategy.

Government has been called upon to intervene and restrict the grant of planning permission for aviation growth-related planning applications until new national aviation policy is in place.

Given the current programmed timeframe for the Development Consent Order (DCO) process, new national aviation policy should be in place and therefore national uncertainty resolved by the time a decision is made. However, should this prove not to be the case the County Council is strongly of the view that the proposed project timeframe should be reprogrammed to ensure that any decision is made in the context of new Government aviation policy, when published. Only in these circumstances can a properly informed and robust decision be made.

The need for substantive further technical work and engagement with the host authorities and other partners/Scope for further public consultation

The County Council appreciates that the scheme is still within its development stages – further evidence and material to support it is not yet available. The Planning Inspectorate's *'Advice Note two: The role of local authorities in the development consent process'* states the following:

> *'Engaging in developer consultation*
>
> *6.1 Local authorities are able to influence the preparation of the developer's application. The preparation of the application will be an iterative process which means that the amount of detail should increase as the preparation proceeds.*

6.2 Local authorities should engage proactively with a developer even if they disagree with the proposal in principle. It is important to recognise that a local authority is not the decision maker but will want to contribute towards the development of the emerging proposals with the benefit of their detailed local knowledge. Local authorities are not undermining any 'in principle' objections to a scheme by engaging with a developer at the pre-application stage.

6.3 Nothing is to be gained by disengaging from the pre-application consultation process. It is in a local authority's own interests to engage in shaping a scheme. Once an application has been submitted it cannot be changed to the extent that it would be a materially different application, so as to constitute a new application. It is therefore important for local authorities to put any fundamental points to the developer during the pre-application stage.'

Government guidance '*Planning Act 2008: Guidance on the pre-application process*' states the following:

'The pre-application consultation process

15. Pre-application consultation is a key requirement for applications for Development Consent Orders for major infrastructure projects. Effective preapplication consultation will lead to applications which are better developed and better understood by the public, and in which the important issues have been articulated and considered as far as possible in advance of submission of the application to the Secretary of State. This in turn will allow for shorter and more efficient examinations.

16. The Planning Act regime provides the ability to anyone interested in or affected by a major infrastructure proposal to both object in-principle to a proposed scheme and at the same time suggest amendments to design out unwelcome features of a proposal. Engaging in a developer's preapplication consultation including for example offering constructive mitigations to reduce a scheme's impact on the local community, does not per se undermine any submission on the principle of whether or not development consent should be granted.

18. Early involvement of local communities, local authorities and statutory consultees can bring about significant benefits for all parties, by:

- *helping the applicant identify and resolve issues at the earliest stage, which can reduce the overall risk to the project further down the line as it becomes more difficult to make changes once an application has been submitted;*
- *enabling members of the public to influence proposed projects, feedback on potential options, and encouraging the community to help shape the proposal to maximise local benefits and minimise any downsides;*
- *helping local people understand the potential nature and local impact of the proposed project, with the potential to dispel misapprehensions at an early stage;*
- *enabling applicants to obtain important information about the economic, social and environmental impacts of a scheme from consultees, which can help rule out unsuitable options;*

- *enabling potential mitigating measures to be considered and, if appropriate, built into the project before an application is submitted; and*
- *identifying ways in which the project could, without significant costs to promoters, support wider strategic or local objectives.*

19. The pre-application consultation process is crucial to the effectiveness of the major infrastructure consenting regime. A thorough process can give the Secretary of State confidence that issues that will arise during the six months examination period have been identified, considered, and – as far as possible – that applicants have sought to reach agreement on those issues. Without adequate consultation, the subsequent application will not be accepted when it is submitted. If the Secretary of State determines that the consultation is inadequate, he or she can recommend that the applicant carries out further consultation activity before the application can be accepted.'

It is within this context that the County Council is engaging with you on your proposal. You will be aware of the resources the County Council and other host authorities have committed to the process to date and, in relation to this consultation, the commissioning of specialist independent technical advice. That advice, the views of the host authorities articulated in their collective response and the responses of the individual hosts will hopefully provide a positive platform from which to further engage over the coming months in shaping the scheme in preparation for the further stages of the DCO process to come.

As the host authority collective response indicates, in some areas considerable further evidence and engagement is required. In particular, the County Council will expect there to be a substantive focus on noise - (including the rationale for why a ban on night flights is not being considered), surface access impacts in Hertfordshire and mitigations (the impacts on the network and potential mitigations required, for all modes, are currently not satisfactorily evidenced and explored), employment and skills strategy (which is not yet even in draft form), bringing forward a comprehensive monitoring, mitigation and compensation strategy [including exploring how to apply the principles of environmentally managed growth (growth conditional upon environmental and other limits/targets/parameters being met) and unforeseen local impacts mitigation]; the scale, geographic scope and proposed operating mechanisms of the proposed FIRST scheme; air quality (aircraft and road traffic-related), specific analysis as to how the scheme in terms of its development/design/mitigation will minimise the impact on the aim and purposes of the Green Belt; the purpose and future management of the Wigmore Valley Park and associated open space, etc.

In relation to surface access, the *'Response to Scoping Report on behalf of the Host Authorities'* highlighted concerns in relation to the Hertfordshire road network relating to the A505 (Hitchin), the A1081 (Harpenden), B653 (Wheathampstead), A602 (Hitchin to Stevenage), M1 and A1(M) junctions, the heavily trafficked Hitchin routes (the A505, A600 and A602), and the rural roads around Breachwood Green. It also identified the need for bus and coach service improvements to bring passengers and staff to the airport from areas not linked directly to Luton by rail (for example east-west in Hertfordshire, from Stevenage, Hitchin, Welwyn Garden City, Hatfield, Hemel Hempstead and Watford). Such improvements would be important mitigation and at present remain under-developed. In terms of rail, the impact on passengers travelling from St Albans and Harpenden, particularly commuters in the peak, is not reflected in the Surface Access Strategy. There is mention that there will be insufficient seats for

passengers getting on at Luton Parkway, but it fails to acknowledge that this means less or no seats from stations south. Considerable further technical work is required in relation to the surface access implications of the proposal on the Hertfordshire networks.

The County Council is strongly of the view that, moving forward, there needs to be a step-change in the level of technical engagement and that serious consideration needs to be given to appropriately informed political processes.

The majority, if not all, of the evidence and material identified as required by the host authorities will also be of interest to other local authorities, other parties and to communities. Given the scale of this material and evidence still to be compiled to underpin the scheme and to address its impacts, there would appear to be a strong case, within the spirit of national guidance, for a further period of statutory consultation to be programmed into the DCO process. The purpose of such further consultation would be to engage parties more meaningfully with a more advanced scheme.

The County Council's position

You will be aware that recent history of operations at London Luton Airport, from a Hertfordshire perspective, has been one that could hardly be more negative. Unmanaged accelerated growth at the Airport has proceeded in the full knowledge that restrictions on operations to safeguard communities from adverse noise impacts would be compromised. Breaches of planning control have occurred, are occurring and are predicted to continue to do so. There is a current live planning application seeking planning permission to, in effect, authorise those breaches for a temporary period of 5 years. Meanwhile, airspace change processes continue to seek to address the adverse noise impacts of an airspace change brought into effect in 2015 – impacts exacerbated by the mismanagement of recent accelerated growth. On top of this, communities are now expecting a planning application to raise the consented passenger throughput cap from 18 mppa to 19 mppa - again, because the Airport has mismanaged growth.

The consultation material states:

'Since the conclusion of our first round of consultation, we have published our Sustainability Strategy. This sets out a range of targets over the medium and long term. We will work with the airport operator, London Luton Airport Operations Limited (LLAOL), to deliver against the targets. Our aims are to be a better neighbour, protect our planet, and enable growth and support for our future communities.'

Whilst the commitment to be a better neighbour is welcomed, Hertfordshire communities do not consider London Luton Airport to be a good, considerate, neighbour. The County Council has every sympathy with that view.

Unless and until there is evidence to demonstrate, and mechanisms to ensure, that the Airport can grow and be operated in a responsible manner, in the spirit of the Government's aspiration for a partnership for sustainable growth set out in Aviation 2050, which contains its environmental impacts to within prescribed acceptable and agreed limits that are enforceable, can achieve an overall betterment in the amenity and health of the communities impacted by it – both immediate and further afield, and can adequately provide for the surface access needs required of it, the County Council

has an in-principle objection to growth of the Airport. This evidence does not currently exist.

Yours sincerely,

Derrick Ashley
Executive Member for Growth, Infrastructure, Planning and the Economy

Appendix 3

Comments on the consultation material

Consultation Document

'Introduction

……..

'To ensure the airport continues to thrive we are preparing for a period of recovery from the impacts of the COVID-19 pandemic. For us to do this we need to ensure that we accommodate the need for future growth. An important step will be increasing the airport's capacity from 18 to 19mppa. This is a key element of our strategy for recovery and future growth and will help to support the local, regional and national economy as air traffic movements become more frequent. If we do not plan for growth now we will limit our ability to play our part in the UK's economic recovery.

To achieve this, we must submit a planning application to Luton Council. Before we do this, we want to hear your views on our emerging proposals.'

A3.1 Government policy within the APF states:

*'**Airport master plans***

4.11 Currently over 30 airports across the UK have adopted master plans. They do not have a statutory basis, but the primary objective of master plans is to provide a clear statement of intent on the part of an airport operator to enable future development of the airport to be given due consideration in local planning processes. They also provide transparency and aid long-term planning for other businesses.

…….

4.13 Government also recommends that airport operators consult on proposed changes to master plans, and engage more widely with local communities prior to publication, for example liaising more closely with local authorities and also through drop-in sessions and public meetings. Airport operators should notify the DfT or Devolved Administration when plans are revised, and highlight any material changes. Airport operators are also encouraged to advertise the publication of any revisions to their plans widely in their local area.'

A3.2 LLA will be aware that Luton Local Plan Policy LLP6 states:

*'**Policy LLP6 - London Luton Airport Strategic Allocation***

Airport Expansion

B. Proposals for expansion of the airport and its operation, together with any associated surface access improvements, will be assessed against the Local Plan policies as a whole taking account of the wider sub-regional impact of the

airport. Proposals for development will only be supported where the following criteria are met, where applicable/ appropriate having regard to the nature and scale of such proposals:
……..

iii. are in accordance with an up-to-date Airport Master Plan published by the operators of London Luton Airport and adopted by the Borough Council;
……..'

A3.3 The consultation is not as clear as it should be on the relationship between and the timing of the master plan and planning application processes. The normal course of events is for an airport to consult widely upon its direction of future operations and growth set out in a draft master plan. The approved/published master plan then forms the framework within which an airport moves forward, including the submission of planning applications for growth. Indeed, this is what happened in the last master plan/planning application cycle at LLA.

A3.4 There is currently no in-force LBC-approved master plan that provides for growth of LLA to 19 mppa. Without this, any future planning application will inevitably be in conflict with the development plan.

A3.5 Moving forward there needs to be a much greater degree of transparency on the process for 'approval/publication' of the master plan and the relationship of that process to the proposed end of 2020 timeframe for submission of a planning application.

'Background

London Luton Airport today'

A3.6 There is no reference to the consequences of mis-management of growth at LLA that has resulted in breaches of noise controls. Moving forward, the master plan and any planning application need to acknowledge this as it is a critical factor in relation to the degree of confidence that exists that LLA is able to manage its activities responsibly and that it is committed and willing to operate in a manner that respects regulatory controls and its commitments to protecting communities. LLA cannot simply ignore the problems it has created.

'Planning for the future

Before the COVID-19 pandemic, passenger numbers at the airport had increased every year for the last four years. This rate of increase was much faster than we expected and meant that the airport was operating close to its 18mppa capacity in late 2019.'

A3.7 This section contains no intelligence on the environmental implications of this accelerated growth, the breaches in planning control that have occurred and the proposal to seek to relax the environmental restrictions put in place by the 2014 planning consent.

'Community Benefits

Local benefits

London Luton Airport contributes more than £1.1 billion…….'

A3.8 Doesn't mean anything as a statement – the sentence needs completing.

'Enabling growth to 19mppa

The planning process

Our proposals to increase passenger capacity will involve the submission of a planning application to Luton Council.

Before we submit our application, we would like to hear your views. Your comments will help shape our proposals before we submit them. Details of how to respond are set out in the Have your say section.'

A3.9 See above in relation to clarification of the role of the proposed master plan. 'The Planning process' section could usefully have been preceded by a section 'The master plan process'.

'Our proposals

We have developed a Master Plan to serve as a framework to guide the increase of the airport's capacity to 19mppa. The Master Plan is presented in a separate document which provides the results of the analyses undertaken as part of the Master Plan assessment.'

A3.10 See above in relation to clarification of the role of the proposed master plan.

'This application will seek to vary existing conditions attached to the planning permission which granted consent in 2012 for the airport to operate up to 18mppa.'

A3.11 The planning permission was granted in 2014, not 2012.

'Due to factors outside of the airport's control, passenger numbers cannot be increased to 19mppa in line with the current wording of Condition 10. This is due to the number of passengers growing more quickly than originally forecast and the introduction of next generation quieter aircraft not becoming available in line with passenger growth.' (page 12)

A3.12 See A3.6 in relation to LLA's mismanagement operations.

'Aviation strategy and government policy

On 5 June 2018 the Government confirmed its support for UK airports making best use of their existing runways. This policy statement is set out in the Government's publication 'Beyond the horizon – The future of UK aviation – Making best use of existing runways'.

A3.13 No reference is made here to the process by Government of a complete overhaul of national aviation policy through the Aviation 2050 process.

> ***'There are three Air Quality Management Areas (AQMAs) within the Borough of Luton. The AQMAs cover part of Luton town centre, approximately 2km west of the runway, and locations around the M1 motorway near Junction 11, approximately 6km west of the airport.' (Page 15)***

A3.14 There are other AQMAs in the wider sub-region, including Stevenage Road and Payne's Park roundabout, Hitchin.

> ***'For those emissions that we are only able to influence, we are proposing the following mitigation to support an overall reduction in GHG emissions from all sources in the period to 2028:***

- ***A travel plan has been produced, which sets out actions to help achieve reductions in emissions from surface access.***
- ***Incentivising airlines to reduce aircraft emissions through the use of more modern aircraft.' (Page 16)***

A3.15 Further details required on proposed incentives and the travel plan and these need to be released and used to inform the master plan preparation process.

> ***'Findings***
>
> ***The health assessment is currently in its preliminary stages. Effects on human health resulting from air quality, climate change, and traffic and transport are anticipated to be limited. However, based on preliminary information on the potential changes to the noise environment and the public health evidence, effects on human health from noise cannot be ruled out and will require further assessment.' (Page 17)***

A3.16 There needs to be substantive engagement with health agencies in developing the HIA and it should be available to inform the master plan preparation process.

> ***'Noise***
>
> ***The assumptions made in the assessment have proven to be optimistic in terms of aircraft modernisation and pessimistic in terms of demand. As a result, the reductions expected in noise levels at the time of the previous application have not been forthcoming to the extent envisaged.' (Page 18)***

A3.17 There are paragraphs missing here relating to mis-management of operations, breaches of planning control, the s73 planning application, etc. The dates of these should be placed on the timeline graphic, with appropriate annotations.

> ***'Findings of the Assessment***
>
> ***The initial conclusions of the noise assessment are that whilst no significant effects would be predicted in either 2021 or 2028, additional***

properties would experience noise above the SOAEL as a result of the proposed increase in passenger numbers.' (Page 19)

A3.18 Noise assessment needs to be released to inform the master plan preparation process.

'To mitigate this effect, we are proposing the following operational measures:

- ***Restrictions on daytime and night-time flights based on a reduced quota.***
- ***Restrictions on non-emergency flights during the night-time.***
- ***Charging to incentivise the use of modern aircraft.***

The following compensatory measures are also proposed:

- ***An enhanced noise insulation fund, to increase protection of properties.***
- ***One off grants to local councils to provide community improvements.'***

A3.19 Further details required and see A3.26.

'Findings of Assessment

The transport assessment shows……..' (Page 20)

A3.20 Transport Assessment needs to be released and used to inform the master plan preparation process.

'However, this increase will be small and will only result in a small increase in vehicle movements during peak periods of the day. This increase can be accommodated without causing any significant negative impacts on the capacity of the existing transport network.

Given the increase in the use of public transport by airport colleagues over the last decade, more ambitious sustainable mode share targets have been set. These are presented in our Travel Plan. The introduction of the Luton DART in 2021 will have a further positive effect on the number of colleagues and passengers using public transport.

No new parking spaces are proposed to accommodate the increase in passengers. The existing available parking will be managed with controlled capacity and pricing through the ASAS and Car Parking Management Plan.'

A3.21 Travel Plan and Car Parking Management Plan need to be released and used to inform the master plan preparation process.

Growing Sustainably (Page 21)

A3.22 Should this section refer to noise?

Environmental Impact Assessment Progress Report

'1.1.13 It is proposed that variation to Condition 24 is as follows (variations to the existing condition are noted in red bold text, with the text to be replaced shown as strikethrough):

"The Passenger and Staff Travel Plan shall be implemented in accordance with the details approved on 23 September 2015 (re: 15/00761/DOC) to accommodate up to 18 million passengers per annum.

Beyond the passenger throughput of 18 million passengers per annum, the Travel Plan shall be complied with to accommodate up to 19 million passengers per annum.""

A3.23 Later, the EIA Progress report states:

'8.1.1 To carry out an assessment of the transport related impacts of an increase in passenger numbers three main documents were prepared to support the Project, these are a Transport Assessment (TA), a Travel Plan (TP) and a Car Parking Management Plan (CPMP).

8.1.3 The TP has been developed with the objective of reviewing the latest Airport Surface Access Strategy Report (ASAS) 2018 - 2022 (2019 Reissue) and updating objectives, targets and measures based on a policy appraisal and site assessment. This analysis has been translated into a concrete action plan to be monitored periodically.'

A3.24 A new/revised Travel Plan and Car Parking Management Plan have been/are being produced, to which the proposed revisions to Condition 22 and 24 refer. The reference to 'Car Parking Management Plan' and 'Travel Plan' in the proposed new wording to Conditions 22 and 24 presumably relate to these new Plans, and as a consequence will need to be referenced and dated (unless the intention is to manage 19 mppa documentation entirely through revisions to Condition 28).

A3.25 The consultation material refers to a *'Noise Assessment'* that *'identifies a number of specific mitigation measures which are recommended as a result of the increase in the number of properties exposed to noise at levels in excess of the SOAEL.'*. These are:

'6.2.14 In order to achieve this, LLAOL will enhance its existing noise mitigation measure as follows:

- *increase the contribution to the Noise Insulation Fund*
- *The cost of insulation is given to the dwellings with highest noise levels as priority, and the increase in funding of the scheme will allow dwellings to receive insulation at an accelerated rate; and*
- *One-off grants to local councils exposed to noise levels between LOAEL and SOAEL based on the forecasted noise contours. Grants are to be used to provide community improvements.*

6.2.15 In addition the following commitments will be made as part of the proposed variation to noise planning conditions

- *For Summer 2020 and all subsequent seasons, no night-time (23:30 to 07:00) slots will be allocated to aircraft with a value greater than QC1;*
- *No further day time slots will be allocated to aircraft greater than QC1 (06:00-21:59 GMT 1st June – 30th September);*
- *No "non-emergency" Diverted Flights will be accepted;*
- *New airline / aircraft slots at night not to exceed QC 0.5; and*
- *Differential charging will be implemented to incentivise the rapid modernisation of fleet.'*

[Draft Masterplan]

A3.26 These measures appear to differ from/add to the contents of Condition 9 of planning permission and the Noise Control Scheme which is the subject of that Condition. This raises the question as to whether a revised or rejuvenated Noise Control Scheme is required and as a consequence, whether planning permission should be sought to vary Condition 9.

'4.1.6 LBC has identified two main areas where NO2 concentrations exceed, or are likely to exceed, the annual mean AQO of 40 µg m−3. As a result, these areas have been declared as Air Quality Management Areas (AQMAs). They are:

- ***along the length of the M1 Motorway; and***
- ***along the A505 (Dunstable Road) in part of Bury Park and the Town Centre.***

4.1.7 Elsewhere in Luton, concentrations of NO2 are below the AQO.'

A3.27 Moving forward the EIA process should pick up AQMA's in the wider sub-region, where these are associated with road traffic on routes used for Airport access - Stevenage Road and Payne's Park roundabout, Hitchin (both of which involve nitrogen dioxide was being measured at concentrations above the standard set to be protective of human health).

'4.2.2 Two future scenarios have been assessed:

- ***the year 2024 assuming the airport remains capped at 18 mppa; and***
- ***the year 2024 assuming the airport grows to 19 mppa.'***

A3.28 The assessment should be released and used to inform the master plan preparation process.

'5.3.9 The only receptor for the climate change assessment…..'

A3.29 The climate change assessment should be released and used to inform the master plan preparation process.

'Surface access emissions

5.5.3 The Travel Plan sets out objectives and targets with a series of measures around the promotion of walking, cycling, use of public transport and reducing single car occupancy for both passengers and

staff. The Surface Access Strategy includes the following targets which are embedded into the climate change assessment:

- ***passengers travelling to and from the airport by rail will increase from 21 % in 2019 to 24 % in the 19 mppa scenario by 2022;***
- ***staff travelling to and from the airport by Single Occupancy Vehicles (SOVs) will reduce from 66 % in 2019 to 64 % in the 19 mppa scenario by 2022; and***
- ***increase employee travel by sustainable modes of transport including increasing staff travelling to and from the airport by rail from 7 % to 9 % in the 19 mppa scenario by 2022 and by bus and coach from 9 % to 11 % in the 19 mppa scenario by 2022.'***

A3.30 The highway authorities need to be consulted/engaged in the Travel Plan and it needs to be released and used to inform the master plan preparation process.

'6.1.1 As part of the EIA process an assessment of human health effects is being undertaken to understand the potential health and wellbeing effects that the proposed variations to Conditions 8 and 10 may have on the surrounding community, including those along flightpaths and major roads to and from LLA. This assessment of human health effects follows a health impact assessment (HIA) methodology.'

A3.31 The health effects assessment should be released and used to inform the master plan preparation process.

'Planning policy context

6.3.5 There are a number of policies and guidance at the international, national, and local level. Planning policy related to human health is outlined in Table 8.1.'

A3.32 Sections 4, 5, 7 and 8 do not appear to have a taken a similar approach to summarising the key policy context for their topics.

'6.4 Initial findings

6.4.1 At this stage, based on preliminary information on the potential changes in the noise environment associated with the Project, and the public health evidence on the potential for these changes to have adverse effects on human health, potential significant effects on human health are judged to be plausible and likely and will be considered for further assessment.

6.4.2 The information that is available on the potential air quality, climate change, and traffic and transport effects associated with the Project, and the potential for these to cause associated effects on human health is currently limited. Therefore, it does not yet allow for a robust conclusion to be reached on whether the related effects on human health are, or are not, likely to be significant. As such, these potential effects on human health are, at this stage, taken forward for further assessment. As further information becomes available from the other environmental topic

assessments, a decision will be made on whether associated health effects are to be assessed as part of the EIA or to be scoped out.'

A3.33 There needs to be substantive engagement with health agencies in developing the HIA.

'7.1.1 ……..Noise modelling and assessments are currently being undertaken to analyse the effects of increased passenger numbers, a methodology and initial results of which follows.'

'7.2.1 Initial assessments have been undertaken to review likely effects from the proposed passenger increase associated with the Project……'

A3.34 Noise modelling and assessments should be made available as soon as possible and used to inform the master plan preparation process.

'7.5.1 Luton Airport has an established programme of noise mitigation to minimise noise emissions, and any resulting effects, as part of its obligations to meet the requirements within the Environmental Noise (England) Regulations. These mitigation measures will be enhanced to include residences newly predicted to be in areas with noise levels above the SOAEL.'

A3.35 7.4 Initial findings doesn't say anything about addition SAOEL.

'7.5.3 Mitigation will also include compensatory measures as follows:

- ***an enhanced Noise Insulation Fund to provide additional attenuating measures to increase protection of residences internal noise environments; and***
- ***one-off grants to local councils exposed to noise levels between LOAEL and SOAEL based on the predicted future noise contours. Grants are to be used to provide community improvements.'***

A3.36 Further details on these measures required to inform the master plan preparation process.

'8.1.1 To carry out an assessment of the transport related impacts of an increase in passenger numbers three main documents were prepared to support the Project, these are a Transport Assessment (TA), a Travel Plan (TP) and a Car Parking Management Plan (CPMP).'

A3.37 The TA, TP and CPMP should be released and used to inform the master plan preparation process.

'8.5.1 From the analysis carried out it can be concluded that the net increases in total flows (passengers and employees) will not cause significant effects in terms of network operational capacity. This is based on our knowledge of the network and traffic flow thresholds which are likely to have a significant impact on its capacity. It has been agreed with HE and LBC that this level of traffic flow increase is not significant enough

to warrant any further traffic modelling at this stage. Thus, it is concluded that the highway network will not show any significant change from the 18 mppa at a 2024 design year level.'

A3.38 The assumptions that underpin this agreement need to be clearly set out (presumably in the Transport Assessment) and made available.

'8.5.2 It is extremely encouraging that the airport has already met its key primary sustainable transport targets that were originally set for 2022 in 2019, three years ahead of schedule. As such the latest results have been used to set new stretching TP objectives and targets focusing around three key areas: reduction in private car travel, increase in sustainable travel and a focus on reducing carbon emissions derived from surface access to the airport.'

A3.39 What are the new stretching TP objectives and targets? These need to be available and used to inform and be integrated with, as appropriate, the master plan preparation process.

'9. EIA process: next steps

9.1.1 EIA process is on-going, we are currently carrying out the 'Impact Assessment' of the 'Environmental Assessment and Evaluation' stage (see Graphic 1.1). Next, we will take on-board the responses attained through this consultation. In doing so, your comments and concerns will shape the 'Impact Assessment' and 'Mitigation' put forward to avoid, reduce, and minimise any adverse effects of the Project.'

A3.40 The EIA process and indeed the process as a whole, including master plan and planning application preparation would benefit from sharing of all assessments and evidence as soon as possible with key stakeholders.

MASTERPLAN

'EXECUTIVE SUMMARY

IDOM Consulting, Engineering, Architecture, SAU (IDOM) has been appointed by London Luton Airport Operations Limited (LLAOL) to develop a Master Plan for London Luton Airport in connection with the planning application under the Town and Country Planning Act (TCPA) to increase capacity at the airport to 19 million passengers per annum (mppa). In light of the COVID-19 pandemic, it is anticipated that the 19mppa traffic horizon will be reached around 2024 ("planning horizon").'

A3.41 A master plan should provide a framework for a future planning application, not be *'in connection with'*. This is more accurate (third paragraph in the summary):

'This Master Plan is intended to serve as a framework for guiding the short-term development of the airport to increase its capacity from 18 million annual passengers to 19 million annual passengers.'

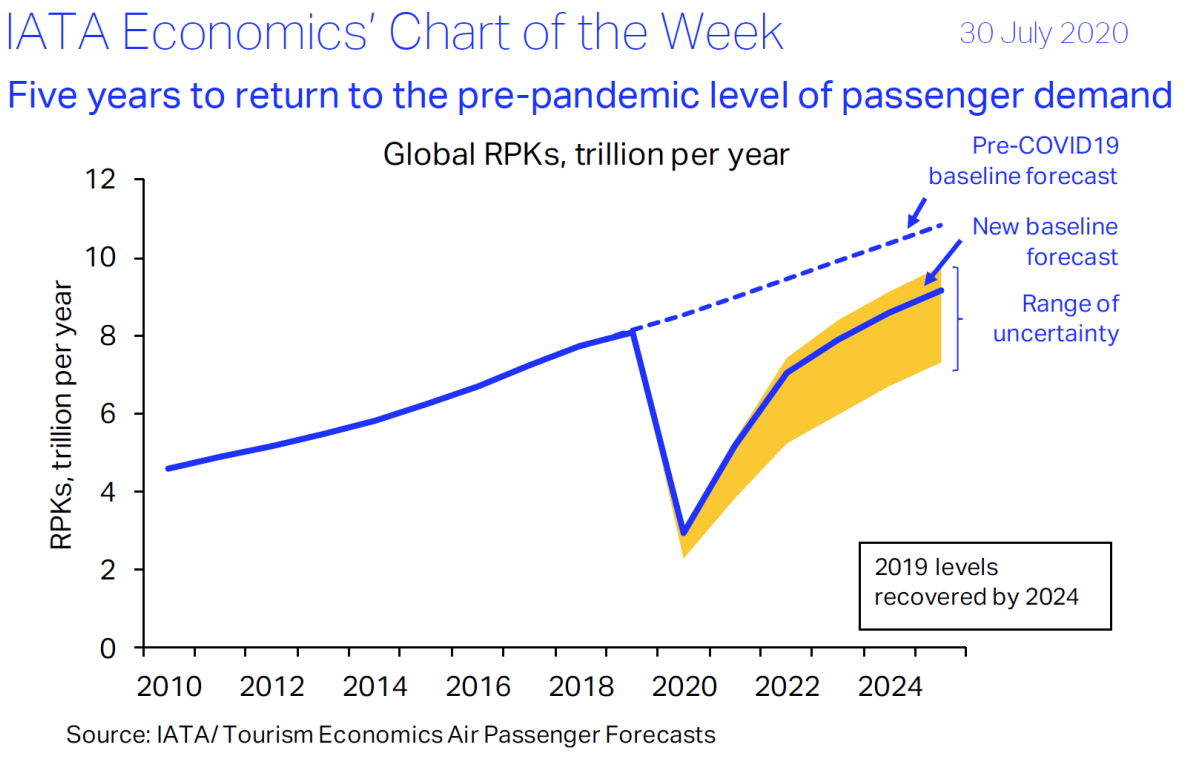
'0.1 Forecast

0.1.1 Due to the short-term nature of the Master Plan…….'

A3.42 It is not a short term masterplan – it provides the framework for the future of LLA at a proposed elevated capacity (subject of course to Government expectations that master plans be reviewed every 5 years).

'In accordance with industry expectations and current pandemic situation, it is expected that the airport will recover to the 18mppa traffic horizon around 2023 and the 19mppa traffic horizon will be achieved around 2024.'

A3.43 The consultation material provides little background intelligence about these *'industry expectations'* and, importantly, whether and to what extent they are considered plausible by the Department for Transport and compatible with any new national aviation forecasts it may be undertaking to inform the national aviation strategy process. As we know, IATA takes the view that traffic will not return to pre-COVID levels before 2024 (not 2023 assumed within these proposals), and this is view sits within a significant range of uncertainty – *'upside could see travel demand return to 2019 levels in 2023, while the downside could be much more severe'*. The downside forecast indicates that in 2024 recovery will only be at 2015 levels globally.



A3.44 Similarly, Eurocontrol's latest five-year forecast offers three scenarios for recovery from Covid-19:

- a most-optimistic forecast of a recovery to 2019 levels by 2024 assumes a vaccine is widely made available for travellers by summer 2021.
- should a vaccine only be widely available, or the pandemic end, by summer 2022, a recovery to 2019 levels may be pushed back to 2026.
- a worst-case scenario that there is no effective vaccine and the infection lingers suggests recovery could be delayed until 2029.

A3.45 Despite recent Government announcements in relation to vaccine availability and deployment, there are significant further stages to come and considerable uncertainty exists in relation to the speed with which widespread access to and roll out a vaccine could be achieved. Moving forward there needs to be greater clarity on the reasons why LLA feels an optimistic scenario should be applied to growth of throughput.

'1.1 Need for a masterplan'

A3.46 There is no reference in this section to the existing master plan for LLA. The main reason there is a 'need for a masterplan' is that the current master plan only provides for growth to 18 mppa, and so a revised or new master plan is required.

A3.47 No reference is made to APF expectations that:

'Airport master plans

4.11 Currently over 30 airports across the UK have adopted master plans. They do not have a statutory basis, but the primary objective of master plans is to provide a clear statement of intent on the part of an airport operator to enable future development of the airport to be given due consideration in local planning

processes. They also provide transparency and aid long-term planning for other businesses.

…….

4.13 Government also recommends that airport operators consult on proposed changes to master plans, and engage more widely with local communities prior to publication, for example liaising more closely with local authorities and also through drop-in sessions and public meetings. Airport operators should notify the DfT or Devolved Administration when plans are revised, and highlight any material changes. Airport operators are also encouraged to advertise the publication of any revisions to their plans widely in their local area.'

A3.48 So there is a need for a new master plan because it is a Government expectation.

A3.49 No reference is made to Luton Local Plan LLP6. LLP6 requires any growth proposals to be in accordance with a master plan produced by LLA and adopted by Luton Borough Council. LLP6 generates a need for the production of a master plan.

'1.2.2 It is important to note that a Master Plan is intended to serve as an airport short-term development guide and not as a design or implementation programme.'

A3.50 It is not a short term master plan – it provides the framework for the future of LLA at a proposed elevated capacity (subject of course to Government expectations that master plans be reviewed every 5 years).

'2.3.3 Based on industry expectations and on current pandemic situation, it is expected that the airport will recover to the 18mppa traffic horizon around 2023 and the 19mppa traffic horizon will be around 2024.'

A3.51 See paragraph A3.38-39 above.

'Figure 2.14 and 2.19'

A3.52 '2.19' should read '2.15'.

'2.6 Potential Changes in Activity

2.6.1 This study has been finished in the middle of the COVID-19 outbreak. Despite this being an unprecedented situation in the aviation history where considered relevant, consideration has been given in the Master Plan to the impact on traffic scenarios based on current pandemic situation and industry expectations. However, it should be noted this forecast is dependent on the evolution of the pandemic.'
'5.2.5 LLAOL has commissioned Wood to undertake a Noise Impact Assessment for the expansion to 19 mppa. The increase in total passengers from the currently permitted 18 mppa to 19 mppa can be achieved with only very modest increase in the number of annual air traffic movements (ATM) The increase in passenger numbers can be achieved by the combined effects of increasing the occupancy levels of

flights currently operated and by migration in the average passenger capacity of flights by adoption of large aircraft.'

'5.2.10 The Noise Assessment considers the impacts of the increase from consented 18 mppa to 19 mppa with respects to various receivers. It concludes that there is a negligible impact at receptors so additional significant adverse effects are not identified as a result of magnitude of change in noise level.'

A3.53 The Noise Impact Assessment should be released and used to inform the master plan preparation process.

'5.3.2 An Air Quality Assessment has been produced by Wood. The assessment considers the forecast effects of the development on the emissions from operations at the airport.'

A3.54 The Air Quality Assessment should be released and used to inform the master plan preparation process.

'5.5.2 A Greenhouse Gas Assessment has been undertaken by Wood. The assessment shows that in all cases modelled the largest contribution to greenhouse gas emissions is from air traffic. Surface transport accounts for the next largest contribution.'

A3.55 The Greenhouse Gas Assessment should be released and used to inform the master plan preparation process.

'6.2.2 Noise generation and impact is strictly controlled by the planning permissions under which the airport operates.'

A3.56 But LLA operations have breached the controls put in place by the 2014 18 mppa planning consent and there is a live planning application to have these controls relaxed. See A3.17 above.

'6.2.13 The Noise Assessment identifies a number of specific mitigation measures which are recommended as a result of the increase in the number of properties exposed to noise at levels in excess of the SOAEL.'

A3.57 Noise Assessment should be released and used to inform the master plan preparation process.

'6.2.14 In order to achieve this, LLAOL will enhance its existing noise mitigation measure as follows:

- ***increase the contribution to the Noise Insulation Fund***
- ***The cost of insulation is given to the dwellings with highest noise levels as priority, and the increase in funding of the scheme will allow dwellings to receive insulation at an accelerated rate; and***
- ***One-off grants to local councils exposed to noise levels between LOAEL and SOAEL based on the forecasted noise contours. Grants are to be used to provide community improvements.'***

A3.58 Details should be provided and used to inform the master plan preparation process.

> ***'6.2.15 In addition the following commitments will be made as part of the proposed variation to noise planning conditions proposed variation to noise planning conditions***
> - ***For Summer 2020 and all subsequent seasons, no night-time (23:30 to 07:00) slots will be allocated to aircraft with a value greater than QC1;***
> - ***No further day time slots will be allocated to aircraft greater than QC1 (06:00-21:59 GMT 1st June – 30th September);***
> - ***No "non-emergency" Diverted Flights will be accepted;***
> - ***New airline / aircraft slots at night not to exceed QC 0.5; and***
> - ***Differential charging will be implemented to incentivise the rapid modernisation of fleet.'***

A3.59 Clarification is required on the extent to which these commitments amend/add to those that are embedded within the consent regime and whether they prompt a requirement to vary Condition 9 of the 2014 18 mppa consent.

> *'6.3.1 The increase in maximum capacity of passengers from 18 mppa to 19 mppa, whist modest in percentage terms, may entail an increase in road transport related air emissions and it will be necessary to undertake a detailed assessment of the likely impact of this when the formal planning application is made.'*

A3.60 There needs to be some degree of certainty/provision of evidence with regard to emissions to inform the master plan preparation process.

> ***'6.3.3 Other mitigation measures available will include:***
> - ***Preparation of a travel plan; and***
> - ***Financial incentives and/or penalties to encourage sustainable means of transport.'***

A3.61 The Travel Plan and proposed incentives/penalties need to be released and used to inform the master plan preparation process.

Appendix 4

Hertfordshire County Council response to application to discharge of Condition No. 10 (Noise Strategy) of Planning Permission No. 15/00950/VARCON dated 13th October 2017. London Luton Airport, Airport Way, Luton

Manager
Development Control
Luton Council
Town Hall
George Street
Luton
Bedfordshire
LU1 2BQ

County Hall
Postal Point: CH216
Pegs Lane
Hertford
SG13 8DE

Tel: 01992 556289

email: paul.donovan@hertfordshire.gov.uk

Date: 28th February 2020

Dear Sir/Madam,

20/00131/DOC - Full planning application for 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. Outline planning application for the construction of a multi-storey car park and pedestrian link building (all matters reserved) 12/01400/FUL - Variation of Condition 11 (i) - Noise violation limits. - Discharge of Condition No. 10 (Noise Strategy) of Planning Permission No. 15/00950/VARCON dated 13th October 2017. London Luton Airport, Airport Way, Luton

1. Thank you for the opportunity to comment on the above. The following are officer comments only.

2. The original planning application was approved on the basis that growth in throughput would be accompanied by a range of safeguards to manage the noise impacts arising from the proposal and protect communities. This is clear from the following extracts from the report to Committee dated 20th December 2013 (text highlighted ***thus***):

> *'95. ……... The timescales for the introduction of new aircraft (fleet modernisation) is to be secured both through condition and S106 Agreement attached to any permission.*
>
> *110. An independent assessment of the ES in respect of the Noise implications of the development was carried out for LBC by Cole Jarman Ltd, Noise Consultants, and in so far as airborne aircraft noise is concerned there are no significant reservations about the methodology employed in the ES to quantify the expected noise levels. In numerical terms it was considered that the*

contours and footprints presented in the ES reasonably reflect the expected noise impact. However, in interpreting the findings it was considered that the following factors needed to be considered:

……...

- *Controlling the noise impact to the levels indicated for 2028 requires that a substantial part of the airline fleet is changed to modern, low noise variants of types currently operating.* ***The primary mechanism put forward by the applicant for ensuring that this will happen is by way of a condition limiting the extent of key daytime and night time aggregated noise contours****.*

- *Current Government Policy in respect of aircraft noise is contained in the APF published in March 2013. This states that „Our overall objective on noise is to limit and where possible reduce the number of people in the UK significantly affected by aircraft noise." The predicted future noise impact with the development in place would be greater than that assessed as prevailing at the present time. One consequence of this finding is that the number of people significantly affected by aircraft noise might be neither limited nor reduced and as such this would not meet the objectives set out in the APF.* ***To address this the applicant has made a commitment that the Airport will seek to continually increase the percentage of flights undertaken by modernised low noise variants of relevant aircraft types and it is proposed to secure this commitment by way of a legal agreement (S106). This measure would facilitate a reduction in the overall noise levels and minimise the impact on local residents and therefore meet the objectives of the APF****.*

- *Luton Local Plan Policy LLA1 states……By applying this tighter interpretation this would require lower noise levels in 2028 than are predicted for the partial modernisation scenario. Although this alternative interpretation is not accepted by the applicant, achieving the full modernisation scenario would ensure compliance with this alternative interpretation* ***and this would be likely to be secured by a commitment (in the S106 Agreement) by the Airport that they will continually increase the percentage of fights undertaken by modernised low noise variants of relevant aircraft types****.*

111. Although the assessment of the ES in terms of noise did initially identify areas of concern relating to the interpretation of policy LLA1, predicted noise levels, night time noise issues and necessary mitigation measures, ***further negotiation with the applicant has resulted in the applicant accepting additional controls and mitigation measures by way of condition and or inclusion within the S106 Agreement****.*

112. ***The Local Planning Authority, in consultation with its noise consultant Cole Jarman Ltd, considers that there is a remedy to ensure that the numbers of people affected by aircraft noise does not increase****. The two tables below show a comparison for daytime noise (Table 1) and night time noise (Table 2) for a number of years – including the predictive and actual noise levels in 1999. The 2028 predicted figures are taken form the ES*

113. It can be seen that the predicted 1999 taken from the 1997 ES levels were higher than actual 1999 levels (0.2 square kilometres for daytime noise and 22.8 square kilometres for night time noise). Further it can also be seen that the current operation of the Airport is well below these levels. The requirement for Condition 12 for night time noise to be limited to an area of 37.2 sq.km for the 48-72 Leq dBA 8 hour (23.00 – 07.00) contour is ambitious but will ensure that lower noise levels are achieved in 2028 than currently predicted by LLAOL. ***<u>However with strict controls on growth and measures such as fleet modernisation being maximised, this lower area is considered to be practicable and achievable. It also ensures additional benefits in terms of residential amenity in accordance with policy</u>****.*

114. Even though some weight should be given to Local Plan Policy LLA1 as it is site specific and has been based on evidence the subject of previous planning decisions in relation to development of the Airport, it is considered that greater weight should be given to current Government policy, which is seeking where possible to reduce the number of people significantly affected by aircraft noise in the UK. It is therefore considered that the condition restricting the 57 dB daytime contour and the 48 dB night time contour could reflect the actual 1999 levels and thereby ensure that the area affected by aircraft noise would be any worse than at that time.

115. The applicant has raised concerns regarding the independent Noise assessment of the ES by Cole Jarman Ltd in terms of some of the conclusions reached in respect of issues relating to night time noise and the level of mitigation proposed. The applicant was of the view that this had been fully assessed within the ES. ***<u>However the purpose of LBC carrying out an independent assessment was to examine the proposal and proposed mitigation in terms of seeking to secure on balance the best practicable outcomes for the surrounding community while enabling the development to be implemented in accordance with government and local policy.</u>*** *Clearly within this process there will be differences of opinion. The proposed modifications to the Noise Insulation Scheme are not at a scale that could be considered unreasonable given the potential long term impact of the development as proposed.*

116. ***<u>The conditions and S106 requirements as proposed therefore reflect both the aspirations of the APF and the NPPF</u>****. The comments received by the applicants are contained in full within Appendix (8) of the Report.*

205. As set out within the report, the proposed expansion of the Airport will have an impact in terms of additional noise from aircraft movements and traffic generation. ***<u>However, the proposal does afford the opportunity to put in place a range of controls through the use of a mix of planning conditions and obligations contained within a S106 Agreement, in respect of issues such as night time noise, noise insulation, limitation on the passenger numbers and type of aircraft etc. Current controls are limited in their effectiveness and/or do not meet the requirements or objectives of current national aviation and planning policy.</u>****'*

3. Similarly, the Committee report relating to the Variation of condition 11 (i) – Noise Violation Limits states (text highlighted ***<u>thus</u>***):

'69. Commenting on condition 11(i), Cole Jarman Ltd note that the noise violation limits graduated according to the QC classification seek to ensure that all aircraft, and not just the noisiest, are operated in a manner that ensures the noise levels generated are commensurate with what is to be expected. However, they conclude from the analysis of the data that "setting noise violation limits based on the departure QC rating of an individual aircraft is unreliable. Transgression of a noise violation limit set in this way cannot be absolutely determined as evidence that any given aircraft is being operated in an unacceptable manner." Consequently they confirm that the data indicates an alternative means of setting noise violation limits and controlling average noise levels generated in the community around the airport is required.

70. Cole Jarman Ltd state that "if condition 11(i) is to be modified to include absolute noise limits unrelated to the QC rating of aircraft, then it is vital that the noise envelope restrictions set out in condition 12 are applied using the full knowledge of the actual noise levels generated by aircraft operating at Luton Airport." Condition 12 requires the area encapsulated by the 48dBL Aeq,8h contour to be reduced by the year 2028 from 37.2km2 to 31.6km2 for the night period and for the daytime the 57dB L Aeq,16h contour to be reduced from 19.4km^2 to 15.2km^2.

79. With regard to LADACAN's comments concerning the noise violation limits being a blunt tool that would not encourage a change to quieter aircraft, it should be noted that condition 11 is not the primary mechanism for constraining and reducing the overall levels of aircraft noise in the community. ***Condition 12 is the main tool setting limits on the areas enclosed in the daytime (57dB L Aeq,16h) and night time (48dB L Aeq,16h) and also requiring the Airport to develop and implement a strategy for ensuring that the areas within these contours reduces by 22% and 15% respectively by 2028. Such a reduction in the areas means there will be a reduction in noise generated by aircraft overflying all locations in the community around the Airport.*** *This also addresses one of the concerns raised by the Chilterns Countryside Board.'*

4. The planning conditions/s106 agreements attached to the 2014 and 2016 planning consents contain a suite of measures to restrict the noise impact of the development to safeguard potentially impacted communities and to make the development acceptable. The importance of and commitment to noise contours is clear from the decision-making process and these were duly incorporated into the planning consent. Key amongst these controls are the 22% and 15% reductions in day and night-time contours by 2028 and the requirement for the submission of a strategy to demonstrate how this will be achieved.

5. There has been considerable progress in national aviation policy and Government expectations of the aviation industry since consent was granted and there has also been substantive movement on best/better practice in relation to ensuring compliance with and enforcement of prescribed environmental limits.

6. Some of the particularly key aspects of Government national policy change/development are as follows.

7. At paragraphs 3.114 and 3.115 the Government's emerging Aviation Strategy (Aviation 2050) state:

> *3.114 The government recognises that there has been uncertainty on how this policy should be interpreted, measured and enforced. The government intends to put in place a stronger and clearer framework which addresses the weaknesses in current policy and ensures industry is sufficiently incentivised to reduce noise, or to put mitigation measures in place where reductions are not possible.*
>
> *3.115 The proposed new measures are:*
>
> - *setting a new objective to limit, and where possible, reduce total adverse effects on health and quality of life from aviation noise. This brings national aviation noise policy in line with airspace policy updated in 2017.*
>
> - *routinely setting noise caps as part of planning approvals (for increase in passengers or flights).* ***<u>The aim is to balance noise and growth and to provide future certainty over noise levels to communities</u>****. It is important that caps are subject to periodic review to ensure they remain relevant and continue to strike a fair balance by taking account of actual growth and the introduction of new aircraft technology. ……'*

8. We can also see from the ANPS the Government's commitment to noise envelopes, packages of mitigation measures, community/stakeholder engagement, working with partners to secure delivery and how measures are to be secured and enforced.

> *'5.60 The applicant should put forward plans for a noise envelope. Such an envelope should be tailored to local priorities and include clear noise performance targets. As such, the design of the envelope should be defined in consultation with local communities and relevant stakeholders, and take account of any independent guidance such as from the Independent Commission on Civil Aviation Noise.* ***<u>The benefits of future technological improvements should be shared between the applicant and its local communities</u>****, hence helping to achieve a balance between growth and* ***noise reduction****.* ***<u>Suitable review periods should be set in consultation with the parties mentioned above to ensure the noise envelope's framework remains relevant</u>****.*
>
> *5.62 The Government also expects a ban on scheduled night flights for a period of six and a half hours, between the hours of 11pm and 7am, to be implemented. The rules around its operation, including the exact timings of such a ban, should be defined in consultation with local communities and relevant stakeholders, in line with EU Regulation 598/2014. In addition, outside the hours of a ban,* ***<u>the Government expects the applicant to make particular efforts to incentivise the use of the quietest aircraft at night.</u>***
>
> *5.63 It is recognised that Heathrow Airport already supports a number of initiatives to mitigate aircraft noise, such as developing quieter operating procedures (like steeper descent approaches) and keeping landing gear up as*

long as possible. The applicant is expected to continue to do so, ***and to explore all opportunities to mitigate operational noise in line with best practice. The implementation of such measures may require working with partners to support their delivery****.*

……..

5.66 The Secretary of State will expect ***the applicant to put forward proposals as to how these measures may be secured and enforced,*** *including the bodies who may enforce the measures. These bodies might include the Secretary of State, local authorities (including those over a wider area), and / or the Civil Aviation Authority.'*

9. The Airports National Policy Statement (ANPS) and the Heathrow Third Runway Development Consent Order process pursuant to it are perhaps where one should look for evidence of best/better practice in relation to ensuring compliance with and enforcement of prescribed environmental limits. Heathrow has set out its emerging proposals to deliver on Government ANPS environmental requirements of a third runway in its *'Environmentally Managed Growth – Our Framework for Growing Sustainably, June 2019'*. Amongst other things, this makes a range of commitments:

*'****Environmental performance would be central to the way in which we run the airport in the future and our objectives would be closely aligned with those of our local communities****.'*

'Those ***communities would be given confidence that the approved effects of expansion would never be exceeded****.'*

'To operate the ***framework effectively we will commit to a rigorous and transparent monitoring process****, which would be independently reviewed – and we propose that an Independent Scrutiny Panel (ISP) is established to hold us to account.'*

'2.1.3 This framework provides the mechanism to ensure that the main operational effects of Heathrow's growth ***will remain within acceptable environmental limits****, having regard to the Airports NPS.'*

'2.1.6 This framework formalises Heathrow's ***commitment to operate within defined environmental limits*** *that accord with the relevant requirements of the Airports NPS. It establishes* ***comprehensive and transparent monitoring and enforcement processes for the long term****. It commits Heathrow to a future in which managing the airport's environmental effects will be central to day to day and longer term strategic decisions about how the airport operates and grows.'*

'2.1.8 The framework set out in this document complements those measures by putting in place an ***effective long-term monitoring and management regime to assure that the effects of Heathrow's long-term growth permanently remain within acceptable limits*** *having regard to Government policy as set out in the Airports NPS. The regime will hold Heathrow to account. It will mean that the effects of the growth of the* ***airport's operations will always stay within environmental limits. It will involve clear and transparent reporting, so that local communities and the general public***

can understand the effects of our operation. It is aimed at creating public confidence and trust between the community and the airport, that the effects of the growth of the airport's operations will always stay within clear environmental limits.*'*

2.2.9 Directly in line with the Government's objectives, these envelopes or limits would enable the airport to continue to grow, i.e. handling more flights and passengers, as long as the environmental envelopes or limits are not exceeded. ***This commitment gives certainty to Heathrow's local communities, local authorities, Government, and wider stakeholders who will know what the maximum effects of Heathrow's growth will be into the long term. It also incentivises both Heathrow and its airlines to optimise their environmental performance, so that the airport operations can continue to grow within those envelopes or limits.***

2.2.10 ***The effect of this framework is to encourage airlines to operate the best performing aircraft on Heathrow routes and drive further technological innovation to reduce effects. The framework has the effect of incentivising Heathrow to adopt operational measures to optimise the number of flights and passengers that the airport can host. It also encourages Heathrow to invest in measures or commercial strategies which mitigate the effects of growth,*** *such as investment in public transport.*

2.2.11 This approach is aligned to the most up to date Government policy set out in the ***emerging Aviation Strategy green paper, which proposes the use of noise caps to balance noise and growth with appropriate compliance mechanisms in place****. The draft explains:*

> *"…a noise cap (also known as a noise envelope) is any measure which restricts noise. In its crudest form this could be a simple movement cap, but the Government proposes advocating caps which are based on setting maximum noise exposure levels (such as a contour area or noise quota)."*

2.3.3 ***In order to implement such a framework at Heathrow, it is necessary to put in place the following:***

- ***a clear, enforceable definition of the environmental envelopes or limits;***
- ***a monitoring, reporting and modelling regime which enables the impacts of Heathrow's growth to be accurately recorded and predicted; and***
- ***an independent body to scrutinise the monitoring and enforce the limits****.*

4.1 Monitoring

4.1.1 Heathrow already publishes a large volume of monitoring data about the effects of the airport's operations. For the purposes of this framework, however, Heathrow will prepare a document titled Environmentally Managed Growth – Our Monitoring which will set out the detail of how the effects of the airport's expansion will be monitored in relation to the four principal topic areas covered

by this Framework. ***This will enable the airport's performance against the limits identified in Appendix A to be monitored and enforced****.'*

4.1.2 We propose that monitoring data will be updated regularly on Heathrow's website and will be the subject of a formal ***Monitoring Report*** *published annually and submitted to the Independent Scrutiny Panel (see further below).*

4.1.3 ***The Monitoring Report would include all relevant data and identify the relevant impacts of Expansion. It will place those impacts in the context of the environmental limits or envelopes and will contain a 'look forward' discussing how Heathrow's forecast growth relates to those limits, taking account of any existing or planned mitigation measures****.*

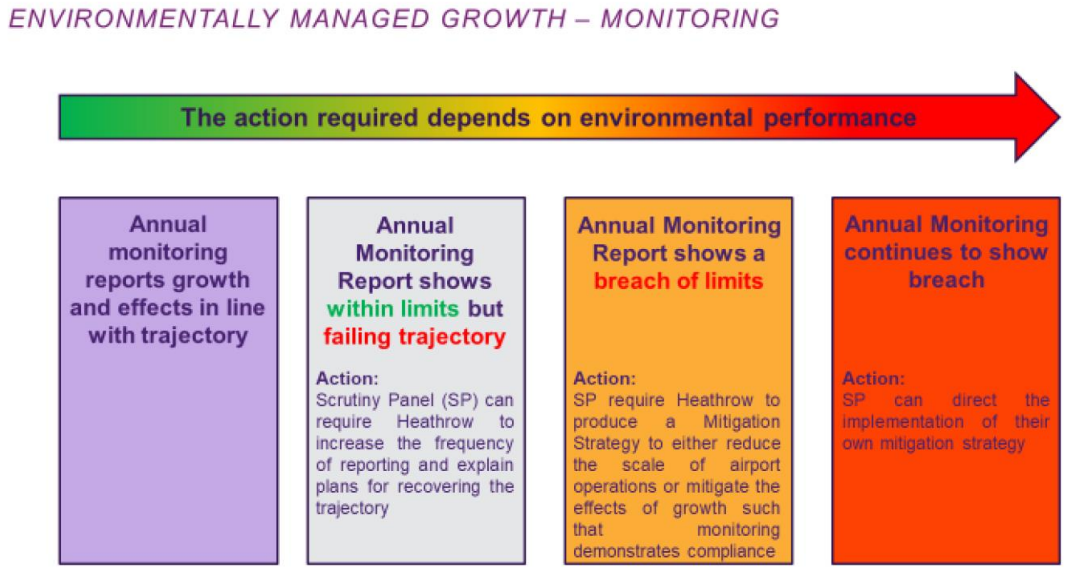
4.2 Independent Scrutiny Panel

4.2.1 Appendix C comprises a potential constitution for an Independent Scrutiny Panel (ISP). The establishment of the ISP will be committed to within the DCO in accordance with that constitution. ***It is important for public confidence that Heathrow's Environmentally Managed Growth framework is overseen and enforced independently by an organisation which is technically capable and appropriately resourced****.*

4.2.2 The precise details of the membership of the Independent Scrutiny Panel (ISP) need to evolve through consultation feedback and direct discussion with stakeholders. ***The purpose, however, is to gather together in one enforcement body all specialist agencies who may have a role in assessing and enforcing the environmental limits to Heathrow's growth, so that Heathrow can be held to account in a comprehensive and coordinated way****.*

4.3.4 ***The overall framework could have the effect of limiting the growth of the airport unless the Environmental Limits are observed. Rather than growth being allowed to continue, the framework (and particularly the powers available to the ISP) would prevent its growth beyond a certain point until further mitigation can be found****……..'* [emphasis added]

Graphic 4.2 Environmentally Managed Growth – Illustration of monitoring response



10. This revised national policy context and emerging best/better practice is very relevant to this discharge application. The requirement to reduce noise contours is a critical requirement imposed on the Airport and is entirely consistent with Government expectation that *'noise caps …….provide future certainty over noise levels to communities'.* Unfortunately, historic and ongoing mismanagement of growth at the Airport has served to ensure that the ***'certainty'*** expected by Government is exactly what communities adversely impacted by aircraft noise associated with the Airport have not experienced. In-force noise contour restrictions the subject of Condition 10 have been breached for multiple years. A planning application to regularise and extend the breaches has been submitted to Luton Borough Council (LBC) and a decision is awaited. The ongoing unsatisfactory situation in terms of failure of environmental responsibilities makes the strategy to secure the noise contour reductions required by Condition 10 of utmost significance.

11. The County Council had been expecting that to enable the effective discharge of Condition 10 requirements, LLAOL would submit for approval a clear, tangible and deliverable action plan to achieve the required 2028 noise contour reductions. But this is not what has happened. The submitted 'Strategy' appears to amount to little more than a wish list of things that might or might not happen and that might or might not result in delivery. This is totally unacceptable. The County Council supports the findings and conclusions of the independent expert noise advice (dated 23rd January 2020) secured by LBC to inform its consideration of this application, which in summary finds:

> *'Bickerdike Allen (BAP) have submitted an undated report entitled Application No: 15/00950/VARCON(FUL), Discharge of Planning Condition 10 (Pt. 3), Noise Strategy (w.r.t. 2028). We understand that the document is intended to secure discharge of the condition on the premise that it contains sufficient detail of the strategy to be adopted by LLOAL to ensure that daytime and night-time noise contours will meet the reduced limits set for 2028.*

We do not believe that the report achieves this aim as it contains insufficient detail of the strategy to be adopted. Instead it contains a number of general and imprecise statements of intent, many of which are already contained in other documents submitted by the airport or by BAP on their behalf.'

The report indicates that the principle reasons that noise levels, and therefore noise contour areas, will reduce to meet the 2028 limits are twofold:

- *The future fleet mix will contain a sufficiently large proportion of new generation, low noise aircraft;*
- *Some improvements are expected as a matter of course from the NATS FASI-S airspace changes that are expected to occur.*

The main issue with this approach is that neither of these are under the control of the airport, and it is therefore inconsistent to suggest they can form part of the airport's strategy.

Another problem arises from the reliance placed on the current Noise Action Plan (NAP) as containing adequate descriptions of the measures that the airport will adopt in implementing the required strategy. The generic nature of the wording used in the NAP, repeated in the BAP report, is not adequate to describe the elements of the strategy the airport is expected to pursue. Furthermore, there is a circularity in relying on the NAP in that one of the Operational Restrictions described in the NAP (3.5) is to develop a noise contour reduction strategy, the very same strategy that, as currently drafted, relies on the measures defined in the NAP.'

12. What is required is a strategy that will deliver, without question, the 2028 noise contour reduction requirements of Condition 10. Some of the principles and commitments within Heathrow's Environmentally Managed Growth approach are very much the kinds of things the County Council had expected to see in the strategy the subject of this application - clear, rigorous and transparent monitoring, ensuring public/community confidence and trust, environmental limits permanent and never exceeded, enforcement of environmental limits, investment in measures or commercial strategies which mitigate the effects of growth, encouraging airline environmental performance, 'look forward' to forecast growth relationship to limits, independent scrutiny, responding to feedback from monitoring evidence (Graphic 4.2 above), limiting the growth unless the environmental limits are met, and so on.

13. A strategy is required which sets out:

- the range of measures/actions required to achieve contour reduction ('wish-list' items such as airspace modernisation can feature but cannot be relied upon until evidence is available – see 'strategy review' below.
- details exactly what measures/actions will be introduced and when and who is responsible for their introduction - with indicators/targets for these.
- how the indicators/targets are to be monitored and reported.
- a contour reduction trajectory – with a phased timetable that enables progress to be tracked and to trigger remediation measures as necessary.
- a commitment to transparency and community engagement.

- a scrutiny/enforcement/management framework that clearly sets out the mechanisms to be engaged should monitoring demonstrate failure against trajectory (triggered remediation measures).
- a clear commitment, similar to that within Heathrow's Environmentally Managed Growth, that contour reduction failure is not an option - *'The overall framework could have the effect of limiting the growth of the airport unless the Environmental Limits are observed…….'*.
- a commitment to strategy review (so that it can evolve and reflect changing circumstances – for example, if/when there is **evidence** in the future that airspace modernisation will have a positive impact on noise contour reduction.

14. The strategy submitted to discharge Condition 10 does not achieve these requirements and should be refused or a substantively revised strategy prepared and submitted by the applicant in response to and addressing the above concerns.

Yours sincerely,

Paul Donovan

Spatial Planning and the Economy Unit
Environment and Infrastructure Department

ANNEX 2

[to Hertfordshire County Council response (dated 11th June 2021) to planning application 21/00031/VARCON]

COMMENTS ON THE PLANNING STATEMENT ACCOMPANYING THE PLANNING APPLICATION

A1. Paragraphs in bold are replicated from the text within the Planning Statement (PS) upon which following paragraphs comment.

1.1.3 The 18 mppa cap on passenger numbers imposed by the 2014 planning consent reflected the forecasts at that time; it was anticipated that the airport would see a steady rise to 18 mppa by around 2028. It is important to note, however, that Luton Council (LC) as the local planning authority, acknowledged at the time (within the decision notice) that the approved scheme provided the airport with a potential capacity of up to 20 mppa (page 22 of the decision notice, under paragraph 4 of the Reasons for Granting Planning Permission). Therefore, although the 18 mppa cap was imposed on the Original Permission, the physical development consented by the Original Permission will accommodate an increase to 19 mppa.

A2. This is not entirely correct. The 18 mppa cap did not just 'reflect the forecasts at that time'. The environmental assessment of the proposal was based on the 18 mppa throughput being sought and the proposal was accepted on the basis of that assessment – not of any additional throughput capacity that might exist within the physical development/infrastructure provided. All of this is clear from the 18 mppa master plan, the application submitted, the committee papers and indeed the decision notice. The controls imposed on the consent reflected an 18 mppa Airport, not any bigger.

> *'is acknowledged that airport capacity is not a single rigid number, and that there are different approaches and variables to estimating capacity and that at best capacity determination is an approximate science, it is considered that the most effective way of achieving a certainty of the throughput would be in the form of a limit on the annual passenger numbers. This would be best achieved through the imposition of a condition limiting the passenger numbers to 18mppa,* ***which would also safeguard the amenities of the surrounding area and thereby accord with the objectives of Local Plan Policy LP1 and the NPPF****.*
>
> ***Controls over operations***
>
> *10 At no time shall the commercial passenger throughput of the airport exceed 18 million passengers in any twelve month period. From the date of this permission the applicant shall every quarter report in writing to the Local Planning Authority the moving annual total numbers of passengers through the airport (arrivals plus departures). The report shall be made no later than 28 days after the end of each quarter to which the data relates.*
>
> *10 Reason: To enable the Local Planning Authority* ***to exercise proper control over the development, in the interests of securing a satisfactory operation of the development and to safeguard the amenities of the surrounding***

***area. To accord with the objectives of Policy LP1 of the Luton Local Plan and the National Planning Policy Framework**.'*

[emphasis added]

1.1.4 The subsequent success of the airport has been well documented, with passenger throughput increasing from 10.5 mppa in 2014 to 18 mppa in 2019, a 71% increase in just six years. Notwithstanding the temporary implications of COVID-19 for travel volumes, the long term growth in demand is set to continue and raising the cap to 19 mppa would allow the airport to continue to grow effectively within sustainable limits, and as one of the largest employers in the area, it will assist in economic recovery both locally and nationally.

A3. But the failure of the Airport to grow whilst complying with the restrictions imposed upon it by the parent planning consent are also well documented. The breaches of Condition 10 have been such that the Airport was required to submit a planning application for their temporary relaxation to 2027.

3.2.3 It is also noteworthy that LC recognised within the decision notice for the 2014 Planning Permission (i.e. Reason no. 4 for granting planning permission) that the expanded airport would have a capacity of between 18 and 20 mppa as stated below:

"…The conclusion reached in determining the application is that the capacity at the Airport with the proposed developments would be between 18 mppa and 20 mppa. The range reflects the many normal uncertainties in capacity assessments, with the greatest of these being whether the existing patterns of traffic will continue (the lower end of the range), or whether historic peak ratios will return (the higher end of the range). Whilst it is acknowledged that the airport capacity is not a single rigid number, and that there are different approaches and variables to estimating capacity and that at best capacity determination is an approximate science, it is considered that the most effective way of achieving a certainty of the throughput would be in the form of a limit on the annual passenger numbers. This would be best achieved through the imposition of a condition limiting the passenger numbers to 18 mppa…'

A4. The Statement fails to conclude this paragraph – repeated here for completeness.

'…….which would also safeguard the amenities of the surrounding area and thereby accord with the objectives of Local Plan Policy LP1 and the NPPF.'

A5. The 18 mppa cap is clearly directly linked to the need to safeguard amenity to accord with the development plan and NPPF.

3.9 19/00428/EIA (Section 73 to 15/00950/VARCON permission)

3.9.1 The noise monitoring by LLAOL revealed that the summer night-time contour as set out in Condition 10 (Noise contours) of the 15/00950/VARCON permission was exceeded in 2017 for the first time. The summer night-time contour was exceeded again for the second time in 2018. In March 2019, a

Section 73 application was submitted to temporarily enlarge the noise contours to the end of 2024 whilst the development of newer, quieter aircraft progresses and comes into operation.

A6. This application has now been withdrawn.

4.2.5 It is anticipated that LLA will recover relatively swiftly from the temporary COVID-19 implications, having been the second busiest airport in the UK by passenger numbers during the travel restrictions (e.g. May and June 2020) after Heathrow. LLAOL expects passenger volumes to recover to 18 mppa by 2023 and could grow beyond 18 mppa in 2024. Therefore the 19 mppa proposal is likely to be realised in 2024.

4.2.6 LLAOL's passenger recovery forecast is based on the industry-wide research and forecast by Airports Council International (ACI). ACI are an industry body representing airports throughout the world, including LLA. As well as representing airports' views and interests, they provide analysis and forecasts of airport performance drawing on industry experts to provide a view of future industry demand.

4.2.7 A panel of air traffic forecasting experts has been polled by ACI and the results aggregated to provide a consensus view of the likely recovery of passenger demand to/from and within Europe in 2020 and 2021. LLAOL have further extrapolated those recovery rates beyond December 2021 to the end of 2024 as shown Figure 4.1 below.

4.2.10 Based on the ACI's industry insight, it is reasonable to believe that LLA will recover to 18 mppa somewhere between the 'medium' and 'high' recovery scenarios. This means that LLA could realistically be back at 18 mppa sometime in 2023 and be growing beyond 18 mppa in 2024. As such, the 19 mppa proposal is likely to be realised in 2024.

A7. The County Council's response to the LLAOL 19 mppa consultation highlighted the scenarios presented by IATA/Eurocontrol, suggesting a more likely later recovery scenario. Since then, the Committee on Climate Change has issued its Sixth Carbon Budget advice to Government in which it recognises uncertainties generated by Covid *'……There remain major uncertainties as to the size of the aviation industry that will emerge post-COVID, particularly as the pandemic continues to spread globally……...CCC have estimated a drop in UK flights and emissions during 2020-2023……..., with a return to previously projected to demand levels from 2024 in most scenarios.'*.

A8. Given the current state of play with regard to Covid containment/recovery, an updated assessment should be prepared for the decision-maker.

4.3.5 The modification to Condition 10 is required in order to account for the fact that the introduction of new quieter aircraft has not kept pace with the unprecedented growth in passenger demand. The passenger level at LLA reached the 18 mppa cap in 2019, almost a decade earlier than originally anticipated in the 2014 Planning Permission. An amended condition is necessary in order to safeguard against factors that are beyond the airport's direct control, including delays to the technological aircraft development and

delays to flying times due to European Air Traffic Control disruptions and extreme weather events.

A9. This is only partly correct. As the County Council's response to the Condition 10 planning application stated, the principal reason for the failure of the Airport to meet the requirements of the planning permission to 18 mppa is the inability of the operator to manage operations and growth in a manner to meet those requirements. It would have been entirely possible for the Airport to grow and honour the planning consent.

4.3.11 Data from the noise monitoring that LLAOL carry out (and published as part of LLAOL's annual monitoring reports) revealed that the contours as set in Condition 10 were exceeded since 2017 but only in the summer. LLAOL have looked extensively at their operations to ascertain why the contour was breached and what measures it could reasonably take to guard against further breaches (see below under the heading 'mitigation' for further information).

4.3.12 A series of severe weather events, combined with European Air Traffic Control disruption, resulted in flights that were scheduled to arrive in the daytime period actually arriving in the night-time period. The additional unplanned night-time flights contributed to Condition 10 being exceeded, and there is no mechanism to permit the exclusion of these movements from the assessment as there is with the movement and Quota Count (QC) limits.

4.3.13 Following the exceedance of the night-time contour limit in 2017 the airport put in place a suite of operational restrictions to curb the number of movements during the night-time period to safeguard against a further exceedance of the limit. This included rejecting any applications for additional scheduled night-time movements. However, due to circumstances outside of LLAOL's control (namely continued disruption of European Air Traffic Control, for reasons such as industrial actions and weather events) meant that the contour was breached again in the following years.

4.3.14 In summary, the number of passengers using LLA has grown more quickly than that forecast at the time of the 2014 Planning Permission, but the introduction of the new generation aircraft has not kept pace. These factors, combined with unforeseen delays arising from European industrial issues and severe weather events, have resulted in a situation whereby the airport cannot operate to its full permitted 18 mppa capacity nor can it sustainably grow to 19 mppa whilst being confident that the restrictions of Condition 10 can be met.'

A10. See paragraph A9.

4.3.6 Scheduling and other wider considerations beyond LLA dictate to airlines which aircraft are used for particular flights, although LLA is able to offer incentives to airlines for the introduction of the next generation aircraft operating out of Luton. Nevertheless, airlines at LLA have placed orders for these modern aircraft and continue to do so, and it is anticipated that these aircraft would be delivered between 2021 and 2028.

A11. Further information is required on the scale and timing of these commitments.

4.7 Conclusion

4.7.3 LLAOL has prepared a suite of technical evidence-based assessments to demonstrate the impacts of its proposals to increase the passenger cap to 19 mppa alongside the enlargement of noise contours. The assessments have been produced in consultation with key stakeholders including LLAL, LC and the surrounding local communities.

A12. The assessments have not been produced in consultation with surrounding local communities.

5.2 National policy frameworks

5.2.1 It is important to set out the Government's current and emerging aviation policy relating to the future of the UK aviation sector, before setting out the planning policy context in relation to the Proposed Amendments.

A13. It is indeed important for the PS to set out Government's current and emerging aviation policy, but it is also important to set out relevant general national policy that is applicable to the application. The assessment of relevant policy in section 5.2 of the PS is poor on both counts.

Aviation Policy Framework (APF)

5.2.4 The APF states that the Government wants to see the best use of existing airport capacity (Paragraph 1.24) and that in the short term, a key priority for the Government is to continue to work with the aviation industry and other stakeholders to make better use of existing runways at all UK airports to improve performance, resilience and the passenger experience (Paragraph 1.60).

A14. Paragraph 5.2.4 refers to paragraph 1.24 of the APF in relation to making best use of existing airport capacity. But it than fails to go to recognise the text immediately following this para 1.24 reference which is very relevant context for this planning application:

> *'1.24 The Government wants to see the best use of existing airport capacity. We support the growth of airports in Northern Ireland, Scotland, Wales and airports outside the South East of England.* ***<u>However, we recognise that the development of airports can have negative as well as positive local impacts, including on noise levels. We therefore consider that proposals for expansion at these airports should be judged on their individual merits, taking careful account of all relevant considerations, particularly economic and environmental impacts.</u>****'*

A15. The APF section also fails to recognise other parts of the APF relevant to the application. For example:

> *'Strategy for a vibrant aviation sector: the short term*
>
> *1.60 In the short term, to around 2020, a key priority for Government is to continue to work with the aviation industry and other stakeholders to make better use of existing runways at all UK airports.*

*‘**Our climate change strategy for aviation***

2.4 The Government’s objective is to ensure that the aviation sector makes a significant and cost-effective contribution towards reducing global emissions.

*3.1 **Whilst the aviation industry brings significant benefits to the UK economy, there are costs associated with its local environmental impacts which are borne by those living around airports, some of whom may not use the airport or directly benefit from its operations.** This chapter considers noise, air quality and other local environmental impacts.*

Noise

3.2 The Government recognises that noise is the primary concern of local communities near airports. The extent to which noise is a source of tension between airports and local communities will vary depending on factors such as the location of an airport in relation to centres of population and the quality of its relations and communications with its local communities. We are aware that many airports already make considerable efforts to engage their local communities and that the relationship is well managed.

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

3.7 The Government fully recognises the ICAO Assembly ‘balanced approach’ principle to aircraft noise management. The ‘balanced approach’ consists of identifying the noise problem at an airport and then assessing the cost-effectiveness of the various measures available to reduce noise through the exploration of four principal elements, which are:

- *reduction at source (quieter aircraft);*
- *land-use planning and management;*
- *noise abatement operational procedures (optimising how aircraft are flown and the routes they follow to limit the noise impacts); and*
- *operating restrictions (preventing certain (noisier) types of aircraft from flying either at all or at certain times).*

Policy objective

*3.12 **The Government’s overall policy on aviation noise is to limit and, where possible, reduce the number of people in the UK significantly affected by aircraft noise, as part of a policy of sharing benefits of noise reduction with industry**.*

3.13 This is consistent with the Government's Noise Policy, as set out in the Noise Policy Statement for England (NPSE) which aims to avoid significant adverse impacts on health and quality of life.

3.14 Although there is some evidence that people's sensitivity to aircraft noise appears to have increased in recent years, there are still large uncertainties around the precise change in relationship between annoyance and the exposure to aircraft noise. ***There is evidence that there are people who consider themselves annoyed by aircraft noise who live some distance from an airport in locations where aircraft are at relatively high altitudes****. Conversely, some people living closer to an airport seem to be tolerant of such noise.*

3.15 To provide historic continuity, the Government will continue to ensure that noise exposure maps are produced for the noise-designated airports on an annual basis providing results down to a level of 57dB LAeq 16 hour. To improve monitoring of the specific impact of night noise, we will also ensure that separate night noise contours for the eight-hour night period (11pm–7am) are produced for the designated airports.

3.17 ***We will continue to treat the 57dB LAeq 16 hour contour as the average level of daytime aircraft noise marking the approximate onset of significant community annoyance. However, this does not mean that all people within this contour will experience significant adverse effects from aircraft noise. Nor does it mean that no-one outside of this contour will consider themselves annoyed by aircraft noise.***

3.19 Average noise exposure contours are a well established measure of annoyance and are important to show historic trends in total noise around airports. ***However, the Government recognises that people do not experience noise in an averaged manner and that the value of the LAeq indicator does not necessarily reflect all aspects of the perception of aircraft noise. For this reason we recommend that average noise contours should not be the only measure used when airports seek to explain how locations under flight paths are affected by aircraft noise. Instead the Government encourages airport operators to use alternative measures which better reflect how aircraft noise is experienced in different localities,*** *developing these measures in consultation with their consultative committee and local communities.* ***The objective should be to ensure a better understanding of noise impacts and to inform the development of targeted noise mitigation measures****.*

Measures to reduce and mitigate noise – the role of industry

3.24 ***The acceptability of any growth in aviation depends to a large extent on the industry tackling its noise impact. The Government accepts, however, 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 numbers of people affected.***

3.25 As a general principle, ***the Government expects that at the local level, individual airports*** *working with the appropriate air traffic service providers* ***should give particular weight to the management and mitigation of noise,*** *as opposed to other environmental impacts, in the immediate vicinity of airports, where this does not conflict with the Government's obligations to meet mandatory EU air quality targets. Any negative impacts that this might have on CO_2 emissions should be tackled as part of the UK's overall strategy to reduce aviation emissions, such as the EU Emissions Trading System (ETS). Further guidance on this principle will be published when the Department for Transport updates its guidance to the Civil Aviation Authority (CAA) on environmental objectives relating to the exercise of its air navigation functions (see Chapter 5).*

3.27 ***As part of the range of options available for reducing noise, airports should consider using differential landing charges to incentivise quieter aircraft.*** *The Government has asked the CAA to investigate the use of these charges and the CAA will be publishing its findings later this year.*

3.28 ***The Government expects airports to make particular efforts to mitigate noise where changes are planned which will adversely impact the noise environment.*** *This would be particularly relevant in the case of proposals for new airport capacity, changes to operational procedures or where an increase in movements is expected which will have a noticeable impact on local communities. In these cases, it would be appropriate to consider new and innovative approaches such as noise envelopes or provision of respite for communities already affected.*

Night noise

3.34 ***The Government recognises that the costs on local communities are higher from aircraft noise during the night, particularly the health costs associated with sleep disturbance. Noise from aircraft at night is therefore widely regarded as the least acceptable aspect of aircraft operations.*** *However, we also recognise the importance to the UK economy of certain types of flights, such as express freight services, which may only be viable if they operate at night. As part of our current consultation on night flying restrictions at the noise-designated airports, we are seeking evidence on the costs and benefits of night flights.*

3.35 ***In recognising these higher costs upon local communities, we expect the aviation industry to make extra efforts to reduce and mitigate noise from night flights through use of best-in-class aircraft, best practice operating procedures, seeking ways to provide respite wherever possible and minimising the demand for night flights where alternatives are available.*** *We commend voluntary approaches such as the curfew at Heathrow which ensures that early morning arrivals do not land before 4.30am.*

Noise insulation and compensation

3.36 The Government continues to expect airport operators to offer households exposed to levels of noise of 69 dB LAeq,16h or more, assistance with the costs of moving.

3.37 ***The Government also expects airport operators to offer acoustic insulation to noise-sensitive buildings, such as schools and hospitals, exposed to levels of noise of 63 dB LAeq,16h or more. Where acoustic insulation cannot provide an appropriate or cost-effective solution, alternative mitigation measures should be offered.***

3.38 If no such schemes already exist, airport operators should consider financial assistance towards acoustic insulation for households. Where compensation schemes have been in place for many years and there are few properties still eligible for compensation, airport operators should review their schemes to ensure they remain reasonable and proportionate.

3.39 ***Where airport operators are considering developments which result in an increase in noise, they should review their compensation schemes to ensure that they offer appropriate compensation to those potentially affected. As a minimum, the Government would expect airport operators to 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.***

3.40 Any potential proposals for new nationally significant airport development projects following any Government decision on future recommendation(s) from the Airports Commission would need to consider tailored compensation schemes where appropriate, which would be subject to separate consultation.

3.41 Airports may wish to use alternative criteria or have additional schemes based on night noise where night flights are an issue. Airport consultative committees should be involved in reviewing schemes and invited to give views on the criteria to be used.

Air quality and other local environmental impacts

3.48 *Our policy on air quality is to seek improved international standards to reduce emissions from aircraft and vehicles and to work with airports and local authorities as appropriate to improve air quality, including encouraging HGV, bus and taxi operators to replace or retrofit with pollution-reducing technology older, more polluting vehicles.*

3.51 *Studies have shown that NOx emissions from aviation-related operations reduce rapidly beyond the immediate area around the runway. Road traffic remains the main problem with regard to NOx in the UK. Airports are large generators of surface transport journeys and as such share a responsibility to minimise the air quality impact of these operations. The Government expects them to take this responsibility seriously and to work with the Government, its agencies and local authorities to improve air quality.*

3.52 *Whilst our policy is to give particular weight to the management and mitigation of noise in the immediate vicinity of airports, there may be instances where prioritising noise creates unacceptable costs in terms of local air pollution. For example, displacing the runway landing threshold to give noise benefits could lead to significant additional taxiing and emissions. For this*

reason, the impacts of any proposals which change noise or emissions levels should be carefully assessed to allow these costs and benefits to be weighed up.

Planning policies

5.6 In preparing their local plans, local authorities are required to have regard to policies and advice issued by the Secretary of State. This includes the Aviation Policy Framework, to the extent it is relevant to a particular local authority area, along with other relevant planning policy and guidance. The Aviation Policy Framework may also be a material consideration in planning decisions depending on the circumstances of a particular application.'

Surface access
5.11 *All proposals for airport development must be accompanied by clear surface access proposals which demonstrate how the airport will ensure easy and reliable access for passengers, increase the use of public transport by passengers to access the airport, and minimise congestion and other local impacts.*
5.12 *The general position for existing airports is that developers should pay the costs of upgrading or enhancing road, rail or other transport networks or services where there is a need to cope with additional passengers travelling to and from expanded or growing airports. Where the scheme has a wider range of beneficiaries, the Government will consider, along with other relevant stakeholders, the need for additional public funding on a case-by-case basis.*

Beyond the Horizon: The Future of UK Aviation

A16. Paragraphs 5.2.5-5.27 summarise 'Beyond the Horizon: The Future of UK Aviation'. This was an earlier Government consultation (April 2018) in the Government's development of its new national aviation policy. The Government's latest publication is 'Aviation 2050: The Future of UK Aviation' (December 2018), and this is considered below.

Airports National Policy Statement (ANPS)

A17. The PS is sparse in its analysis of relevant policy context in the ANPS. For example:

'1.39 On 21 July 2017, the Government issued a call for evidence on a new Aviation Strategy. ***Having analysed the responses, the Government has confirmed that it is supportive of airports beyond Heathrow making best use of their existing runways. However, we recognise that the development of airports can have positive and negative impacts, including on noise levels. We consider that any proposals should be judged on their individual merits by the relevant planning authority, taking careful account of all relevant considerations, particularly economic and environmental impacts.****'*

Surface access

Introduction

5.5 The Government's objective for surface access is to ensure that access to the airport by road, rail and public transport is high quality, efficient and reliable for passengers, freight operators and airport workers who use transport on a daily basis. The Government also wishes to see the number of journeys made to airports by sustainable modes of transport maximised as much as possible. This should be delivered in a way that minimises congestion and environmental impacts, for example on air quality.

Noise

Introduction

5.44 ***The impact of noise from airport expansion is a key concern for communities affected, and the Government takes this issue very seriously. High exposure to noise is an annoyance, can disturb sleep, and can also affect people's health. Aircraft operations are by far the largest source of noise emissions from an airport,*** *although noise will also be generated from ground operations and surface transport, and during the construction phase of a scheme.*

5.45 Aircraft noise is not only determined by the number of aircraft overhead, but also by engine technologies and airframe design, the paths the aircraft take when approaching and departing from the airport, and the way in which the aircraft are flown.

Decision making

5.67 The proposed development must be undertaken in accordance with statutory obligations for noise. Due regard must have been given to national policy on aviation noise, and the relevant sections of the Noise Policy Statement for England, the National Planning Policy Framework, and the Government's associated planning guidance on noise. However, the Airports NPS must be used as the primary policy on noise when considering the Heathrow Northwest Runway scheme, and has primacy over other wider noise policy sources.

5.68 Development consent should not be granted unless the Secretary of State is satisfied that the proposals will meet the following aims for the effective management and control of noise, within the context of Government policy on sustainable development:

- ***Avoid significant adverse impacts on health and quality of life from noise;***
- ***Mitigate and minimise adverse impacts on health and quality of life from noise; and***
- ***Where possible, contribute to improvements to health and quality of life.***

Carbon emissions

Introduction

5.69 The Planning Act 2008 requires that a national policy statement must give reasons for the policy set out in the statement and an explanation of how the policy set out in the statement takes account of Government policy relating to the mitigation of, and adaptation to, climate change.162 The Government has a number of international and domestic obligations to limit carbon emissions. Emissions from both the construction and operational phases of the project will be relevant to meeting these obligations.

5.70 The Government's key objective on aviation emissions, as outlined in the Aviation Policy Framework, is to ensure that the aviation sector makes a significant and cost-effective contribution towards reducing global emissions.163

Community compensation

Introduction

5.239 The Secretary of State recognises that, in addition to providing economic growth and employment opportunities, airport expansion will also have negative impacts upon local communities. This will include impacts through land take requiring the compulsory acquisition of houses that fall within the new boundary of the airport, exposure to air quality impacts, and aircraft noise, that is both an annoyance and can have an adverse impact on health and cognitive development.'

Aviation 2050: The Future of UK Aviation

A18. The PS is sparse in its analysis of relevant policy context in the Aviation 2050. For example:

'Environmental impacts

1.26 ***Disturbance from aircraft noise has negative impacts on the health and quality of life of people living near airports and under flightpaths.*** *There is also evidence that the public is becoming more sensitive to aircraft noise, to a greater extent than noise from other transport sources, and that there are health costs associated from exposure to this noise. The government is supporting the industry to deliver airspace modernisation and has also established a new Independent Commission on Civil Aviation Noise (ICCAN), but efforts to reduce and manage noise impacts must continue.*

What this means for Aviation 2050

1.33 Together, these trends present significant opportunities to be exploited, but also challenges to overcome and manage. Global and domestic trends show that with the right economic conditions, the year-on-year growth in passenger numbers and air freight can be expected to continue. There are also signs of change in the market which could which transform business models and the offer for consumers. ***Meeting this increased demand will require a new partnership between the government, the industry, the regulator and communities that balances the economic benefits of growth with its impact on communities and the environment.***

1.34 The eastward shift in aviation markets and the growth in new technologies mean that aviation could look very different to how it does today, both globally and domestically. To remain competitive on the global stage, and to safeguard its role as one of the leaders in both aviation and aerospace, the UK must be well positioned to take advantage of these new opportunities, while managing the potential economic, political and environmental headwinds along the way.

1.35 This is the motivation behind a new Aviation Strategy which will:
……...

- *ensure that aviation can grow sustainably – moving beyond an artificial 'choice' between growth and environmental protection by building a new partnership that actively supports sustainable growth with actions taken to mitigate environmental impacts*
- ***support regional growth and connectivity** – ensuring aviation enables all regions of the UK to prosper and grow, providing jobs and economic opportunities and a meaningful contribution to the life of communities up and down the country*

……..

Ensure aviation can grow sustainably

3.3 ***Even with these improvements there are challenges that need to be addressed. Growth can have significant environmental impacts which affect local communities and increase emissions.*** *There are also significant infrastructure constraints which require urgent attention, such as the need to modernise our airspace, improve transport links to airports and consider whether new runways are required.* ***Therefore, while the government supports continued growth in aviation over the next 30 years, it also believes that the UK must be more ambitious on environmental protection to ensure that growth is sustainable.***

A partnership for sustainable growth

3.5 The government's forecasts show that demand for aviation will continue to grow in the period to 2050. The government intends to discuss its modelling approach with stakeholders in the first half of 2019, which will inform future decisions on whether there is a case for additional runways.

3.6 The government accepted the independent Airports Commission's conclusion that there is a need to increase capacity in the South East of England by 2030 by constructing one new runway and supports a new Northwest runway at Heathrow Airport, through the designation of the Airports National Policy Statement (NPS). This sets out the requirements that an applicant will need to meet in order for development consent to be granted. ***The government has also expressed support for other airports making best use of their existing runway capacity, subject to economic and environmental issues being addressed.***

3.9 The partnership for sustainable growth which the government is proposing is a long-term policy framework which will need to be flexible enough to respond

to new information, developments and changing circumstances, while providing sufficient long-term confidence for the industry and communities.

3.10 The government's expectation is that the new framework would apply to all airport and airline operations within the UK, although many policies would need to be tailored to the local circumstances. For example, there could be different policies applied depending on whether an airport was continuing to grow within existing planning approvals, was bringing forward a new planning application to make best use of existing runways, or in future was potentially seeking permission for a new runway. Until any framework is adopted as government policy, planning applications should continue to be considered against existing policy.

Future growth

3.11 The government believes that forecasted aviation demand up to 2030 can be met through a Northwest runway at Heathrow and by airports beyond Heathrow making best use of their existing runways subject to environmental issues being addressed. To ensure that this additional capacity delivers the full benefits for the consumer and industry while minimising the negative impacts on local communities, the government proposes to work in partnership with the industry to deliver on a number of policy areas, as set out in this chapter.

Surface access

3.67 It is important to have good surface access links with airports. All proposed airport developments need to be accompanied by clear surface access proposals which demonstrate how the airport will ensure easy and reliable access for passengers, increase the use of public transport and minimise congestion, emissions and other local impacts.

Community engagement and sharing benefits from growth

3.71 In recognition of their impact on local communities and as a matter of good corporate social responsibility, a number of airports have community funds which exist to provide funding for local community projects. There is currently no national policy on such funds. In relation to the proposed Heathrow Northwest runway, the Airports NPS expects ongoing community compensation will be proportionate to environmental impacts.

3.72 The government believes all major airports should establish and maintain community funds, to invest sufficiently in these so that they are able to make a difference in the communities impacted and to raise the profile of these funds. The levels of investment should be proportionate to the growth at the airport. Community funds are complementary measures to ensure communities get a fair deal and do not substitute for noise reduction. The government proposes to:

- **produce guidance on minimum standards for community funds**

A 2050 vision for tackling emissions

3.85 The government recognises that international action takes time, so will also consider appropriate domestic action to support international progress. The UK's trajectory to meeting its Climate Change Act 2050 target is set out in five-yearly carbon budgets that currently exclude emissions from international aviation. However, the Committee on Climate Change (CCC), established by the Climate Change Act as the independent advisory body on climate change, recommends that international aviation should be included by 2050.

3.86 In order to implement the government's long term vision for addressing UK aviation emissions, the government will maintain its current policy not to mandate sector specific emissions reduction targets to ensure reductions are made wherever it is most cost effective across the economy.

3.87 The government agrees with the current CCC advice that international aviation emissions should, for now, continue to be formally excluded from carbon budgets. The government proposes therefore, to continue using the CCC advice and leave 'headroom' for international aviation when setting carbon budgets so that the economy as a whole is on a trajectory to meeting the 2050 Climate Change Act target (including international aviation). To set a clear level of ambition for the sector, the government proposes to:

accept the CCC's recommendation that emissions from UK-departing flights should be at or below 2005 levels in 2050

Sustainable journeys to the airport

3.98 The government's ambition is to put the UK at the forefront of the design and manufacture of zero emission vehicles, and for all new cars and vans to be effectively zero emission by 2040……...

3.99 The government's expectation is that airports, through their surface access strategies, set targets for sustainable passenger and staff travel to the airport which meet, where possible, the ambitions set by the government and for these to be monitored by their respective Airport Transport Forums.

3.101 The government expects airports to make the most of their regional influence to provide innovative solutions and incentives against ambitious targets which reduce carbon and congestion and improve air quality.

Air quality

3.123 The government recognises that air pollution is the top environmental risk to health in the UK and it remains determined to improve air quality. A cleaner, healthier environment benefits people and the economy.

Proposed measures

3.127 The government recognises the need to take further action to ensure aviation's contribution to local air quality issues is properly understood and addressed and is proposing the following measures:

- ***requiring all major airports to develop air quality plans to manage emissions within local air quality targets.*** *This will be achieved through establishing minimum criteria to be included in the plans*
-

Managing noise

The impact of aviation noise

3.102 ***<u>The growth of the aviation sector brings many benefits but the government recognises that disturbance from aircraft noise has negative impacts on the health and quality of life of people living near airports and under flightpaths.</u>***
……

3.105 ***<u>However, the government recognises that statistics showing past and future improvements in noise do not necessarily match the experience of some people living under flightpaths, for whom the benefits of quieter aircraft can be cancelled out by greater frequency of movements or the effects of concentrated traffic associated with more accurate navigation technology (see paragraph 3.19).</u>*** *The CAA's report also shows that the number of people affected will be higher as a result of population increases.*

3.106 There is also evidence that the public is becoming more sensitive to aircraft noise, to a greater extent than noise from other transport sources, and that there are health costs associated from exposure to this noise. ……

3.112 ***<u>The government expects the industry to show continuing commitment to noise reduction and mitigation as part of its contribution to the partnership for sustainable growth.</u>*** *The government has shown that it is committed to this by setting out in the Airports NPS its expectations that the developer put in place a comprehensive mitigations package. The proposals in this consultation are aligned with the principles in the NPS, but the implementation of those document principles must be proportionate to the local situation (recognising that the scale of the noise impacts at Heathrow is much greater than at other airports due to the number of movements and local population density). The picture below shows a noise monitor at Heathrow Airport.*

Towards a stronger noise policy framework

3.113 The government sets the high level policy framework on aviation noise and also sets noise controls at Heathrow, Gatwick and Stansted. The current overarching policy, originally set out in the 2013 Aviation Policy Framework, is "to limit and, where possible, reduce the number of people in the UK significantly affected by aircraft noise as part of a policy of sharing benefits of noise reduction with industry in support of sustainable development."

3.114 The government recognises that there has been uncertainty on how this policy should be interpreted, measured and enforced. ***<u>The government</u>***

intends to put in place a stronger and clearer framework which addresses the weaknesses in current policy and ensures industry is sufficiently incentivised to reduce noise, or to put mitigation measures in place where reductions are not possible.

3.115 The proposed new measures are:

- ***setting a new objective to limit, and where possible, reduce total adverse effects on health and quality of life from aviation noise. This brings national aviation noise policy in line with airspace policy updated in 2017***
- ***developing a new national indicator to track the long term performance of the sector in reducing noise.*** *This could be defined either as a noise quota or a total contour area based on the largest airports*
- ***routinely setting noise caps as part of planning approvals (for increase in passengers or flights).*** *The aim is to balance noise and growth and to provide future certainty over noise levels to communities. It is important that caps are subject to periodic review to ensure they remain relevant and continue to strike a fair balance by taking account of actual growth and the introduction of new aircraft technology. It is equally important that there are appropriate compliance mechanisms in case such caps are breached and the government wants to explore mechanisms by which airports could 'pay for' additional growth by means of local compensation as an alternative to the current sanctions available*
- ***requiring all major airports to set out a plan which commits to future noise reduction, and to review this periodically.*** *This would only apply to airports which do not have a noise cap approved through the planning system and would provide similar certainty to communities on future noise levels.* ***The government wants to see better noise monitoring and a mechanism to enforce these targets as for noise caps.*** *The noise action planning process could potentially be developed to provide the basis for such reviews, backed up by additional powers as necessary for either central or local government or the CAA*

3.121 The government is also:

- ***proposing new measures to improve noise insulation schemes for existing properties, particularly where noise exposure may increase in the short term or to mitigate against sleep disturbance***

3.122 Such schemes, while imposing costs on the industry, are an important element in giving impacted communities a fair deal. The government therefore proposes the following noise insulation measures:

- ***to extend the noise insulation policy threshold beyond the current 63dB LAeq 16hr contour to 60dB LAeq 16hr***
- ***to require all airports to review the effectiveness of existing schemes. This should include how effective the insulation is and whether other factors (such as ventilation) need to be considered, and also whether levels of contributions are affecting take-up***

- ***the government or ICCAN to issue new guidance to airports on best practice for noise insulation schemes, to improve consistency***
- ***for airspace changes which lead to significantly increased overflight, to set a new minimum threshold of an increase of 3dB LAeq, which leaves a household in the 54dB LAeq 16hr contour or above as a new eligibility criterion for assistance with noise insulation***

Air quality

Proposed measures

3.127 The government recognises the need to take further action to ensure aviation's contribution to local air quality issues
……

- ***requiring all major airports to develop air quality plans to manage emissions within local air quality targets.*** *This will be achieved through establishing minimum criteria to be included in the plans*

……

Support regional growth and connectivity

4.3 The government has also confirmed that it is supportive of airports beyond Heathrow making best use of their existing runways, subject to proposals being assessed in light of environmental and economic impacts.'

National Planning Policy Framework (NPPF)

5.2.20 The framework highlights in Paragraph 81 that planning policies should be "*flexible enough to accommodate needs not anticipated in the plan and enable a rapid response to changes in economic circumstances"*……

A19. Paragraph 81 is irrelevant as it relates to what planning policies in development plans should do, not decisions upon planning applications.

Promoting sustainable transport

5.2.21 Paragraph 104 states that planning policies should *"provide for any large scale transport facilities that need to be located in the area, and the infrastructure and wider development required to support their operation, expansion and contribution to the wider economy"*. The framework clearly acknowledges the economic benefit that expansion of a large scale transport facility, such as an airport expansion, can generate.

A20. Reference to large scale transport facilities is irrelevant to this planning application because paragraph 104 relates to the development of planning policies, not to decisions on planning applications.

5.2.22 The same paragraph goes on to highlight aviation facilities specifically. It notes that planning policies should "*recognise the importance of maintaining a*

***national network of general aviation airfields, and their need to adapt and change over time – taking into account their economic value in serving business, leisure, training and emergency service needs, and the Government's General Aviation Strategy"*.**

A21. This relates to relates to general aviation, not large scale nationally significant airports like London Luton.

A22. No reference is made to the following relevant policy:

> *'102. Transport issues should be considered from the earliest stages of plan-making and development proposals, so that:*
>
> *a) the potential impacts of development on transport networks can be addressed;*
>
> *b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;*
>
> *c) opportunities to promote walking, cycling and public transport use are identified and pursued;*
>
> *d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and*
>
> *e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.*
>
> *'110. Within this context, applications for development should:*
>
> *a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*
> *b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*
> *c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*
> *d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and*
> *e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.*
>
> *111. All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.*

Meeting the challenge of climate change, flooding and coastal change

5.2.24 Paragraph 148 encourages the planning system to *support the transition to a low carbon future in a changing climate"* and *"help to shape places in ways that contribute to radical reductions in greenhouse gases emissions"*. Paragraph 150 states that "*new development should be planned in ways that a) avoid increased vulnerability to the range of impacts arising from climate change"* and that "*b) can help to reduce greenhouse gas emissions"*.

A23. No reference is made to the following relevant policy:

> *'153. In determining planning applications, local planning authorities should expect new development to:*
>
> *a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*
>
> *b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.'*

Conserving and enhancing the natural environment

A24. No reference is made to the following relevant policy:

> *'181. Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.'*

NPPF conclusion

5.2.28 The presumption in favour of sustainable development recognises the need to balance social, economic and environment objectives but is sufficiently pragmatic to recognise that for some types of development there is a need to take into account the specific local opportunities that may present themselves. There is strong policy support for businesses to develop and a recognition in the case of aviation that needs may not be fixed but may change over time. Nevertheless, aviation development should be environmentally appropriate and should undertake measures to mitigate potential adverse impacts from pollution recognising that they could potentially give rise to significant adverse impacts upon health and quality of life.

A25. *'The presumption in favour of sustainable development recognises the need to balance social, economic and environment objectives but is sufficiently pragmatic to recognises that for some types of development there is a need to take into account*

the specific local opportunities that may present themselves'. The NPPF does not state this - the presumption in favour of sustainable development:

- does not itself refer to the need to balance social, economic and environmental objectives. The objectives referred to are the objectives of the planning system to achieve sustainable development. The 'balance' between these objectives is within the supporting text and relates to achieving sustainable development more generally through the planning system.
- does not in any way recognise that some types of development need to take into account specific local opportunities that may present themselves.

A26. Reference is made to *'a recognition in the case of aviation that needs may not be fixed but may change over time'*. The NPPF does no such thing – where it does comment on *'the need to adapt and change over time'* is in relation to general aviation only.

A27. *'Nevertheless, aviation development should be environmentally appropriate and should undertake measures to mitigate potential adverse impacts from noise recognising that it could potentially give rise to significant adverse impacts upon health'*. None of this features within the NPPF. The NPPF makes no reference to aviation development (only general aviation – see above), being *'environmentally appropriate'* (whatever that is supposed to mean), to *'undertake measures to mitigate'* or that it *'could potentially give rise to significant adverse impacts upon health'*.

A28. NB. There are no conclusions for any other of the policy summaries.

National Planning Practice Guidance

5.2.29 On 6 March 2014, the Department for Communities and Local Government (DCGL, now MHCLG) launched the National Planning Practice Guidance (PPG), a web-based resource. Together with the NPPF, this sets out the Government's overall planning policy framework. With specific regard to aviation and airport planning, the PPG does not introduce any additional guidance beyond that which is already captured by the NPPF.

A29. NPPG might not refer specifically to aviation or airports, but it contains plenty of guidance of relevance to the application. For example:

> *'Air Quality*
>
> *The Department for Environment, Food and Rural Affairs carries out an annual national assessment of air quality using modelling and monitoring to determine compliance with relevant Limit Values. It is important that the potential impact of new development on air quality is taken into account where the national assessment indicates that relevant limits have been exceeded or are near the limit, or where the need for emissions reductions has been identified.*
>
> *Whether air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to have an adverse effect on air quality in areas where it is already known to be poor, particularly if it could affect the implementation of air quality strategies and action plans and/or breach legal obligations (including those relating to the conservation of habitats and species). Air quality may also*

be a material consideration if the proposed development would be particularly sensitive to poor air quality in its vicinity.
Where air quality is a relevant consideration the local planning authority may need to establish:

- *the 'baseline' local air quality, including what would happen to air quality in the absence of the development;*
- *whether the proposed development could significantly change air quality during the construction and operational phases (and the consequences of this for public health and biodiversity); and*
- *whether occupiers or users of the development could experience poor living conditions or health due to poor air quality.*

……..'

A30. NPPG contains a whole section on Travel Plans, Transport Assessments and Statements from paragraph: 001 Reference ID: 42-001-20140306 through to 015 Reference ID: 42-015-20140306.

A31. NPPG contains a whole section on Noise, from paragraph: 001 Reference ID: 30-001-20190722 through to Paragraph: 017 Reference ID: 30-017-20190722. The following paragraphs are particularly relevant.

How can it be established whether noise is likely to be a concern? (paragraph 005 Reference ID: 30-005-20140306)

'……As the exposure increases further, it crosses the 'lowest observed adverse effect' level boundary above which the noise starts to cause small changes in behaviour and attitude, for example, having to turn up the volume on the television or needing to speak more loudly to be heard. The noise therefore starts to have an adverse effect and consideration needs to be given to mitigating and minimising those effects (taking account of the economic and social benefits being derived from the activity causing the noise).

Increasing noise exposure will at some point cause the 'significant observed adverse effect' level boundary to be crossed. Above this level the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. If the exposure is predicted to be above this level the planning process should be used to avoid this effect occurring, for example through the choice of sites at the plan-making stage, or by use of appropriate mitigation such as by altering the design and layout. While such decisions must be made taking account of the economic and social benefit of the activity causing or affected by the noise, it is undesirable for such exposure to be caused……'

Response	Examples of outcomes	Increasing effect level	Action

Lowest Observed Adverse Effect Level			
Present and intrusive	Noise can be heard and causes small changes in behaviour, attitude or other physiological response, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a small actual or perceived change in the quality of life.	Observed Adverse Effect	Mitigate and reduce to a minimum
Significant Observed Adverse Effect Level			
Present and disruptive	The noise causes a material change in behaviour, attitude or other physiological response, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.	Significant Observed Adverse Effect	Avoid

What factors influence whether noise could be a concern? (paragraph 006 Reference ID: 30-006-20141224)

'The subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. This will depend on how various factors combine in any particular situation.
These factors include:

- *the source and absolute level of the noise together with the time of day it occurs. Some types and level of noise will cause a greater adverse effect at night than if they occurred during the day – this is because people tend to be more sensitive to noise at night as they are trying to sleep. The adverse effect can also be greater simply because there is less background noise at night;*
- *……...*
- *for non-continuous sources of noise, the number of noise events, and the frequency and pattern of occurrence of the noise;……..'*

How can planning address the adverse effects of noise sources, including where the 'agent of change' needs to put mitigation in place? (*Paragraph: 010 Reference ID: 30-010-20190722)*

This will depend on the type of development being considered the type of noise involved and the nature of the proposed location. In general, for developments that are likely to generate noise, there are 4 broad types of mitigation:

- *engineering: reducing the noise generated at source and/or containing the noise generated;*
- *layout: where possible, optimising the distance between the source and noise-sensitive receptors and/or incorporating good design to minimise noise transmission through the use of screening by natural or purpose built barriers, or other buildings;*
- *using planning conditions/obligations to restrict activities allowed on the site at certain times and/or specifying permissible noise levels differentiating as appropriate between different times of day, such as evenings and late at night, and;*
- *mitigating the impact on areas likely to be affected by noise including through noise insulation when the impact is on a building.*

For noise sensitive developments, mitigation measures can include avoiding noisy locations in the first place; designing the development to reduce the impact of noise from adjoining activities or the local environment; incorporating noise barriers; and optimising the sound insulation provided by the building envelope. It may also be possible to work with the owners/operators of existing businesses or other activities in the vicinity, to explore whether potential adverse effects could be mitigated at source. Where this is the case, it may be necessary to ensure that these source-control measures are in place prior to the occupation / operation of the new development. Where multiple development sites would benefit from such source control measures, developers are encouraged to work collaboratively to spread this cost. Examples of source control measures could include increased sound proofing on a building (e.g. a music venue) or enclosing an outdoor activity (e.g. waste sorting) within a building to contain emissions.

Care should be taken when considering mitigation to ensure the envisaged measures do not make for an unsatisfactory development.

How can the potential impact of aviation activities on new development be addressed through the planning system? Paragraph: 012 Reference ID: 30-012-20190722

'The agent of change principle may apply in areas near to airports, or which experience low altitude overflight, where there is the potential for aviation activities to have a significant adverse effect on new noise-sensitive development (such as residential, hospitals and schools). This could include development in the immediate vicinity of an airport, or the final approach and departure routes of an operational runway, and locations that experience regular low altitude overflight by general aviation aircraft, where this activity could subject residents or occupiers to significant noise, air quality issues and/or vibration impacts. The need for and type of mitigation will depend on a variety of factors including the nature of the aviation activity, location and normal environmental conditions in that context. Local planning authorities could consider the use of planning conditions or obligations to require the provision of appropriate mitigation measures in the new development.'

How can local authorities and airport operators mitigate the environmental impacts of airport expansion? Paragraph: 013 Reference ID: 30-013-20190722

The management of environmental effects associated with the development of airports and airfields is considered in detail in the Aviation Policy Framework. Planning authorities and airport operators are encouraged to work together to develop mitigation measures that are proportionate to the scale of the impact. Development that would increase air movements may require an Environmental Impact Assessment (where it meets the relevant threshold in Schedule 2 to The Town and Country Planning (Environmental Impact Assessment) Regulations 2017). It may be appropriate to consider, as part of any proposed mitigation strategy, how operational measures, siting and design of new taxiways, apron and runways, and ground-level noise attenuation measures could reduce noise impacts of expansion or increased utilisation to a minimum.

How can local communities have a say in decisions that could result in new noise arising from aviation? Paragraph: 014 Reference ID: 30-014-20190722

The Civil Aviation Authority has produced guidance on the regulatory process for changing airspace design. The process is separate from the planning process, and gives local communities the opportunity to consider and comment on proposed changes that could affect them. Local communities also have a statutory right to contribute their views at each step in the planning process, including where development of an airport or airfield is proposed within an emerging plan or a planning application is submitted to a local authority. Depending on their nature and scale, applications for airport expansion may be determined through the Nationally Significant Infrastructure Projects regime. Where airport expansion is considered through the planning system, it will be important for decisions to consider any additional or new impacts from that expansion, and not to revisit the underlying principle of aviation use (where the latter has already been established). As part of this process, applicants are required to engage and consult with local communities, local authorities and others from the outset.'

A32. The PS fails to recognise other relevant national policy/guidance. By way of example:

Noise Policy Statement for England (NPSE)

'2.14 It is recognised that noise exposure can cause annoyance and sleep disturbance both of which impact on quality of life. It is also agreed by many experts that annoyance and sleep disturbance can give rise to adverse health effects. The distinction that has been made between 'quality of life' effects and 'health' effects recognises that there is emerging evidence that long term exposure to some types of transport noise can additionally cause an increased risk of direct health effects. The Government intends to keep research on the health effects of long term exposure to noise under review in accordance with the principles of the NPSE.'

*'**The first aim of the Noise Policy Statement for England***

Avoid significant adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

2.23 The first aim of the NPSE states that significant adverse effects on health and quality of life should be avoided while also taking into account the guiding principles of sustainable development (paragraph 1.8).

The second aim of the Noise Policy Statement for England

Mitigate and minimise adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

2.24 The second aim of the NPSE refers to the situation where the impact lies somewhere between LOAEL and SOAEL. It requires that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development (paragraph 1.8). This does not mean that such adverse effects cannot occur.

The third aim of the Noise Policy Statement for England

Where possible, contribute to the improvement of health and quality of life through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

2.25 This aim seeks, where possible, positively to improve health and quality of life through the pro-active management of noise while also taking into account the guiding principles of sustainable development (paragraph 1.8), recognising that there will be opportunities for such measures to be taken and that they will deliver potential benefits to society. The protection of quiet places and quiet times as well as the enhancement of the acoustic environment will assist with delivering this aim.'

Air Navigation Guidance 2017 (ANG)

Underpinning this new guidance are a number of key overall objectives. These include to:

……

- *ensure that aviation can continue to make its important contribution to the UK economy and at the same time seek to improve the sustainable development and efficiency of our airspace network;*
- *……*
- *emphasise that the environmental impact of aviation must be mitigated as much as is practicable and realistic to do so.*

The government's key environmental objectives

1.2 The environmental objectives with respect to air navigation are chosen to facilitate the government's overall environmental policies. These environmental objectives are designed to minimise the environmental impact of aviation within the context of supporting a strong and sustainable aviation sector. These objectives are, in support of sustainable development, to:

a. limit and, where possible, reduce the number of people in the UK significantly affected by adverse impacts from aircraft noise[3];

b. ensure that the aviation sector makes a significant and cost-effective contribution towards reducing global emissions; and

c. minimise local air quality emissions and in particular ensure that the UK complies with its international obligations on air quality.

Assessing the noise implications of proposed airspace changes

3.4 As stated in section 1.2(a) of this guidance, one of the government's three key environmental objectives is to limit and, where possible, reduce the number of people in the UK significantly affected by adverse impacts from aircraft noise.

3.5 For the purpose of assessing airspace changes, the government wishes the CAA to ***interpret this objective to mean that the total adverse effects on people as a result of aviation noise should be limited and, where possible, reduced, rather than the absolute number of people in any particular noise contour****. Adverse effects are considered to be those related to health and quality of life. There is no one threshold at which all individuals are considered to be significantly adversely affected by noise.* ***It is possible to set a Lowest Observed Adverse Effect Level (LOAEL) that is regarded as the point at which adverse effects begin to be seen on a community basis.*** *As noise exposure increases above this level, so will the likelihood of experiencing an adverse effect. In line with this increase in risk, the proportion of the population likely to be significantly affected can be expected to grow as the noise level increases over the LOAEL.* ***For the purposes of assessing and comparing the noise impacts of airspace changes, the government has set a LOAEL of 51dB LAeq16hr for daytime noise and 45dB LAeq8hr for night time noise and the CAA should ensure that these metrics are considered.***

3.11 For communities further away from airports that will not be affected by noise above the LOAELs identified above, it is important that other aspects of noise are also taken into account where the total adverse effects of noise on people between different options are similar. ***Metrics that must be considered for these purposes include the overall number of overflights and number above metrics: N65 for daytime noise and N60 for night time noise.*** *The CAA's overflights metric is a means of portraying those locations where residents will experience being overflown. These supplementary metrics must also be used to inform communities about the likely impact of proposed changes.*

3.12 The CAA should also verify that sponsors have used any other noise metrics that may be appropriate for allowing communities to understand the noise impacts that could result from the proposed change. This could include the use of 100% mode contours for average noise or frequency-based metrics, or consideration of the interaction with other sources of aircraft noise, such as those from other local airports.

Introduction

4.1 For communities living close to airports, and some further away under arrival and departure routes, aircraft noise is one of the most important environmental impacts created by the aviation sector. The ***government's long-term view, most recently expressed in the 2013 Aviation Policy Framework, is that there must be a fair balance between the economic benefits derived from the aviation industry, and the negative impacts of noise for affected communities. The benefits of any future growth in aviation and/or technological development must be shared between those benefitting from a thriving aviation industry and those close to the airports that experience its impacts.****'*

Beyond the Horizon The Future of UK Aviation – Making best use of existing runways June 2018

'1.5 ***The Aviation Strategy call for evidence set out that government agrees with the Airports Commission's recommendation and was minded to be supportive of all airports who wish to make best use of their existing runways, including those in the South East, subject to environmental issues being addressed.*** *The position is different for Heathrow, where the government's proposed policy on expansion is set out in the proposed Airports NPS.*

Call for evidence response summary

1.6 The Aviation Strategy call for evidence document asked specifically for views on the government's proposal to support airports throughout the UK making best use of their existing runways, subject to environmental issues being addressed.

…….
1.8 The main issues raised included the need for environmental issues such as noise, air quality, and carbon to be fully addressed as part of any airport proposal; the need for improved surface access and airspace modernisation to handle the increased road / rail and air traffic; and clarification on the planning process through which airport expansion decisions will be made.

Role of local planning

1.9 Most of the concerns raised can be addressed through our existing policies as set out in the 2013 Aviation Policy Framework, or through more recent policy updates such as the new UK Airspace Policy or National Air Quality Plan. ***For the majority of environmental concerns, the government expects these to be taken into account as part of existing local planning application processes. It is right that decisions on the elements which impact local individuals such as noise and air quality should be considered through the appropriate planning process*** *and CAA airspace change process.*

1.10 Further, local authorities have a duty to consult before granting any permission, approval, or consent. This ensures that local stakeholders are

given appropriate opportunity to input into potential changes which affect their local environment and have their say on airport applications.

Local environmental impacts

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

1.23 For the majority of local environmental concerns, the government expects these to be taken into account as part of existing local planning application processes.

1.24 ***As part their planning applications airports will need to demonstrate how they will mitigate local environmental issues, which can then be presented to, and considered by, communities as part of the planning consultation process. This ensures that local stakeholders are given appropriate opportunity to input into potential changes which affect their environment and have their say on airport applications.***

Policy statement

1.25 As a result of the consultation and further analysis to ensure future carbon emissions can be managed, ***government believes there is a case for airports making best of their existing runways across the whole of the UK……..***

1.26 Airports that wish to increase either the passenger or air traffic movement caps to allow them to make best use of their existing runways will need to submit applications to the relevant planning authority. We expect that applications to increase existing planning caps by fewer than 10 million passengers per annum (mppa) can be taken forward through local planning authorities under the Town and Country Planning Act 1990. As part of any planning application ***airports will need to demonstrate how they will mitigate against local environmental issues, taking account of relevant national policies, including any new environmental policies emerging from the Aviation Strategy****. This policy statement does not prejudge the decision of those authorities who will be required to give proper consideration to such applications. It instead leaves it up to local, rather than national government, to consider each case on its merits.*

1.29 ***Therefore the government is supportive of airports beyond Heathrow making best use of their existing runways. However, we recognise that the development of airports can have negative as well as positive local impacts, including on noise levels. We therefore consider that any proposals should be judged by the relevant planning authority, taking careful account of all relevant considerations, particularly economic and environmental impacts and proposed mitigations. This policy statement does not prejudge the decision of those authorities who will be required***

to give proper consideration to such applications. It instead leaves it up to local, rather than national government, to consider each case on its merits.*'*

A Green Future: Our 25 Year Plan to Improve the Environment November 2017 HMG

'Over the next 25 years, we must significantly cut all forms of pollution and ease the pressure on the environment. ***We must ensure that noise and light pollution are managed effectively.****'*

5.3 The development plan

5.3.1 Moving on from the national level policy frameworks to the local level context, the development plan is the Luton Local Plan 2011-2031 which was adopted by the Council in 2017.

A33. Given that the noise impacts of the Airport and of this planning application are felt much further afield than the administrative boundary of the LBC, the County Council would have expected the Planning Statement to have reviewed and summarised any relevant development plan policies in the wider sub region (Local Plans and Neighbourhood Plans). By way of example:

Stevenage Borough Local Plan 2011-2031 Adopted 22nd May 2019

Climate change, flooding and pollution

Policy SP11: Climate change, flooding and pollution

We will work to limit, mitigate and adapt to the negative impacts of climate change, flood risk and all forms of pollution. We will:
a. ensure new development minimises and mitigates its impact on the environment and climate change by considering matters relating (but not necessarily limited) to the provision of green space, renewable energy, energy efficiency, water consumption, drainage, waste, pollution, contamination and sustainable construction techniques;
b. ensure new development reduces or mitigates against flood risk and pollution;
c. take a sequential approach to development in all areas of flood risk; and
d. protect existing flood storage reservoirs and require new flood storage reservoirs to be provided where appropriate.

5.136 Climate change continues to be a subject that features prominently on the World Stage. As part of our commitment to limiting the Borough's negative impacts on the environment, we will ensure that all new developments are energy efficient; have low water consumption; incorporate appropriate drainage (SuDS); incorporate waste recycling; minimise pollution; remediate contamination; and seek to adopt sustainable construction techniques.

5.143 Stevenage lies under flight paths in and out of London Luton Airport. Airport passenger numbers have grown significantly since the turn of the Millennium and will continue to do so. We will make sure that new development,

particularly to the west of the town, conforms with advice on acceptable levels of exposure to aircraft noise.

Policy HO2: Stevenage West

Land to the west of Stevenage, as defined by the policies map, is allocated for the development of approximately 1,350 dwellings. A Masterplan for the whole site will be required as part of any planning application. The Masterplan must be approved prior to the submission of detailed development proposals for the site.

Development proposals will be permitted where the following criteria are met:
…….
q. The impact of noise pollution from London Luton Airport is mitigated; and
……...

Policy FP7: Pollution

All development proposals should minimise, and where possible, reduce air, water, light and noise pollution. Applications for development where pollution is suspected must contain sufficient information for the Council to make a full assessment of potential hazards and impacts. Planning permission will be granted when it can be demonstrated that the development will not have unacceptable impacts on:
a. The natural environment, general amenity and the tranquillity of the wider area, including noise and light pollution;
b. Health and safety of the public; and
c. The compliance with statutory environmental quality standards.

13.41 Air, water, light and noise pollution arising from new development can individually and cumulatively have a significantly damaging impact on the countryside, on peoples' living environment and on wildlife. Whilst lighting is desirable for safety, recreation and the enhancement of some buildings, inappropriate lighting can cause sky glow, glare and light spill and represents energy waste.

13.42 We will seek to ensure that levels of pollution are kept to a minimum and are acceptable to human health and safety, the environment and the amenity of adjacent or nearby land users. Environmental Health legislation regulates many forms of pollution, but it is clearly preferable to prevent conflict from new development arising in the first place. The weight given to each criterion will depend on the particular circumstances and relevant control authorities will be consulted as necessary.

Policy FP8: Pollution sensitive uses

Planning permission for pollution sensitive uses will be granted where they will not be subjected to unacceptably high levels of pollution exposure from either existing, or proposed, pollution generating uses. Planning permission in areas having the potential to be affected by unacceptable levels of aircraft noise will be subject to conditions or planning obligations to ensure an adequate level of protection against noise impacts.

13.45 Pollution sensitive uses, such as housing, schools and hospitals, should ideally be separated from pollution generating uses, such as industrial units and airports, wherever possible.

13.46 Stevenage is located in close proximity to London Luton Airport and is, therefore, affected by aircraft noise generated from it. The direction of the runway means that some planes fly over Stevenage to take off and land. However, national guidance defines the levels of noise experienced as being acceptable. An application has been granted for work to facilitate the growth of London Luton Airport. This would see the airport cater for up to 18 million passengers per annum before the end of our Local Plan period.

13.47 Noise contours identified in the London Luton Noise Action Plan, 2013 - 2018, extend in close proximity to the western extent of the proposed development west of Stevenage. Development in this area, particularly, will need to ensure that any noise impacts are mitigated.

Dacorum Core Strategy 25th September 2013

'Pollution and Waste Management

18.33 The planning system plays a key role in the location and standard of development. Together with other consent regimes and processes, it can limit the impact of (and prevent) polluting emissions – i.e. noise, light, fumes, chemicals, noxious and hazardous substances and waste in general. Standards set nationally should continue to be achieved. When standards become more stringent, efforts must be made to enhance the quality of the air, water and/or soils.

18.34 In Dacorum special consideration needs to be given to:

- *the quality of the groundwater supplying the chalk aquifer;*
- *protecting the habitat and biodiversity of chalk streams;*
- *the maintenance of higher quality agricultural areas and the sand and gravel belt;*
- *limiting the effects of noise and air pollution along major routes (i.e. road, rail and aircraft from Luton Airport);*
- *retaining tranquil parts of the Chilterns Area of Outstanding Natural Beauty and Boarscroft Vale; and*
- *the risks associated with Buncefield Oil Terminal.*

18.35 The planning system has a role to play in the minimization of waste at or near source and in the disposal of household, commercial and construction waste. Unnecessary waste should be reduced and managed nearer to its source. To avoid unnecessary waste going to landfill sites, developers will be expected to avoid potentially polluting developments, the creation of additional waste, and the location of new development near existing sources of pollution. Where waste is unavoidable it will need to be transferred and managed. Waste recycling and management will be appropriate in many General Employment Areas. New facilities may be provided through the relocation of the existing

Household Waste Recycling Centre and Waste Disposal Centre in East Hemel Hempstead.

……..

POLICY CS32: Air, Soil and Water Quality

Development will be required to help:

(a) support improvements in identified Air Quality Management Areas and maintain air quality standards throughout the area;
(b) maintain soil quality standards and remediate contaminated land in line with Environment Agency, Defra and Natural England guidance; and
(c) improve water quality standards in line with the Water Framework Directive, Environment Agency and Natural England guidance.

Any development proposals which would cause harm from a significant increase in pollution (into the air, soil or any water body) by virtue of the emissions of fumes, particles, effluent, radiation, smell, heat, light, noise or noxious substances, will not be permitted.

Advice on the storage and handling of hazardous substances will be taken from the Health and Safety Executive.'

North Hertfordshire District Council Local Plan 2011-2031
Proposed Submission October 2016

'Policy SP19: Sites EL1, EL2 and EL3 – East of Luton

Land to the east of Luton, as shown on the Proposals Map, is allocated as a Strategic Housing Site for a new neighbourhood of approximately 2,100 homes.

Planning permission for residential-led development will be granted where the following site-specific measures requirements are met:

……..
j. Appropriate noise mitigation measures, to potentially include insulation and appropriate orientation of living spaces;

……..

4.224 The site is in close proximity to the Luton Airport noise corridors and mitigation measures may be required, particularly towards the south-east of the site which lies closest to the flight path.

King's Walden

Infrastructure and mitigation

13.180 Breachwood Green is located on the approach and departure flightpaths from Luton airport and any schemes will need to demonstrate that noise issues

have been appropriately addressed and that internal noise levels within any new homes are within relevant guideline levels.

Policy D3: Protecting living conditions

Planning permission will be granted for development proposals which do not cause unacceptable harm to living conditions.

Where the living conditions of proposed developments would be affected by an existing use or the living conditions of an existing development would be affected by a proposed use, the Council will consider whether there are mitigation measures that can be taken to mitigate the harm to an acceptable level. If the Council is not satisfied that mitigation proposals would address the identified harm, development proposals will not be permitted.

9.19 All development has the potential to have an adverse impact on its neighbours, in a wide variety of ways. Such harm may arise from traffic generation, parking, loss of daylight and sunlight, noise, overlooking, pollution (including light pollution) and dominance as well as other issues.

9.22 There are two ways mitigation may occur. Either the development can incorporate measures to reduce the effect it has, or it can fund works off site to reduce the impact on those affected by it. This latter course of action may be appropriate for development such as the expansion of airfields, where there will inevitably be an increase in noise, but it may be possible to provide sound protection to those buildings affected by that noise.'

Noise and Vibration

5.47 Noise can have a detrimental effect on the environment and on quality of life. PPG 24 'Noise' provides guidance on the use of planning powers to minimise the adverse impact of noise. In accordance with that advice the Council will seek to ensure that noise-sensitive developments, such as housing, are separated from major sources of noise. It will also seek to ensure that new development with a potential for causing noise nuisance is sited away from noise-sensitive land uses, both existing and known proposed developments. Noise can be accompanied by vibration that can cause disturbance. British Standard 6472:1992 will be used to evaluate exposure to vibration in buildings. The Council has powers under Environmental Health legislation in respect of statutory noise nuisances.

5.48 In considering proposals for development the Council will take into account:

- *Possible future increases in noise levels;*
- *That the introduction of noisy activities into some residential and rural areas can be especially disruptive because of their existing very low background noise levels;*
- *That intermittent sources of noise can be more disruptive than constant sources;*
- *That particular difficulties are posed by fast food restaurants, public houses, night clubs etc, both from noise generated within the*

establishments and by customers in the vicinity, traffic and parking, especially in view of their evening and late night activity;

- *That whilst design measures such as orientation, layout and double-glazing can reduce noise levels within buildings, such measures are less effective in reducing the level of noise experienced in public or private amenity areas.'*

Welwyn Hatfield District Plan 2005

'Policy R19 - Noise and Vibration Pollution

Proposals will be refused if the development is likely:

v. To generate unacceptable noise or vibration for other land uses; or
vi. To be affected by unacceptable noise or vibration from other land uses.

Planning permission will be granted where appropriate conditions may be imposed to ensure either:

vii. An adequate level of protection against noise or vibration; or
viii. That the level of noise emitted can be controlled.

Proposals should be in accordance with the Supplementary Design Guidance.'

Welwyn Hatfield Draft Local Plan Proposed Submission August 2016

Policy SADM 18
Environmental Pollution

When considering development proposals, the Council will adopt the approach set out below to ensure that pollution will not have an unacceptable impact on human health, general amenity, critical environmental assets or the wider natural environment.

<u>Contaminated land and soil pollution</u>

Planning applications for proposals on land formerly used for industrial, commercial or utilities purposes, or land which is considered to be contaminated or potentially contaminated, must be accompanied by a preliminary Contaiminated Land Risk Assessment.

Proposals which, by their nature, risk contributing to soil and water pollution will be required to demonstrate how this risk will be avoided or mitigated to an acceptable level.

……..

<u>Noise and Vibration</u>

A Noise and Vibration Impact Assessment will be required for proposals with the potential to cause disturbance to people or the natural environment due to noise and/or vibration and for proposals that are considered to be sensitive to noise and/or vibration. Proposals that would result in or be subject to noise pollution and/or vibration that is:

i. Very disruptive and would have an unacceptable adverse effect on human health or the natural environment will not be permitted.

ii. Disruptive and would have a significant adverse effect on human health of the natural environment will be refused unless the need for, and benefits of, the development significantly outweigh the harm and all feasible solutions to avoid and mitigate that harm have been fully implemented.

iii. Intrusive and would have an adverse effect on human health or the natural environment will be resisted unless the need for, and benefits of, the development outweigh the harm and all feasible solutions to avoid and mitigate that harm have been fully implemented.

Justification

12.57 The National Planning Policy Framework outlines the role planning has in creating has in creating healthy places and to prevent unacceptable risks to health and the environment arising from pollution.

12.58 National planning policy establishes the objective for planning and new development to support healthy inclusive communities[(73)] and to prevent unacceptable risks to human health, the natural environment and general amenity arising from pollution (para 120). Planning should aim to avoid unacceptable and significant adverse impacts on health, quality of life and the natural environment associated with new and existing development[(74)].

……

<u>Noise and vibration</u>

12.67 Noise and vibration can have a detrimental effect on health and the natural environment. National planning policy requires local policies to avoid giving rise to unacceptable noise impacts and give careful consideration to proposals that would have significant adverse effects. SADM 18 adopts a hierarchical approach to achieve this.

12.68 The siting, layout, landscaping and detailed building design of proposals, coupled with other noise-specific mitigation measures, should seek to avoid and minimise the adverse impacts of noise and vibration rather than rely upon expensive and ineffective retrospective measures. The Council will seek to

ensure that noise-sensitive developments, such as housing, schools, residential and nursing homes, are separated from major sources of noise both to protect new occupiers and users and to avoid prejudicing existing development and uses. The Council will also seek to ensure that new development with a potential for causing noise nuisance are sited away from noise-sensitive land uses, both existing and known proposed developments. Noise can be accompanied by vibration that can cause disturbance. British Standard 6472-1:2008 Evaluation of human exposure to vibration within buildings will be used to evaluate exposure to vibration.

12.69 In considering noise pollution and vibration aspects of proposals, the Council will take into account:

- *Possible future increases in noise levels.*
- *The introduction of noisy activities into some residential and rural areas that have very low background noise levels.*
- *The nature of noise sources, such as intermittent sources of noise which can be more disruptive than constant or anonymous source, and uses such as fast food restaurants, public houses and night clubs which generated noise from within the establishments and through the activities of users within the immediate area in the evening and late night activity;*
- *That whilst design measures such as orientation, layout and double glazing can reduce noise within buildings, such measures are less effective in reducing the level of noise experienced in external amenity areas. As far as possible residents should have access to a peaceful (below 50dBA Leq) external amenity space*
- *Traffic associated with 24 hour warehousing and distribution, and other uses which give rise significant HGV and other traffic generation.*
- *Noise issues created by the use and operation of development itself, such as plant and services.*

The East Herts District Plan 2018

'24 Environmental Quality

24.1 Introduction

24.1.1 The control of pollution is critical to achieving the District Plan's strategic objectives by promoting healthy lifestyles and an enhanced quality of life for residents and visitors to the district. Pollution control through development also plays a significant role in planning for climate change and working in harmony with the environment to conserve natural resources and increase biodiversity.

24.1.2 Proposals for all types of development must therefore take into account nearby land uses to ensure that the right development is located in the right place across the district, in order to safeguard the quality of the environment. Policies relating to water quality and water pollution are contained within Chapter 23: Water.

……

24.3 Noise Pollution

24.3.1 The impact of noise on the environment can be detrimental to health and quality of life. There is therefore a need to control the introduction of noise sources into the environment, as well as ensuring that new noise sensitive development is located away from existing sources of significant noise……...

Policy EQ2 Noise Pollution

I. Development should be designed and operated in a way that minimises the direct and cumulative impact of noise on the surrounding environment. Particular consideration should be given to the proximity of noise sensitive uses, and in particular, the potential impact of development on human health.

II. Applications should be supported by a Noise Assessment in line with the Council's Noise Assessment Planning Guidance Document.

III. Noise sensitive development should be located away from existing noise generating sources or programmed developments where possible to prevent prejudicing the continued existing operations. The use of design, layout, landscaping tools and construction methods should be employed to reduce the impact of surrounding noise sources.'

Policy LLP31 – Sustainable Transport Strategy

5.3.11 The strategy for sustainable transport in Luton is to ensure that an integrated, safe, accessible, and more sustainable transport system supports the economic regeneration and prosperity of the town. Part D of the policy specifically provides "support for the continued economic success of LLA as a transport hub which will be delivered through:

- *Measures to ensure there is capacity at strategically important junctions.*
- *Continued enhancement of sustainable modes of transport via the Airport Surface Access Strategy".*

Policy LLP31 – Sustainable Transport Strategy

5.3.11* The strategy for sustainable transport in Luton is to ensure that an integrated, safe, accessible, and more sustainable transport system supports the economic regeneration and prosperity of the town. Part D of the policy specifically provides "*support for the continued economic success of LLA as a transport hub which will be delivered through:

- ***Measures to ensure there is capacity at strategically important junctions.***
- ***Continued enhancement of sustainable modes of transport via the Airport Surface Access Strategy".***

A34. But other aspects of the policy are also relevant:

'B. Planning Permission will be granted for proposed developments that meet the criteria below, where these are relevant to the proposal:

i. minimises the need to travel;

ii. provides a sustainable transport choice with priority for buses, pedestrians, and cyclists;
iii. reduces road congestion particularly at peak times;
iv. reduces the safety risk to motor vehicles, non-motorised, and vulnerable users;
v. provides cycle parking / storage; and
vi. ensures the quality of the local environment is not compromised.

C. Transport Assessments, Transport

Statements, and Travel Plans should be provided for developments (as set out in Appendix 7) and should conform to the stated requirements.'

5.4 Policy conclusions

5.4.1 The development plan recognises that LLA is one of the key economic drivers for the borough and the wider regions. It is critical to the achievement of jobs and prosperity which the plan seeks to deliver. Policy support is therefore provided to support LLA's growth provided that the associated increase in operational activities such as passenger and aircraft movements do not adversely affect the amenities of surrounding occupiers and the environment.

A35. At no point does the development plan describe LLA as being 'critical' to the achievement of jobs and prosperity. Support for growth of LLA is supported by the development plan, but this is quite obviously not conditional upon only not adversely affecting 'amenities' – it requires noise reduction/no material increase in noise, a significant dimunition and betterment of aircraft operations, sustainable transportation and surface access measures, etc, etc.

5.4.2 Such policy support accords with the Government's overarching planning and aviation policy frameworks to balance the three interdependent objectives of economic, social and environmental prosperities by encouraging the MBU policy in the aviation sector. The assessment of the impacts arising from the Proposed Amendments is set out within the following section.

A36. Government policy does not state that the MBU policy is to balance 'the three interdependent objectives of economic, social and environmental prosperities' (whatever 'prosperities' is supposed to mean). In reality it states that *'1.25 As a result of the consultation and further analysis to ensure future carbon emissions can be managed, government believes there is a case for airports making best of their existing runways across the whole of the UK…….. 1.29 Therefore the government is supportive of airports beyond Heathrow making best use of their existing runways. However, we recognise that the development of airports can have negative as well as positive local impacts, including on noise levels.'*

6. Planning Assessment

6.2 Principle of Development

'6.2.1 The proposed increase in passenger capacity at LLA would help achieve the national MBU aviation policy goal, as the airport would grow and deliver the benefits of growth by making best use of its existing runway. The Government

is explicitly supportive of airports beyond Heathrow making best use of their existing runways as noted in the Beyond the Horizon: The Future of UK Aviation – Making Best Use of Existing Runways (2018). In that document, the Government recognises an accelerated growth in UK demand for flying particularly around London and forecasts how airports making best use of their existing runway alongside the new Northwest Runway at Heathrow (Runway 3) could lead to accommodating the increasing demand as shown Figure 6.1 below (in a table extracted from the document). The Proposed Amendments at LLA would aid this goal.

A37. Paragraph 6.2.1 refers to Beyond the Horizon: The Future of UK Aviation – Making Best Use of Existing Runways (2018) a key piece of Government policy for this planning application – and yet it isn't even mentioned in Section 5.2 of the PS dealing with *'the relevant development plan for LC in the context of national policy frameworks across aviation and planning'*.

A38. With regard to Figure 6.1, apart from the final column 'LHR NWR + best use' the figures in the other three columns come from the 2017 national aviation forecasts which assume a throughput at Luton of 18mppa, that being the consented throughput. As the Figure demonstrates, the LHR NWR + best use scenario at 2030 does not include any additional best use capacity over and above the LHR NWR base (which includes 18mppa at LLA). There is therefore no assumption within this Government policy document that a best use policy is intended to provide additional capacity above baselines in the period to 2030 or indeed that any is needed.

Table 6.1 Assessment against Policy LLP6

ii. they contribute to achieving national aviation policies;	**The Proposed Amendments are in accordance with the APF which supports the growth of regional airports across the UK and making better use of existing runways at all UK airports to improve performance, resilience and passenger experience,**

A39. The assessment only refers to the APF – there is no assessment of the compatibility of the proposal with any other aspect of national guidance.

iii. are in accordance with an up-to-date Airport Master Plan published by the operators of London Luton Airport and adopted by the Borough Council;	**An up-to-date Masterplan produced by LLAOL for 19 mppa is submitted as part of the accompanying application and the Proposed Amendments are in accordance with this document.**

A40. An up-to-date MP has indeed been submitted with the application. However, the assessment fails to acknowledge that the MP has not been adopted by LBC. Interestingly, unlike the assessment of other criteria, this assessment does not conclude *'It therefore complies with this criterion'* – and the reason for this of course is that it cannot.

iv. they fully assess the impacts of any increase in Air Transport Movements on surrounding occupiers and/or local environment (in terms of noise, disturbance, air quality and climate change impacts), and identify appropriate forms of mitigation in the event significant adverse effects are identified;	**The supporting ES Addendum assesses the environmental impacts of the Proposed Amendments. The ES Addendum found that there would be significant adverse effects in relation to noise and health. Noise insulation would be offered to minimise the effects of noise to those properties above the SOAEL.** **In terms of air quality and climate change the ES Addendum found there would be no unacceptable impacts. The Proposed Amendments therefore complies with this criterion.** **The environmental impacts of the Proposed Amendments are considered further in this Planning Statement in section 6 below.**

A41. The ES does not describe the proposal as generating *'no unacceptable impacts'*. There are impacts that are described as *'……the effect of the Proposed Scheme during ……would be significant'* and in relation to mitigation states *'……existing mitigation and enhanced mitigation are sufficient to meet the Government's policy aim to mitigate and minimise adverse impacts on health and quality of life as stated in the NPSE'*.

v. achieve further noise reduction or no material increase in day or night time noise or otherwise cause excessive noise including ground noise at any time of the day or night and in accordance with the airport's most recent Airport Noise Action Plan;	**The supporting ES Addendum assesses the noise effects of the Proposed Amendments. It concludes that the Proposed Amendments will not cause unacceptable adverse noise effect for any properties. However, expansion will result in significant noise effects above 1dB at night-time compared to the existing situation. Therefore these are considered to have the potential significant effects. Whilst 1,877 dwellings will experience noise levels that are considered significant, all of those properties will be offered mitigation in the form of noise insulation to minimise the effects of noise.** **The Proposed Amendments therefore complies with this criterion.**

A42. The assessment describes the scale of significant effects of the increase in noise associated with the proposal and then puzzlingly goes on to conclude the proposal complies with the criterion – presumably because noise insulation is offered for mitigation. But the criterion makes no reference to mitigation – it simply states that proposals must achieve a noise reduction or no material increase. The proposal will not result in 'reduction' in noise and the increases in noise associated with it are clearly 'material'. The proposal cannot be other than in conflict with this criterion.

A43. The assessment makes no mention of the compliance of the proposals with the most recent Airport Noise Action Plan as required by criterion v. That NAP contains a range of commitments that are consistent with achieving the requirements of the

existing planning permission. The proposals can only be fundamentally in conflict with it.

vi. include an effective noise control, monitoring and management scheme that ensures that current and future operations at the airport are fully in accordance with the policies of this Plan and any planning permission which has been granted;	**Luton Airport will continue to operate its noise control, monitoring and management scheme, in accordance with its Noise Action Plan and operational measures to minimise noise effects. The Proposed Amendments would therefore continue to comply with this criterion**

A44. The criterion requires the provision of an effective noise control, monitoring and management scheme. The assessment simply refers to a range of existing schemes, some of which this application is in conflict with and indeed propose to change. It is necessary to establish whether the proposed noise control, monitoring and management scheme will achieve the objectives of this criterion.

vii. include proposals that will, over time, result in a significant diminution and betterment of the effects of aircraft operations on the amenity of local residents, occupiers and users of sensitive premises in the area, through measures to be taken to secure fleet modernisation or otherwise;	**The ES Addendum explains that noise levels will reduce by 2028. Properties that experience an increase in noise above the SOAEL will be offered mitigation in the form of noise insulation to minimise the effects of noise. With this mitigation, the Proposed Amendments therefore comply with this criterion.**

A45. The assessment against this criterion is ridiculous. The application is partly generated by the inability of the Airport to contain its adverse noise impacts and partly to increase noise impacts associated with existing permitted growth of 18 mppa and the proposed additional 1 mppa capacity growth to 19 mppa. So in the immediate and forthcoming short to medium term the proposal can only be in conflict with this criterion – it will not result in a significant diminution or betterment – the opposite in fact.

A46. In the longer term, the existing planning permission to 18 mppa requires the application to submit a strategy to reduce the size of day and night noise contours by 2028 to within specific spatial extents. This application seeks to change the wording of the consent such that those 2028+ contours are larger. So in the longer term, whilst a reduction in noise contours is to be achieved in the same way as the existing planning permission, that reduction will be smaller than those that are required by the existing planning permission.

A47. On any reading of this criterion, the application can only be in conflict with it.

6.4 Socioeconomic impacts

6.4.3 The Proposed Amendments would deliver more economic benefits than the 'do-nothing' scenario (i.e. maintaining operations under the Original Planning Permission).

A48. The application does not appear to make any attempt to quantify the scale of the ‘more’ economic benefits.

6.4.4 LLA intends to provide one-off grants between £12,000 and £15,000 to local councils to be used to provide community improvements.

A49. There does not appear to be any intelligence within the application explaining how these grants are to be calculated, which local councils will be eligible and how the scheme is proposed to be operated and how the consent will secure provision of the grants.

Air quality

Planning Policy

6.5.2 Policy LLP6 requires that expansion at the airport must fully assess the impacts of any increase in Air Traffic Movements on air quality. Policy LLP38 requires that evidence is produced to demonstrate whether the development will have an adverse impact on air quality.

A50. Paragraph 6.5.2 makes no reference to relevant national policy.

Climate Change

Mitigations

6.5.27 The adoption of mitigation measures (as set out in the Carbon Reduction Plan) to reduce airport building and ground operation emissions, and the Travel Plan to reduce surface access emissions, would enable the GHG emissions associated with the Proposal to be mitigated where possible.

6.5.28 LLAOL has also committed to produce a Carbon Reduction Plan. This will set out the roadmap for achieving a net zero airport for Scope 1 and 2 emissions, as well as indicating the approaches by which LLAOL can influence Scope 3 emissions. An outline version of the Carbon Reduction Plan will be produced during the consideration of this ES, and ahead of the determination of the planning application. The three categories (Scope) of emissions are as follows: ……..

Summary

6.5.30 The proposed scheme:

- **Is very unlikely to materially affect the ability of the UK Government to meet the 37.5 MtCO2/yr ‘planning assumption’ for UK international aviation GHG emissions in 2050.**
- **Is unlikely to materially affect the ability of the UK Government to meet its carbon targets for net zero in 2050, on the basis that a Carbon Reduction Plan is produced.**
- **Is unlikely to materially affect the ability of LC to meet its carbon neutral borough by 2040 aim, on the basis that a Carbon Reduction Plan is produced.**

- **Is consistent with the NPPF requirement for developments to 'support the transition to a low carbon future in a changing climate', on the basis that a Carbon Reduction Plan is produced.**

6.5.31 The Proposed Amendments are considered to have a low GHG emissions magnitude, and the overall effect of projected GHGs associated with the Proposed Amendments on the global climate is considered minor adverse, and therefore not significant based on the commitment for further mitigations. The proposal is therefore considered to be in compliance with Policy LLP37 and LLP38 of the development plan and the NPPF.

A51. The Environmental Statement states that:

'7.11.25 …….. An outline version of the Carbon Reduction Plan will be produced during the consideration of this ES, and ahead of the determination of the planning application……...

7.11.26 On the basis of the commitment to produce a Carbon Reduction Plan, the scale of GHG emissions from the Proposed Scheme are such that they will have a negligible effect on the ability of the UK to meet its carbon targets. Additionally, the scale of GHG emissions from the Proposed Scheme are such that they are unlikely to affect the ability of Luton Borough Council to meet its carbon neutral borough aim.

7.11.30 The mitigations set out in Section 7.8, show that the GHG emissions associated with the Proposed Scheme have been mitigated wherever practicable, with a further commitment to producing a Carbon Reduction Plan as described in further detailed in Section 7.13. The Carbon Reduction Plan will be required to set out the ambition and actions required for ensuring LLA's Scope 1 and 2 emissions are in-line with the UK net zero 2050 target, and how LLA will use its influence to reduce Scope 3 emissions where possible.

7.11.32 Therefore, the Proposed Scheme:

- *Is very unlikely to materially affect the ability of the UK Government to meet the 37.5 MtCO2/yr 'planning assumption' for UK international aviation GHG emissions in 2050.*
- *Is unlikely to materially affect the ability of the UK Government to meet its carbon targets for net zero in 2050, on the basis that a Carbon Reduction Plan is produced.*
- *Is unlikely to materially affect the ability of Luton Borough Council to meet its carbon neutral borough by 2040 aim, on the basis that a Carbon Reduction Plan is produced.*
- *Is consistent with the National Planning Policy Framework (NPPF) requirement for developments to 'support the transition to a low carbon future in a changing climate', on the basis that a Carbon Reduction Plan is produced.*

7.13 Consideration of additional mitigation

7.13.2 A Carbon Reduction Plan will be produced which will set out the roadmap for achieving a net zero airport for Scope 1 and 2 emissions, as well as indicating the approaches by which LLAOL can influence Scope 3 emissions.

An outline version of the Carbon Reduction Plan will be set out ahead of the determination of the planning application by LBC.

Airport building and ground operations

7.13.4 Through the Responsible Business Strategy, LLAOL has committed to being aligned with the UK net zero target for 2050. LLAOL has therefore committed to develop a Carbon Reduction Plan, which will set out the ambition and actions required for ensuring LLA's Scope 1 and 2 emissions are in-line with the UK net zero 2050 target. An outline version of the Carbon Reduction Plan will be produced during consideration of the ES, and ahead of determination of the planning application. The full version would be provided following planning approval, as a time-bound condition of the planning permission. This forms part of the wider commitment to reaching more ambitious levels of certification within the Airport Carbon Accreditation Scheme, which would ultimately result in carbon neutral operations.'

A52. Both the PA and ES make reference to the preparation and availability of a CRP to inform decision-making, but make no reference to it being consulted on.

A53. The ES states that the requirement to produce a full version of the CRP will be secured as a 'time-bound condition' of the planning permission. But the PS makes no reference to this commitment or produce any proposed wording, unless it does in the case of restricting maximum terminal flow capacity levels to safeguard processing capacity at the East Hyde sewage treatment works (PS para 6.3.11).

A54. If the findings of the ES are predicated on the production of an outline CRP in advance of determination, that Plan should be consulted upon and views on it taken into consideration in the determination of the application.

Health

Health Mitigation Measures

6.5.38 In order to minimise effects on health, LLAOL will increase contributions to the Noise Insulation Fund with an increased budget of £400,000 in 2021, £900,000 in 2022 and £700,000 in 2023.

Summary

6.5.39 Overall, the ES Addendum demonstrates that the Proposed Amendments will have significant adverse effects on health due an increase in noise. In order to minimise this effect, all properties that will experience a level that is identified to have potential significant health effects will be eligible for noise insulation to minimise the effects of noise. In addition, the airport will continue to implement current noise mitigation measures. With this mitigation the Proposed Amendments are compliant with the NPPF and the development plan.

A55. The sound insulation offer of an additional £1.7 million only seeks to provide additional mitigation to three quarters of those properties subject to significant adverse effects (based on likely uptake). And as the ES acknowledges, these measures can only minimise the increase in noise and potential adverse health effects when windows

and patio doors are closed and as a consequence there would still be a potentially significant (minor to moderate) residual health effect on some residents experiencing noise above the daytime and night-time SOAEL levels.

Noise

Planning Policy

6.5.40 In the ES the assessment of noise considers the effects on occupiers of residential properties and non-residential premises within the vicinity of the airport from changes in the noise environment as a result of the Proposed Amendments.

6.5.41 The planning policy context pertaining to noise is set out in Policy LLP6 of the development plan and paragraph 170 of the NPPF.

A56. Paragraphs 6.5.40 and 41 make no reference to relevant national policy.

6.5.49 Overall, the ES identifies that no properties will experience unacceptable noise levels and no properties will experience a significant adverse effect from the Proposed Amendments in the day. However, the expansion will lead to significant noise effects at night-time because of an increase in noise compared to the existing situation above a level that is identified to have potential significant health effects. In order to minimise this effect, all properties that will experience a level that is identified to have potential significant health effects will be eligible for noise insulation to minimise the effects of noise. In addition, the airport will continue to implement current noise mitigation measures.

6.5.50 With this mitigation the Proposed Amendments accords with Policy LLP6 of the Development Plan and the NPPF.

A57. The sound insulation offer of an additional £1.7 million only seeks to provide additional mitigation to three quarters of those properties subject to significant adverse effects (based on likely uptake). And as the ES acknowledges, these measures can only minimise the increase in noise and potential adverse health effects when windows and patio doors are closed and as a consequence there would still be a potentially significant (minor to moderate) residual health effect on some residents experiencing noise above the daytime and night-time SOAEL levels.

8. Conclusion

8.1.2 National aviation policy and the Development Plan support growth and development at Luton Airport, provided that environmental effects are controlled and noise effects are minimised. The NPPF also makes clear that significant weight should be placed on the need to support economic growth. The proposal will enable Luton Airport to grow beyond 18 mppa to 19 mppa thereby supporting the economy and local jobs. The Proposed Amendments will ensure that Luton Airport continues and enhances its role as the principal international gateway for the region and a significant economic driver.

A58. National aviation policy does not specifically support growth and development at Luton Airport – it generally supports making best use of existing runways but that

individual proposals should be judged on their individual merits. There are no references to 'Controlled' in national or local policy. The application makes no assessment of the economic benefit or additional local jobs created by the proposed additional 1 mppa.

8.1.6 In order to minimise this effect, all properties that will experience a level that is identified in planning policy to have a significant observed adverse effect will be offered mitigation in the form of noise insulation to minimise the effects of noise. The Proposed Amendments therefore complies with this criterion.

A59. What criterion?

A60. See paragraphs A55 and A57 .

6.4.3 The Proposed Amendments would deliver <u>more</u> economic benefits than the 'do-nothing' scenario (i.e. maintaining operations under the Original Planning Permission). [emphasis added]

A61. Whether or not the economic benefits are 'more' or 'significant' they do not appear to be quantified.

8.1.9 In conclusion, whilst the Proposed Amendments will result in some adverse environmental effects, these have been mitigated so far as possible. Taking into account the significant economic benefits associated with expansion of the airport to 19 mppa and considering the existing and enhanced mitigation on balance it is considered that the Proposal is compliant with the Development Plan, national planning policy and other material considerations. In-line with the presumption in favour of sustainable development advanced in the NPPF, it is respectfully submitted that the proposal to increase the annual passenger cap from 18 mppa to 19 mppa be granted planning permission.

A62. 'Some adverse effects' – should read 'significant adverse effects'. See para A55. and A57. with regard to scale and effectiveness of mitigation measures.

A63. It would be reasonable to assume that additional growth at the Airport will generate some economic benefit. But if the applicant is reliant on that economic benefit to allege that it compensates for, counterbalances or outweighs environmental disbenefit, it is incumbent upon it to assess/quantify those alleged benefits.

A64. But the application is not accompanied by any assessment of the economic benefits associated with the proposal. Only generic information is provided in relation to the existing economic attributes of the Airport.

A65. In the absence of any intelligence relating to the additional economic benefits specifically relating to the additional proposed 1 mppa throughput, it is inappropriate to allege that economic benefit outweighs environmental disbenefit.

Appendix 2
HCC response to the application
comprising a letter from Councillor Stephen Boulton dated 27 October 2021

Executive Member
Growth, Infrastructure & Planning

Hertfordshire

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27th October 2021

Dear Sir/Madam,

Variation of Conditions 8 (passenger throughput cap), 10 (noise contours), 22 (car parking management), 24 (travel plan) and 28 (approved plans and documents) to Planning Permission 15/00950/VARCON (dated 13th October 2017) to accommodate 19 million passengers per annum and to amend the day and night noise contours.

London Luton Airport, Airport Way, Luton.

21/00031/VARCON

Since submission of its original representations (dated 11th June 2021) on this application the County Council has been closely following the exchanges between the local planning authority (LPA) and its specialist technical advisors, the applicant and third parties in relation to further intelligence and clarification provided by the applicant on its proposals.

Significant adverse noise effects

None of the intelligence/clarification changes the County Council's position that the noise impacts of the proposal are so significant as to be totally unacceptable and that accordingly the application should be refused. As the LPA's specialist noise advisor observes:

> *'1.2 Following a Regulation 25 request by Luton Borough Council, Wood Group issued an update to Volume 2 of the ES, including revisions to Chapter 8 dated May 2021. I have reviewed the revised document, and consider that the following concerns have largely been addressed:*

……

1.3 This does not alter the overall findings with respect to noise impact, and attention is drawn to the following issues:

If permitted, the application is forecast to give rise to significant adverse noise effects at 1,877 dwellings by virtue of night-time noise level increases of more than 1dB arising in locations exposed to average noise above the SOAEL (55dB LAeq,8h). This is not, in itself, a reason for refusal subject to appropriate mitigation being provided. However, it is indicative of the scale of noise effects associated with this application……..'

Sound Insulation Grant Scheme

The removal of the limit on eligibility for Sound Insulation Grant Scheme is welcomed, but of course it remains the case that it will not be practical to insulate all those that will be subject to significant adverse noise effects – as the LPA's specialist noise advisor observes *'……'SIGS being provided in advance of the significant adverse effects occurring. This is unlikely to happen in practice.'*

Forecasting/Impact assessment scenarios

There have been exchanges between the LPA, the applicant and third parties with regard to matters relating to forecasting of future operations that amongst other matters underpin noise modelling and the 'without development'/ 'extent of the existing 18 million passengers per annum (mppa) Condition 10' scenario against which the noise impacts of the proposal have been assessed. To the County Council's knowledge, these matters have not been resolved to a satisfactory degree to enable a robust decision on the proposals to be made. The exchanges have not resolved the LPA's noise adviser's concerns:

'2.2 I accept that the noise case rests on the expected effects arising in future years for which operating numbers are forecast. Wood explain the basis on which fleet replacement assumptions have been made and I do not take issue with it. So far as the total operating numbers are concerned, in the absence of contrary advice from an aircraft forecasting expert I have no basis for disputing the figures. I would note, however, that the retention of a clearly infeasible number for 2020 does not enhance the credibility of the numbers forecast.'

The County Council understands that the LPA is not seeking any further clarification to inform its decision-making and will be reporting the application to committee in due course. The Secretary of State has already been asked to call the application in for his own determination and prevent the LPA granting planning permission for the proposal until he has had such time as is necessary to decide whether to call the application in – and part of the reason for this relates to forecasting/assessment uncertainty.

The County Council will expect any committee reporting process to clearly set out the basis and robustness of the forecasting and provide clear advice to committee that the noise impacts of the proposal are based upon a comparison of the forecast impacts

were permission to be granted against the most realistic ‘without development’/’extent of the existing 18 mppa Condition 10’ scenario. Securing independent advice would be of some considerable benefit to ensure committee is suitably informed and to prevent any concerns that might materialise in terms of the robustness of any decision.

It is the County Council’s position that this application should be refused for the reasons set out in its original 11th June 2021 and this follow-up representation.

Yours sincerely,

Stephen Boulton

Executive Member
Growth, Infrastructure & Planning

Appendix 3
HCC response to the application
comprising a letter from Councillor Stephen Boulton dated 25 November 2021

Executive Member
Growth, Infrastructure & Planning

Hertfordshire

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25th November 2021

Dear Sir/Madam,

Variation of Conditions 8 (passenger throughput cap), 10 (noise contours), 22 (car parking management), 24 (travel plan) and 28 (approved plans and documents) to Planning Permission 15/00950/VARCON (dated 13th October 2017) to accommodate 19 million passengers per annum and to amend the day and night noise contours.

London Luton Airport, Airport Way, Luton
21/00031/VARCON

1. The County Council has taken the opportunity to review the published report (the 'Report') to 30th November Development Management Committee (the 'Committee') in relation to the above and takes the view that the Report does not form a sufficiently robust basis to enable the Committee to come to a properly informed view and decision upon the planning application before it. The reasons for this are set out below.

With/without development scenarios

2. The Report points to the concerns of a number of parties making representations on the application that it fails to provide sufficient clarity on the 'with' and 'without' development scenarios. In response the Report points to the commitments of the major airlines operating from Luton to the acquisition of the new generation aircraft *'……..the fleet mix for the assessment years has been provided Appendix 8B. This shows a steady reduction in the number of movements by the older generation aircraft and a corresponding increase, both in the daytime and night-time, of the movements by the new generation aircraft (the A320neo, A321neo and the B737max)'*. But this does not provide the clarity sought by representors and is likely to

mean very little to Committee members who are collectively charged with making a properly informed decision.

3. Given that the Airport has been unable to operate upwards to and very nearly at 18 million passengers per annum (mppa) without breaching the Condition 10 noise controls of the 18 mppa planning consent, it is not unreasonable – indeed it is imperative - for the reporting and decision-making process to provide absolute clarity on the anticipated 18 mppa consent-compliant scenario (without development – contours not exceeding 19.4 sq km 57dB LAeq(16hr) (0700-2300hrs) contour for daytime noise, 37.2 sq km (48dB Leq(8hr) (2300-0700hrs) contour for night-time noise, reducing to 15.2 sq km and 31.6 sq km respectively by 2028), the 19 mppa scenario (with development) and how the difference between the two generates a 'worst case scenario' to demonstrate the maximum significant adverse noise impact of the planning application/inform the contributions sought to the Noise Insulation Grant Scheme.

4. The County Council's representations have called for the local planning authority (LPA) to commission independent advice on this matter so that Committee can be as confident as can reasonably be expected that the worst case significant adverse noise impact of the proposal has been robustly assessed.

Master Plan

5. The County Council's June representations on this planning application rehearsed a range of concerns it had made to the applicant when it consulted on its Master Plan, advising the LPA that:

> *'1.18 The Master Plan (MP) is considered not to be fit-for-purpose in its current form and requires further work and consultation.*
>
> *1.19 The master plan preparation and approval process should be completed before the planning application is determined.'*
>
> *4.5 The County Council is of the view that LBC does not adopt the MP until such time as it is revised to sit more comfortably with Government guidance and the above other issues raised by the County Council.'*

6. Despite having been submitted some ten months ago as part of the planning application, to the County Council's knowledge the Master Plan remains unchanged and there has been no further engagement on it with the applicant by Luton Borough Council (LBC).

7. The Master Plan was reported to Executive for adoption on 23rd November 2021, only seven days before the planning application is to be reported to Committee. The report to Executive does not appear in any way to advise on the merits or otherwise of the Master Plan – whether it is consistent with Government policy, with LBC's own policy aspirations or indeed advise Executive on the LBC response to the consultation on the Master Plan and whether those comments have been addressed. It simply states:

'9. The Airport Master Plan 2021 has been prepared and published by the airport operator. Adopting the Airport Master Plan will assist the Council in carrying out its functions as local planning authority when considering development proposals at the airport.'

8. Whilst the report to Executive is clear that the Master Plan will not be a Supplementary Planning Document or a Development Plan Document, it will nevertheless '*assist the Council in carrying out its functions as local planning authority when considering development proposals at the airport'*. The Council will no doubt have taken procedural advice on whether or not such a key document to support the in-force Luton Local Plan should be subject to some form of independent public consultation by the local authority. But even if this were not the case (it is acknowledged that there is no expectation in the Aviation Policy Framework that it should), the Report to Committee should presumably advise on the extent to which the application is consistent with the Master Plan to assist it *'in carrying out its functions'*. But the report does not appear to do this.

The scale of alleged economic benefits

9. The County Council's representations on the application have expressed concern that it has failed to undertake a robust assessment of the economic benefits of the proposal and presented alleged economic benefits inconsistently (being variously described as 'significant', 'more', 'could be potential for'). Instead it contains vague generic statements about the economic benefits of aviation and of the Airport that do not relate to the benefits of this specific application – what specific additional economic benefits would it generate? This vagueness and lack of specificity does not provide a sufficient platform to enable the decision-maker to come to a properly informed view on the alleged economic benefits, both in their own right and, crucially, when taken into account in making a judgement when balanced together with other factors key to decision-making – as the Report itself states - *'There is however the need to balance economic benefits against environmental impacts'*.

10. In summarising the County Council's representations, Appendix 2 to the Report states:

*'**Unquantified economic benefits:** HCC note that the planning application contains no evidence of the economic benefits of the proposal, that the claimed benefits have not been properly assessed, have not been quantified, and given that the growth is predominantly achieved by load factors the economic benefits are likely to be more restricted than was historically the case. HCC therefore consider that it is not possible for the LPA to come to a properly informed judgement as to whether the economic benefits outweigh the significant adverse environmental impacts;*

o Officer Consideration: Economic issues are addressed in section (ix) of the report.'

11. However, when one turns to section (ix) of the Report one finds that there is no evidence provided by the applicant on the scale of the alleged economic benefits of the proposal and the Report proceeds, like the application itself, to regurgitate generic

statements about the general economic benefits of aviation and of the Airport. But not only that, the Report goes even further to make strong judgements, advice and steer to Committee:

- *'Real social and economic benefits will be delivered to the local area and sub region which weigh heavily in favour of the proposed development and should be given significant weight.'* (171)
- *'It would therefore be likely that the proposal, which involves a variation to the original permission for the expansion of the airport, would have a significant benefit to the wider area.'* (169)
- *'……that the proposed development would have significant beneficial effects for not only the local economy within Luton, but also within the wider area'.* (169)
- *'It is considered that real economic benefits will be delivered as a result of the expansion proposals, and these weigh heavily in favour of the proposed development and in accordance with the NPPF should be given significant weight'.* (211)

12. These unsubstantiated 'real', 'significant beneficial', 'weigh heavily in favour' judgements are not evidenced by any of the material presented in the planning application and hence are manufactured, misplaced and potentially misleading.

Drafting observations

13. The Report is the mechanism through which Committee is briefed on the proposal, representations on it, relevant national and development plan policy and material considerations and the extent to which the proposal is compliant or otherwise with these. It is critical that the Report does this in a genuinely evidenced/informed and balanced way, to facilitate robust decision-making and reducing the risk of generating concerns relating to the quality of the decision. There are a range of areas where perhaps the Report either falls short of these requirements or could do better. For example:

- Paragraph 4 contains a description of the 'site' within which there is a statement *'To the south, east and north east of the airport the land uses are predominantly rural in character, comprising a mix of farmland with small settlements'*. Given the nature of this application – i.e. changing the spatial extent of the noise contours within the wider spatial area, it might have been appropriate for the Report to have recognised that.

- Paragraph 8 makes reference to the application (ref: 18/00428/EIA) to vary condition 10 of the parent consent. Paragraphs 11, 12 and 13 refer to the current application to vary condition 10. No reference is made to the reason why the 18/00428/EIA application was and why this application is necessary – because the Airport was repeatedly breaching the noise restrictions put in place by Condition 10.

- Paragraphs 16 and 17 state *'The Council appointed noise consultants and climate change consultants to advise on technical matters associated with the application. Following a review of the information that had been submitted, a Regulation 25 request was made to the Wood Group, LLAOL's agent, in April 2021 seeking further information in*

relation to noise and climate. The response from the Wood Group addressed noise issues that had been raised, with the provision of a new noise chapter for the ESA……..'.

…….. Further clarification was sought in July 2021, with a response from the Wood Group being provided in August, addressing points raised by the Council's noise consultants and also third parties.'

Is this correct? The County Council's understanding is that the noise consultants' overall finding, despite ongoing liaison with the applicant, is as follows:

'1.3 This does not alter the overall findings with respect to noise impact, and attention is drawn to the following issues:

If permitted, the application is forecast to give rise to significant adverse noise effects at 1,877 dwellings by virtue of night-time noise level increases of more than 1dB arising in locations exposed to average noise above the SOAEL (55dB LAeq,8h). This is not, in itself, a reason for refusal subject to appropriate mitigation being provided. However, it is indicative of the scale of noise effects associated with this application. ……..'

- In paragraphs 25, 75, 200 and elsewhere reference is made to the Government policy (Aviation Policy Framework/Beyond the Horizon Making best use of existing runways) support for making best use of existing runways, but fails to also report that Government caveats this by saying that:

  *'1.24 …….. **We therefore consider that proposals for expansion at these airports should be judged on their individual merits, taking careful account of all relevant considerations, particularly economic and environmental impacts**.'* (Aviation Policy Framework)

  '1.25 As a result of the consultation and further analysis to ensure future carbon emissions can be managed, government believes there is a case for airports making best of their existing runways across the whole of the UK. The position is different for Heathrow…….. (Beyond the Horizon – Making best use)

  1.26 Airports that wish to increase either the passenger or air traffic movement caps to allow them to make best use of their existing runways will need to submit applications to the relevant planning authority…….. As part of any planning application airports will need to demonstrate how they will mitigate against local environmental issues, taking account of relevant national policies, including any new environmental policies emerging from the Aviation Strategy. This policy statement does not prejudge the decision of those authorities who will

be required to give proper consideration to such applications. It instead leaves it up to local, rather than national government, to consider each case on its merits.' (Beyond the Horizon – Making best use)

- Paragraph 37 – 38 – given the core most significant implications of this proposal it might have been helpful to provide a little more of the Aviation 2050 context. In relation to noise, for example, Government proposals are to set a new objective to limit, and where possible, reduce total adverse effects on health and quality of life from aviation noise, routinely set noise caps as part of planning approvals (for increase in passengers or flights), require all major airports to set out a plan which commits to future noise reduction, and to review this periodically.

- Paragraph 60 iii) does not provide a very comprehensive summary of one of the most significant Local Plan policies against which the proposal is assessed – noise considerations, for example, are not referred to despite being a key consideration of four of the nine relevant criteria in Policy LLP6 B.

- Paragraph 141 v. – in assessing the proposals against this criteria, the assessment should start by simply stating that the application does not achieve further noise reduction and does create a material increase in noise. Where reference is made to *'Will see noise reductions in the future'* there is a need to clarify that this does not mean reduction in noise when compared to the existing consent. The proposal only alleges to match the future post-2031 noise environment of the existing 18 mppa consent.

- Paragraph 141 vii. states that *'With the introduction of more of the new generation aircraft there will be a reduction in the noise contours, with the result that surrounding communities will share in the benefits of technological improvements in the aviation sector. The proposals include measures to incentivise the use of new generation aircraft by airline operators at the airport;'* But this seems to miss the point of criteria vii, which reads as follows:

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

  The proposal at best will reduce the impact of the proposal to levels comparable to those of the existing 18 mppa consent by 2031 and beyond. It will not result in a *'significant diminution and betterment of the effects of aircraft operations'*.

- *viii. Health and well being* – this section is inadequate as it fails to provide Committee with a full understanding of the health implications of the proposal – for example, no information is presented on the numbers of people and communities expected to experience noise-induced health

impacts. Paragraph 167 is irrelevant as it appears to relate to the health benefits of the existing 18 mppa consent – if there are health benefits to the 19 mppa proposal, then it is these that should be presented.

- Paragraph 169 states that *'The conclusions of environmental statement associated with the original application to expand the airport remain valid, namely that the proposed development would have significant beneficial effects for not only the local economy within Luton, but also within the wider area'*. This is irrelevant as it relates to the existing 18 mppa consent. If there are benefits to the 19 mppa, it is these that should be presented.

- Planning balance – health. It is surprising the planning balance section makes no reference to health implications of the application, particularly in relation to noise.

- Planning balance – the Master Plan. Despite the Report to Executive stating that the Master Plan will '*assist the Council in carrying out its functions as local planning authority when considering development proposals at the airport'*, there appears to no advice to Committee on whether the planning application is consistent with the Master Plan.

- Paragraph 223 and Appendix 1 Conditions and Reasons – presumably paragraph 223 should also advise Committee in relation to the proposed amendments to the approved car parking management plan (condition 22), passenger travel plan (condition 24) and approved documents (condition 28). Conditions 22, 24 and 28 do not appear to be varied as applied for in the conditions recommended to be attached to the consent as presented in Appendix 1.

Way forward

14. The County Council calls for Committee to be postponed until such time as:

- independent advice is available or at least greater clarity is provided to Committee with regard to the with (19 mppa) and without (18 mppa) development scenarios.
- evidence is presented on the scale of the economic benefits of this specific planning application to substantiate the advice presented to Committee on the alleged economic impact.
- drafting improvements be made to the Report, perhaps taking into account legal advice if this has not already happened.

15. You may recall or be aware that the County Council called for a similar Committee postponement when the 18 mppa proposal came to the decision-making stage - to deal with a number of technical, process and report drafting issues and for the Council to commission independent legal advice to inform that process. That postponement happened for those necessary reasons. I believe LBC should be striving to achieve a similar outcome with regard to this planning application.

16. I would be grateful if you could bring this letter to the attention of the Committee Chair and any others as you consider necessary.

Yours sincerely,

Stephen Boulton

Executive Member
Growth, Infrastructure & Planning

Appendix 4
DBC response to the application
comprising a letter from James Doe dated 7 February 2021

Date: 17 February 2021
Your reference:
Our reference: Luton Airport/JD
Contact: James Doe
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Direct line: 01442 228583

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Dear Sir / Madam

Planning Application 21/00031/VARCON – London Luton Airport - Variation of Conditions 8 (passenger throughput cap), 10 (noise contours), 22 (car parking management), 24 (travel plan) and 28 (approved plans and documents) to Planning Permission 15/00950/VARCON (dated 13th October 2017) to accommodate 19 million passengers per annum and to amend the day and night noise contours.

Thank you for the opportunity for Dacorum Borough Council (DBC) to comment upon the above application.

This Council declared a Climate Emergency in July 2019 and is very mindful of the potential impact on the Borough of future proposed changes to the operation and capacity of London Luton Airport (LLA). It remains committed to protecting its residents and its environment from the adverse effects of LLA.

A very significant area of our Borough comprises of the Chilterns AONB which is an important environmental area, both in terms of biodiversity and tranquility.

Settlements in the Borough are also overflown by flights operating out of a number of airports including London Heathrow in addition to LLA. For example, Markyate and Flamstead villages are both less than a kilometre from the Westerly flight path from LLA which bears approximately 70% of outgoing flights.

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In common with other local authorities in the area around LLA this Borough is tasked with accommodating very significant growth. Dacorum is looking to deliver some 16,500 new homes to 2038 which will see growth in existing settlements. Accordingly, adverse impacts upon noise and air quality levels are of considerable importance to those who live and work in the Borough and to those who visit it. We have considered the information provided with the application and welcome measures that would reduce any adverse impact arising from operations at LLA and other airports.

We have a number of concerns expressed below regarding the proposed application to Luton Borough Council

With the impact of COVID-19 on global travel this application is considered premature. The International Air Transport Association (IATA) which supports aviation with global standards for airline safety, security, efficiency and sustainability, even before the second wave of the pandemic declared that recovery of the aviation sector is going to be slow and that the situation will not return to normal until 2024. That timeline is now even more likely to be extended.

Also of great concern is that the proposed application will vary a number of conditions within the existing permissions, beyond that of condition 8 placing the 18mppa limit and condition 10 relating to daytime and nighttime noise contours.

This Council responded on 5 March 2020 to the proposed variation to conditions 10 and 11 a copy of the response is attached, our comments contained within that response remain very relevant to this proposed application and we ask that they are taken into account in this proposed application.

We have already commented in detail through 2019 and 2020 to object to previous applications for variations to Conditions 8 and 10 of planning permission 15/00950/VARCON and by this letter we are objecting to this current application.

The concerns and objections raised in our letters of 12 July 2019 and 5 March 2020 are still considered to be relevant and we wish them to be taken into consideration by Luton Borough Council when determining this current application.

There remains considerable concern within our Borough that LLA violated the agreed noise restrictions for night flights (Condition 10) for over 2 years. The anticipated numbers of passengers and flights were exceeded, resulting in increased numbers of night flights.

Markyate and Flamstead villages are both less than a kilometre from the Westerly flight path from the Airport which bears approximately 70% of outgoing flights. The variation proposed in the application is likely to result in a further increase in flight numbers and noise (especially at night) resulting in a negative impact on a significant number or our residents' health and wellbeing.

In particular we are concerned that the Airport already appears to be in breach (or are close to being so) of the noise contour areas currently permitted. Rather than seeking to extend those contour areas for day and night operations LLA should be expected and required to work within the existing contour areas.

We are also concerned that despite making numerous representations in respect of past applications and consultations over the last couple of years on these matters the process seems to be starting over yet again with this application. We would refer you in particular to our letters of response 12 July 2019, 8 January 2020 and 11 February 2020 in respect of previous planning application reference 19/00428/EIA in respect of variation of Condition 10; and to our letter 11 November 2020 in respect of the recent consultation on the proposed increase from 18mppa to 19mmpa, in addition to our letter of 5 March 2020 referred to above. We consider that it would be proper and more appropriate for these matters to be the subject of an application in their own right rather than more applications to vary existing conditions. We wish to repeat a number of the points made in the letters referred to above and further as set out below:

1. The proposed variations to condition 10 (noise) and to condition 8 (to increase the passenger cap from 18 million passengers per annum (mppa) to 19mppa) suggests that adverse impacts from noise are likely to become even more significant.

2. The proposed noise insulation scheme and noise mitigation measures still remain inadequate.

3. There needs to be a proper assessment of the economic benefits versus the environmental consequences.

4. The proposed noise contour area does not achieve further noise reduction, or reduce to a minimum adverse impacts upon the residents or environment, or protect significant areas of sensitive land within our Borough.

5. It remains our view, in common with that expressed by other local authorities whose areas would also be adversely impacted by the proposed variation, that the application runs contrary to what is proposed in Government policies, statements and guidance and the Airport Noise Action Plan (2019-2023); as well as policies LLP6 and LLP38 of the Luton Borough Council Local Plan 2011-2031.

6. What is required is a strategy that will deliver, without question, the 2028 noise contour reduction requirements of Condition 10. We would expect to see some of the principles and commitments within Heathrow's Environmentally Managed Growth approach in the strategies accompanying this application, that is - clear, rigorous and transparent monitoring, ensuring public/community confidence and trust, environmental limits permanent and never exceeded, enforcement of environmental limits, investment in measures or commercial strategies which mitigate the effects of growth, encouraging airline environmental performance, 'look forward' to forecast growth relationship to limits, independent scrutiny, responding to feedback from monitoring evidence, limiting the growth unless the environmental limits are met, and so on.

7. We ask that Luton Borough Council note that in Dacorum Borough, current flightpaths from the airport, have a significant impact upon the villages of Markyate and Flamstead in terms of aircraft noise. Eastern Hemel Hempstead

and Tring are also significantly affected by noise. Increasing passenger throughput at LLA, essentially means increasing the number of flights and a potentially significant increase in noise disturbance under flightpaths and holding areas, unless effective mitigation measures can be put in place, or significant investment made in new and less noisy aircraft by the airlines operating from the airport. This remains a significant concern to Dacorum Borough Council and its residents and we would wish to see clear noise mitigation measures agreed in association with any permitted growth of the airport which are fully enforceable by an independent body

8. The targets contained within the Transport Plan appear very aspirational and we query how deliverable plans to reduce car use will be in practice. Conversely, the proposed reduction in car use brings into question the need to carry out the road improvements to LLA forming part of this application. The delivery strategy therefore sends a mixed message. We would suggest that surface access issues and the Transport Plan generally requires further thought and in particular to minimise any negative impacts upon areas surrounding LLA. Without sight of the specialist noise and carbon advice referred to in paragraph number 9 below we feel unable to comment much further on this point.

9. We understand that the specialist noise and carbon advice commissioned by Luton Borough Council will not be available before the deadline for response to this application. Accordingly a significant document is not yet available to inform responses and policy judgments by local authorities and other consultation bodies. We understand that Luton Borough Council has an agreement with a number of host authorities to accept responses after the specialist advice is available. We would ask that this Council is afforded the same opportunity and we reserve our right to make further representations following that specialist advice being made available.

In conclusion, we remain very concerned that the application if granted will result in significant adverse impacts upon the residents and the environment within our Borough and elsewhere, contrary to national and local planning policy and guidance. LLA should instead seek to take measures to comply with the original planning conditions rather seeking a relaxation of them.

We ask that Luton Borough Council reject the application for the reasons given above.

Yours faithfully

James Doe
Assistant Director (Planning, Development & Regeneration)

Date: 5th March 2020
Your reference:
Our reference: Luton Airport/JD
Contact: James Doe
Email: james.doe@dacorum.gov.uk
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Development Control
Luton Borough Council
Town Hall
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Bedfordshire
LU1 2BQ

BY EMAIL: developmentcontrol@luton.gov.uk

Dear Sir / Madam

20/00131/DOC - Full planning application for 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. Outline planning application for the construction of a multi-storey car park and pedestrian link building (all matters reserved) 12/01400/FUL - Variation of Condition 11 (i) - Noise violation limits. - Discharge of Condition No. 10 (Noise Strategy) of Planning Permission No. 15/00950/VARCON dated 13th October 2017. London Luton Airport, Airport Way, Luton

Thank you for the opportunity to comment on the above.

We have seen the response dated 28 February 2020 submitted by Hertfordshire County Council (HCC) and fully support and endorse what HCC states in that response. We ask that you also take the following specific points into consideration.

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There is considerable concern within our Borough that London Luton Airport Operators (LLAOL) have violated the agreed noise restrictions for night flights (Condition 10) for over 2 years now. The anticipated numbers of passengers and flights have both been exceeded resulting in increased numbers of night flights.

Markyate and Flamstead villages are both less than a kilometre from the Westerly flight path from the Airport which bears approximately 70% of outgoing flights. The variation proposed in the application is likely to result in a further increase in flight numbers and noise (especially at night) resulting in a negative impact on a significant number or our residents' health and wellbeing.

Rather than seeking to extend those contour areas for day and night operations LLAOL should be expected and required to work within those existing contour areas.

The planning conditions and s106 attached to the 2014 and 2016 planning consents contain a range of measures to restrict noise impacts and to provide safeguards and certainty to potentially impacted local communities.

One of the aims of National policy, including the Government's emerging Aviation Strategy (Aviation 2050) is to provide balance between noise and growth and to provide future certainty over noise levels to communities. We fully agree with the statement by HCC in its numbered paragraph 10 that the revised national policy context is very relevant to this discharge application and that the requirement to reduce noise corridors is a critical requirement imposed on the airport. The certainty expected by Government has not been experienced by communities within this Borough as further evidenced by the recent application to Luton Borough Council to regularise past and ongoing breaches of Condition 10.

As detailed by HCC in paragraphs 11 and 12 of its response dated 28 February 2020 we agree that what is required is a strategy that will deliver the noise contour reduction requirements of Condition 10 and we support and endorse the strategy requirements detailed by HCC in paragraph 13 of its response.

We fully support HCC's view and agree that for all the reasons set out in HCC's response that the strategy submitted to discharge Condition 10 should be refused or a substantially revised strategy prepared and submitted by the applicant which properly addresses our concerns above and those expressed by HCC in its response.

Yours faithfully

James Doe
Assistant Director (Planning, Development & Regeneration)

Appendix 5
NHDC response to the application
comprising a statement prepared by V+G dated 12 August 2021

LONDON LUTON AIRPORT

PROPOSED AMENDMENTS TO PLANNING CONDITIONS TO ALLOW FOR AN INCREASE FROM 18 TO 19 MILLION PASSENGER PER ANNUM

RESPONSE PREPARED ON BEHALF OF NORTH HERTS DISTRICT COUNCIL

12 August 2021

Introduction

1. Vincent and Gorbing ("V+G") have been instructed by North Hertfordshire District Council ("NHDC") to co-ordinate a response to the planning application presently with Luton Borough Council ("LBC") made by London Luton Airport Operations Limited ("LLAOL") reference 21/00031/VARCON to change a number of planning conditions on the extant planning permission which presently controls operations at the airport in relation to passenger numbers and noise. This statement has been prepared following an independent audit of the application by V+G and discussions with officers. As such, it sets out the views of NHDC as a Council on the application. In delaying their response, NHDC have been able to assess the amended chapter of the ES regarding Noise and the published advice to LBC from consultants considering both this information and carbon emissions.

2. The application is described as:-

   Variation of Conditions 8 (passenger throughput cap), 10 (noise contours), 22 (car parking management), 24 (travel plan) and 28 (approved plans and documents) to Planning Permission 15/00950/VARCON (dated 13th October 2017) to accommodate 19 million passengers per annum and to amend the day and night noise contours.

3. NHDC previously objected to application 19/00428/EIA which sought to allow for an increase in the area permitted within specified noise contours. NHDC raised concerns regarding the impact of that application on the amenity of North Herts residents, lack of commitment to noise insulation and a failure of LLAOL to properly balance economic and environmental considerations.

4. The same issues arise with the current application to increase passenger numbers. Moreover, the rapidly evolving aviation and climate change policy context at a national level is such that a positive decision on this application is premature. However, given the Government's commitments in the 6th Carbon Budget and the clear advice of the Climate Change Committee (CCC) that demand management in the aviation sector will be necessary to achieve the Government's objectives, there is every case for refusing this application. LLAOL provide no robust economic rationale or justification for allowing an increase in passenger numbers given the environmental impacts that will arise.

5. This statement expands on the above themes and touches on others. In general terms, NHDC support the submissions of Hertfordshire County Council dated 11 June 2021 to the application which robustly object to the proposed expansion.

6. Accordingly, the main issues raised in this statement as follows:-

(i) Additional noise impacts and inability of LLAOL to control compliance;

(ii) Continued concerns regarding traffic impacts and air quality considerations;

(iii) Impact on Greenhouse Gas Emissions and Government climate change commitments

(iv) Approach of the Environmental Statement to reasonable alternatives;

(v) Reliance on documents that have yet to be agreed as part of the mitigation strategy;

(vi) Failure to properly balance economic benefits and environmental costs.

Noise Impacts

7. If this application were to be approved, it is forecast to give rise to significant adverse noise effects in the 'worst case' assessment year of 1,877 dwellings by virtue of night-time noise level increases of more than 1dB arising in locations exposed to average noise above the SOAEL (55dB LAeq,8h).

8. Many of these residents will be in North Hertfordshire District in areas that have already seen an adverse impact on amenity due to the rapid increase in passenger numbers and Air Traffic Movements (ATMs) at the Airport in recent years. However, since the data is not disaggregated by Local Authority, it is not possible to say how many of NHDC's residents will be effected by the changes proposed. It would be helpful if there was disaggregation of the noise effects by Local Authority administrative area such that LBC, NHDC and others could properly assess the scale of the effect in their own particular area. Moreover, LBC should be satisfied, based on this information, that the receptor based mitigation in each area is sufficient to address the predicted effects.

9. A much greater number will be impacted by noise and overflights more generally, and noise sensitive locations such as primary schools, care homes and churches will be impacted, as well the enjoyment of public open space within the District.

10. Moreover, NHDC's emerging Local Plan allocates strategic development to the east of Luton in policy SP19 (sites EL1, EL2 and EL3) for approximately 2,100 homes. The emerging policy requires that development will be required to include appropriate noise mitigation measures, to potentially include insulation and appropriate orientation of living spaces. The Plan highlights that the site is in close proximity to Luton Airport noise corridors and mitigation measures may be required, particularly towards the south-east of the site which lies closest to the flight path. Whilst receptor based mitigation is therefore assumed, it will nevertheless increase the amount of development affected by aircraft noise.

11. The applicant's ES accepts that the proposals will have significant adverse noise impacts on health and quality of life. It proposes mitigation in the form of noise insulation, and argues that all impacts are thus addressed and the proposals are therefore acceptable. However, it also accepts that the proposed mitigation will only minimise the noise when windows are closed and there remains a potentially significant (minor to moderate) residual health effect on some residents experiencing noise above the daytime and night-time SOAEL levels.

12. Indeed, it is inevitable that most people will always need to or want to have their windows open for ventilation purposes at various times, including at night. The vast majority of existing properties have no other means of ventilation and even at new properties that might be built taking account of the noise climate, the airport's activities should not prevent the ability of residents to enjoy fresh air within their dwellings and within private and public open spaces. It is therefore considered that receptor based sound insulation that relies on windows being closed is a serious admission that the amenity of NHDC residents will not be protected if this proposal is permitted.

13. We would question (i) whether the modelling is realistic and can be relied upon (ii) whether future breaches may occur and how they would be controlled and (iii) whether the approach to receptor based mitigation can be justified as against other approaches to airport management that would avoid the impacts occurring.

14. The assumptions regarding noise are clearly reliant on the modernisation of and changes to the fleet of aircraft serving the Airport, and this is outside of the control of the Airport operator. We would question whether realistic modelled aircraft noise levels of the A321Neo have been used to determine the extent of the noise contour limits. We would also question whether the modelled fleet mix is realistic. Our understanding, for example, is that Ryanair intend to continue using the Boing 737 Max. Moreover, the modelling does not specify the engine type and whether the modelling is based on the CFM LEAP or the PW1100G. In addition, the noise modelling relies on the forecast Air Traffic Movements (ATMs) associated with more passengers, which suggest very little change, with the increase in passenger numbers coming to fruition as a result of larger aircraft and greater loading.

15. Overall, NHDC has serious concerns about the reliability of the noise modelling and the assumptions and predictions that lie behind it. If the assessment is unreliable or unrealistic, the conclusions of the assessment are at best questionable and there is a clear risk that the history of breaches in planning control that have taken place in recent years, requiring noise contours to be redrawn to accommodate actual operations, will be perpetuated.

16. Indeed, the failure of previous assessments to accurately predict matters such as fleet mix, passenger numbers, aircraft type and ATMs is a fundamental reason for changes to conditions sought previously. Prior to the impact of Covid-19 on air travel, increases in passenger throughput took place at a faster rate than previously assumed, and technological change and modernisation with quieter aircraft has not kept pace. The result is that the residents of North Hertfordshire and other areas around the airport have been forced to endure increases in noise that were not planned for or indeed permitted. The airport operator has asserted that the pace of growth and the consequent breaches of conditions were outside of its control. We support HCC's clearly expressed view in this regard that passenger throughput and noise monitoring and reporting required as part of the original planning permission should have reasonably predicted the possibility of breaches and put in place appropriate management and operational restrictions. Overall, NHDC consider that with this current proposal there is every risk that allowing an increase in passenger numbers and extending noise contours to accommodate previous breaches of planning control is likely to increase night flights, further worsening the ability of NHDC residents to sleep undisturbed.

17. Indeed, LLAOL did seek to put in place some mitigation measures when existing contour limits were exceeded in 2018 and 2019 including restrictions on further growth to night-time traffic. No-where in the documentation relating to this application are alternatives considered such that the mitigation proposed (i.e. receptor based sound insulation) could be avoided as the ES assumes maintaining the existing cap is not a reasonable alternative. We comment on the approach of the EIA further below, but the principle of changing contours to accommodate previous breaches to conditions is entirely against the mitigation hierarchy.

18. If the LPA intends to approve this application, the receptor based mitigation will be crucial to the protection of the amenity of North Herts residents. It is noted and welcomed that the revised ES Noise Chapter appears to withdraw any financial limitations on this scheme.

19. If the application is approved, a clear and binding S106 agreement should be agreed to ensure that the airport commits to delivering a comprehensive sound insulation scheme. It should set out how the affected community will be contacted to ensure maximum take up and a timetable for implementation from the time planning permission is granted and before the noise effects would be experienced.

20. Fundamentally, however, in respect of noise impacts, the proposals are contrary to NPPF para. 185 which requires that development should *"mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to* significant *adverse impacts on health and the quality of life."* It is also contrary to Luton Local Plan policies LLP6 and LLP38.

21. The proposed changes to noise contours also contradict commitments made by LLAOL in their *Environmental Noise Directive Noise Action Plan 2019-2023 London Luton Airport (NAP)*. Key Performance Indicator 3 states that LLAOL will, with respect to the night-time contour *"Limit and where possible reduce the population within the contour over the course of the action plan."* At Section 3 LLAOL state that *"Where restrictions are in place we are focused on ensuring that they are adhered to fully."* Item 3.4 states that LLAOL will *"operate within our agreed contour area limits"* whilst item 3.5 states that they will *"Develop a noise contour reduction strategy to define methods to reduce the area of the noise contours."* The proposals run entirely counter to these commitments.

Traffic and Air Quality

22. The Environmental Statement and Transport Assessment set out that the increase from 18mppa to 19mppa will result in a worse-case minor increase in traffic flows of 3.7% in the AM peak and 3.2% in PM peak between the 2019 and 2024. They further state that in discussions with Highways England and LBC, it was established that this level of flow increase is unlikely to have a significant impact on the operation of the network and as such does not warrant any further detailed transport modelling analysis at this stage.

23. However, NHDC remain concerned about *any* increases in traffic associated with the increase in passenger numbers. As it has been agreed between the aforementioned parties that no further modelling is necessary, it is not possible to determine whether there are any impact on the local highway network within the District. In addition, in previous comments through the DCO consultation process, NHDC made clear their

concern regarding the cumulative impacts of growth at the Airport with significant residential development proposed east of Luton and around Hitchin including settlements north of Hitchin within Central Bedfordshire. Additional passenger growth will exacerbate any potential cumulative impacts.

24. Whilst the aspirations of the travel plan are welcomed, NHDC remain concerned that east-west public transport is significantly less well developed than north-south and this will result in a disproportionate impact on the District's highway network, particularly along the A505 corridor. In particular, NHDC remain seriously concerned as to the impact of additional passenger numbers on traffic and air quality conditions, in particular in and around Hitchin which are not considered at all in the application documentation.

25. Concerns about the lack of traffic modelling and the success or otherwise of modal shift of passengers and employees coming from or passing through North Hertfordshire are coupled with concerns regarding air quality impacts. In 2016 an area around the Payne's Park roundabout, Hitchin was declared as an AQMA because nitrogen dioxide was being measured at concentrations above the standard set to be protective of human health. This location, within the A505 corridor, is highly sensitive to any changes in traffic volumes. Accordingly NHDC are concerned that further growth at the airport will have a particularly detrimental impact on residents in this area. NHDC already consider that the Airport has a disproportionately adverse impact on Hitchin due to the relatively poor sustainable transport links from the A1 corridor to the Airport. The updated Travel Plan will not address this issue.

Climate Change and carbon reduction

26. LLAOL's overall planning case relies upon national aviation policy support. As the Planning Statement points out *"The Government is explicitly supportive of airports beyond Heathrow making best use of their existing runways as noted in the Beyond the Horizon: The Future of UK Aviation – Making Best Use of Existing Runways (2018)."*

27. It also relies on the Government's position on Climate Change adaptation embraced in the Climate Change Act 2008, as amended in 2019. It sets out the position that existed when the application documentation was written in January 2021:-

"International aviation is not part of the 'net UK carbon account' and so is not included in the UK carbon target or the UK carbon budgets, but the UK carbon budgets are to be set 'having regard to' international aviation. In practice, successive carbon budgets have been set allowing for 'headroom' for what is sometimes referred to as the 'planning assumption' (also referred to as the 'aviation target').

28. However, since this statement was written, the landscape of climate change policy and its implications for the aviation industry have radically changed.

29. At the local level, many authorities, including NHDC and Luton Borough Council have declared a climate emergency. On 21 May 2019, NHDC passed a Climate Emergency motion which pledged to do everything within the Council's power to achieve zero carbon emissions in North Hertfordshire by 2030. This declaration asserted the Council's commitment toward climate action beyond government targets and international agreements. The Council also has a Climate Change Strategy that has

been reviewed in 2021 to align the strategy with latest research regarding the impact of climate change. The new strategy contains an action plan, which sets out how NHDC aim to achieve a carbon neutral position by 2030. Luton Borough Council has adopted a climate change action plan which sets out actions to meet an organisational commitment to achieving net zero by 2040. These documents pre-date LLAOL application but are not referred to in the Environmental Statement.

30. In April 2021 the Government announced the adoption of some of the recommendations of the Climate Change Committee (CCC) in the 6th Carbon Budget, with a new target of a 78% reduction in CO2 by 2035 (15 years ahead of its original target) and the inclusion of international aviation and shipping in the target. This compares to the policy of only two years previously when the UK was aiming at an 80% cut in CO2 by 2050, excluding aviation and shipping.

31. The detail of the sectoral impact of the 6th Carbon Budget is yet to be published but what is clear is that the aviation sector will no longer be able to rely on other sectors making compensatory reductions such that it is unaffected. Equally clear is that the CCC have stated that demand management in the aviation sector is likely to be needed if the UK's commitments are to be achieved. Reliance on technological innovation to achieve net zero was always unlikely to be feasible and fleet investment and modernisation is likely to be slower in the wake of the impact of COVID-19 on the aviation industry.

32. Unfortunately, there has been no clarification from the Government as to how and when MBU and aviation policy more generally might be updated. The CCC recommended only a 25% growth in passengers by 2050 compared to 2018, compared to 65% growth forecast by the DfT unconstrained forecasts. Now that the Government has confirmed that the Sixth Carbon Budget will include aviation, whilst not specifically accepting the CCC's policy recommendations on demand management, it seems very likely that MBU policy, and decisions on DCOs and applications such as this one through the TCPA regime, will need to consider whether permitting increases in throughput are compatible with Government policy.

33. Indeed, as clearly set out in the Ricardo Energy and Environment report prepared for LBC[1]:-

"Making Best Use of Existing Runways (MBU), has a 'planning assumption' for aviation emissions of CO2 of 37.5MtCO2. However it was written in 2018, before the Climate Change Act was amended to net zero, and before aviation was incorporated in the sixth carbon budget. Whilst MBU for now remains extant, the 37.5MtC target is simply mathematically incompatible with the decision to include aviation within the sixth carbon budget and the trajectory to net zero"

34. Indeed, the report highlights that decisions have already been made on expansion at other airports that will consume the planning assumption emissions and a number of decisions on capacity increases are the subject of Judicial Review or call-in by the Secretary of State.

[1] Review of Luton Airport proposal to allow 19mppa: implications for carbon emissions Report for Luton Borough Council on Planning Application 21/00031/VARCON to vary conditions to Planning Permission 15/00950/VARCON, Ricard Energy and Environment, 28/05/21

35. One of the key ways in which LLAOL propose to mitigate its impact on climate change is by its Carbon Reduction Plan. However, whilst it can achieve much by changes in ground operations, fundamentally it cannot influence technological changes in the fleet visiting the airport.

36. Given the above, NHDC consider that there is a case for refusal of the application on the basis of the conflict of the proposals with national and local climate change policy. At the very least, any decision now, pending further detail on the Sixth Carbon Budget and how MBU is to be addressed in this context, will be premature and should be delayed until national aviation policy is revised to take into account the Government's most recent commitments and decisions already made at other airports that have already allowed increases in capacity.

Environment statement and reasonable alternatives

37. The approach of the ES to reasonable alternatives is flawed. LLAOL accept that the only potential alternative to the Proposed Scheme is to continue to operate at the 18 mppa cap, although argues that *"to progress with this alternative would not have delivered the anticipated economic growth."* As we set out below the economic impacts of the proposed increase in passenger number has not been quantified and failing to achieve it is no justification for arguing that the existing cap is not a reasonable alternative.

38. The ES goes on to state that to achieve the alternative would mean that *"restrictions would have to be placed on airlines to be confident that compliance with conditions attached to the 2014 Planning Permission was achievable"* and that *"Furthermore, without restrictions on airlines there would be a risk of repeated breaches of Condition 10. As such, the 'doing nothing' option was not considered to be a reasonable alternative."*

39. This suggests that LLOAL believe that that if the proposed changes are not permitted, any restrictions themselves would not be reasonable and in all likelihood breaches would simply continue.

40. Although the 18 mppa cap is used in the ES as the 'do-nothing' it is indicative of the approach of LLAOL to suggest that the planning regime should simply be adjusted to meet their operational requirements rather than seek to quite reasonably control them.

Future Control, monitoring and compliance

41. Mitigation of the environmental impacts of the development rely on a number of further documents, some of which are submitted for approval as part of the application (Car Parking Management Plan, Travel Plan) and some of which are not (Noise Reduction Strategy, Carbon Reduction Plan). However, all of these documents are critical to the acceptability of the proposal and should therefore be approved as part of the application. Without them being considered in detail and approved at this stage, there can be no reliance on the conclusions of the ES in terms of the significance of related environmental effects. There is a clear parallel with Development Consent Orders where compliance with certified documents is a requirement of the Order itself and allows the robustness of the mitigation proposed to be properly considered through the decision making process.

42. We note from HCC's response to the application that a Noise Reduction Strategy was submitted in February 2020, but was considered by the local planning authority to be not fit-for-purpose and is still in the process of being developed and remains to be approved. We fully support HCC's comments that this should be resolved as part of this application.

43. We further understand that LLAOL have now submitted an 'Outline Carbon Reduction Plan' and this is the subject of discussions with the LPA. However, this advises that *"LLAOL* has *committed to develop a detailed Carbon Reduction Plan that builds on this outline plan, by the end of 2022, which will provide detailed and viable targets for an absolute reduction in carbon emissions and achieving net zero."*

44. We do not consider this position as tenable given the overriding need to fully address this matter now, prior to the determination of the application. It must be right that 'detailed and viable targets' are established before a decision on this application is made. Moreover, we are sceptical that LLAOL has sufficient influence over the wider aviation industry to achieve the necessary changes in emissions from flights operating in and out of the airport to actually achieve the carbon reduction emissions that the outline Carbon Reduction Plan seeks to achieve.

45. Notwithstanding, each of these mitigation strategies must include clear, robust and funded monitoring arrangements and penalties and remedial actions for non-compliance or non-achievement of targets, agreements, or other criteria.

Economic Benefits and the Planning Balance

46. No-where in the planning application documents are the economic benefits of the development properly enumerated, or any analysis provided of the negative economic impact of maintaining current restrictions.

47. The Planning Statement makes only very general claims that the airport is a *"key economic driver within the region, delivering significant GVA and employment and providing substantial benefits to the wider economy by facilitating travel for business passengers and for inbound visitors."* It adds that the airport plays a supporting role in the tourism sector and asserts that :-

    "The Proposed Amendments would deliver more economic benefits than the 'do-nothing' scenario (i.e. maintaining operations under the Original Planning Permission)."

48. It concludes at para. 8.8.2 that :-

    "whilst the Proposed Amendments will result in some adverse environmental effects, these have been mitigated so far as possible. Taking into account the significant economic benefits associated with expansion of the airport to 19 mppa and considering the existing and enhanced mitigation on balance it is considered that the Proposal is compliant with the Development Plan, national planning policy and other material considerations."

49. However, no attempt is made to define the scale of such benefits and how they would be distributed within the local, regional or national population. For example, although the adverse environmental effects will be felt locally, including by residents of NHDC,

any alleged tourism benefits are only likely to be experienced at tourist destinations either within the UK (primarily London) or indeed abroad, and certainly not in the NHDC area. It is therefore impossible to reach the conclusion that the economic benefits outweigh the environmental costs. . This is a clear and significant failing of the application and must be rectified before LBC decide on the planning application.

50. Indeed it is difficult to understand how the planning statement reaches the conclusion that there will be 'significant economic benefits.' LLAOL themselves accept that such economic benefits would not be significant since socio-economic impacts have been scoped out of the EIA process (ES, para. 4.4.33 – 4.4.36). Whilst the ES states that *"There could be potential for beneficial effects upon employment and the local economy associated with the increase in passenger numbers"* the fact is that LLAOL have scoped out this effect, on the basis that, as with all scoped out topics, *"there is limited scope for likely significant effects as a result of the Proposed Scheme"* on this topic. (4.4.9)

51. It is in this context that the overall planning balance must be considered on the basis of the governing approach of Section 38(6) of the Planning and Compulsory Act that states that *"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

52. It has already been stated above that the proposal is contrary to the development plan by virtue of conflicts with the Luton Local Plan in respect of LLP6 and LLP38. It is also to be considered contrary to policy of the NPPF and policies adopted in North Herts and in other Local Authorities in the area regarding the Climate Emergency. The NPPF sets out a presumption in favour of sustainable development and sets out that there are three dimensions to this, namely economic, social and environmental and that these objectives need to be pursued in 'mutually supportive ways.' The wording of para. 8 on the environmental dimension has been amended in the July 2021 version of the NPPF by the replacement of "to contribute to protecting and enhancing" the environment to simply "…to protect and enhance" the environment. The NPPF does not suggest that positive effects of one objective can outweigh negative effects in respect of the others; whereas LLAOL adopt this approach.

53. Even if such a planning balance in deciding whether the application comprises sustainable development is a legitimate interpretation of the NPPF, the economic benefits have not been quantified such that LBC as the decision maker cannot judge this planning balance; moreover, LLAOL themselves consider that the economic impact is not significant which suggests that the conclusion in the Planning Statement is flawed. It is therefore difficult to see how the accepted impacts of noise on the health and well being of the local community as well as the wider impact on GHG emissions and climate change could be outweighed by the economic benefits of expansion.

Conclusion

54. From the above, NHDC object to the application and consider that there is every case that it should be refused.

55. At the very least, a decision on the application should not be made until :-

a. Government policy on aviation is clarified in the wake of the 6th Carbon Budget, particularly with regard to MBU;

b. The Noise Reduction Strategy and full Carbon Reduction Plan are agreed between all local authorities around the Airport.

Appendix 6
NHDC response to the application
comprising a statement prepared by V+G dated 1 October 2021

LONDON LUTON AIRPORT

PROPOSED AMENDMENTS TO PLANNING CONDITIONS TO ALLOW FOR AN INCREASE FROM 18 TO 19 MILLION PASSENGER PER ANNUM

FURTHER RESPONSE PREPARED ON BEHALF OF NORTH HERTS DISTRICT COUNCIL

1 October 2021

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1. Vincent and Gorbing ("V+G") were instructed by North Hertfordshire District Council ("NHDC") to co-ordinate a response to the planning application presently with Luton Borough Council ("LBC") made by London Luton Airport Operations Limited ("LLAOL") reference 21/00031/VARCON to change a number of planning conditions on the extant planning permission which presently controls operations at the airport in relation to passenger numbers and noise.

2. A statement was submitted by V+G on behalf of NHDC dated 12 August 2021. Responses have been provided to the comments made in that statement by the Applicant in the document *"Luton Airport 19 mppa Application Noise Clarifications"* by Wood, and a table comprising responses to NHDC and other consultees comments, albeit these are not attributable to individual consultees.

3. NHDC welcome the further clarifications provided although expresses concerns that information has been tabled so late in the planning process. However, the various comments make clear that whilst the assessment of environmental effects, including in particular the impact on noise experienced by residents and the impact on Green House Gases (GHGs) and climate change may be robust in their own terms, the application and its assumptions are at the very least brought forward with a high degree of uncertainty around a number of matters which are outside of the control of LLAOL.

Noise and fleet mix

4. NHDC welcomes the clarifications on fleet mix assumptions. However, LLAOL rightly recognise that such fleet assumptions, whilst derived from information provided by the airline industry, are outside of LLAOL's direct control but states that *"it is envisaged that the aircraft fleet mix will continue to move towards quieter aircraft in the future and therefore improvements will be made to noise contours."*

5. However, the response also helpfully accepts that previous assumptions regarding aviation operations including fleet mix have proved unreliable due to unforeseen circumstances and that the future is impossible to predict with any certainty:

   "Aviation operation has been affected by two main slowdowns. One is the delay to the modernisation of the fleet using the airport, partially because of the grounding of the B737-Max and partially from the slower uptake of modernised aircraft from operators. The other is the COVID-19 pandemic, which has resulted in a large slump to passenger flights. <u>It is not possible to predict with certainty how LLA and the operators using it will recover from these factors</u>. However, an estimation for fleet mix modernisation and recovery of passenger flights has been included in the noise modelling from 2021 onwards." (our underlining)

6. NHDC recognise that for the purposes of EIA, reasonable assumptions have to be made, particularly around fleet mix, but remain concerned that these are not 'worst case' assumptions but will in fact prove to be optimistic due to the delays in fleet modernisation that have already occurred and will be exacerbated by the after effects of the pandemic on the aviation industry.

7. If this application is to be approved, the above comments place very great importance on monitoring arrangements and the way in which compliance is monitored and enforced, particularly given the history of breaches of previous limitations. An updated Noise Action Plan should be approved and governance structures made clear to enforce compliance with the ability of NHDC to participate in such governance.

8. In terms of conflict with planning policy in respect of the significant environmental effects that will arise in terms of noise, the applicant states that:-

   "The overall objective of the UK Aviation Noise Policy [ANP]….confirmed by the Consultation Response on Legislation for Enforcing the Development of Airspace Change Proposals is to limit noise and where possible reduce the number of people in the UK significantly affected by aircraft noise. This policy objective is integrated into Luton Local Plan Policy LLP 6, where it states that Proposals for development will only be supported where [...] proposals: v) achieve further noise reduction or no material increase in day or night-time noise."

9. However, it claims the development is not contrary to this policy context:-

   "There appears to be a conflict between this and the requirement for growth in the aviation industry which is noted in the National Planning Policy Framework, the ANP, Consultation Response document and General Aviation Strategy. However, this conflict only arises via an implication from the above policy text. In the context of sustainable development, and growth of airports, the overall approach to limit and reduce the number significantly affected does not mean that no additional significant affect can be permitted, where that is a necessary result in support of sustainable development."

10. NHDC does not subscribe to this analysis. The proposals are clearly in conflict with noise policy and Policy LLP6 as stated in our original representations as they increase the number of residents significantly affected by noise. We also consider, as previously stated, that the Applicant's claim that the proposal is 'sustainable development' relies on the economic objective of sustainable development in the NPPF outweighing the environmental objective. Not only is this a misapplication of the NPPF but the economic benefits are, in any event, not enumerated (we return to this point below).

11. Moreover, nowhere in the response does the Applicant address the point that the application is in direct conflict with its own Environmental Noise Directive Noise Action Plan 2019-2023 London Luton Airport (NAP) which seeks to reduce the impact of noise on the surrounding area.

Climate Change and GHGs

12. The Applicant's response to NHDC and others on this point accepts that there are significant changes occurring in the context of national Climate Change policy that will

impact on aviation but the actual outcome of this process is presently unclear. They quote recent documents (the Jet Zero Consultation (14th July 2021); and The Transport Decarbonisation Plan (14th July 2021)) which, it is claimed, support further growth on Making Best Use of Runways (MBU) principles, although noting that the first of these state *"The government is clear that expansion of any airport must meet its climate change obligations to be able to proceed."* The Applicant relies on its Outline Carbon Reduction Plan to meet this test. Again, this document is in 'Outline' form and relies on the activities of many other partners to the airport – including airlines – to achieve its targets. Whilst the Applicant can make welcome progress to address climate change in its own operations, we remain of the view that decisions on expanding airports made *now* are premature.

13. The Applicant claims that the CCC 2019 letter which suggested a limit on demand growth in aviation to 25% has been 'superseded' by more recent advice provided by the CCC in December 2020.

"In the Recommendations on the Sixth Carbon Budget report, the CCC 'Balanced Pathway' scenario has an aviation sector target of 23 MtCO2/yr by 2050. It is recognised that additional aviation policy interventions would be needed to achieve this target at a national level."

14. Clearly, those interventions are likely to include limits on demand growth and more so if technological innovations prove much slower in coming forward. It is certainly the case that the level of growth assumed by MBU will be mathematically impossible with that target in place. The Applicant does not address this point, but simply relies on the fact that MBU remains extant policy at the present time.

15. The Applicant then makes the point that their overall contribution to emissions of 2.71% of the 23MtCO2/yr is unlikely to increase compared to the baseline 2019 emissions. However, this assumes the successful implementation of the Outline Carbon Reduction Plan and the host of uncertainties around proposals in that document as noted above, as well as uncertainties around fleet modernisation. NHDC remain concerned about the impact of the proposals on carbon reduction and climate change, that the carbon reduction plan relies in part on uncertain industry wide technological innovation and that fleet modernisation may be further delayed.

Economic benefits and the planning balance

16. Nowhere in the response from the Applicant is this point addressed. The response highlights the economic contribution of the Airport as of 2019 which is set out in the planning statement. However, as we set out in our original representations, the decision maker needs to be able to balance the economic benefits of the application itself against the adverse economic consequences and this is not possible to do since the additional economic benefit of increasing passenger numbers to 19mppa is not enumerated. We consider this to be a clear failing of the application and consider that the Applicant should have addressed this point directly.

Other matters

17. NHDC raised concerns on other matters including traffic on local roads and air quality. The response provided by the Applicant refers the reader back to the content of the Environmental Statement. Whilst this signposting is welcomed, NHDC's concerns with

regard to these matters remain. The absence of significant impacts relies on ambitious targets aimed at increasing Cycling and Public Transport use for staff and passengers, yet connectivity in this regard along the A505 corridor is poor. Thus, whilst the change may not be significant enough to have meaningful impacts, the NHDC area is likely to experience a disproportionate increase in traffic, particularly around Hitchin and remains a serious concern for NHDC.

Conclusion

18. Accordingly, NHDC's objection to the application and its concern that a decision on the application is, in any event, premature, remains.

Vincent and Gorbing

22 September 2021

Appendix 7
SADC response to the application
comprising a letter from Tracy Harvey dated 21 April 2021

PLANNING & BUILDING CONTROL
Tracy Harvey **Head of Planning & Building Control**

David Gurtler
Luton Borough Council
Via email

Our Ref: 5/2021/0268
Your Ref: 21/00031/VARCON
Please ask for: Joanna Woof
E-mail: planning@stalbans.gov.uk

Date: 21 April, 2021

Dear Sir,

APPLICATION TO DISCHARGE PLANNING CONDITIONS
TOWN AND COUNTRY PLANNING ACT 1990

Site: London Luton Airport, Airport Way, Luton, Bedfordshire

Thank you for consulting St Albans City and District Council on this application (Luton Borough Council reference 21/00031/VARCON).

St Albans City and District Council raises strong objections to Luton Borough Council in respect of the potential of the proposal to increase aircraft noise to residents in the St Albans City & District area and in respect of the potential of the proposal to increase pollution and traffic impacts.

The expansion of the airport comes at a time when the environmental impacts associated with air travel are of national and global concern and the Council ask Luton Borough Council to carefully consider whether the expansion of the airport in the manner proposed is justifiable in principle in these circumstances.

In any event, this Council considers that any increase in noise, pollution and traffic impacts to residents in the District is unacceptable. It is not clear from the evidence submitted that there is justification for increasing the noise contours to the extent proposed and any increase in noise disturbance for residents is unsatisfactory. There would be an increase in the number of additional dwellings affected by the increased noise contours (particularly during the night-time period) which is unjustified and unacceptable. Furthermore, this Council is not satisfied that all other means of achieving the existing approved noise contour areas have been fully explored. In those circumstances, a variation of condition 10 is not justified.

It is noted that some mitigation measures were put in place by the airport once it was clear that the condition was being breached, such as:-

- Restricting 'ad hoc slot applications' between June and September;
- Restricting further growth to scheduled night-time traffic;
- Preventing rescheduling of existing allocated slots from the day-time to night-time slots between June and September;
- Preventing aircraft with a value greater than QC1 from operating at night; and
- Banning Chapter 2 aircraft operating to and from the airport from April 2020.

However, it is acknowledged by the airport that, even with these measures in place, the existing contour limits were still exceeded in 2018 and 2019. St. Albans City and District Council therefore considers that, if the local planning authority is minded to grant permission, the further mitigation measures and commitments submitted within the application should be enforced through a legal agreement and/or planning conditions and should remain in place until noise monitoring can clearly establish that they are no longer necessary in order to meet the requirements of any new contours.

The Local Planning Authority should also satisfy itself that the existing approved noise contour area cannot be achieved by other means such as limiting the quantum of summer-time flights up to 2024;

changes in aircraft mix; enhanced scheduling of aircraft; improved ground operations and other operational changes at the airport, before approving any increase in the noise contour area limits. These matters have not been satisfactorily set out within the application and the proposal cannot be justified in the absence of a robust examination of them.

Given the inaccuracies in the modelling, assumptions and projections adopted within the original 2012 application and more recently between the March, August and November 2019 forecasts, the Council seeks assurances that the Local Planning Authority will robustly assess the data submitted within the current application and independently review the stated projections and assumptions to ensure that they are appropriate, sound and reliable.

The applicant's submitted noise modelling/forecasting is heavily reliant on assumptions made about the use of quieter 'next generation' aircraft. The applicants do not, however, have sufficient control over this to ensure that it occurs, as forecast. The noise and air quality projections made in the documentation are, therefore, fundamentally flawed and should be revised to include other potential, less optimistic scenarios. Otherwise, it cannot be concluded that the environmental impacts of the proposal have been accurately identified, or that they can be properly managed in accordance with national aviation policy.

The increase in passenger numbers from 18mppa to 19mppa also raises concerns in relation to pollution and traffic impacts. The proposed development would result in an increase in NO2 concentrations and Greenhouse Gas. This Council does not consider that sufficient information has been submitted in terms of mitigation measures and is therefore not satisfied that the overall impact of the proposal or air quality is able to be fully assessed on the basis of the information submitted.

The proposed increase in passenger numbers would result in an increase in daily traffic flows on roads that already suffer significant congestion. This Council has concerns regarding the airport's assumptions in relation to the projected shift towards the use of public transport to access the airport in future years. The lack of mitigation measures in relation to the railway and other public transport infrastructure is of significant concern, as well as is the lack of modelling that takes into account cumulative traffic impact resulting from anticipated growth in the surrounding districts.

In any event, any agreed mitigation measures must be adequately controlled by legal agreement and/or planning conditions and robust review and monitoring triggers must be put in place to ensure those mitigation measures are implemented successfully.

Yours faithfully

Tracy Harvey
Head of Planning & Building Control