

COMMITTEE: DEVELOPMENT CONTROL

DATE: 22nd JUNE 2016

**SUBJECT: LONDON LUTON AIRPORT, AIRPORT WAY –
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
(APPLICANT: LONDON LUTON AIRPORT
OPERATIONS LIMITED)
(APPLICATION NO: 15/00950/VARCON)**

REPORT BY: DEVELOPMENT CONTROL MANAGER

CONTACT OFFICER: DAVID GURTLE 01582 546317

IMPLICATIONS:

LEGAL

COMMUNITY SAFETY

EQUALITIES

ENVIRONMENT

FINANCIAL

CONSULTATIONS

STAFFING

OTHER

WARDS AFFECTED: WIGMORE, SOUTH AND CROSS BOUNDARY

PURPOSE

1. To advise Members of a current application for the variation of part of one condition imposed on a previous planning permission and to seek their decision.

RECOMMENDATION(S)

2. It is recommended planning permission is granted subject to the satisfactory completion of a Section 106 Agreement to ensure that the clauses within the Principal Agreement are carried forward to this permission, that condition 11 (i) be amended to read:

- 11(i) Within six months of the commencement of the development, a progressive reduction in the night-time (2300-0700) maximum Noise Violation Limits (NVL) by the noisiest aircraft shall be implemented, as follows:

82dB(A) from the date of the commencement of development

80dB(A) from 1st April 2015

79dB(A) from 1st January 2020

77dB(A) from 1st January 2028

And that the following conditions be attached to the permission (conditions carried forward from the original permission [ref: 12/01400/FUL] or amended where they have been discharged/partially discharged previously):

- (01) Phase 1 of the development shall be carried out in accordance with the Phasing Scheme approved on 23 April 2015 (ref: 15/00159/DOC). No development of subsequent phases shall take place until a scheme for the Phasing of Development as set out in Chapter 3 (Development Proposals) of the Environmental Statement (submitted with application 12/01400/FUL) shall be submitted to the Local Planning

Authority. The scheme as submitted shall include the timescales for commencement of each of the phases. The scheme as approved shall be implemented in full and in accordance with the agreed timescales.

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policies LP1, ENV9 and ENV10 of the Luton Local Plan and the National Planning Policy Framework.

- (02) The landscaping scheme shall be carried out in accordance with details approved on 21 May 2015 (ref: 15/00449/DOC). Within one month of the completion of the landscaping scheme written confirmation of the completion date shall be submitted to the Local Planning Authority. If within a period of five years from the initial date of planting of any tree or shrub, any such plant is removed, uprooted or destroyed or dies, or becomes in the opinion of the Local Planning Authority, damaged, diseased or defective, another tree or shrub of the same species and size as that originally planted shall be replanted in the same location or as otherwise detailed in the scheme. The scheme as approved shall be implemented in full within the first planting season following completion of each of the agreed phases within Condition 1.

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policies LP1, ENV9 and ENV10 of the Luton Local Plan and the National Planning Policy Framework.

- (03) The buildings shall be constructed in accordance with the details and samples approved on 12 November 2015 (ref: 15/00160/DOC).

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of Policies LP1, ENV9 and ENV10 of the Luton Local Plan and the National Planning Policy Framework.

- (04) Phase 1 of the development shall be carried out in accordance with the details contained in the Protected Species Management Plan approved on 28 January 2015 (ref: 14/01471/DOC). Notwithstanding the surveys already carried out, prior to development commencing within any subsequent

phase, a scheme shall be submitted to the Local Planning Authority for the safeguarding of Protected Species. The scheme shall include the carrying out of additional surveys to ensure that no material change will have taken place since any earlier survey upon which assessment and mitigation in the Environmental Statement is based. The details of any additional mitigation required as a result of the additional surveys shall be submitted for approval by the Local Planning Authority and implemented in full prior to the development of that phase of the development commencing.

Reason: To safeguard any populations of these protected species on the application site. To accord with the objectives of Policies LP1 and ENV5 of the Luton Local Plan and the National Planning Policy Framework.

- (05) Lighting associated with Phase 1 of the development shall be carried out in accordance with the details approved on 4 June 2015 (ref: 15/00451/DOC). No external lighting shall be installed within any subsequent phase of the development, other than in accordance with a scheme to be submitted to and approved by the Local Planning Authority. The scheme as approved shall be implemented in full and shall be subject to review in accordance with such agreed scheme.

Reason: In the interests of amenity, aircraft and public safety. To accord with the objectives of Policies LP1, ENV9 and ENV10 of the Luton Local Plan and the National Planning Policy Framework.

- (06) The development shall be carried out in accordance with the Construction Environmental Management Plan approved on 14 August 2015 (ref: 15/00452/DOC).

Reason: To minimise the environmental impact and disturbance to existing residents, vegetation and wildlife during construction of the development in accordance with Policies LP1 and ENV5 of the Luton Local Plan and the National Planning Policy Framework.

- (07) The development shall be carried out in accordance with the archaeological Written Scheme of Investigation approved on 24 December 2014 (ref: 14/01496/DOC).

Reason: To ensure that the development allows for the recording of potential archaeological information. To comply

with Policy ENV6 of the Luton Local Plan and the National Planning Policy Framework.

- (08) 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.

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.

- (09) The development shall be operated in accordance with the Noise Control Scheme approved on 2 March 2015 (ref: 14/01519/DOC).

For the avoidance of doubt the controls within that scheme include:

- i) Measures with the purpose of phasing out of night time (2300 to 0700) operations by aircraft with a QC value of greater than 1 on either departure or arrival.
- ii) Monitoring and review of the scheme not later than the 1st and 4th year after its introduction and every subsequent five years.
- iii) Limits during the night time period (2330 to 0600) of:
 - a) Total annual movements by aircraft (per 12 month period) of no more than 9,650 movements; and
 - b) Total annual noise quota movements of no more than 3,500 which, using all reasonable endeavours, shall be reduced at each review until it reaches a point where it does not exceed 2,800 by 2028.
- iv) Limits for the Early Morning Shoulder Period (0600 to 0700) of not more than 7,000 movements in any 12 month period.
- v) Reporting of the actual and forecast total number of aircraft movements for the preceding and next 12 months to the Local Planning Authority every three months.

- vi) Within six months of the commencement of the development, a progressive reduction in the night-time (2300-0700) maximum Noise Violation Limits (NVL) by the noisiest aircraft shall be implemented, as follows:
 - 82dB(A) from the date of the commencement of development
 - 80dB(A) from 1st April 2015
 - 79dB(A) from 1st January 2020
 - 77dB(A) from 1st January 2028
- vii) Within six months of the commencement of the development, a progressive reduction in the daytime (0700 - 2300) maximum NVL by the noisiest aircraft shall be implemented, as follows:
 - 85 dB(A) from the date of the commencement of development
 - 82 dB(A) from 1st January 2015
 - 80 dB(A) from 1st January 2020

Reason: To safeguard residential amenity. To accord with the objectives of Policy LP1 and LLA1 of the Luton Local Plan and the National Planning Policy Framework.

- (10) The development shall be operated in accordance with the Noise report approved on 2 March 2015 (ref: 14/01519/DOC), including providing details of forecast aircraft movements and consequential noise contours as set out in that report.

The area enclosed by the 57dB(A) Leq16hr (0700-2300) contour shall not exceed 19.4 sq km for daytime noise, and the area enclosed by the 48dB(A) Leq8hr (2300-0700) contour shall not exceed 37.2 sq km for night-time noise, when calculated by the Federal Aviation Authority Integrated Noise Model version 7.0.d (or as may be updated or amended).

Within five years of the commencement of development a strategy shall be submitted to the Local Planning Authority for their approval which defines the methods to be used by LLAOL or any successor or airport operator to reduce the area of the noise contours by 2028 for daytime noise to 15.2sq km for the area exposed to 57dB(A) Leq16hr (0700-2300) and above and for night-time noise to 31.6 sq km for the area exposed to 48dB(A) Leq8hr (2300-0700) and above.

Reason: To safeguard residential amenity. To accord with the objectives of Policy LP1 and LLA1 of the Luton Local Plan and the National Planning Policy Framework.

- (11) The development shall be operated in accordance with the Noise Control Monitoring Scheme as approved on 2 March 2015 (ref: 14/01519/DOC).

Reason: To safeguard residential amenity. To accord with the objectives of Policy LP1 and LLA1 of the Luton Local Plan and the National Planning Policy Framework.

- (12) The development shall be operated in accordance with the scheme to control ground noise approved on 2 March 2015 (ref: 14/01519/DOC).

Reason: To safeguard residential amenity. To accord with the objectives of Policy LP1 and LLA1 of the Luton Local Plan and the National Planning Policy Framework.

- (13) The development shall be implemented in accordance with the Comprehensive Surface Water Management Strategy approved on 18 May 2015 (ref: 15/00187/DOC).

Reason: To prevent surface and groundwater pollution. To accord with the objectives of policy ENV14 of the Luton Local Plan and the National Planning Policy Framework.

- (14) The detailed surface water drainage scheme for Phase 1 shall be carried out in accordance with the details approved on 8 December 2015 (ref: 15/00291/DOC).

No subsequent phase of development shall begin until a detailed surface water drainage scheme for that phase has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be generally in accordance with the Flood Risk Assessment (FRA) prepared by Jacobs, reference B1074100/22.2, issue 3, dated November 2012, (within Technical Appendix J of the Environmental Statement submitted with application 12/01400) and the scheme shall include details of soakaways and a restriction in run-off and surface water storage on site. The scheme as approved shall be implemented in full before completion of the relevant phase.

Reason: To prevent the increased risk of flooding and to improve and protect water quality, habitat and amenity. To accord with the objectives of policy ENV14 of the Luton Local Plan and the National Planning Policy Framework.

- (15) Phase 1 of the development shall be carried out in accordance with the details approved on 24 March 2016 in relation to measures to deal with contamination (ref: 15/00756/DOC).

No development in respect of any subsequent phase of the development shall be commenced until a scheme to deal with potential contamination on the site of that phase shall be submitted to and approved, in writing, by the Local Planning Authority including:

- i) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
- ii) A site investigation scheme, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- iii) The results of the site investigation and detailed risk assessment referred to in (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason The site is located in a sensitive groundwater area over a Principal Chalk Aquifer within a source protection zone 3. To accord with the objectives of policy ENV14 of the Luton Local Plan and the National Planning Policy Framework.

- (16) No phase of the development shall be occupied until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation for that phase has first been submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It

shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To protect groundwater. To accord with the objectives of Policy ENV14 of the Luton Local Plan and the National Planning Policy Framework.

- (17) If, contamination not previously identified is found to be present at the site during the construction of a phase of development, no further development of the phase shall be carried out until the developer has first submitted a remediation strategy for approval to the Local Planning Authority and that such a strategy shall have been approved in writing. The remediation strategy shall be implemented as approved.

Reason: Intrusive investigations will not necessarily capture all contaminants present, hence the need to appropriately address any new source discovered during excavation and development. To accord with the objectives of policy ENV14 of the Luton Local Plan and the National Planning Policy Framework.

- (18) No infiltration of surface water drainage into the ground shall take place other than with the express written consent of the Local Planning Authority first having been obtained. The development shall be carried out in accordance with the approved details in accordance with an agreed timescale and phasing as applicable.

Reason: To protect groundwater. To accord with the objectives of policy ENV14 of the Luton Local Plan and the National Planning Policy Framework.

- (19) Phase 1 of the development shall be carried out in accordance with the details approved on 18 December 2015 in relation to piling (ref: 15/00756/DOC).

No subsequent phase of the development which involves piling or other penetrative methods of forming foundations shall take place other than in accordance with a scheme which shall have first been submitted to and approved in writing by

the Local Planning Authority. The scheme shall be implemented as approved.

Reason: To protect groundwater. Piling can create new pathways for pollutants and introduce new contaminants into the subsurface. To accord with the objectives of policy ENV14 of the Luton Local Plan and the National Planning Policy Framework.

- (20) The development shall be implemented in accordance with the measures to protect existing monitoring boreholes approved on 11 May 2015 (ref: 15/00454/DOC).

Reason: To safeguard the existing monitoring arrangements in the interests of the proper planning of the area. To accord with the objectives of policy ENV14 of the Luton Local Plan and the National Planning Policy Framework.

- (21) Phase 1 of the development shall be carried out in accordance with the foul drainage details approved on 14 August 2015 (ref: 15/00188/DOC).

Before the commencement of each subsequent phase, full details of the proposed means of foul drainage shall first be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to each phase coming into operation.

Reason: To prevent pollution of the water environment and to ensure a satisfactory form of development. To accord with the objectives of policy ENV14 of the Luton Local Plan and the National Planning Policy Framework.

- (22) The car parking areas within Phase 1 shall be constructed and managed in accordance with details approved on 21 January 2016 (ref: 15/00659). The car parking areas in subsequent phases shall be constructed and managed in accordance with a scheme to be submitted for approval in writing by the Local Planning Authority prior to the development of each phase. The scheme as approved shall be implemented in full prior to that phase coming into operation.

The areas within the application site which are shown to be in use for car parking in the application details shall not be used

for any other purpose other than the parking of vehicles by passengers, staff and contractors servicing the airport.

Reason: To ensure that adequate provision is made for vehicles to park clear of the highway in the interest of road safety and to prevent unacceptable environmental impact on neighbouring residential areas. To accord with the objectives of Policies LP1 and T3 of the Luton Local Plan and the National Planning Policy Framework.

- (23) The surfacing and drainage of car parking areas shall be carried out in accordance with the details approved on 22 September 2015 (ref: 15/00455/DOC).

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area. To accord with the objectives of policies ENV14 and T3 of the Luton Local Plan and the National Planning Policy Framework.

- (24) The Passenger and Staff Travel Plan shall be implemented in accordance with the details approved on 23 September 2015 (ref: 15/00761/DOC).

Reason: To seek to reduce single occupancy vehicle trips to the site and to accord with the objectives of policy LP1 of the Luton Local Plan and the National Planning Policy Framework.

- (25) The Highway Improvement Schemes shall be carried out in accordance with the details approved on 8 May 2015 (ref: 15/00456/DOC).

Reason: To ensure that the public highway is not adversely affected by traffic arising from the development in accordance with Policies LP1 and T3 of the Luton Local Plan and the National Planning Policy Framework.

- (26) The extensions to the passenger terminal hereby permitted shall not be brought into use for passengers until the approved highway improvement schemes referred to in Condition 25 have been carried out and completed in accordance with the approved details.

Reason: To ensure that the public highway is not adversely affected by traffic arising from the development in accordance with Policies LP1 and T3 of the Luton Local Plan and the National Planning Policy Framework.

- (27) The development shall be carried out in accordance with the Renewable Energy Strategy approved on 23 September 2015 (ref: 15/00734/DOC).

Reason: In the interests of sustainability and to reduce adverse environmental and energy impacts of the development. To accord with the objectives of Policy (ies) LP1, ENV9 and U3 of the Luton Local Plan and the National Planning Policy Framework.

REPORT

The Site and Surroundings

3. The Airport occupies a 245 hectare site on the south eastern edge of Luton approximately 3km east of junction 10 of the M1 motorway. The Airport is located on an elevated plateau approximately 150/160m above ordnance datum (AOD). To the east and north east of the site the land uses are predominantly rural in character, comprising a mix of farmland with villages and small settlements. To the north of the Airport the land use is predominantly residential. Immediately to the west is an area of commercial and industrial land uses and beyond are the Park Town area and the Town Centre of Luton. To the south the land is predominantly rural in character and includes the scheduled ancient monument Someries Castle and The Luton Hoo Estate.
4. The existing runway is 2,160m long and 46m wide and runs east to west. There are four main apron areas with passenger stands predominantly arranged around the Central Terminal Area in addition there are four stands within the cargo centre. Five taxiways connect the apron areas to the runway and a parallel taxiway runs for part of the length of runway 08/26.
5. The Airport is licensed by the Civil Aviation Authority to operate on a 24 hour basis under its Public Use Aerodrome License issued in accordance with the Air Navigation Order 2009. The Airport's terminals are therefore open 24 hours a day seven days a week and air transport movements occur both during the day and night.
6. There are also a number of buildings within the site that provide office accommodation, maintenance hangers and other service facilities which support airline operations.

Recent Planning History

7. Luton Airport was opened in 1938 to attract new industry to the town. During World War II it operated as a flight school for the RAF. Following the war it grew sufficiently by 1959 to have a concrete runway installed. In 1964 the runway was extended to its current length of 2,160 metres.
8. On 20th December 2013 the Development Control Committee resolved to grant planning permission for the dualling of airport way/airport approach road and associated junction improvements, extensions and alterations to the terminal buildings, erection of new departures/arrivals pier and walkway, erection of a pedestrian link building from the short-stay car park to the terminal, extensions and alterations to the mid-term and long-term car parks, construction of a new parallel taxiway, extensions to the existing taxiway parallel to the runway, extensions to existing aircraft parking aprons, improvements to ancillary infrastructure including access and drainage, and demolition of existing structures and enabling works. Outline planning application for the construction of a multi-storey car park and pedestrian link building (all matters reserved). This application was subject to a S106 Legal Agreement and the decision notice was issued on 23rd June 2014.
9. The decision notice included 30 planning conditions, 19 of which were pre-commencement conditions. Details of all pre-commencement conditions attached to that consent have been submitted and discharged at least in part.

The Proposal

10. At the time of the approval of 12/01400/FUL, four noise related conditions were imposed. Three of these concern airborne related noise and the fourth relates to ground noise. These conditions include a number of controls and requirements for the monitoring of noise. Further controls and monitoring are included within the S106 Legal Agreement. The four noise conditions are set out in full at appendix A of this report.
11. This application relates to the variation of section (i) of Condition 11, none of the other conditions or sections of the S106 Legal Agreement are proposed to be varied either in full or part. The condition currently states:
 11. (i) *Within six months of the commencement of development and in accordance with the approved Noise Control Scheme the maximum Noise Violation Limits (NVL) for all aircraft, as recorded by departing aircraft at the fixed noise monitoring terminals, shall be reduced to values which are determined by the noise classification of individual aircraft as follows:*

<i>Aircraft Classification on Departure</i>	<i>NVL (dBA)</i>
QC4 (daytime only)	85
QC2	82
QC1	79
QC 0.5 and below	76

12. The proposal put forward by the airport is that this condition is varied as follows:

11. (i) Within six months of the commencement of the development, a progressive reduction in the night-time (2300-0700) maximum Noise Violation Limits (NVL) by the noisiest aircraft shall be implemented, as follows:

*82dB(A) from the date of the commencement of development
80dB(A) from 1st April 2015
79dB(A) from 1st January 2020
77dB(A) from 1st January 2028*

13. This alteration would be reflect the style and control that already covers daytime noise (0700-2300) set out in condition 11(j).

Planning Policy

14. The planning application is assessed against relevant national, regional and local planning and aviation policy, including the:

- Plan for Growth 2011
- National Planning Policy Framework 2012
- Aviation Policy Framework 2013
- National Infrastructure Delivery Plan 2016-2021
- Luton Local Plan 2001-2011 (saved policies)
- Emerging Luton Local Plan 2011-2031 (pre-submission version October 2015)

15. Section 143 of the Localism Act 2011 inserts a new element into Section 70 (2) of the Town and Country Planning Act 1990 (as amended) and now reads:

'In determining planning applications the Local Planning Authority shall have regard to (a) the provisions of the development plan so far as material to the planning application; (b) any local finance considerations, so far as material to the application; (c) and to any other material considerations'.

16. For the purpose of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the development plan in force for the area is the Luton Local Plan 2001 -2011 adopted in 2006 (saved policies).

National Policy

17. **Plan for Growth March 2011:** The Government's Plan for Growth preceded the National Planning Policy Framework, and contained objectives to ensure that planning supports the sustainable development, through economic growth and jobs, that the country requires as it emerges from recession.
18. **The Budget in 2011,** the Government announce that they would be establishing 21 new Enterprise Zones in local enterprise partnership areas in England. This was extended by a further 25 in March 2015 and then again in November 2015, by a further 15 new Enterprise Zones. The last announcement included Luton Airport.
19. Whilst the full details of the Luton Airport Enterprise Zone have not been confirmed, in other locations, Enterprise zones offer companies business rates relief, streamlined planning regulations through the use of local development orders, and capital funding assistance aimed at supporting job creation.
20. **National Planning Policy Framework (NPPF) February 2012:** The NPPF sets out to rationalise national policy guidance and how the government's planning policies are expected to be applied. It reaffirms the position that the planning system is plan led and that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004). The NPPF is a material consideration in the determination of this planning application.
21. The presumption in favour of sustainable development is at the heart of the NPPF, with sustainable development being defined in economic, environmental and social terms. Local authorities should apply the presumption in favour of sustainable development when assessing and determining planning applications.
22. The NPPF "*aims to strengthen local decision making and reinforce the importance of up-to-date plans*" (paragraph 209) noting that "*for the purposes of decision-taking, the policies in the Local Plan...should not be considered out-of-date simply because they were adopted prior to the publication of the Framework*" (paragraph 211).

23. The NPPF expects planning policies and decisions, amongst other things to aim to *“avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions...”* (paragraph 123).
24. For 12 months after the publication of the NPPF local authorities were to give full weight to policies in the development plan adopted after 2004, even if there was limited conflict with the NPPF. After this period due weight should be given to relevant policies in existing plans *“according to their degree of consistency with the Framework”* (paragraph 215).
25. With regard to airports, paragraph 33 of the NPPF states that:

‘Where planning for ports, airports and airfields that are not subject to a separate national planning policy statement, plans should take account of their growth and role in serving business, leisure, training and emergency service needs. Plans should take account of this framework as well as the principles set out in the relevant national policy statements and the Government Framework for UK Aviation.’
26. **National Planning Practice Guidance (NPPG) March 2014:** NPPG was published in support of policy in the NPPF.
27. **Aviation Policy Framework March 2013:** Following consultation on the Draft Aviation Policy Framework in July 2012, the Government’s proposed high-level strategy setting out overall objectives for aviation, the Aviation Policy Framework (APF) was published in March 2013.
28. The APF replaced the 2003 Air Transport White Paper as the Government’s policy on aviation. The Air Transport White Paper had set out in detail which specific developments would be supported at particular airports across the UK, though the Coalition Agreement of May 2010 superseded this in relation to further runways at the major south-east airports. The APF does not provide such detail, but rather sets out the Government’s objectives and principles to guide plans and decisions at the local and regional level. The independent Airports Commission (Davies Commission) will provide recommendations in relation to the scale and timing of any requirements for additional capacity.

29. In the short term, to around 2020, the APF proposes a strategy based on a suite of measures, namely:

- *“making best use of existing capacity to improve performance, resilience and the passenger experience;*
- *encouraging new routes and services;*
- *supporting airports outside the South East to grow and develop new routes; and*
- *better integrating airports into the wider transport network.”*

30. The APF makes a number of references to the role that Luton Airport plays in the UK. In paragraph 1.41 it states:

“The demand for aviation in the UK is concentrated in the South East, a densely populated region whose economy comprises multiple high-value sectors including finance, professional services, technology, media and fashion. This drives consistently high demand for aviation in the region, so that the five main South Eastern airports (Heathrow, Gatwick, Stansted, Luton and London City) account for nearly two-thirds of passengers at UK airports and nearly half of all air transport movements.”

31. In terms of the role that Luton Airport could play in global connectivity paragraph 1.79 states:

“To improve connectivity at an international level and to help make better use of existing infrastructure at London’s congested airports, we announced in 2011 that we would consult on extending the UK’s existing regional fifth freedoms policy to Gatwick, Stansted and Luton. The granting of fifth freedoms would allow a foreign airline to carry passengers between these three London airports and another country as part of a service that begins or ends in the airline’s home country. For example, a Singaporean airline would be able to operate a service from Changi Airport in Singapore to Gatwick Airport and then on to JFK Airport in the US, picking up passengers at Gatwick Airport and carrying them to New York.”

32. The APF also considers access to airports and notes the investments that have been made to improving rail services to Luton and Gatwick and makes specific reference to the investment the Council is making to M1 Junction 10a.

33. 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. This is consistent with the Government’s Noise Policy Statement for England (NPSE, March 2010), which aims to avoid significant adverse impacts on health and quality of life. To this end the Government recognises the International Civil Aviation Organisation’s

(ICAO) 'balanced approach' which seeks to identify the noise problem at an airport and then assess the cost-effectiveness of various measures to reduce noise. The four main elements are: reduction at source (quieter aircraft); land-use planning and management (including use of conditions and legal agreements to mitigate and reduce to a minimum adverse impacts); operational procedures (how aircraft are flown and their routes to limit noise impacts); and operating restrictions (preventing noisier aircraft from flying to airports).

34. **The Airports Commission** (also known as the Davies Commission): The Airports Commission was established in September 2012 with the role of defining the Government's objectives and policies on the impacts of aviation.
35. The Commission's Final Report, published in July 2015, backed the idea of building a third runway at Heathrow, however the Government has yet to make a decision on runway expansion in the South East and in December 2015 an announcement was made that there would be a further six month delay.
36. The reasons given for the delay include further consideration in respect of Heathrow Airport's ability to comply with legal air pollution limits, a possible ban on night flights and an undertaking to reduce noise below the current level for two runways.
37. Whilst this delay does not directly impact on this planning application, this information is included as acknowledgement that the Government are looking into the impact of aircraft noise in the wider context of airport growth.
38. **National Infrastructure Delivery Plan 2016-2021:** The National Infrastructure Delivery Plan was published on 23 March 2016 and brings together the Government's plans for economic infrastructure over the next five years.
39. The Plan includes a chapter on airports, setting out how the Government will deliver a package of road and rail projects to support private sector investment in airport capacity. Whilst the Government's objectives include ensuring that the UK's air links continue to make it one of the best connected countries in the world, consistent with the APF the National Infrastructure Delivery Plan aims to "limit, and where possible reduce, the number of people in the UK significantly affected by aircraft noise."
40. With regard to Luton Airport, the Plan identifies that this is one of four airports for the delivery of new airport infrastructure by 2020-21 with a £51m terminal redevelopment and expansion.

Local Policy

41. **Luton Borough Local Plan (2001 – 2011):** The Airport estate (as defined in the Concession Agreement) is designated as the Airport Action Area in the Local Plan. The key policy being policy LLA1 which identifies the Airport as a specific Action Area and recognises that further to the content of the review of the Air Transport White Paper there may be further growth. The policy states that:

'The Borough Council will grant planning permission for development at London Luton Airport (identified as such on the Proposals Map) provided that it:

- i) is airport related; and*
- ii) is not in conflict with national or regional aviation policies; and*
- iii) is in accordance with the most recent development agreed jointly by Luton Borough Council and London Luton Airport Operations Limited; and*
- iv) results in aircraft noise impact that is below the 1999 level; and*
- v) incorporated sustainable transport measures that will be likely to make an appropriate contribution to the achievement of the target for modal shift of passengers, visitors and staff travelling to the airport as set out in the most recent Surface Access Strategy with regard to;*
 - a) the number and size of spaces; and*
 - b) the location and management of the car parks.'*

42. Other policies from the Local Plan that are relevant to the determination of this application are:

- Policy LP1 sets out a sustainable development strategy for development proposals within the borough.
- Policy ENV7 which, amongst other things, indicates that planning permission will not be granted for development which is likely to adversely affect the setting of listed buildings.

43. **Emerging Local Plan 2011-2031 (pre-submission version):** Following consideration and approval by Full Council on 22 March 2016 the Luton Local Plan was submitted to the Secretary of State, consequently this is a material planning consideration and some weight should be given to its emerging policies.

44. The emerging Local Plan includes Policy LP6: London Luton Airport Strategic Allocation. This policy has a number of strands to it, including: airport safeguarding; airport expansion; airport related parking; Century Park; Wigmore Valley Park; and design and drainage.
45. In relation to airport expansion the policy states that proposals for development will only be supported where they, inter alia:
- “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.”*
46. The emerging Local Plan also includes other policies that are relevant to the overall development, including:
- LP1: Presumption in Favour of Sustainable Development;
 - LP13: Economic Strategy;
 - LP14: Employment Areas;
 - LP28: Biodiversity and Nature Conservation;
 - LP29: Landscape and Geological Conservation;
 - LP30: Historic Environment;
 - LP34: Public Safety Zones;
 - LP36: Flood Risk;
 - LP37: Climate Change; and
 - LP38: Pollution and Contamination.
47. **The London Luton Airport Development Brief:** The development brief was adopted as Supplementary Planning Guidance in September 2001 with a view to guiding decision making for airport related development. The coverage of the Development Brief is limited to the area of the

existing Airport that lies within Luton Borough. The status of the Development Brief as SPG means that it is a material planning consideration in the determination of any planning application and that development proposals complying with it will be supported subject to environmental impacts and mitigation.

Equality Implications

48. No disproportionate effect on people with protected characteristics has been identified.

Consultation Responses

49. Central Bedfordshire Council: No comments have been received. Any comments made will be reported at the Meeting.
50. St Albans City and District Council: Object to the application on the grounds that the variation of the condition would increase noise levels beyond the levels that were previously considered unacceptable, resulting in significant noise disturbance to the amenities of residents in the District.
51. Hertfordshire County Council: The County Council commissioned Aecom to review the application and inform their representations, with the conclusion being that:
 - The current wording of conditions 11(i) and 11(j) are confusing and potentially counter productive.
 - The variation to condition 11(i) will allow the noise violation limits for QC2 (Quota Count) aircraft to increase by 2dB(A) to 82dB(A).
 - The variation to condition 11(i) is not stringent enough and an alternative wording is proposed.
 - Condition 11(j) will not produce any benefits until 2020 and so alternative wording is proposed for that condition.
52. Stevenage Borough Council: Recognise that condition 11(i) cannot operate simultaneously with condition 11(j) without conflict and the Council agrees that amendments should be made. The Council supports the recommendations made in the Aecom report commissioned by the County Council.
53. Chilterns Conservation Board: The Board considers that since the majority of aircraft (85%) meet the targets set by the current planning condition the condition is justified and reasonable. The Board opposes the variation of the condition since they consider it sets an appropriate environmental threshold to protect those affected by the increase in number of aircraft

movements at the Airport, both in Luton and the Area of Outstanding Natural Beauty.

54. Luton And District Association for the Control of Aircraft Noise (LADACAN): Considered the proposed condition would be simpler to implement than the existing condition, though accurate QC values would still need to be determined for all aircraft. Considered that the Noise Control System (NCS) would need to be revisited to ensure that the levels chosen are strict enough to act as a sufficient deterrent with fines for exceedances of the noise violation limits reflecting previous levels (rather than those approved through the NCS in March 2015 [ref: 14/01519/DOC]) and increasing levels of sanctions for repeat offenders. Recommended a progressive incremental reduction in noise violation limits, both for day and night periods. Considered that the noise violation limits advocated by the Airport would not encourage a change to quieter aircraft.
55. Luton Airport Noise Action Group (LANAG): Raise a number of points in relation to the report prepared by the Airport's noise consultants (Bickerdike Allen Partners), including: questioning the appropriateness of comparing noise violation limits at Luton with those at Heathrow, Gatwick and Stansted; noting there is significant variation in noise of aircraft as measured during certification and in practice; suggesting that aircraft operators could modify their aircraft to reduce noise; and suggesting that operational practices to increase runway capacity can put departures at greater risk of exceedances. LANAG also make the same points as LADACAN with regard to raising the fine level for noise violations and providing greater sanctions for repeat offenders. Additionally LANAG suggest that the operative date for the 77dB(A) limit should be 1st January 2025 and not 2028.
56. Statutory Publicity: The application has been notified to 26 adjoining occupiers and a series of site notices have been displayed in the surrounding area. One representation has been received opposing the variation to the condition on the grounds that it will increase noise pollution.

MAIN PLANNING CONSIDERATIONS

57. This section of the report considers the main issues that arise in regard to the determination of this application, including those that have been raised through the consultation process.
58. The main issues to be considered are whether the variation of the condition as proposed by the applicant gives rise to a demonstratively

adverse impact in terms of aircraft noise, on residents surrounding London Luton Airport.

59. The Council appointed independent noise consultants, Cole Jarman Ltd, to review the report prepared by the Airport's consultants and to provide advice with regard to the appropriateness of the existing condition and variation proposed. Cole Jarman Ltd has also provided comments on the report prepared by Aecom for the County Council and other representations that have been received.

Update of the Environmental Statement

60. Since the original application was accompanied by an Environmental Statement (ES), the application has included an update of the ES which considers whether the proposed variation to condition 11(i) results in any change to the findings of the assessment undertaken for the original ES. The addendum to the ES addresses only the chapter on noise since it was concluded that the application does not affect the assessment or conclusions of other chapters in the original ES.
61. The ES addendum notes that the Council took on board the proposed progressive reduction in daytime noise violation limits advocated by the Airport in their original ES, reflected in condition 11(j). However, the ES addendum noted that a different approach had been taken to night time noise with condition 11(i) and that this condition created a conflict, was not reasonable, was insufficiently precise and would not incentivise airlines to use quieter aircraft (QC1 and QC0.5 and below) since these could exceed the lower noise violation limits for their category more often than the noisier aircraft (QC2 and QC4).
62. The variation to the condition advocated by the Airport's noise consultants is that condition 11(i) should be replaced with alternative night time noise limits, setting absolutes that progressively reduce over time and are not linked to the QC classification.

Principle of Development

63. The principle of the development was considered by the Development Control Committee at its meeting on 20 December 2013, where the Committee resolved to grant planning permission for the development. Since this Section 73 application would result in the creation of a new planning permission it is worth repeating the section of the report that dealt with the principle of the development. This is set out below:

"76. The adopted Airport Development Brief SPG sets out future developments at the Airport including expansion of the Central

Terminal Area, multi storey car parks, potential piers, taxiway extensions and links. The principle of the proposal broadly complies with the development land use plans in the Development Brief. The Development Brief supports the principle of the expansion of the Airport and is a material planning consideration.

- “77. The current plans for the next phase of the Airport’s development will address the existing constraints and provide significant benefits to passengers, airport businesses the local economy and provide for the development of the Airport for the future. This reflects the principle objectives set out in the Development Brief (paragraph 5.8).*
- “78. The principle of the proposed development is also in line with the Development Plan. Policy LLA1 of the Luton Local Plan states that planning permission will be granted for development at the Airport subject to six provisos, which this development does accord with. The proposed development is clearly airport related. The proposed development is not in conflict with national aviation policies (elaborated upon below). As noted above the proposal is in accord with the Development Brief. The proposal would not result in aircraft noise levels above the 1999 level (this is expanded upon in the section on noise paras 102 - 106). The proposed development incorporates sustainable transportation measures (this is expanded upon in the section on transport paras 117 - 140). The proposed development provides car parking facilities that comply with the Airport Surface Access Strategy (this is expanded upon in the section on transport paras 134 - 137).*
- “79. The NPPF, published since the Development Brief and Local Plan, notes with regard to airports that “plans should take account of their growth and role in serving business, leisure, training and emergency service needs. Plans should take account of this framework as well as the principles set out in the relevant national policy statements and the Government Framework for UK Aviation” (paragraph 33).*
- “80. The Government’s current aviation policy is set out in the APF of March 2013. This has as a key priority the making better use of existing runway capacity at all UK airports. This is to be achieved through a suite of measures to improve performance, resilience and passenger experience, together with encouraging new routes and services and better integrating airports into the wider transport network. The principle of the proposed development accords with the national aviation policy.”*
64. The principle of the development was therefore previously considered acceptable and the planning permission has been implemented.

Noise and Vibration

65. The noise assessment within the original ES examined the potential for noise effects during the construction of the proposed development; for increased noise during the operation from aircraft arriving and departing from the Airport; aircraft taxiing and manoeuvring on the ground and road traffic accessing the Airport. The report to the Development Control Committee of 20 December 2013 went on to record that:

“103. In the UK, research by the Government has shown that people start being concerned by aircraft noise at 57 decibels (dB), averaged over the 16 hour daytime period (referred to as 57dB LAeq). This is used as the starting point for policies managing aircraft noise around airports across the country. For night time noise the contour is the 48dB LAeq (over an eight hour period). In order to comply with the Environmental Noise (England) Regulations (as amended) LLAOL produces statutory noise contour maps for the Airport.

“104. The areas currently impacted by aircraft noise during the daytime within the 57dB contour, range from the rural area near St Paul's Walden to the east to areas near the M1 in Slip End. The daytime aircraft noise contours include most of Breachwood Green and parts of south Luton. There were approximately 6,700 people resident in these areas in 2011. The area currently impacted by night time aircraft noise within the 48 dB contour, is greater than the daytime area and stretches from Stevenage to south of Markyate. Approximately 16,350 people were resident within the contour area in 2011.

“105. The areas of the daytime and night time contours for the existing Airport operation are well within contours imposed by the 1998 planning permission, and consisting of figures as referred to in the 1997 ES predicted for 1999. There is disagreement as to whether those figures, or the actual figures for 1999 obtained by observation, are the relevant figures for Policy LLA1 of the 2001- 2011 Local Plan. Hertfordshire County Council and LADACAN, amongst others, argue in favour of the lower “actual” figures. The ES asserts the opposite that LLA1 refers to the benchmark of the predicted 1999 contours. This Council has tended to favour that interpretation. The condition proposed to deal with this issue, , addresses both sets of figures.

“106. Adopting a conservative approach which is based on an actual not predicted 1999 figure results in the contour areas requirements being as set out in Condition 12.

“107. Within the ES for the current development proposals the assessment of the predicted airborne aircraft noise has indicated that the increase in noise associated with the proposed development would be approximately 1 to 3 dB and as such the number of people within the daytime 57 dB contour and the 48 dB night time contour is predicted to increase compared to 2011. The assessment of ground noise predicted an overall increase in general ground noise levels of less than 2 dB as a result of the increased aircraft movements which would not significantly increase disturbance. No more than a 1.3 dB increase in road traffic noise was predicted and as such it was considered that there will be no significant effects in terms of road traffic noise as a result of the proposed development.

“108. The Airport currently operates a Noise Action Plan which includes 55 measures designed to manage noise associated with aircraft. This was published by LLAOL in January 2012, following approval by DEFRA and was prepared in response to the Environmental Noise Directive (2002/49/EC), which required all Member States within the EU to produce Noise Maps and Action Plans for the main sources of environmental noise, including larger airports. A review of the Noise Action Plan will commence shortly.

“109. The ES proposed that this would continue but would be supplemented by a package of additional control measures including: a quota on the total level of aircraft noise during the night time period; restrictions on the noisiest aircraft; penalties for breaches of Airport noise limits; and initiatives to ensure that aircraft stay within preferential routes to minimise the potential noise impact. A new noise insulation grant scheme will also be introduced as a result of these proposals. It was considered that this package of mitigation measures would be compatible with best practice in the UK.

“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, in so far as noise is concerned, that planning permission will be granted for development that results in an aircraft noise impact that is below the 1999 level. The ES has interpreted this to mean that the 57 dB contour predicted for 2028 with the development in place will be no greater when measured as an overall area than the equivalent contour predicted for 1999. However, as noted above, an alternative interpretation has been advanced by some third parties that not only limits the measured area but also requires that no location predicted to be affected by the 1999 level shall be exposed to a higher level with the development in place. 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 flights undertaken by modernised low noise variants of relevant aircraft types.*
- So far as the potential effects on sleep disturbance due to night time operations, while these have been addressed in the ES the specific risk of people being awakened by individual aircraft*

movements have not been quantified to the extent that might have been expected. Similarly the analysis has indicated that some locations may experience future noise levels from aircraft on the ground and from road traffic associated with the Airport and this would warrant mitigation through the noise insulation scheme however this has not been included within the proposal. These deficiencies can be remedied and overcome by providing appropriate mitigation, through the imposition of conditions controlling noise levels and requiring monitoring and reporting, together with clauses in the S106 agreement in relation to the Noise Insulation Scheme such that, in the event that the noise levels and effects on sleep disturbance are worse than predicted in the ES, appropriate mitigation measures will be in place so as to prevent harm.

- With regard to the operation of aircraft at night, this is known to be a particular concern to residents living in the local community. The assessment of the ES indicates that the controls that are being proposed for one part of the night (23.30 to 06.00) are not necessarily sufficiently stringent to ensure operations fully in line with the impact indicated in the ES. Furthermore no specific controls are proposed for aircraft operating in the early morning shoulder period of 06.00 to 07.00, for which the number of movements is expected to increase substantially. The effect of potential sleep disturbance needs to be properly considered through appropriate controls and or mitigation measures. Although the Noise Insulation Scheme which will be included in the S106 Agreement, as currently drafted contains certain provisions to address night time noise issues it does not specifically deal with mitigating the effects of night time noise. However, the details of the content of the Noise Insulation Scheme has been included within the S106 Agreement and will need to be agreed with the Local Planning Authority.*
- In relation to noise violation limits the ES proposed a ban on aircraft with a QC value greater than 2 during the night quota period. However this was considered to be of limited value, as no aircraft falling into this category currently operate during the night quota period. In fact only 4% of movements would be affected if the ban was on aircraft with a QC value greater than 1, and this would be a more meaningful restriction. It is recommended that it would be more effective to set different noise violation limits for different classifications of aircraft, thereby ensuring that noise generated by all aircraft is monitored and tested against a suitable standard. A means of achieving this aim, using the already established Quota Count System is proposed and a*

suitable condition is proposed (similar conditions have been used at other airports, such as Bristol and the Quota Count System operates at Heathrow, Gatwick and Stansted).

“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 from the ES:

Leq Band 16 DAY hr	1999 (actual)	1999 (predicted)	2008 (actual)	2011 (actual)	2028 Without development and no modernisation	2028 With development and with modernisation
mppa	5.3	n/a	9.2	9.5	12.4	18
57-72 Leq area sqkm	19.4	19.6	16.6	12.8	18.2	19.5

Table 1: Daytime comparison of noise contour areas (07.00 – 23.00)

Leq Band 8 NIGHT hr	1999 (actual)	1999 (predicted)	2008 (actual)	2011 (actual)	2028 Without development and no modernisation	2028 With development and with modernisation
mppa	5.3	n/a	9.2	9.5	12.4	18
48-72 Leq area sqkm	37.2	60.6	38.5	30.1	38.9	40.4

Table 2: Night time comparison of noise contour areas (23.00 – 07.00)

“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. 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.

“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. 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. 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. The conditions and S106 requirements as proposed therefore reflect both the aspirations of the APF and the NPPF. The comments received by the applicants are contained in full within Appendix (8) of the Report.”

66. In support of the current application to vary condition 11(i), the Airport's noise consultants have produced a report that provides data on the actual noise levels associated with different aircraft in the various noise bands, covering daytime and night time operations from 2007 to 2014. Cole Jarman Ltd in their report have expressed the same data in terms of the percentage of aircraft meeting the proposed noise violation limits associated with the approved condition 11(i).
67. The table below shows the proportion of aircraft meeting the QC noise violation limits between 2007-2014 compared to the proportion of aircraft forecast in the ES to be operating in each QC category:

QC Category	Aggregate: 2007-2014	Forecast Movements in ES
0.5	87.5%	86.7%
1	11.2%	12.1%
2	1.0%	1.2%
4	0.2%	0.0%

68. The report submitted by the Airport's noise consultants also included data obtained from the Luton Airport noise monitors. This data showed that the noise levels from aircraft were typically higher than those expressed in the certification data. This could occur for a number of reasons, such as: departure flight procedures being different to those used in certification; and aircraft not using the full length of the runway and so being either lower over the monitors or using greater thrust.
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.

71. Their overall recommendation is that the proposed modified noise limits, and the time periods over which they would be applied, are appropriate, subject to the following:
 - A reduction in the daytime noise violation limit from 82dB(A) to 80dB(A) as of the 1st January 2028 (this is commensurate with that applied to the night time limit).
 - Increase the level of the fines from that approved in March 2015 (ref: 14/01519/DOC) to act as a deterrent and sanction for breaches of the noise violation limits. This also addresses one of the points raised in LADACAN's representations.
 - Undertake a comprehensive validation exercise annually to measure noise data at suitable locations to ensure actual noise levels generated by aircraft are measured and condition 12 is complied with.
 - Include within the Airport's Quarterly Monitoring Reports an analysis of aircraft types rated as QC1 exceeding a noise level of 82dB L_{Amax} and aircraft types QC0.5 or below exceeding 79dB L_{Amax}.
72. These measures would allow an objective assessment to be carried out, assist the Airport in determining whether there are systematic breaches which could be addressed by modified procedures or operational practices, and provide an incentive to airlines to use quieter aircraft within their fleet.
73. The Airport's consultants have responded to the four points set out above as follows:
 - Condition 11(j) achieves the daytime noise reduction that is suggested above.
 - The new sanction system that the Airport has implemented following the discharge of condition 11(c) (approved on 2 March 2015 ref: 14/01519/DOC) has resulted in fines that far exceed the total generated under the old system. This Airport considers the current levels of fines to be fair and reasonable, incentivising airlines to meet the noise violation levels both for daytime and night time periods.
 - The Airport confirms that their acoustic consultants already conduct validation exercises using data taken from the fixed and mobile noise monitors each year and that these reports are presented to the Noise and Track Sub-Committee of the Airport's Consultative Committee.
 - The Airport has agreed that they will commit to reporting the requirements in relation to QC1 and QC0.5 or below in their quarterly reports based on the typical QC values for the particular aircraft type.

74. It is therefore considered that the steps proposed are sufficient and that the variation to the condition would be acceptable.

Impact on Surrounding Communities

75. When the original application was reported to the Development Control Committee in December 2013, the impact upon the surrounding communities was addressed as follows:

“182. The Airport sits at the heart of a growing, vibrant and diverse community and the airport operator LLAOL is committed to engaging with the community to minimise adverse effects on amenity and enhance the quality of life of local people. The presence of a major international airport in close proximity to built up areas inevitably affects local environment and amenity and the Airport has been working with the community to address their concerns to the extent that the number of complaints has been declining steadily for several years. In 2010, a total of 589 complaints relating to the Airport aircraft operations were received, an average of two complaints per day, compared to 1,637 complaints received in 2006. Noise was cited as the main disturbance, aircraft being off-track, frequency of operations, low-flying aircraft, vibration and air quality were other areas of concern.

“183. The Airport layout is such that there are no residential dwellings overlooking the aprons and taxiways. The main apron is shielded by a near continuous row of hangars and as such ground noise from auxiliary power units and taxiing aircraft is not therefore significant. Noise monitoring indicates that the dwellings on Eaton Green Road experience a much greater ambient level of noise from road traffic than ground noise associated with the Airport. Future noise control measures are included within the Airport’s Noise Action Plan and the additional noise mitigation measures will help mitigate the potential effects on the local amenity on the community. Conditions are proposed to further address the noise implications of the development.

“184. The proposed development will enable LLAOL to build on its existing community project work to ensure that the Airport continues to support the local community through a range of schemes, including the Airport Community Trust Fund which provides support for local community initiatives. The Airport operators (LLAOL) are also proposing to provide a fund to be managed by the Consultative

Committee that will provide grant funding to local residents for works such as noise insulation. This fund will be maintained on an annual basis as part of the ongoing development of the Airport. They will also continue to engage with relevant stakeholders, such as air traffic control, airline operators, local residents, MPs, environmental health officers and the Consultative Committee on a range of issues that have a direct impact on the surrounding community. The S106 Agreement includes obligations to this effect.”

76. Representations have been received from neighbouring authorities, the Chilterns Conservation Board, LADACAN and LANAG raising concerns that the effect of the proposed variation to the condition is to weaken the controls that LBC considered to be appropriate and reasonable when the original planning permission was granted. Some of the issues have been addressed in the section above, however, additional comments on the measures to control the impact on the surround communities and countryside are provided below.
77. LADACAN considered that alternative noise violation reductions should be considered to those proposed in the application. The table below shows the Airport’s proposal, the recommendations from Cole Jarman Ltd and LADACAN’s alternative.

		Noise Violation Limit (dB) proposed year				
	Period	2015	2016	2020	2025	2028
Airport	Day	82				
	Night	80		79		77
Cole Jarman	Day	82				80
	Night	80		79		77
LADACAN	Day	82	81	80	79	
	Night	80	79	78	77	

78. It is worth noting that on 1st April 2015 the noise violation limits reduced from 94 to 82dB(A) for the daytime and from 82 to 80dB(A) for the night period, and a further reduction within a year of that change does not seem appropriate. The time period for reductions by 2028 fits with those assessed in the original ES and also the periods in condition 12, consequently these are appropriate. As noted above, Cole Jarman Ltd are recommending a commensurate decrease in the daytime noise violation limits. Cole Jarman Ltd comment that whilst the reduction in the daytime limit to 79dB would tend to improve the noise climate in terms of maximum noise levels experienced by the community, the benefits would in practical terms be marginal and would not necessarily affect the overall noise levels, since these are controlled by the envelopes set out in condition 12.

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.
80. Hertfordshire County Council and Stevenage Borough Council have both adopted the recommendations put forward by Aecom, which ultimately advocate separate daytime and night time conditions, though the noise violation limits are still linked to the QC rating of aircraft. As noted previously, the correlation between the QC certification and the operational practice is poor, consequently there would be breaches that are not brought about as a result of deviation from approved noise preferential routes or flight profiles.
81. Additionally, the view expressed by Aecom that the current wording is counter productive and could see a rise in noise levels, does not take account of condition 12, the key mechanism to achieve a reduction in the overall area and population affected by noise both during the day and night.
82. The measures recommended by Cole Jarman Ltd together with the existing conditions would meet the objectives set out in national and local policy to limit, and where possible reduce, the number of people near the Airport significantly affected by aircraft noise.

CONCLUSIONS

83. The development has been assessed against local and national planning policies and has been considered against the proposals that have been approved previously for the site (ref: 12/01400/FUL). It is considered that the proposed variation to condition 11(i) would not lead to an increase in the number of people affected by aviation noise, would reflect the control that is set out already for daytime noise (condition 11[j]) and would be an appropriate means of seeking to control and limit night time noise.

84. Taking all matters into consideration it is therefore recommended that planning permission be granted.

LIST OF BACKGROUND PAPERS

LOCAL GOVERNMENT ACT 1972, SECTION 100D

Luton Local Plan 2001–2011

Emerging Luton Local Plan 2011 – 2031

National Planning Policy Framework (NPPF) (2012)

Planning Application Ref: 15/00950/VARCON

Planning Application Ref: 12/01400/FUL

Planning Application Ref: 14/01519/DOC

LLA Noise Action Plan 2013-2018 (August 2014)

Government Policy including:

- Plan For Growth 2011
- National Planning Policy Framework 2012
- Aviation Policy Framework 2013
- National Infrastructure Delivery Plan 2016-2021

Cole Jarman Noise Report 13/1720/R3 (August 2015)

HUMAN RIGHTS ACT 1998

The determination of the applications which are the subject of these reports is considered to involve the following human rights:-

1. Article 8: Right to respect for private and family life; and
2. Article 1 of the First Protocol: Protection of Property

The evaluation section of each report considers in detail the competing rights and interests involved in the application. Having had regard to those matters in the light of the Convention rights referred to above, it is considered that the

recommendations in the reports are in accordance with the law, proportionate and balances the needs of the Applicant with the protection of the rights and freedoms of others in the public interest.

SECTION 17 CRIME AND DISORDER ACT 1998

In reaching the recommendations set out in each report, due regard has been given to the duty imposed upon the Council under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in its area.

EQUALITY ACT 2010

In dealing with planning applications on this agenda and in reaching the recommendations set out in each report, proper consideration has been given to the duty imposed on the Council under the Equality Act 2010 to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by that Act; to advance equality of opportunity and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics under the Act are a person's age, sex, gender assignment, sexual orientation, disability, marriage or civil partnership, pregnancy or maternity, race, religion or belief.

APPENDIX A

NOISE CONDITIONS IMPOSED ON APPLICATION NO 12/01400/FUL

Noise

11. a) Prior to commencement of the development details shall be submitted to the Local Planning Authority of a Noise Control Scheme which shall control the noise of aircraft both during the day (0700 - 2300) and the night (2300 – 0700) period.
- b) For the Night Quota Period (2330 to 0600) the scheme shall be based on the Noise Quota System count system (QC System) utilised by other UK Airports including Heathrow Airport.
- c) The scheme shall include sanctions in relation to operators of aircraft which land or take-off in breach of the QC System and shall include exclusion of aircraft movements with a QC value in excess of QC2 during the night time (2300 to 0700), 6 months or more after commencement of the development. An 'aircraft movement' shall be either a landing or take off by an aircraft.
- d) The scheme shall include details of the procedures to be adopted and shall include measures with the purpose of phasing out of night time (2300 to 0700) operations by aircraft with a QC value of greater than 1 on either departure or arrival.
- e) The scheme including the QC System shall be monitored and reviewed on a regular basis. Such a review shall take place, not later than the 1st and 4th year after introduction and every subsequent 5 years.
- f) For the Night Quota Period (2330 – 0600) this shall have the following limits incorporated into the scheme:
- (i) Total annual movements by aircraft (per 12 month period) shall be limited to 9,650;
 - (ii) The total annual noise quota in any 12 month period shall be limited to 3,500 which, using all reasonable endeavours, shall be reduced at each review until it reaches a point where it does not exceed 2,800 by 2028.
- g) For the Early Morning Shoulder Period (06.00 – 07.00) this shall have the following limit incorporated into the schemes:
- (i) Total annual movements by aircraft in any 12 month period shall be limited to 7000.
- h) The actual and forecast total number of aircraft movements for the preceding and next 12 month periods shall be reported to the Local Planning Authority every three months

i) Within six months of the commencement of development and in accordance with the approved Noise Control Scheme the maximum Noise Violation Limits (NVL) for all aircraft, as recorded by departing aircraft at the fixed noise monitoring terminals, shall be reduced to values which are determined by the noise classification of individual aircraft as follows:

Aircraft Classification on Departure	NVL (dBA)
QC 4 (daytime only)	85
QC 2	82
QC 1	79
QC 0.5 and below	76

j) Within six months of the commencement of the development, a progressive reduction in the daytime (0700 – 2300) maximum NVL by the noisiest aircraft shall be implemented, as follows:

- (i) 85 dB(A) from the date of the commencement of development
- (ii) 82 dB(A) from 1st January 2015
- (iii) 80 dB(A) from 1st January 2020

Reason: To safeguard residential amenity. To accord with the objectives of Policy LP1 and LLA1 of the Luton Local Plan and the National Planning Policy Framework.

12. The area enclosed by the 57-72dB(A) _{Leq16hr} (0700-2300) contour shall not exceed 19.4 sq km for daytime noise, and the area enclosed by the -48 - 72dB(A) _{Leq8hr} (2300-0700) contour shall not exceed 37.2 sq km for night-time noise, when calculated by the Federal Aviation Authority Integrated Noise Model version 7.0.d (or as may be updated or amended).

Within five years of the commencement of development a strategy shall be submitted to the Local Planning Authority for their approval which defines the methods to be used by LLAOL or any successor or airport operator to reduce the area of the noise contours by 2028 for daytime noise to 15.2km² for the area exposed to 57-72dB _{Leq16hr} (0700-2300) and above and for night-time noise to 31.6 km² for the area exposed to 48-72dB _{Leq8hr} (2300-0700) and above.

From the 1st January 2014 forecast aircraft movements and consequential noise contours (Day, Night and Quota Periods) for the forthcoming calendar year shall be reported on the 1st December each year to the Local Planning Authority, which shall utilise the standard 92 day summer contour

Reason: To safeguard residential amenity. To accord with the objectives of Policy LP1 and LLA1 of the Luton Local Plan and the National Planning Policy Framework.

13. Within 6 months of the development hereby permitted commencing a Noise Control Monitoring Scheme for the airport shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme or scheme review as applicable shall include, but shall not be confined to, the following:
- (i) Details of the fixed noise monitoring terminals and track keeping system (vertical and horizontal).
 - (ii) Details of the complaint handling system.
 - (iii) Sanctions to be imposed on infringement by aircraft in respect of noise limits and track keeping.
 - (iv) Arrangements for the verification of the submitted information.

Within six months of either commencement of development or the approval of the scheme by the Local Planning Authority, whichever is the later the scheme shall be implemented as approved. Such a review shall take place, not later than the 1st and 4th year after introduction and every subsequent 5 years.

Reason: To safeguard residential amenity. To accord with the objectives of Policy LP1 and LLA1 of the Luton Local Plan and the National Planning Policy Framework.

14. **Ground Noise**

Before any part of the development hereby permitted is commenced a scheme concerning ground noise associated with aircraft at the airport shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include, but not be confined to, the following:

- i) Measures to limit the ground running of aircraft propulsion engines within Luton Airport between 2300 and 0700
- ii) Preferential use of stands and taxiways for arriving/departing aircraft between 2300 and 0700
- iii) Steps to limit the use of auxiliary power units (including the provision of fixed electrical ground power to stands and or suitably quietened ground power units)

iv) No ground running of aeroplane engines for testing or maintenance purposes between 2300 and 0700 and designation of areas for such testing between 0700 and 2300.

Within six months of either commencement of development or the approval of the scheme, (or whichever is the later) by the Local Planning Authority, the scheme shall be implemented as approved. A review shall take place, not later than the 1st and 4th year after introduction and every subsequent 5 years.

Reason: To safeguard residential amenity. To accord with the objectives of Policy LP1 and LLA1 of the Luton Local Plan and the National Planning Policy Framework.