

M Reddington: Comments on Deadline 9 Submissions -Compensation Policies and Measures – ID 20037459

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Glossary

19mppa application	Application 21/00031/VARCON on the LBC Planning Portal – submitted by LLAOL to LBC to further increase noise contour limits and the passenger cap
2022 inquiry	Planning Inspectorate Inquiry (ref APP/B0230/V/22/3296455) into the called-in decision by LBC to grant the 19mppa application
Airport/LLA	London Luton Airport
Airport Operator/LLAOL	London Luton Airport Operations Ltd, ('LLAOL') currently the concessionaire at the Airport
Applicant	Luton Rising (London Luton Airport Ltd)
Application	This application TR020001 for a Development Consent Order
ATM	Air Transport Movement, hence ATMs is a count of the number of flights
DCO	Development Consent Order
LBC	Luton Borough Council, ultimate owner of and Local Planning Authority for LLA
mppa	'million passengers per annum': a measure of an airport's passenger capacity or actual passenger throughput
LOAEL	Lowest Observable Adverse Effects Level
noise contour	An outline on a map enclosing an area in which the 8-hour or 16-hour logarithmic average of aircraft noise for an average day in a defined 92-day summer period equals or exceeds a given value, expressed in terms of LAeq for an 8h or 16h period
Project Curium	Application 12/01400/FUL on the LBC Planning Portal – submitted by LLAOL to LBC in 2012 for development works to increase LLA capacity to 18mppa by 2028
NSIP	Nationally Significant Infrastructure Project
SOAEL	Significant Observable Adverse Effects Level

Table 1: Responses to Relevant Applicant's Comments in Deadline 9 [REP-051]

I.D	[REP9-051] ID ref.	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response	M. Reddington's Response
Table 2.2 of [REP9-051]: Applicant's Response to Deadline 8 Submissions – Compensation Policy and Measures Including Noise Insulation. [REP8-078 Tables.2 and 6]				
1.	ID 1	PDF version Page 4 Could the Applicant please confirm if these lands were procured after the initial public consultation for this DCO	Most of the land referred to was already held by the Applicant prior to the public consultation for the DCO.	This means that some lands <u>were</u> purchased <u>after</u> commencement of public consultation.
2	ID 2	Paragraphs 5.1.5c) and 6.1.16 Cut-off date is a major point of disagreement. The Applicant has responded in REP6-067 Item #35. The reasoning against this position were set out in Appendix B of REP6-154 (attached as Appendix C for reference).	The Applicant has reflected the previous representations on this point and made changes in the policy. See para 6.1.16 Compensation Polices, Measures and Community First [TR020001/APP/7.10]	Do not agree that previous representation have been included in the revised policies in paragraphs 6.1.16 or 5.1.5 c). For simplicity, arguments are repeated in Table 2 below. This is still a significant item of disagreement
3	ID 3	Suggest replace 'public' by 'Community'	This change has been made.	Noted
4	ID 4	The Applicant is Luton Rising but the Scheme will be implemented by the Airport Operator. The Applicant needs to set the budget for each year, and how this is to be done. The Airport Operator must not be allowed to control these issues	The Applicant has made provision to agree a rollout plan with the relevant planning authority and rather than an annual budget be set the Applicant has committed to deliver noise insulation in accordance with the approved rollout plan.	Noted but refer to response to ExA's Rule 17 letter dated 31 Jan 2024
5	ID 5	There has to be some remedy if the Scheme fails to insulate properties within specified timescales. Needs to be spelled out.	The Applicant can commit to delivering the noise insulation in accordance with the rollout plan and has explained that the ability to maintain its proposed programme will also depend on speed of take up, promptness of acceptance and timing of access to carry out the work.	Noted but refer to response to ExA's Rule 17 letter dated 31 Jan 2024

I.D	[REP9-051] ID ref.	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response	M. Reddington's Response
6	ID 6	This is a welcome addition and expands upon the current NIS remit. Further details are needed. For example: 1. What parties constitute the NIS and of them, who would have decision-making powers and who would attend for information purposes only 2. What constitutes a quorum for the NIS 3. Who sets the annual budget and how 4. How does the NIS now sit within the LLACC 5 Key Performance Indicators (KPIs) for the NIS.	The Applicant has made further changes to the Terms of Reference for the NIS sub-committee of LLACC as now set out in Compensation Polices, Measures and Community First [TR020001/APP/7.10] .	<ol style="list-style-type: none"> 1. Noted but refer to response to ExA's Rule 17 letter dated 31 Jan 2024 2. The document does not include any Key Performance Indicators (KPIs) for the NIS.
7	ID 7	'consider and comment..'. Means nothing. The NIS must be able to intervene, and with remedy, if enough members consider that the Scheme is not being run effectively or if funding has not been made available either for insulation (Applicant) or for testing (LLAOL).	The Applicant has made further changes to the Terms of Reference for the NIS sub-committee of LLACC as now set out in Compensation Polices, Measures and Community First [TR020001/APP/7.10] .	Noted but refer to response to ExA's Rule 17 letter dated 31 Jan 2024
8	ID 8	Suggest this is changed to 'Receive an annual report from the Airport Operator who will be the executor of the insulation Scheme, to include as a minimum: (i) List of all properties eligible for all forms of insulation -air, ground, traffic. (ii) Status of each eligible property for example, when approached, if agreed and when, insulated and when, tested and when. If not agreed: the reason why - positive rejection or timed-out. (ii) Date 'rejected' eligible property to be approached again.	The Applicant has made further changes to the Terms of Reference for the NIS sub-committee of LLACC as now set out in Compensation Polices, Measures and Community First [TR020001/APP/7.10] .	Noted but refer to response to ExA's Rule 17 letter dated 31 Jan 2024
9.	ID 9	(Comments on Applicant's Response to November 2023 Issue Specific Hearing 9 - AP37)	The Applicants response addressed the breakdown of the provisions made in the Funding Statement which was prepared and	<ol style="list-style-type: none"> 1. The Applicant has not stated what he is going to do about remedying the lack of Ground Noise funding, and subsequent

I.D	[REP9-051] ID ref.	Summary of Matter Raised Requiring a Response (Verbatim)	Luton Rising's Response	M. Reddington's Response
		<p>However this response is limited to Air Noise Schemes 1- 5 compensation and not Ground Noise which attracts a further set of charges. Secondly it is not possible to determine if Non-residential properties are included and whether there would be any impact on funding potentially extensive works. Furthermore the figures quoted against each Scheme 1-5 are incorrect with respect to Compensation Policies [REP7-037] Table 1.1: Scheme 1 – unlimited for all habitable rooms; Scheme 2 – up to £20,000; Scheme 3 – Unlimited for bedrooms Scheme 4: Up to £6,000; Scheme 5: Up to £4,000.</p>	<p>submitted with the DCO application documentation.</p> <p>At the time there was no ground noise scheme included in the proposed policy so this could not have been included in the breakdown. The threshold grant levels are not incorrect although it is acknowledged that the figures set out here do not align with the figures in the breakdown. For example, for Scheme 2 where the cost is stated to be 'up to' £20,000, a figure of £18,000 was used because the Applicant does not expect every grant under Scheme 2 to be made at the maximum level. This is considered to be a reasonable assumption for budgeting purposes.</p> <p>The non residential properties make up a very small number of cases currently estimated at 11, and whilst the maximum grant of £250,000 is high, the Applicant does not expect all applications to hit this level and therefore the contingency sums provided in the Funding Statement will be sufficient to cover the eventual cost of the non residential property applications.</p>	<p>implementation of Ground Noise insulation.</p> <p>2. The Applicant has been requested repeatedly to confirm who will fund the insulation testing - is it included in the Funding Statement or is it expected that LLAOL will fund and operate the testing .</p> <p>3. Indicative Air Noise contour drawings are included in the Compensation Polices, Measures and Community First [TR020001/APP/7.10] but there are none for Ground Noise – or for Construction Noise.</p>
10	ID10	<p>The current Scheme has an Air Noise as well as a Ground Noise contour, and also a limit of 90dB SEL at least once per night.</p>	<p>As requested by the ExA, the Applicant has responded to this submission in the Applicant's Response to Examining Authority's Rule 17 Request dated 17 January 2024 [TR020001/APP/8.179]</p>	<p>Ground Noise – technical – issues now dealt with under 'Responses to Deadline 9 Submissions – Noise and Vibration'. In respect of SEL, the Applicant has rejected the use of additional criteria elsewhere – see ID16 of EXA Letter dated 17/01/2024 adjacent..</p>

Table 2: Arguments against an Insulation Moratorium Date of October 2019 (reproduced from REP6-154 Appendix B)

I.D	Comment
	With reference to Draft Compensation Policies, Measures and Community First Tracked Change Version [REP9-033] paragraphs 5.1.5 c) and 6.1.16 and discussions at ISH9 on 30/11/2023 about Applicant's response REP5-054 I #71 .
1	<p>Moratorium</p> <p>The current position as stated in Compensation Policies, Measures and Community First Tracked Change Version [REP9-033] paragraphs 5.1.5 c) and 6.1.16 is (essentially) that any building constructed after 16th October 2019 will not be eligible for insulation under the provisions of the irrespective of its location within the noise contours. (<i>16th October 2019 is the date when the DCO allegedly went out to formal consultation.</i>)</p>
2	<p>Our Position</p> <p>(a) The requirements for noise insulation will depend upon the building's location within noise contours. These requirements can vary depending on proximity to the runway. There is going to be either one overarching set of requirements that apply to all buildings (i.e. worst case) or a tiered system depending upon exposure.</p> <p>(b) The date of 16th October 2019 is a date when the DCO document was released for <i>formal consultation</i>. There was no guarantee that the DCO would be permitted so why would a builder take it upon himself to include additional constraints that may never be realised, within his design ? Builders are not psychic.</p> <p>(c) In order to enforce additional constraints Host Authorities would have had to include any such constraints within the relevant Planning Department' processes and procedures PRIOR to the granting of Planning Permission ('PP') for any building;</p> <p>(d) This would necessitate Planning Departments' prior knowledge of the Applicant's specific construction requirements and an instruction (by whom ?) to include within their procedures.</p> <p>(e) Did the Applicant inform the Host Authorities Planning Departments of any particular requirements for inclusion within Planning procedures in a timely manner to influence granting of Planning Permissions; AND with sufficient leeway to allow a builder to construct a property to completion before 16th October 2019 ?</p>
3	<p>Applicant's position</p> <p>The Applicant's position is that this is 'usual practice'. Our contention is that this is draconian.</p>
4	<p>Extensions</p> <p>How would these constraints apply to building extensions that also require PP</p>
5	<p>Elapsed Time</p> <p>Even assuming the original date of 16th October 2019 was 'reasonable' [we think not] and the Applicant's requirements were clearly communicated to the Host Authorities , five years have elapsed since 16th October 2019 and the DCO is still not finalised since it is subject to a Planning Inspectorate decision. Therefore, it is not possible to say with any</p>

I.D	Comment	
	<p>certainty that requirements will be added, amended or deleted related to the construction of properties affected by airport noise, thus rendering buildings constructed before 16th October 2019 ineligible for insulation, through no fault of their own.</p>	
6	<p>Activity Schedule*</p> <p>Attached to is a simplified activity schedule (without durations) showing the steps required for a building to be completed before 16th October 2019, Also shown in the attached Activity Schedule are the steps we believe should be taken to secure the correct level of noise insulation.</p> <p>*Schedule is not reproduced here for simplicity – refer to REP6-154 Appendix B</p>	
7	<p>Recommendation</p> <p>The moratorium date of 16th October 2019 should be dispensed with immediately. Once requirements are finalised and development is permitted, the Applicant should advise Host Authorities so that these requirements can be included in their Planning processes. Any Planning Permission granted thereafter would then secure that any new buildings are compliant with latest Regulations and hence ineligible for insulation under the DCO specification.</p>	

Table 3: Comments on Deadline 9 Submission - Compensation Measures Tracked Changed [REP9-033]

I.D	Para.	Comment
1	1.1.10	<p>This paragraph states: <i>“The Noise Insulation Policy will continue to be available until all eligible owners have been contacted and offered the insulation and all those who responded positively have had the works that were offered under the policy, satisfactorily completed.”</i></p> <p>Table 1.1 under the row heading <i>“When will entitlement arise”</i> generally states <i>“In accordance with the property eligibility criteria and roll out plan set out in this policy”</i> The tenor of this wording is that the Applicant will offer the insulation to the home owner.</p> <p>Yet, the ‘Note’ at the top of the page states: <i>“A claim must be made and the outcome of any claim will depend on its own facts and whether it meets the necessary criteria for a claim as provided for in the relevant Act and compensation code”</i>. This appears to be a contradiction in terms of the offer and imply that potentially expensive litigation may be required.</p>
2	Table 1.1, 6.1.4, 6.1.9	<p>These paragraphs specify the Scheme 3 air noise insulation as: <i>“ Air Noise Scheme 3 – Properties inside the night-time 55dBLAeq,8h contour and outside the daytime 60dBLAeq,16h contour;”</i> The offer is unlimited funds for bedrooms only.</p> <p>This definition differs from that specified in paragraph 6.1.5., which states: <i>“The proposals provide eligibility from 54dBLAeq,16h and include the night-time 55dBLAeq,8h to determine properties exposed to significant observable adverse effects.”</i> This definition does not mention the night noise levels higher than 55sB LAeq 8h.</p> <p>Granted that the noise contour maps provided are indicative only, but in each case the 60dB LAeq 16h and 55dBA LAeq, 8h are virtually identical except at the northern and southern extremities. It is therefore almost impossible to determine which properties would be within the 55dB LAeq 8h contour yet outside the 60dB LAeq 16h contour and therefore eligible for Scheme 3 or Scheme 4.</p> <p>This raises the question of whether this outcome is what was meant. It seems unfair to properties that are subject to greater night noise, e.g. 57dB LAeq 8h (i.e. Scheme 2) but whose budget would be limited to £20,000 even if they wanted to spend it all on bedrooms.</p>
3	6.1.35 – 6.1.59.	<p>Whereas the effort to provide a more effective insulation system is welcomed, there will need to be cross-party agreement on the processes and the composition of the Noise Insulation Sub-Committee (NIS).</p> <p>The current Process appears to set a lot of responsibility on the NIC. These tasks will need to be clarified as to responsibilities, timescales, and availability of quora.</p>

I.D	Para.	Comment
		Other tasks such as running a complaints procedure and satisfaction survey, should be left to independent parties, not the actors themselves.
4	Appendix C	<p>Draft Terms of Reference for the NIS. Similarly, the terms of reference need further detail and discussion.</p> <p>We would encourage the ExA to ask for a formal document to be developed, agreed with the relevant parties, and enshrined as part of the DCO, to include as a minimum:</p> <ul style="list-style-type: none"> terms of reference (TOR), attendees, responsibilities, authority, funding, performance indicators, remedies, and handover from current Scheme(s) to the Development.