

Town and Country Planning Act 1990, s77

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

Application by London Luton Airport Operations Ltd

For Variation of Conditions 8 (Passenger Throughput Cap), 10 (Noise), 22 (Car Parking Management), 24 (Travel Plan) and 28 (Approved Plans and Documents) to Planning Permission 15/00950/VARCON (Dated 13 October, 2017)

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Closing Submissions on behalf of CPRE – Hertfordshire

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## **Introduction**

1. As we stated up at the Opening, CPRE – Hertfordshire stands up for the Hertfordshire countryside: to protect it from the threats it faces, and to shape its future for the better.
2. We continue to share all the concerns that are raised by LADACAN, other community groups, town and parish councils. However, as stated in our opening our primary role is to advocate on behalf of the countryside and ensure the impact that this proposal has on countryside is properly weighed and considered. We therefore seek to aid the inquiry by emphasising the impact that this development will have on the countryside and what weight that should be given in the planning balance.
3. Put simply, once the interests of the countryside are properly considered this scheme is not policy compliant.

## **Submissions**

### *Climate Change*

4. Any adverse climate change impacts will have an impact on the countryside and there is no dispute that this proposal will have an adverse impact.

5. CPRE Herts advances a very simple proposition; we are in a Climate Emergency where the accumulation of Carbon Dioxide (and other gases) in the atmosphere poses an exponential threat to humanity. In that context, we should not be increasing the volume of Carbon Dioxide in the atmosphere. Just as a driver heading towards a brick wall should be certain the brakes will work before even touching the accelerator.
6. Carbon Dioxide and other greenhouse gases are going to increase as the result of thousand and indeed millions of actors operating in isolation; the extra mile driven, the washing machine left on and the extra flight flown. No one these decision could be argued to have a material impact given the vast amounts of Carbon Dioxide expelled into the atmosphere. However, just as the dire situation we have found ourselves is the result of millions of small choices, the solution will be the accumulation of millions of small choices... the car drive switched to public transport, the insulation installed and critically, an airport not expanded. If every planning decision is seen in isolation waiting for a silver bullet, then all would be given permission.
7. The applicant's position is that in accordance with the IEMA guidance, the development is permissible since the increases permitted are relatively slight and it will not materially affect the ability of the UK to meet its net-zero target. From that conclusion, the applicant invites the Inspectors to find that the impact is not significant adverse as they are consistent with the Government's strategy as contained in Jet Zero.
8. However, having considered the evidence and in particular Dr Ösund-Ireland's, it is our position that the IEMA guidance has not been correctly applied and therefore the Panel cannot be confident that the impact will be minor as proposed.
  - a. The IEMA guidance states (at page 27) "The assessment process for GHG emissions will therefore require a review of the current and emerging policy/regulatory position together with a review of expert scientific advice from bodies such as the CCC or IPCC about where existing policy or regulation is insufficient or not, relative to the science." However, in our submission, Dr Ösund-Ireland has simply failed to assess whether Jet Zero and other government policies will deliver the cuts in emissions promised. The panel will recall the long silence when Mr Thomas asked Dr Ösund-Ireland to point out where it was 'likely' that Jet Zero and other strategies will work.

- b. Ms Hutton in re-examination asked whether in Dr Ösund-Ireland whether in his view whether there was a policy gap; Dr Ösund-Ireland answered in the affirmative but offered no further evidence.
  - c. Conversely, where there is evidence it is that Jet Zero with its ‘aspirational’<sup>1</sup>reliance on SAF, off-setting and fuel efficiency will fail and is riddled with uncertainty. Dr Ösund-Ireland accepted that there was no step-change and ‘nothing new’ between pre-existing government policy, for example making best use of runways, and Jet Zero. The CCC was withering in its assessment of Aviation in its most recent judgment of the aviation sector. The CCC progress report states that the overall sub-sector assessment is Red for 2050 despite considering all the factors raised by the appellant, SAFs, Carbon pricing and off-setting.<sup>2</sup>
9. In contrast, CPRE endorses the evidence of Ms Hewitt clearly demonstrates that the Government’s current strategy for tackling aviation emissions is incomplete and high risk which weighs heavily against introducing further greenhouse gases into the atmosphere thorough the variation of these conditions.
10. Given that it is accepted by all sides that both the NPPF and the Local Plan require development not to exacerbate the climate change challenges, this development in our view is not policy compliant.

### *Noise*

11. The airport already generates significant noise. The airport already generates excessive noise according to the extant planning permission. The application proposes generating more noise until at least the end of 2027 and potentially later. Specifically, the noise contour area for 57db will increase by over 11% and the night-time 48db contour will increase by over 15%. That 57db increase includes an Area of Outstanding Natural Beauty. Moreover, the wider countryside will be more sensitive to any increase in noise since the ‘background’ noise for those areas will be substantially lower.
12. Irrespective of the promises of future reduction, this is a substantial increase in the area exposed to noise intrusion and it predominately effects countryside areas. The appellant’s witness, Mr Thornley-Taylor accepted in cross-examination that the guidance relied upon

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<sup>1</sup> Dr Ösund-Ireland accepted in cross-examination from Mr Wald KC that the objectives and assumptions in Jet-Zero were ‘aspirational.’ In addition, Dr Ösund-Ireland stated he had ‘some sympathy’ for those who were sceptical regarding the mechanisms underpinning Jet Zero.

<sup>2</sup> Core Document 11.40 at page 347.

by the Applicants in scoping out the impact on the countryside indicates that flights below 7,000 feet should be avoided and that was because of the additional sensitivity of such areas to noise. Contrary to the position advanced by the Applicants in the Environmental Statement, these impacts cannot be scoped out on the basis that the flights are likely to be above 4,000 feet. We are therefore not satisfied that these impacts have been fully assessed in accordance with the local plan LLP6.

13. In weighing the impact on the countryside, the Inspectors are requested to consider the cumulative impact where the countryside has been subject to significant increases of noise following the 2012 permission as more of the 'Green Air Belt' has been diminished.

#### *Approach to Pollution Control*

14. The Applicants rely on paragraph 188 of the NPPF and state an assumption should be made that all pollution control regimes will be effective. However, CPRE Herts firm view is that this paragraph is *not* a direction that in all circumstances the panel must assume that all circumstances no account can be taken of the prospect of pollution control failing.
  - a. Specifically, paragraphs 174 and 185 of the NPPF invite a more nuanced approach since they require decisions to contribute and enhance the natural environment and to consider the likely effects. To blindly assume that all pollution control will be effective, undermines these important aspects of the NPPF. Mr Bashforth accepted this in cross-examination. Indeed, Mr Bashforth stated that paragraph 188 should only be given 'significant' weight which means it can be outweighed by more substantial concerns.
  - b. Moreover, the existential threat that climate change poses invites closer scrutiny particularly in the context that the secretary of state may miss targets and the concern that the CCC has raised particularly about conservation.

#### *Planning Balance*

15. Quite simply, given the gaps in the evidence identified above, the risk of non-compliance and the existential threat that climate change poses, the Panel cannot be satisfied that this proposal is policy compliant.

- a. With regards to Policy LLP6B(iv), there has not been a ‘full assessment’ of the impacts. Specifically, the noise impacts on the AONB have been unfairly scoped out and the IEMA guidance has not been correctly applied.
  - b. With regards to Policy LLP6B(v), we simply do not know if there will be a material increase in noise since the qualitative assessment required under policy has not been undertaken.
  - c. With regards to Policy LLP6B(vi), for reasons discussed below we do not believe that there will be effective noise control.
  - d. With regards to Policy LLP6B(vii), the panel cannot be satisfied that there is *significant* diminution and betterment. We agree with the Chiltern’s Conservation Board, that this application is an opportunity lost.
16. For the same reasons, we do not consider this scheme compliant with the ambitions or objectives of the NPPF which include a desire minimise climate change and protect the countryside against noise.
17. Finally, we do not consider the scheme compliant with The Chilterns Conservation Board Statutory Management Plan 2019-2024 which is a material planning consideration (as accepted by Mr Bashrorth) and contains policy DP14 which requires the impact on the AONB to be fully assessed and that where there is harm for there to be a net-gain for the AONB.

## **Enforcement**

18. It is agreed by all sides that any enforcement must be robust. In our submission robust means that any enforcement system must fully anticipate all likely scenarios, should be a strong and effective deterrent and must not place an undue burden on the enforcing authority as was accepted by Mr Bashforth in cross-examination.
19. Given the absence of a bond payment or sufficiently independent oversight of noise transgressions, we are not satisfied that the proposed enforcement mechanisms in the s.106 and draft conditions are indeed robust.

## **Conclusions**

20. For the reasons outlined above the inspectors are invited to find that the application is not consistent with planning policy and that material considerations (most pressingly of

all, the Climate Change emergency) heavily weigh against granting any increase in passenger numbers.

21. Alternatively, the inspectors will be invited to impose stringent and onerous conditions commensurate with the risks and consequences of non-compliance.

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11 November 2022