



## Hertfordshire Host Authorities

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# HERTFORDSHIRE HOST AUTHORITIES' CLOSING POSITION STATEMENT

London Luton Airport Expansion



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London Luton Airport Expansion

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# 1 INTRODUCTION

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## 1.1 Purpose of This Document

1.1.1 This document has been prepared jointly by Hertfordshire County Council (“HCC”), Dacorum Borough Council (“DBC”) and North Herts Council (“NHC”) referred to together as the “the Hertfordshire Host Authorities” (HHAs) in collaboration with their specialist technical consultants and legal advisers. It represents the Closing Position Statement (hereafter referred to as this Position Statement) by the HHAs.

1.1.2 In their Relevant Representations [RR-0297, RR-0558, RR-1119], Written Representation [REP1-069] and Local Impact Report (LIR) [REP1A-003], the HHAs registered their collective issues and concerns with regard to the application and the potential impacts of it on their areas. They also set out their respective positions on the application which have formed the foundation of their engagement during the Examination process and their ongoing engagement with the Applicant. These being:

### **Dacorum Borough Council**

1.1.3 *“The application in its current form lacks sufficient clarity, transparency and consistent methodology to provide sufficient reassurance to local communities that the airport can grow and be operated in a responsible manner to achieve sustainable growth as set out in Aviation 2050. The evidence does not currently exist that environmental, health and well-being, and surface access impacts will be within agreed and acceptable limits that can be appropriately enforced and will achieve overall betterment to local communities. Dacorum Borough Council therefore has an in-principle objection to growth of the airport pending satisfactory and appropriate resolution of those matters.”*

### **Hertfordshire County Council**

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

### **North Hertfordshire Council**

1.1.5 *“North Herts Council objects in principle to the proposed scale of expansion of London Luton Airport on the grounds that it is inconsistent with the Council’s declaration of a climate emergency and with national targets on decarbonisation for 2030, 2035 and 2050. The Council is unpersuaded that the evidence submitted and the enforcement mechanisms proposed in the DCO application reports are sufficient to demonstrate that the Airport can*



*grow by 78% (from 18mppa<sup>1</sup> to 32mppa) and still meet its climate change obligations in full, as required by national policy. Furthermore, the Council remains concerned that the impacts on North Herts' residents, businesses, heritage and natural environment, in terms of increased air pollution, noise exposure and road traffic, have not been robustly modelled and that the proposed mitigations and remedies are inadequate. Without prejudice to its in-principle objection to the development, the Council is willing to engage with the Applicant to review the data and analysis, agree any additional data and analysis required, and co-design any additional or altered mitigations with a view to making the proposed development acceptable in planning terms to the Council."*

- 1.1.6 In their Written Representation [REP1-069], the HHAs advised the Examining Authority (ExA) that they would continue to engage technically with the Applicant, where relevant and necessary, on the matters identified, with a view to informing the on-going preparation of the Statements of Common Ground (SoCG) and Principal Areas of Disagreement Summary Statement (PADSS) and to provide clarity for the remainder of the process.
- 1.1.7 The HHAs' SoCGs and PADSS [REP8-056] will have been submitted to the Examination before it closes. The SoCGs record whether or not the HHAs have reached an agreement on matters with the Applicant from a technical perspective. The PADSS draws on the SoCGs in highlighting what the HHAs consider to be the matters upon which they substantively disagree with the Applicant – again, from a technical perspective.
- 1.1.8 Taking into consideration all the above, particularly the SoCGs and PADSS this Position Statement seeks to assist the ExA at the close of the Examination in:
- Highlighting matters that remain unresolved or at issue; and
  - The position of the HHAs on the application.

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<sup>1</sup> Subsequently increased to 19mppa, following the Secretary of State's granting of full planning permission for called in planning application reference number: 21/0031/VARCON under Town and Country Planning Act 1990 - Section 77 application by London Luton Airport Operators Ltd on 13 October 2023.



## 2 KEY NATIONAL AND LOCAL POLICY

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- 2.1.1 The HHAs take the view that the key overarching policy issue before the ExA and the Secretaries of State is predominantly set out within Beyond the Horizon Making Best Use of Existing Runways (MBU) (June 2018) and the Airports National Policy Statement (ANPS) (June 2018). In essence, National Policy *'is supportive of airports beyond Heathrow making best use of their existing runways'*. But that support is subject to:
- *'it may well be possible for existing airports to demonstrate sufficient need for their proposals, additional to (or different from) the need which is met by the provision of a Northwest Runway at Heathrow'* (ANPS para 1.42, **[REP4-154]**); and.
  - *'development of airports can have negative as well as positive local impacts, including on noise levels. We therefore consider that any proposals should be judged by the relevant planning authority, taking careful account of all relevant considerations, particularly economic and environmental impacts and proposed mitigations.'* (MBU para 1.29)
- 2.1.2 The Position Statement summarises the advice of the HHA's technical experts across various topics. The structure of their analysis is outlined below:
- Section 3 - Demonstrating sufficient need for their proposal;
  - Section 4 – Taking account of all relevant considerations' and
  - Section 5 – advises on Draft Development Consent Order (DCO) and Legal Agreements.
- 2.1.3 Where there are particularly relevant National Policy issues in relation to specific topic areas, these are highlighted in the relevant sections.
- 2.1.4 In terms of development plan policies within Hertfordshire, with London Luton Airport being outside their administrative areas, there are no / very limited policies directly referencing either London Luton Airport or its growth. However, the general sentiment of policy at the local level within Hertfordshire, as articulated extensively in their LIR **[REP1A-003]**, and in their response to ExA's Written Questions BCG1.1 and BCG1.2 **[REP4-126]** mirrors that contained within national planning policy, principally set out in the National Planning Policy Framework (NPPF) **[REP4-145]**. Sustainable development and the acceptability of individual development proposals being a matter of balance between positive benefits, such as economic and community benefit, and negative adverse impacts, for example on the environment and capacity of infrastructure.
- 2.1.5 The development plans within Hertfordshire, to the extent that it can be considered to apply to the application, are therefore broadly supportive of development that brings positive economic benefit, but that benefit must be balanced against adverse environmental impacts and impacts upon infrastructure. Where there are particularly relevant, development plan



policies in relation to specific topic areas, these are highlighted in relevant sections and also in Appendix 1 Development Plan Policies [REP4-127] appended to the HHA's Response to Written Questions submitted at Deadline 4.



## 3 DEMONSTRATING SUFFICIENT NEED FOR THE PROPOSED DEVELOPMENT

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### 3.1 AVIATION NEED

- 3.1.1 In its Need Case [**AS-125**], the Applicant has submitted a number of forecasts which are presented to:
- Support its belief that there is demand for more capacity at London Luton Airport; and
  - Assess the many impacts that such an expansion would have. The foundation for these forecasts is long term annual air traffic forecasts, primarily of passenger traffic but also of cargo traffic.
- 3.1.2 The passenger forecasts have a number of steps but in essence there are two basic components, the first being an econometric forecast of air passenger demand in the southern half of the UK, and the second a determination of how many of those passengers would use London Luton Airport.
- 3.1.3 The first element uses a model which is very similar to that used by the Department for Transport (DfT) in its long-term forecasting. The model relates known historic growth in passenger volumes with known changes in economic growth and known changes in the price of flying, and then applies these relationships (normally referred to as elasticities) to assumptions about the future economic growth and price changes to forecast future passenger numbers. This is an established approach and the Applicant's consultants have used many of the input assumptions (i.e. their values) as used by the DfT. Since the time when the forecasts were first produced, however, there have been a number of major events which will have influenced a number of the key assumptions, to the extent that the HHAs consider that there is a considerable down-side risk to the assumptions and thence the passenger forecasts.
- 3.1.4 The Applicant has recently submitted evidence in the form of the Applicant's Response to Written Questions NE.2.1 and NE.2.2 - Demand Forecasts [**REP8-037**] that despite these events, many long-term GDP projections have increased, although the Applicant has not revised its future price assumptions.
- 3.1.5 The HHAs note that there is a significant difference of opinion between the Government in the form of the DfT and its advisor, the Climate Change Committee, on the level of air passenger demand that is compatible with the Government's legal obligation to reach Net Zero by 2050 (Para 3.15 and summarised in Table 3.6 of the CSACL Initial Review of DCO Need Case [**REP2-057**]).





Forecaster	Year	Scenario	Passengers (mppa)	
			2040	2050
DfT	2017	Central Unconstrained	422	494
DfT Jet Zero	March 2022	High Ambition	422	482
DfT SAF Mandate	March 2023	High Ambition	394	435*
CCC	Dec 2020	Balanced Pathway	321	365

\* Forecast extends to 2040 only. Grown to 2050 by CSACL at 1.0% per annum, the overall average rate determined for the 2030-2050 period by York.

Source: Table 3.1 from [REP2-057]

- 3.1.6 The second element, assessing which airports would be used by the forecast passenger demand, is critically dependent on the passenger capacities assumed for Heathrow and Gatwick. This is not simply whether a new runway is built at either or both of these airports (and there is agreement between the parties that a reasonable assumption is that one will be constructed) but also how their capacities would develop without a new runway. The Applicant assumes that they will stop growing and cites its rationale for this as being the DfT assumption in 2017. In contrast, the current view of the DfT (and held since at least March 2022) is that capacity would be dependent on the increase in passengers per ATM. This is in line with the views of the management of Gatwick Airport; and with the advice given to the HHAs by its advisor. Hence, whereas the Applicant assumes demand at a single runway Gatwick would be capped at 50 mppa, Gatwick’s management considers 67 mppa by 2046 would be achievable.
- 3.1.7 In its most recent submission Applicant’s Response to Written Questions NE.2.1 and NE.2.2 – Demand Forecasts [REP8-037] the Applicant continues to not accept this position but has without commitment modelled a number of scenarios with a higher capacity at Gatwick. It makes no mention of a higher capacity for Heathrow even though its capacity is also likely to grow past the Applicant’s assumed throughput of 90 mppa because of further increases in the number of passengers per ATM. Indeed, this parameter has already exceeded its pre-Pandemic figure at Heathrow even though passenger throughput is still a few percentage points behind 2019 levels.
- 3.1.8 Although the Applicant’s recent modelling in the Applicant’s Response to Written Questions NE.2.1 and NE.2.2 – Demand Forecasts [REP8-037] includes scenarios with an extra



runway at either Heathrow or Gatwick (an assumption which both parties regard as reasonable), Table 5.1 in this document, does not include either scenario. The HHAs have investigated this and consider that in these scenarios, a throughput of 32 mppa at London Luton Airport would not be reached until some years after 2050. This conclusion is reached in Review of the Applicant's Response to Written Questions NE.2.1 and NE.2.2 – Demand Forecast (REP8-037) [**REP9-064**].

- 3.1.9 The HHAs consider the Applicant's forecasts for cargo are probably too high. Historically, cargo has been largely carried on pure freighter aircraft but has been relatively stable for a long period. No growth has been assumed by the Applicant in this segment of the market, but the level carried forward is that from 2019 which the Applicant itself described as "*isolated peak*". Additionally, the Applicant has forecast a new freight market carried in the belly-holds of passenger aircraft operating long haul services. The possible growth in long haul services has been acknowledged, although the HHAs consider that its scale has been over-estimated. It has though been agreed that the cargo forecasts are acceptable for the purposes of assessment of impacts.
- 3.1.10 From these primary annual passenger and cargo forecasts a number of other forecasts have been derived. These derivative forecasts include aircraft movement forecasts and are for both complete years and shorter time periods. In general, these forecasts are internally consistent and compatible with the primary forecasts and therefore have been agreed as a reasonable basis for assessment. The HHAs consider though that Passenger ATM forecasts have probably been over-estimated in view of cautious assumptions made by the Applicant in relation to future passenger load factors: with an average 91% load factor across all flights except long haul and regional, Passenger ATMs would be more some 3,500 lower with a 32 mppa throughput.
- 3.1.11 The Applicant's Need Case did not include forecasts for aircraft movements in the two shoulder periods, between 06.00 and 06.59 in the morning and 23.00 and 23.29 in the evening. These are particularly important for the HHAs, and the allowance of 13,000 movements per annum in the two shoulder periods suggested by the Applicant is not agreed by the HHAs. Based on the current experience at Stansted Airport, such a high figure is not justified. Stansted has only 5% of its annual movements in the morning shoulder period, and this is believed to include some operations by pure freighter aircraft. The HHAs consider that any movements in these sensitive periods should be restricted to those types of operations which are critically dependent on operations in these periods and other types such as freighter operations and positioning flights should be prohibited. Combining a limitation to Passenger Air Traffic Movements (ATMs) only with the Stansted analogous figure of 5% and a lower number of Passenger ATMs as a result of higher load factors, would suggest a morning shoulder period Limit of no more than 8,720 annually. The basis for these arguments is set out in the Review of the Applicant's Position on Noise Contour and Movement Limits (REP9-055) [**REP10-051**].



3.1.12 The HHAs have requested that aircraft movement limits should be imposed for annual, night and shoulder operations. In any drafting of such limits, it is suggested that they may most conveniently be based on aircraft movements rather than Air Transport Movements (to avoid definitional issues), with further clauses specifying types of operation that are or are not permitted in the period being restricted.



## 4 ALL RELEVANT CONSIDERATIONS - ENVIRONMENTAL MATTERS

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### 4.1 NOISE

- 4.1.1 The HHAs have outstanding issues on Noise that have not been resolved. These principally fall under the wider heading of 'compliance with noise policy' and are set out within the HHAs PADSS [REP8-056]. The government's Overarching Aviation Noise Policy Statement<sup>2</sup> (OANPS) has been published during the DCO process, but this has not materially altered the expectations or requirements placed upon the Applicant. As was stated within the HHAs' LIR [REP1A-003], the Noise Chapter of the Environmental Statement (ES) still does not present a case that complies with UK aviation noise policy (or emerging policy), including Aviation Policy Framework (APF) (DfT (2013), Aviation Policy Framework, Published March 2013) and OANPS 2023.
- 4.1.2 The Air Noise Assessment seeks to present a case of noise reduction over time through focusing on the wrong test. It is clear from Chapter 16 of the ES [REP9-012] and its appendices [AS-103 to AS-119] that noise increases will be brought about in future years with a complete lack of noise reduction in the night-time, with night-time noise levels being proposed to be higher in 2043 than currently. Community areas within the county of Hertfordshire are expected to see an increase in overflights by 13-51% during the day and 74-75% during the night by 2043. The associated noise increases above the future baseline are between 1.0 and 2.9 decibels (dB) in the primary noise assessment metric (LAeq,T) in both the day and night-time; in some areas of Hertfordshire closer to the Proposed Development this amounts to a significant effect.
- 4.1.3 By 2043, referred to as Phase 2b within the Application, the Air Noise Assessment calculates an additional 18,300 people being introduced to noise levels above LOAEL and below SOAEL (the lowest observed adverse effect level and significant observed adverse effect level, respectively) and an additional 500 people introduced to above SOAEL, in the daytime. In the night-time, an additional 27,150 people are introduced to noise levels above LOAEL and below SOAEL and an additional 1,900 people above SOAEL. While it is not possible to establish how many of these people live within the county of Hertfordshire, residents within Dacorum, North Hertfordshire and the wider Hertfordshire area, including a large amount of Stevenage, will be among those moving into the LOAEL and residents in North Hertfordshire among those moving into the SOAEL. The spatial extent of those subject to at least 10 overflights per day are far greater than the noise contours, extending

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<sup>2</sup> Department for Transport (2023), Overarching Aviation Noise Policy Statement.



to the east well beyond Stevenage into East and North Hertfordshire and to the west and south into Dacorum and St Albans district.

- 4.1.4 Noise contour area Limits have been set using the 'Faster Growth' case instead of the 'Core Case', with both assessed as part of the Environmental Impact Assessment (EIA) in Chapter 16 Noise and Vibration (Tracked Changes Version) of the ES [REP9-012]. The HHAs do not consider this approach to be acceptable, due to the clear requirement to "*where possible, reduce*" noise which is a clear noise policy objective, such as is stated in OANPS 2023 and APF 2013. The HHAs therefore agree with the principle stated in the ExA's consultation draft DCO [REP8-003] under New Requirement 4 to base Limits on the Core Case.
- 4.1.5 There was substantial consultation on the noise envelope to be adopted by the Applicant, particularly through the Noise Envelope Design Group, which set out a clear suite of noise controls. The Applicant has sought not to introduce some of these noise controls, which is seen as a material shortcoming of the Proposed Development, particularly due to the scale of growth being sought and the history of noise contour area breaches.
- 4.1.6 The ExA's consultation draft DCO [REP8-003] includes an annual movement Limit and morning shoulder period Limits, which are welcomed by the HHAs'. The HHAs position is that these Limits are necessary to bring certainty to the local communities, as required by aviation Noise policy such as the APF, and that these Limits should be set as low as possible. The values put forward by the Applicant for these Limits, have not been justified nor has the Applicant demonstrated that the various Noise Assessments undertaken (including the assessments set out in Chapter 16 and Appendix 16.1 of the ES [REP9-012], and the Updated Faster Growth case within the Applicant's Position on Noise Contour and Movement Limits [REP9-055]) can accommodate these values .
- 4.1.7 There are no policies within the Hertfordshire Development Plan related to growth of London Luton Airport and any associated noise impacts. However, the Development Plan in Hertfordshire is protective of minimising the risks to the environment and communities from the adverse impacts of noise. Please refer to the HHA's LIR [REP1A-003] and the HHA's Response to Written Questions: Appendix 1 [REP4-127] for a full list of relevant local development plan policies. To the extent that the Development Plan within Hertfordshire is relevant, the Proposed Development is considered to be in conflict.

## 4.2 AIR QUALITY

- 4.2.1 The substantive matter regarding air quality for the HHAs which has not been fully resolved, concerns the monitoring of fine particulate matter (PM<sub>2.5</sub>) as proposed by the Applicant. PM<sub>2.5</sub> is a pollutant of significant concern, which was first raised by the HHAs in the PADSS [REP8-056], the Relevant Representation [RR-0558], the LIR [REP1A-003] and subsequently at Issue Specific Hearing 5 [REP3-096], in written representations and responses, and during SoCG discussions with the Applicant.



- 4.2.2 Air quality standards for PM<sub>2.5</sub> have been progressively reducing as new research continues to highlight increasing evidence for health effects at lower levels. The World Health Organisation (WHO) guideline limits<sup>3</sup> for long-term (annual mean) and short-term (24-hour mean) PM<sub>2.5</sub> were updated in 2021 in light of accumulated scientific evidence on the dangers of even low levels of air pollution. The current guidelines are that annual mean concentrations should not exceed 5 µg/m<sup>3</sup>, while 24-hour mean concentrations should not exceed 15 µg/m<sup>3</sup> more than 3 to 4 days per year. There is a growing base of evidence from research that link air pollution episodes to short-term respiratory and cardiovascular morbidity and mortality.
- 4.2.3 The HHAs wish to see appropriate monitoring installed close to the airport that can capture any short-term pollution episodes, in addition to longer term changes in pollution exposures to neighbouring populations.
- 4.2.4 Whilst there has been some accommodation of HHAs' representations through amendments made by the Applicant to the GCG Framework Appendix D – Air Quality Monitoring Plan (Tracked Change Version) **[REP9-029]** to address the current UK targets for 2028 and 2040, the matter of monitoring and thresholds for 24-hour PM<sub>2.5</sub> to a WHO target under the GCG Framework has not been agreed (the HHAs have requested adoption of 37.5 µg/m<sup>3</sup> for 24-hour mean PM<sub>2.5</sub>).
- 4.2.5 This figure of 37.5µg/m<sup>3</sup> is defined by the WHO as an interim target for the 24-hour mean PM<sub>2.5</sub>, whilst the equivalent WHO interim target for annual mean PM<sub>2.5</sub> is 15 µg/m<sup>3</sup>. The WHO Guidelines which represent the lowest levels that correspond to health effects are 15 µg/m<sup>3</sup> for 24-hour mean PM<sub>2.5</sub> (should not be exceeded for more than 3 - 4 days per year), and 5µg/m<sup>3</sup> for annual mean PM<sub>2.5</sub>.
- 4.2.6 In the UK, the Environmental Targets (Fine Particulate Matter) (England) Regulations 2023 (which do not address 24hr mean concentrations), are as follows:
- Annual Mean Concentration Target ('concentration target') – a target of 10 micrograms per cubic metre (µg m<sup>-3</sup>) to be met across England by 2040 (previously 20 µg m<sup>-3</sup>); and
  - Population Exposure Reduction Target ('exposure reduction target') – a 35% reduction in population exposure by 2040 (compared to a base year of 2018).
- 4.2.7 Therefore, there is a clear requirement to agree which guidelines and targets should apply.

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<sup>3</sup> WHO (2021) WHO global air quality guidelines: particulate matter (PM<sub>2.5</sub> and PM<sub>10</sub>), ozone, nitrogen dioxide, sulphur dioxide and carbon monoxide





4.2.8 Linked to this, there is a legal requirement for the targets to be achievable and also objectively measurable. The measurement of PM<sub>2.5</sub> mass concentration is a demanding task, as the metric does not correspond to a definite physical or chemical component of the air but is in effect defined by the measurement method itself. The reference method for legislative purposes is declared in the Air Quality Directive to be that described in the CEN European standard EN 14907.

4.2.9 The PM<sub>2.5</sub> standard methods for monitoring are:

- BS EN12341:2014 Ambient Air. Standard gravimetric measurement method for the determination of the PM<sub>10</sub> or PM<sub>2.5</sub> mass concentration of suspended particulate matter – the "Reference Method"; and
- BS EN16450:2017 Ambient Air. Automated measuring systems for the measurement of the concentration of particulate matter (PM<sub>10</sub>; PM<sub>2.5</sub>).

4.2.10 The HHAs do not consider that the proposed indicative monitoring equipment meets these standards, especially in accurately measuring short-term concentrations, where the WHO consider, *“there is substantial evidence that some susceptible groups may be harmed by short-term elevations of some pollutants: those with asthma, coronary heart disease, COPD and other chronic conditions and diseases. Overall, these susceptible groups represent a substantial proportion of the population in many countries.”*

### 4.3 GREENHOUSE GASES

4.3.1 The HHAs have outstanding issues in relation to Greenhouse Gases (GHGs) that have not yet been resolved. These two issues are set out within HHAs' PADSS [REP8-056] and relate specifically to the impact the Proposed Development is expected to have on aviation GHG emissions, as presented in Chapter 12 of the ES [REP3-007]. The two points are as follows:

- The HHAs are concerned that the aviation emissions arising from the Proposed Development have been under-estimated, as only emissions from departing flights have been included in the aviation emissions assessment; and
- The Applicant has evaluated aviation emissions as Minor Adverse and Not Significant. The HHAs do not agree that the effects are Not Significant and are of the opinion that aviation emissions should be evaluated as Significant, given the magnitude of emissions increase projected to occur from the Proposed Development.

4.3.2 The Applicant includes justification in the ES for the decision to exclude arrival flights from the assessment, stating that this approach avoids double-counting of emissions with other



airport inventories, and suggests that the GHG emissions assessment approach is in accordance with Institute of Environmental Management & Assessment (IEMA) Guidance<sup>4</sup>

- 4.3.3 Whilst the additional flights arriving to London Luton Airport would not be included in London Luton Airport's total emissions inventory post-construction of the Proposed Development, as per Climate Change Committee Statutory Advice on Inclusion of International Aviation and Shipping, the IEMA Guidance states that the objective of an ES is to assess the total net impact of GHG emission increase associated with the Proposed Development. Excluding additional arrival flights associated with the Proposed Development therefore does not meet this objective.
- 4.3.4 As detailed in bullet point two above, the HAAs' also have concerns around the Applicant's evaluation of the significance of GHG emissions. IEMA Guidance sets out the best practice criteria for evaluating the significance of GHG emissions associated with a project. For a project to be evaluated as Minor Adverse (and therefore Not Significant), which is the significance rating GHG emissions from the Proposed Development that has currently been assigned, the project must be "*doing enough to align with and contribute to the relevant transition scenario, keeping the UK on track towards net zero by 2050 with at least a 78% reduction by 2035 and thereby potentially avoiding significant adverse effects*". In light of the projected magnitude of GHG emissions increase discussed above, and the current lack of evidence for alignment with National Net Zero Policy, the HAAs are in disagreement with the current evaluation of significance. Furthermore, the HAAs disagree with the Applicant's view that the GHG assessment has been conducted in accordance with the IEMA Guidance.
- 4.3.5 Both points were initially raised in the first iteration of the PADSS [REP2-058] at Deadline 2 and discussed at Issue Specific Hearing 2, which was held on Wednesday 27 September 2023. The HAAs position on these points, following Issue Specific Hearing 2, is set out in Section 4 of the Issue Specific Hearing 2 Post Hearing Submission [REP3-081]. The Applicant has not issued a formal response or made any updates to the ES in response to these points.
- 4.3.6 The HAAs recognise that the Applicant is relying on the Government's Jet Zero strategy to provide assurance that London Luton Airports' expansion will accord with National Net Zero requirements under the Climate Change Act 2008. The Government's Jet Zero Strategy considers that 'Jet Zero' can be achieved without direct Government intervention to limit aviation growth and even without a step-up in ambition on aviation decarbonisation it would be possible to achieve net zero by 2050. Jet Zero is current government policy which must

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<sup>4</sup> IEMA (2022) Guidance for Assessing Greenhouse Gas Emissions and Evaluating their Significance, 2<sup>nd</sup> Edition.





be considered when gauging significance through the EIA process, although it should be noted that the viability of this policy in achieving National Net Zero requirements has been recently questioned by the House of Commons Environmental Audit Committee<sup>5</sup>. Irrespective of potential alignment between Jet Zero and National Net Zero requirements, the Applicant has predicted an increase in GHG emissions due to London Luton Airport's expansion of circa 6 million tonnes between 2025 and 2050, a figure that will almost double if return flights are included to represent the overall GHG emissions impact. The Proposed Development will therefore result in a substantial increase in GHG emissions relative to a business as usual baseline, a situation according to IEMA Guidance that should be regarded as significant. *"The crux of significance therefore is not whether a project emits GHG emissions, nor even the magnitude of GHG emissions alone, but whether it contributes to reducing GHG emissions relative to a comparable baseline consistent with a trajectory towards net zero by 2050."*

#### 4.4 LANDSCAPE AND VISUAL, INCLUDING LANDSCAPE DESIGN PRINCIPLES

##### Landscape and Visual Impact Assessment (LVIA)

- 4.4.1 The HHAs agree with the conclusions of the LVIA where it identifies significant adverse effects on the Chilterns Area of Outstanding Natural Beauty (AONB) from Assessment Phase 2b onwards, permanently deteriorating the sense of tranquillity perceived by those recreating within it.
- 4.4.2 The HHAs have outstanding issues on Landscape and Visual related topics that have not been resolved. These principally relate to appropriateness of mitigation, perceptual qualities, and assessment of the AONB and its Special Qualities. These issues are set out within HHAs' PADSS [REP8-056].
- 4.4.3 Mitigation for landscape and visual effects include wider hedgerow planting and restoration to block views. The HHAs do not consider that such mitigation is fully justified or demonstrated in relation to mitigating the visual intrusion of large buildings into the wider countryside. Appropriate alternatives have not been considered.
- 4.4.4 The Applicant has produced a Light Obtrusion Assessment (Appendix 5.2 Light Obtrusion Assessment Part A of the ES [APP-052]) based on Institute of Lighting Engineers methodology. Whilst this is helpful, it only goes part way in understanding impacts of lighting

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<sup>5</sup> House of Commons Environmental Audit Committee (2023), Net Zero and the UK Aviation Sector, Third Report of Session 2023-24. Available at: <https://committees.parliament.uk/publications/42703/documents/212154/default/> (Accessed February 2024)



on landscape and visual receptors. A night-time assessment compliant with Guidelines for Landscape and Visual Impact Assessment, 3rd Ed (GLVIA3)<sup>6</sup> would take into consideration the effects of transient lighting such as aircraft landing lights and use methodology and criteria consistent with GLVIA3.

- 4.4.5 It is disappointing that there remains no known update since the HHAs request in their Written Representations [REP1-069] for submission of a night-time assessment that is GLVIA3 compliant to appropriately consider impacts of lighting, particularly within the AONB. A GLVIA3-compliant assessment would take into consideration the effects of transient lighting such as aircraft landing lights. The Lighting Obtrusion Assessment cannot be relied on to understand the impacts of lighting on the AONB or on landscape and visual receptors. As such, the HHAs consider that significant adverse impacts are likely to be more widespread, or more significant, than the LVIA or AONB Special Qualities Assessment (SQA) currently suggests. It is also of concern that the Applicant infers by this refusal that such perceptual qualities should be ignored.
- 4.4.6 An intelligent summary of the existing baseline, informed by published information (such as from the Campaign to Protect Rural England (CPRE)) supplemented by information collected during site visits, should have been provided to understand the baseline environment in relation to tranquillity, and the perception of tranquillity and 'remoteness' in the AONB. Such narrative should discuss all affected areas within the AONB. For example, additional flight movements across the AONB (both day and night-time) will increase significantly in some areas, but discussion within the AONB SQA on such impacts is limited to 7 viewpoints located in areas with lower levels of overflight increases. Impacts on the AONB may be consequently more extensive, and potentially more significant, than presented in either the AONB SQA or the LVIA as a result.
- 4.4.7 When considering sensitivity, the HHAs consider that the capacity of the baseline environment to absorb more overflying aircraft (both day and night-time) is crucial to assessment in relation to receptor susceptibility and should be identified. This has not been taken into consideration and as such, the assessment of effects in the LVIA and AONB SQA are considered to be incomplete.
- 4.4.8 Government Policy relating to AONBs was strengthened in December 2023 through its Amendment to the Levelling Up and Regeneration Bill 2023 which updates Section 85 of the CROW Act (2000), strengthening protection for '*National Landscapes*' (the new name coming in for AONBs). Whilst this has not materially altered the requirements placed upon

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<sup>6</sup> Landscape Institute, IEMA (2013), Guidelines for Landscape and Visual Impact Assessment, 3rd Ed. Published 03 April 2013.



the Applicant, it places greater weight on AONB's conservation and enhancement. The LVIA acknowledges significant adverse effects on the AONB as a result of the Proposed Development and as such, the Proposed Development is not consistent with the Levelling-up and Regeneration Act 2023 (LURA) amendment to Section 85 of the Countryside and Rights of Way Act 2000, in relation to impacts on the Chilterns AONB. It is not only contrary to National Policy, but causing harm to the AONB is also contrary to local policy, including Dacorum Adopted Core Strategy Policy CS24; and North Hertfordshire Local Plan Policy NE3 both relating to The Chilterns AONB.

- 4.4.9 The Proposed Development also fails to comply with National and Local policy more generally in relation to Landscape character.
- 4.4.10 The UK is a signatory to the European Landscape Convention, which promotes the protection, management and planning of landscapes. Its signatory States have declared themselves "*concerned to achieve sustainable development based on a balanced and harmonious relationship between social needs, economic activity and the environment.*" The Preamble of the Convention states that the landscape '*...is a key element of individual and social well-being and ... its protection, management and planning entail rights and responsibilities for everyone.*'
- 4.4.11 North Hertfordshire Local Plan Policy NE2: Landscape states that planning permission will be granted for development proposals that:
- Respect the sensitivities of the relevant landscape character area and have regard to the guidelines identified for built development and landscape management;
  - Do not cause unacceptable harm to the character and appearance of the surrounding area or the landscape character area in which the site is located, taking account of any suitable mitigation measures necessary to achieve this;
  - Are designed and located to ensure the health and future retention of important landscape features; and
  - Have considered the long-term management and maintenance of any existing and proposed landscaping.
- 4.4.12 London Luton Airport is generally seen as a detracting feature in the local landscape (as identified in the published North Hertfordshire Landscape Study – Area 200: Peters Green Plateau) and therefore increasing or worsening that feature could not be seen as either sustainable, harmonious, or protecting the long-term health of the landscape.
- 4.4.13 Despite the LVIA acknowledging significant adverse effects on both the local landscape character and the AONB, neither the LVIA nor the AONB SQA, particularly in relation to impact on the Chilterns AONB, are considered to be robust or to adequately justify the conclusions made as they fail to take into account all relevant aspects that could influence susceptibility, magnitude of change and significance, or consider all potential forms of mitigation to lessen the impacts.



## Landscape Design Principles

- 4.4.14 The Design Principles [REP9-030 and REP9-031] fail to provide suitably robust Principles in relation to the built development aspects of the Proposed Development to provide confidence of appropriate design responses going forwards [refer to previous comments set out in the HHAs' Comments on Any Further Information / Submissions Received by Deadline 6 [REP7-085] and in the HHAs' Comments on Any Further Information / Submissions Received by Deadline 7 [REP8-055].
- 4.4.15 The Landscape-specific Design Principles should outline design intent in relation to building height, massing, colour and similar to ensure that site context, character and setting has already been appropriately responded to and will do so going forwards. There is currently limited or no framework for guiding the design of the built form, or its siting in the landscape, as an appropriate form of mitigation or to secure 'good design.' This is particularly pertinent given that a Design Code for the Proposed Development is not being considered.

## 4.5 CULTURAL HERITAGE (HERITAGE)

- 4.5.1 Concerns remain (as raised by the HHAs multiple times including within Issue Specific Hearing 6 Post Hearing Submission [REP3-097] and PADSS [REP8-056]), as to the issue of quietness and overall assessment in the ES Chapter 10 Cultural Heritage Revision 1 [AS-077]. The HHAs have highlighted the potential for further assessment on current levels of aircraft noise along existing routes at designated intervals to gain an existing benchmark, and to employ predictive modelling to calculate increases in aircraft noise at the same points. The HHAs have questioned, for example, the assessment of harm to the Grade I St Paul's Walden Bury Registered Park and Garden (and the individual assets located within the registered park and garden). This is assessed as experiencing negligible change as a result of the Proposed Development, as the Applicant states: *'This would be a negligible change to the park's noise environment and would not affect its setting or impact its heritage value. This is therefore assessed as no impact and no effect.'* The assessment also states, regarding other registered parks and gardens, for example the Grade II\* Knebworth Registered Park and Garden, *'that a particular noise environment was not an important component of the assets' settings and impacts from aural intrusion that could affect their significance was unlikely. Whilst recognising that 'quietness' does not contribute to the assets' settings, the noise contour data produced for this ES confirmed that the assets would experience noise change levels of less than or equal to 1dB above 51dBLAeq, 16h daytime, which was not likely to intrude upon their existing noise environment.'*
- 4.5.2 The HHAs view is that the Applicant should re-assess noise impacts to heritage assets, particularly where quietness is an important part of that asset's setting, such as registered parks and gardens.
- 4.5.3 Para 200 of the NPPF states that *"in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting."* Para 205 states *"When considering the*



*impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."*

- 4.5.4 Historic England's 'The Setting of Heritage Assets: Historic Environment Good Practice Advice (GPA) in Planning Note 3' (2017) states that: *"Where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, to accord with National Planning Policy Framework (NPPF) policies consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset."*
- 4.5.5 Section 7.13 of the HHAs' Local Impact Report (LIR) [REP1A-003], identifies a range of potentially relevant policies within the development plan in Hertfordshire. The general sentiment of these policies is to seek to secure the protection and enhancement of the historic environment and the impact of proposed development on heritage assets, with 'great weight' to be given to the asset's conservation and management of its setting. Policy HE1 Historic Environment of the North Hertfordshire Local Plan 2011-2031, for example, states that planning applications relating to designated assets or their setting 'shall be accompanied by a Heritage Assessment / Justification Statement that: i. Assesses the significance of heritage assets, including their setting.'
- 4.5.6 At present, the Applicant has not made it clear for all assets why they consider there to be no impact and whether harm is caused. As a consequence, the application is potentially in conflict with policies in the NPPF.
- 4.5.7 While Appendix 10.2 Cultural Heritage Gazetteer (Tracked Changed Version) [REP4-018] has been updated, it does not provide a transparent assessment process, as required by Policy HE1 of the North Hertfordshire Local Plan 2011-2031.

## **4.6 ALL RELEVANT CONSIDERATIONS - TRAFFIC AND TRANSPORT / SURFACE ACCESS**

### **Transport Modelling / Additional Transport Related Impacts Monitoring and Mitigation Approach Monitoring Locations**

- 4.6.1 The HHAs have outstanding concerns [REP7-087 Appendix 2] about the transport modelling underpinning the application and the Applicant's responses [REP8-039] do not add significant new information to change the position of the HHAs. Consequently, when taken together with the longevity of the proposal, there is medium / longer term uncertainty and risk regarding the impacts on the Hertfordshire network. An important element of a number of the processes proposed – for example, the Transport Related Impacts Monitoring and Mitigation Approach (TRIMMA), is to seek to manage and reduce that risk. The HHAs therefore maintain their position in relation to the following matters which are linked to the transport modelling.





- 4.6.0 To help manage future uncertainty and risk, the HHAs are seeking [REP8-056] additional monitoring sites in the North Hertfordshire 'rural areas' of Great Offley, Tea Green, Breachwood Green, Whitwell and Kimpton and also near Harpenden, Annables Lane / Watery Lane on the approach to M1 junction 9, and further south from the proposed monitoring site on the A1081 to better pick up flows towards Harpenden; monitored directly by the Applicant as part of TRIMMA. This is to ensure there is adequate geographical and temporal coverage for the TRIMMA Type 2 monitoring to identify and mitigate any adverse impacts that may arise.
- 4.6.1 The Applicant has indicated that it would agree to additional monitoring sites at Great Offley, Tea Green, Breachwood Green, and Whitwell as part of TRIMMA and that this could be progressed through a 'side agreement.' However, at the close of the Examination it is not clear whether that commitment still stands. The Applicant is not willing to commit to monitoring of the other locations sought by the HHAs.

### **Hitchin Junctions**

- 4.6.2 The proposed mitigation at the three Hitchin junctions remains an area of significant concern [REP8-056]. HCC is not able to agree to the schemes proposed by the Applicant and included within Schedule 1 of the TRIMMA. The Applicant has provided alternative revised and improved schemes for two of the three Hitchin junctions and proposed a 'side agreement' to substitute the Schedule 1 schemes with alternatives (with an option for HCC, with the agreement of the Applicant, to provide alternative schemes). However these cannot be fully supported at this stage as there has not been sufficient opportunity to comprehensively review them both technically and in terms of cost. At the close of the Examination, the future of a side agreement appears uncertain. Furthermore, the Applicant is only willing to fund future junction improvements at a level commensurate with the schemes agreed in advance of consent being forthcoming. The HHAs are of the view [REP8-056] that the Applicant should be required to fund an appropriate contribution to the scheme that is agreed to be most appropriate at the time it is deemed to be required.
- 4.6.3 At para 5.12 the APF states that the general position for existing airports is that developers should pay the costs of upgrading or enhancing road, rail or other transport networks or services where there is a need to cope with additional passengers travelling to and from expanded or growing airports.
- 4.6.4 The HHAs' LIR [REP1A-003] specifically points to North Hertfordshire District Local Plan Policy SP6: "*Sustainable Transport of the North Hertfordshire Local Plan requiring development proposals to make provision for infrastructure that is necessary in order to accommodate additional demands resulting from the development and to provide finance and / or contribute towards provision which is 'fairly and reasonably related in scale and kind to the development', ensure essential new infrastructure to support new development will be operational no later than the completion of development or during the phase in which it is needed, whichever is earliest. Applications should be refused where this is not achieved.*"



- 4.6.5 The HHAs are of the view that the Applicant has not been able to bring forward acceptable schemes to mitigate the impacts of the development on Hitchin junctions (but welcome the alternative designs and funding that were proposed to be taken forward through a side agreement, albeit the HHA do not currently have enough certainty on their cost or deliverability at this stage to be able to support them – but would have expected that to be resolved in due course) , nor made a commitment to fund the mitigation schemes required to mitigate impacts in full. This potentially brings the application in conflict with the APF para 5.12 and NHDC Policy SP6.

#### **TRIMMA Off-site Car Park Monitoring**

- 4.6.6 The HHAs continue to hold the view [REP8-056] that monitoring of the traffic impacts associated with the off-site car parks needs to be covered in the monitoring strategy. The predicted expansion in the provision of these car parks will be directly related to London Luton Airport growth. Whilst it is understood that the Applicant cannot control the third-party car parks, at the very least it is expected that the capacity of third-party off-site parking is made available to London Luton Airport Transport Forum for consideration against the modelling assumptions to help understand any impacts.

#### **Framework Travel Plan Targets**

- 4.6.7 The HHAs take the position [REP8-056] that, whilst agreeing that there are provisions in the process for being consulted on the final Travel Plan targets before the airport can grow, the targets should at least demonstrate the same level of ambition as those agreed in the Planning Permission (21/0031/VARCON) that approves London Luton Airport to grow to 19mppa.

#### **Rail Capacity**

- 4.6.8 The HHAs continue to have concerns [REP8-056] in relation to rail capacity at the Hertfordshire stations. At the time of writing, Network Rail has not confirmed whether it accepts the Applicant's position in terms of the implications of the proposal on the rail network, through a response to the Rail Impacts Summary (Tracked Change Version) [REP8-031] submitted by the Applicant at Deadline 8 responding to Network Rail's concerns. As a consequence, there remains uncertainty with regard to the extent to which the Proposed Development can be considered to be compliant with the APF para 5.12.

### **4.7 ALL RELEVANT CONSIDERATIONS – GREEN CONTROLLED GROWTH, DRAFT DEVELOPMENT CONSENT ORDER AND LEGAL AGREEMENTS**

#### **GREEN CONTROLLED GROWTH**

- 4.7.1 The HHAs consider that, in principle, a Green Controlled Growth (GCG) approach and framework, if properly designed, secured, implemented, monitored and enforced, can bring benefits in terms of controlling key environmental effects on communities whilst allowing sustainable growth to take place.



4.7.2 However, the HHAs have outstanding issues and concerns in relation to certain aspects of the Applicant's proposals in relation to GCG, as set out in this Section.

### **Monitoring and Reporting**

4.7.3 As set out in the final PADSS [REP8-056], the HHAs do have a few outstanding points of concern on the reporting regime under the GCG Framework which they consider need to be accounted for should the DCO be granted. Of key importance, given the critical nature of the Mitigation Plans and Level 2 Plans under the GCG Framework, there should be no deemed approval mechanism attached to them under the DCO – instead, they should be approved by Environmental Scrutiny Group (ESG).

### **Independent Scrutiny and Review**

4.7.4 As set out in the HHAs LIR [REP1A-003], at ISH 1 on the draft DCO [REP3-108], in the Post-hearing Submission ISH 9 [REP6-094] and Post-hearing Submission ISH 10 [REP6-095], the HHAs consider that DBC should be a member of the ESG, as well as a member of relevant Technical Panels for aspects affecting its area. The nature of the impacts from the expansion of London Luton Airport would extend over a wide area, encompassing the residents and businesses of DBC. In this context, it is submitted that it would be entirely reasonable for the Council to be a member of ESG and the relevant Technical Panels to ensure it can adequately represent the interests of its residents and businesses as part of the on-going scrutiny of the GCG Framework.

4.7.5 As set out in various submissions, including the final PADSS [REP8-056], the HHAs consider that the GCG Framework and its associated documents, including the ESG Term of Reference, should not refer to the incorporation of a company limited by guarantee to form the ESG. The Applicant has not provided sufficient information or detail to enable the HHAs to understand the implications of being members of a company limited by guarantee for this purpose, and have not persuaded the HHAs as to the protections that such a structure would provide for the HHAs. As such the HHAs consider that reference to a company limited by guarantee should be removed from the application documentation that is intended to be secured by the DCO, and that it should instead be left to the members of the ESG to determine the best approach to structure, whether that be in an incorporated or unincorporated form. There is sufficient time post-consent (should the DCO be granted) for this matter to be settled, so the HHAs query why the Applicant feels the need to seek to confirm the matter at this stage, particularly without the agreement of the core members of the ESG, namely the host local authorities.

### **Compliance**

4.7.6 As set out in the HHAs' response to the ExA's written question BCG 2.1 [REP7-087] and in subsequent submissions, as currently drafted, where a Limit is breached the Applicant would be required to implement a Mitigation Plan, but there is no consideration of what might happen should that Mitigation Plan not reduce impacts below those which were





assessed as part of EIA, beyond implementation of a further Mitigation Plan. As such, simply by breaching a Limit, a breach of the DCO does not occur, provided efforts are made to mitigate that breach. This means the enforcement regime under the Planning Act 2008 would not apply.

- 4.7.7 The HHAs therefore propose that a financial compensation payment to the Community Fund (as will be secured through the section 106 agreement) should apply where a Mitigation Plan has not been effective in removing a breach of a Limit within 12 months of its implementation (or within the relevant timetable contained within that Plan). It is proposed that such a financial compensation payment mechanism should be secured in the DCO, linking to the Community Fund secured in the section 106 agreement, or some other similar fund as necessary. It should be noted that the section 106 agreement does not secure any form of financial compensation payment, which is why the DCO would need to secure all aspects.
- 4.7.8 Such a financial compensation payment would act as an incentive on the operator for growth to be pursued on a precautionary basis and to ensure that Mitigation Plans genuinely put forward the best and most likely means of addressing the breach of a Limit within the timetable specified, whilst ensuring that the affected community is compensated in the event that this is not achieved.
- 4.7.9 Sub-section (3) of section 120 of the Planning Act 2008 provides that an order granting development consent may make provision relating to, or to matters ancillary to, the development for which consent is granted. It is clear that provision of a financial compensation payment to the Community Fund is a matter relating to or relating to matters ancillary to the development, noting that it is a necessary component of the framework to ensure that London Luton Airport operates within the environmental effects envelope set out in the ES.
- 4.7.10 Sub-section (8) of section 120 of the Planning Act 2008 provides that an order granting development consent may not include provision creating offences. It is not proposed that the regime for financial compensation payments in the event of a continued breach of a Limit would create any offences.
- 4.7.11 As such the HHAs consider that there is a clear legal basis for the inclusion of such a regime in the DCO.
- 4.7.12 The HHAs consider that:
- A financial compensation payment regime is **necessary** in order to provide a clear disincentive for the Applicant to breach a Limit, and if it does for it to address the breach and bring operations back within the Limit as soon as possible. Whilst there is an incentive to remain within a Limit to continue to grow, it is clear that the Applicant could benefit significantly from increased growth whilst persisting in breach of a Limit.



As such a financial sanction is necessary to ensure that London Luton Airport operates within the environmental effects envelope set out in the ES.

- A financial compensation payment regime is **relevant to planning and relevant to the development to be consented** because it is a necessary component of the framework to ensure that London Luton Airport operates within the environmental effects envelope set out in the ES, and that the operator cannot benefit from increased growth whilst not complying with the Limits that it has proposed. It is clearly more than *'tangentially related'*, being the backstop in the event of a persistent breach of a Limit. Without it, there is nothing to disincentivise persistent breaches of the Limits;
- A financial compensation payment regime can be put in place which is **enforceable and precise**; and
- A financial compensation payment regime is **reasonable in all other respects**. There has been discussion during the Examination as to the need for the benefits of growth to be equitably shared between the Applicant and local communities. The same principle applies in the event of continuing breaches which give rise to on-going adverse effects on communities – those communities should be appropriately compensated. This approach is supported in various aviation industry guidance, such as in the Civil Aviation Authority CAP 1129: Noise Envelopes available at: <https://publicapps.caa.co.uk/docs/33/CAP%201129%20Noise%20Envelopes.pdf> [accessed 5 January 2024]. This states on page 51 that financial compensation to a community fund is one form of appropriate action in the event planning controls are breached.

4.7.13 In the HHAs' view, absent an ability to 'reverse' growth in the event of continued breaches of Limits, a proportionate, but suitably robust, financial compensation regime should be put in place. The concept of a payment to a community fund to compensate for a breach of environmental limits is entirely consistent with the tests for planning conditions.

4.7.14 The financial compensation payment could be payable periodically where a Limit is shown to remain breached (e.g. every 3 months) or annually on a pro rata basis – it would depend on the nature of the breach and the monitoring in place. This would clearly need to operate alongside the required revised Mitigation Plan – if that was able to correct the Limit breach within a reasonable timescale, the financial compensation payment would clearly be reduced. The quantum of financial compensation payment needs to be of sufficient level to act as a real incentive to operate London Luton Airport in a way so as to encourage a precautionary approach to growth and also as an incentive to bring the operation of the Airport within the breached Limit. In this context, the HHAs note that the Applicant will have benefited from increasing its capacity whilst not meeting the Limits in the GCG Framework, whilst the community will experience the effects of the Applicant not meeting the Limits.

4.7.15 The HHAs are aware of the Applicant's position that such a regime is not required due to the robustness of the GCG Framework. In response to that, the HHAs would submit that if that is correct, the risk of a financial compensation payment regime being triggered would



be minimal, so putting one in place would be of low risk to the Applicant. In any event, an approach similar to the GCG Framework is unprecedented, as is any approach similar to it, so it is reasonable there is some residual doubt as to its effectiveness.

### **GCG: Greenhouse Gases**

- 4.7.16 The additional text covered in Section 3.3.41 of the GCG Explanatory Note states that ‘*As part of the periodic GCG review process set out in Paragraphs 2.2.50 and 2.2.51, consideration should also be given to the appropriateness and practicality of revising the Greenhouse Gases Limits and Thresholds to align with current greenhouse gas policies; however, there will be no absolute requirement to do so*’ This text appears to contradict other parts of the GCG Framework Explanatory Note (including Table 3.7), which sets out the proposal to review GHG Limits and Thresholds to align with GHG policy, including the Jet Zero Strategy [REP4-157]. The HHAs are of the view that it should be an absolute requirement for GHG Limits and Thresholds to be revised to align with GHG policy as part of the periodic GCG review process.



## 5 DRAFT DEVELOPMENT CONSENT ORDER

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- 5.1.1 The five Host Authorities (HCC, NHC, DBC, Luton Borough Council and Central Bedfordshire Council) have submitted at Deadline 11 a statement on DCO matters (“Host Authorities’ Statement at Deadline 11 on DCO Matters”) that does not seek to summarise all of the outstanding matters or concerns of the five Host Authorities nor set out their final position on each aspect of the draft DCO, but it seeks to highlight the key points of concern remaining as the Examination closes.



## 6 LEGAL AGREEMENTS

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### 6.1 S106

6.1.1 The HHAs have reached agreement on the terms of a s106 Agreement with the Applicant providing for matters relating to the re-provision of sports pitches and changing rooms, the future management of Wigmore Valley Park, the Employment and Training Strategy, funding relating to obligations under the GCG Framework, Prospect House Day Nursery, Compensation Policies, the Community Fund and matters relating to Design Review. The s106 agreement is in the process of being executed by the parties and will be completed and submitted to the ExA before the examination closes.

### 6.2 SIDE AGREEMENT BETWEEN AGREEMENT BETWEEN THE APPLICANT AND HERTFORDSHIRE COUNTY COUNCIL

- 6.2.1 The HHAs have concerns, as detailed in the Final PADSS [REP8-056], in relation to the need for additional TRIMMA Type 2 monitoring locations and with regard to the off-site highways works proposed for A505 / Upper Tilehouse Street and A602 Park Way / Stevenage Road, both in Hitchin.
- 6.2.2 The Applicant has proposed a 'side agreement' with HCC covering two matters:
1. LLAL agreeing to undertake monitoring of traffic around Great Offley, Tea Green, Breachwood Green and Whitwell such that the data collected would be sufficient evidence for HCC to make a MT2 proposal for intervention to the ATF Steering Group in accordance with paragraph 2.1.3 of the TRIMMA [REP10-037].
- 6.2.3 HCC is supportive of the Applicant's proposals and would be willing to enter into an agreement to secure this monitoring. However, at the close of the Examination the future of that agreement is uncertain.
2. The identification of 'Additional Measures' (alternative mitigation proposals) to those off-site highway works Order at A505 / Upper Tilehouse Street and A602 Park Way / Stevenage Road, locations of which are shown at [AS-017]. Those additional measures would be treated as if they were specified off-site highway works identified in Schedule 1 to the Order and therefore undertaken by the Applicant or a financial contribution to be payable such that HCC can implement alternative works, with the agreement of the Applicant.
- 6.2.4 HCC accepts that the proposed additional measures represent an improvement to the original designs submitted with the application and welcomes the principle of the side agreement, but given how late in the process this has been proposed by the Applicant, it is unable at this time to verify either that the alternative proposals are acceptable in technical terms, or that the financial contributions offered are sufficient.



6.2.5 Given where the parties find themselves at this juncture, HCC is willing to work with the Applicant with a view to reaching agreement during the ExA's recommendation period and will update the Secretary of State as to the status of this matter as soon as possible after the start of their decision period. However, HCC must, absent a satisfactory solution at this time, maintain its objection to the likely highway impacts in Hitchin arising from the expansion of London Luton Airport and the unacceptable proposed mitigation for the highway network in that area.



## 7 THE POSITION OF THE HERTFORDSHIRE HOST AUTHORITIES

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- 7.1.1 As the Examination comes to a close the HHAs have revisited the broad overarching thrust of Government policy. This being:
- *'it may well be possible for existing airports to demonstrate sufficient need for their proposals, additional to (or different from) the need which is met by the provision of a Northwest Runway at Heathrow'* (ANPS para 1.42, **[REP4-154]**); and
  - *'development of airports can have negative as well as positive local impacts, including on noise levels. We therefore consider that any proposals should be judged by the relevant planning authority, taking careful account of all relevant considerations, particularly economic and environmental impacts and proposed mitigations.'* (MBU para 1.29)
- 7.1.2 A case can be made to demonstrate sufficient need for this proposal (ANPS para 1.42, **[REP4-154]**) in addition to the need which is met by the provision of a Northwest Runway. However, with regard to forecasts, major events have influenced a number of the key assumptions, to the extent that there is a considerable down-side risk to the assumptions and thence the passenger forecasts. In relation to which airports would be used by the forecast passenger demand, this is critically dependent on the passenger capacities assumed for Heathrow and Gatwick. Taking this into account a throughput of 32 mppa at LTN London Luton Airport would not be reached until some years after 2050.
- 7.1.3 With regard to relevant considerations (MBU para 1.29):
- Noise**
- 7.1.4 The sheer scale of adverse noise impacts upon communities within Hertfordshire, both in terms of geographic extent and numbers of individuals impacted cannot be underestimated and is considered by the HHAs to be totally unacceptable.
- 7.1.5 The Examination process has heard from individuals and community representatives of their particular concerns in relation to night flights and the sensitive shoulder periods, both of which of course have very significant implications in terms of sleep disturbance and deprivation and potential for consequential health impacts. The HHAs very much share those concerns.
- 7.1.6 A night flight ban, or in the absence of a ban a reduction in flights, was never really entertained by the Applicant. The HHAs respectfully request that the ExA reflect upon that in coming to its overall position on the acceptability of the proposal. The HHAs would strongly support the introduction of a ban or restrictions on night flights on any consent, were one to be granted.





- 7.1.7 The HHAs are strongly of the view that movements in the very sensitive shoulder periods should be restricted to the absolute minimum necessary to implement the Proposed Development.
- 7.1.8 The application does not present a case that complies with UK aviation noise policy (or emerging policy), including APF and OANPS 2023.

### **Landscape and Visual**

- 7.1.9 The introduction of large-scale buildings and structures into the rural landscape to the east of the existing London Luton Airport will result in adverse visual effects for which there is a very limited or no framework for guiding the design of the built form, or its siting in the landscape. Mitigation relating to hedgerow planting is not appropriate where it blocks existing characteristically open views.
- 7.1.10 Additional flight movements across the AONB and the presence of additional large scale-built development, potentially with associated glint and glare, is anticipated to result in a deterioration of the Special Qualities of the AONB, including in its long distance views. The Applicant's assessment of impact on the AONBs Special Qualities is considered to be incomplete and inaccurate as it fails to take into account all relevant aspects that could impact the AONBs Special Qualities in landscape and visual terms.
- 7.1.11 The Application is considered to be in conflict with National and Local AONB Policy and with Local Landscape Policy, given that the LVIA identifies residual significant harm will be done to both local landscape character and to the nationally protected Chilterns AONB.

### **Cultural Heritage (Built Environment)**

- 7.1.12 The Applicant has not adequately assessed noise impacts to heritage assets, particularly where quietness is an important part of that asset's setting, such as registered parks and gardens and has not presented an explanation as to how setting contributes to these assets' significance and why assets have been scoped out. This potentially brings it into conflict with national and local Development Plan policies. The HHAs, therefore, have significant concerns with regard to the impacts of the proposal on Hertfordshire's heritage assets.

### **Greenhouse Gases**

- 7.1.13 The Proposed Development will result in a substantial increase in GHG emissions relative to a business as usual baseline and should be regarded as a significant impact. This does not sit comfortably with National Policy, including the UK Government's Net Zero/net zero Policy.

### **Air Quality**

- 7.1.14 The HHAs maintain their position that a suitable requirement for monitoring of and Thresholds for PM2.5 should accompany any consent, were one to be forthcoming.





## Surface Access

- 7.1.15 There remain outstanding concerns on the transport modelling underpinning the application. This and the longevity of the proposal bring medium to long term uncertainty and risk to the Hertfordshire highway network that the HHA find unacceptable. The HAAs need additional monitoring of the network to monitor that risk and act as a basis for consideration of mitigation proposals. The TRIMMA / STF package of proposals are considered to be generally acceptable, but they do not eliminate uncertainty and risk, they seek to contain and manage it.
- 7.1.16 The ongoing uncertainty in relation to the impact of the proposal on the rail network is of considerable concern and the absence of a position from Network Rail at the end of the Examination is unacceptable. Additionally the interventions proposed by the Applicant to mitigate impacts upon Hitchin junctions are not acceptable to HCC in their current form. The reluctance of the Applicant to fully fund interventions to mitigate the impact of the proposal is unacceptable and potentially in conflict with national and local policies.
- 7.1.17 On balance, the HHAs are of the view that the risks associated with surface access proposals are not acceptable.

## Green Controlled Growth

- 7.1.18 The HHAs consider that, in principle, a GCG approach and framework, if properly designed, secured, implemented, monitored and enforced, can bring benefits in terms of controlling key environmental effects on communities whilst allowing sustainable growth to take place. However, for it to be effective and act as a robust control mechanism, there is a need for a financial compensation payment to apply where a Mitigation Plan has not been effective in removing a breach of a Limit within 12 months of its implementation (or within the relevant timetable contained within that Plan).
- 7.1.19 The HHAs are strongly of the view and take the position that the noise impacts of the proposal are totally unacceptable. When taken together with the package of other impacts and associated uncertainties, these generate a very real and unacceptable risk that the proposal, if consented, would bring about a chronic deterioration in the lives of many thousands of people in multiple Hertfordshire communities, of the rich and varied natural and cultural environment which makes this part of Hertfordshire what it is and places unacceptable risks to the surface access network.
- 7.1.20 Whilst a case can be made to demonstrate sufficient need for this proposal (ANPS para 1.42, [REP4-154]) in addition to the need which is met by the provision of a Northwest Runway, there are aspects of the proposal in relation to adverse noise, landscape / AONB, surface access and cultural heritage impacts that collectively are unacceptable and potentially bring it into conflict with both national and local policies. Those adverse impacts and conflicts are such that the HHA are strongly of the view that in judging this proposal on



its individual merits in accordance with MBU para 1.29, consent should not be granted and respectfully call upon the ExA to make that recommendation to the Secretaries of State.

7.1.21 The HHAs maintain their absolute opposition to the application. Motions to this effect have recently been moved at all three HHAs.

### **Hertfordshire County Council**

7.1.22 At a meeting of HCC on 12 December 2023, the following motion was carried:

*“The Council notes that Luton Rising, the owners of London Luton Airport (LLA), have submitted an application to increase passenger numbers from 19 to 32 million passengers per annum and that this application is currently being examined by the Planning Inspectorate as a National Significant Infrastructure Project. This Council continues to remain vehemently opposed to this proposal and calls upon the Planning Inspectorate to recommend refusal of the application as it is against the best interests of the residents of Hertfordshire, specifically:*

- *There would be significant negative transport impacts impacting the highways and rail infrastructure in Hertfordshire;*
- *The increase in passengers would cause significant harm to the environment;*
- *There are existing major issues with regard to aircraft noise and the impact on certain communities in Hertfordshire. In addition, this Council continues to be concerned for residents facing increased noise from night flights. Increasing flights to accommodate the additional passengers would exacerbate these issues;*
- *Whilst accepting the need to engage with the Applicant on this wholly unacceptable application, this Council remains of the opinion that there are no conditions that can be applied to the application to make it acceptable; and.*
- *Council requests that the Administration continue to make representation at the ongoing enquiry in order to safeguard the quality of life in neighbouring communities across Hertfordshire and that the Leader writes to MPs seeking their continued support and the relevant Secretary of State following the enquiry.”*

### **Anti Luton-Airport Expansion Motion**

7.1.23 HCC notes that on 13 October 2023, The Parliamentary Under Secretary of State for Local Government and Building Safety, Lee Rowley, on behalf of the Secretary of State for Levelling Up, Housing and Communities and The Parliamentary Under Secretary of State for Roads and Local Transport, Richard Holden MP, on behalf of the Secretary of State for



Transport gave their approval for London Luton Airport Operations Ltd. (LLAOL) to expand from its current 18m passengers per annum to 19m passengers per annum<sup>7</sup>.

### North Hertfordshire Council

7.1.24 At the meeting of NHC on 25 January 2024, NHC re-iterated it's in principle objection as set out in the Deadline 1 Submission - Written Representations (WRs) **[REP1-069]** and Deadline 1A Submission - LIRs **[REP1A-003]** with the following motion which was carried:

7.1.25 *We, the members of North Hertfordshire Council, express our firm opposition to this decision and to the further expansion of Luton Airport, currently being examined by National Infrastructure Planning, to 32m passengers per annum for the following reasons based on:*

#### **1. Environmental Concerns where:**

- *The additional air traffic resulting from this expansion will contribute to poor air quality, posing significant health risks to residents; especially children, the elderly and individuals with respiratory conditions.*
- *Aviation is widely recognised as both one of the most carbon-intensive forms of transport and one of the most difficult to decarbonise. This means that aviation could well be the largest contributor to UK greenhouse gas emissions by 2050, particularly if demand continues to grow. Expansion of Luton Airport will lead to an increase in these emissions, further accelerating climate change, and violating our local and national sustainability goals. This is in direct conflict with NHC's Air Quality Action Plan (as published in February 2018) and our efforts to improve air quality and combat climate change.*
- *This expansion will inevitably lead to the destruction of natural habitats and green spaces. The loss of these areas not only harms local wildlife but also diminishes the overall quality of life for residents who rely on these spaces for recreation and relaxation.*

#### **2. Noise Pollution:**

- *The expansion of the airport will undoubtedly lead to increased noise pollution, disrupting the peace and tranquillity of our neighbourhoods. This will have adverse*

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<sup>7</sup> Subsequently increased to 19mppa, following the Secretary of State's granting of full planning permission for called in planning application reference number: 21/0031/VARCON under Town and Country Planning Act 1990 - Section 77 application by London Luton Airport Operators Ltd on 13 October 2023.



*effects on the mental health and physical well-being of our residents, particularly those living within close proximity to the airport.*

- *Sleep disturbance, stress, and potential damage to children's educational outcomes are associated with increased noise pollution.*

### **3. Traffic Congestion:**

- *Expansion at Luton Airport will lead to an increased number of both passengers and airport staff which will exacerbate traffic congestion on our roads, leading to longer commute times and decreased road safety.*
- *Our road networks are already strained, and the expansion will only exacerbate the problem.*

### **4. Impact on Local Economy:**

- *The economic benefits associated with the airport may benefit the residents of Luton but will likely have the inverse effect on our local economy in the long-term, due to people avoiding our towns altogether as a result of the traffic congestion and delays.*

### **5. Alternatives and Mitigation:**

- *All relevant stakeholders (local authorities and local communities) should explore alternatives to airport expansion, such as investing in improved public transportation and sustainable travel options.*
- *A full, in-depth, robust and transparent Environmental Impact Assessment (EIA) and an Environmental and Social Governance Report (ESG) has not been carried out on the commissioning authority (Luton Borough Council) and all the suppliers, which means that residents have no idea of the short, medium and long-term impact that an expanded Luton Airport will have on their local environment.”*

## **Dacorum Borough Council**

7.1.26 DBC resolves that: The Leader and the Deputy Leader of DBC write jointly to the Leader, Deputy Leader, Luton Borough Council's Chief Executive, the Managing Director of Luton Rising (the trading name of LLAOL), the Leaders / Deputy Leaders of all surrounding local government authorities, all relevant (local) members of parliament, the Secretary of State and the Shadow Secretary of State for Transport clearly stating that we as a Council are opposed to any further expansion of London Luton Airport.

7.1.27 At a meeting of DBC on 23 February 2022 the following motion was carried:



*“Dacorum Borough Council strongly opposes Luton Airport’s further planned expansion, from 18 million<sup>8</sup> passengers per annum to 32 million passengers per annum by 2040, with the resulting negative impacts of increased noise, emissions and surface transport. This disproportionately impacts the Watling Ward villages in Dacorum, and more widely our Borough and much of Hertfordshire. Given National Climate Change goals, air travel awareness, and noise and environmental pollution levels, it cannot be justified. This cannot go unchallenged and so Dacorum Borough Council will therefore commit to oppose the expansion of London Luton Airport at every opportunity.”*

7.1.28 The Leader of DBC, alongside the Portfolio Holder for Place and members representing the wards most affected by the DCO have been kept informed on progress made over the course of the Examination and whilst it is recognised that some progress has been made on a number of detailed and technical matters, fundamental concerns remain that go to the heart of the aforementioned motion.

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<sup>8</sup> Subsequently increased to 19mppa, following the Secretary of State's granting of full planning permission for called in planning application reference number: 21/0031/VARCON under Town and Country Planning Act 1990 - Section 77 application by London Luton Airport Operators Ltd on 13 October 2023.