

The Planning Act 2008

London Luton Airport Expansion

Examining Authority's Report
of Findings and Conclusions

and

Recommendation to the Secretary of State for
Transport

Examining Authority

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10 May 2024

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OVERVIEW

File Ref: TR020001

The Application, dated 27 February 2023, was made under section 37(2) of the Planning Act 2008 and was received in full by the Planning Inspectorate on 27 February 2023.

The Applicant is London Luton Airport Limited.

The Application was accepted for Examination on 27 March 2023.

The Examination of the application began on the 10 August 2023 and was completed on the 10 February 2024.

The development proposes the expansion of London Luton Airport to enable it to accommodate 32 million passengers per annum.

Summary of Recommendation:

The Examining Authority recommends that the Secretary of State should withhold consent. If, however, the Secretary of State decides to give consent, then the Examining Authority recommends that the Order should be in the form attached.

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ERRATA SHEET – London Luton Airport Expansion DCO

Examining Authority's Report of Findings and Conclusions and Recommendation to the Secretary of State for Transport dated 10 May 2024.

Page No.	Paragraph	Error	Correction
20	3.3.2	Paragraph numbers following this one are not consecutive.	None suggested as our decision letter will reflect the paragraph numbers as used in the report.
66	3.6.35	Repetition: 'REP6066] confirmed that the assessment assumed no freight consolidation.'	Delete repeated text
94	3.7.54	No paragraph number follows this one.	None suggested as our decision letter will reflect the paragraph numbers as used in the report.
153	13.12.72	Incorrect text: seems to imply the budget for international shipping and aviation in CB6 is 965MtCO ₂ e but as this is the total budget for CB6 this does not seem correct and particularly given that CB6 is not broken down into sectors.	Consider clarifying. The ExA agrees that this is incorrect. The figure is for the total budget and the reference to IAS is an error. It should read: <i>'The requirement in the 6th budget for emissions is 965 MtCO₂e and the Applicant showed [REP3-007, Table 12.26] that the emissions from the Proposed Development would be less than 1% of this in the sixth budget period'.</i>
172	3.13.56	Repetition : 'The Applicant [REP11-049] considered that the	Delete repeated text

Page No.	Paragraph	Error	Correction
		use of either baseline did not affect the conclusions of adverse likely significant effects. It also stated that it did not affect conclusions of residual significant adverse effects on health and quality of life in noise policy terms, as significant effects would be avoided through provision of the full cost of noise insulation.'	
173	3.13.65	Repetition: 'It considered that these effects had been assessed in the transport and noise chapters and that the need for further assessment had been scoped out based on the agreed methodologies. It emphasised that health effects were assessed at a population level therefore traffic noise impacts would not have potential to lead to significant effects on health. It concluded that specific mitigation would not be provided for scoped out effects and that the airport operator employs a Community and Corporate Social Responsibility manager committed to community engagement able to respond to any concerns.'	Delete repeated text
173	3.13.61	Repetition: 'The CBC, LBC and HHA SoCGs accepted the health and community methodology [REP11-033], [REP11-035], [REP11-095], REP11-097] and [REP11-099]. BC's SoCG [REP11-101]	Delete repeated text

Page No.	Paragraph	Error	Correction
		did not reference the IEMA health guidance.'	
175	3.13.72	Repetition: 'the Applicant argued that ongoing engagement such as that carried out by the current operator was an existing mechanism to mitigate effects on mental wellbeing.'	Delete repeated text
176	3.13.78	Repetition: 'that it had completed an agreement with the IP, who had surrendered its lease and vacated the premises.'	Delete repeated text
249	3.18.35	Paragraph numbers following this one are not consecutive.	None suggested as our decision letter will reflect the paragraph numbers as used in the report.
295	3.18.360	Incomplete consideration: 'The ExA has considered the terms of reference for NISC and considers that these'.	Replace text (as per PINS email of 22.05.24): 'The ExA has considered the terms of reference for NISC and considers that these include representation from local authority ESG members and would provide a reasonable basis for governance, when combined with the proposed delivery programme Requirement.'

Additional Issues raised

(Email 17.10.24) to the Planning Inspectorate:

We note that the biodiversity section within the ExA report refers to habitats and species of principal importance and to areas of ancient woodland/veteran trees (see for example the references at ER 3.7.98, ER 3.7.103, and ER 3.7.104). We assume that the reference to 'habitats and species of principal importance' are in connection with the Section 41 Species and Habitats under the NERC Act, but as we cannot trace any reference to the NERC Act in the Report, we would be grateful if you could confirm.

To aid consideration, we would be grateful if, for each habitat, species of principal importance, Ancient Woodland and Veteran tree within the order limit, you could confirm the habitat/species type, which designated site the habitat/species is located in, the area this accounts for within the order limit, the area impacted by the proposal and the area as a percentage of the habitat, the compensation habitat type and the compensation

Page No.	Paragraph	Error	Correction

habitat area proposed. For clarity, it may assist if this could be presented in a table format along the following lines:

Habitat of Principal Importance	Within designated Site (if applicable)	Area within the Order Limit	Area impacted by the proposal	Area as a % of the habitat of principal importance	Compensation habitat type	Compensation habitat area
i.e. Calcareous Grassland	i.e. Wigmore Park CWS	ha	ha			ha

Species of Principal Importance	Habitat within the Order Limit (ha)	Area impacted by the proposal (ha)	Area as a % of the habitat	Compensation type	Compensation habitat area

AW/Veteran Tree	Habitat within the Order Limit (ha)	Area impacted by the proposal (ha)	Area as a % of the habitat	Compensation habitat type	Compensation habitat area

(Email 23.10.24) response from the Planning Inspectorate:

It is correct that the reference to 'habitats and species of principal importance' are in connection with the Section 41 Species and Habitats under the NERC Act.

We are not able to provide the information requested because the information was not presented in this format by the Applicant and we do not hold the original datasets. Any additional interpretation of the data would need to be undertaken by the Applicant.

Further, the SoS may wish to note from the ExA's Report that the Applicant did not accept the concept of 'compensation' for the loss of habitat, preferring to proceed on the basis of 'mitigation' and 'habitat creation'. Mitigation does not necessarily require the same area of land to be provided as a compensation scheme. The habitat requirement for compensation was not provided by the Applicant. However, the ExA accepted that, on balance and on the basis of the approximate information that we did have, the quantum of land allowed for through mitigation and habitat creation was likely to fulfil the requirements if alternatively approached as a compensation scheme.

1. INTRODUCTION

1.1. BACKGROUND

- 1.1.1. Examination under the Planning Act 2008 (PA2008) is a primarily written process, where the Examining Authority (ExA) has regard to written material forming the application and arising from the Examination. All application documents, along with all comments from Interested Parties (IPs) relating to the application can be found in the Examination Library (EL). All documents and representations have a unique reference number eg [\[APP-001\]](#) which have been used throughout this report to allow the reader to refer back to the source document.
- 1.1.2. This Report does not contain extensive summaries of all documents and representations received, although the ExA has had full regard to them and all important and relevant matters that arose throughout the Examination. Key written sources are set out further below.

1.2. APPOINTMENT OF THE EXAMINING AUTHORITY

- 1.2.1. On 5 May 2023 Beth Davies, Jo Dowling (lead), Sarah Holmes, Dr Richard Hunt and Andrew Robinson were appointed as the ExA for the application under section (s) 61 and s65 of the PA2008 [\[PD-004\]](#).

1.3. THE APPLICATION

- 1.3.1. The application for the expansion of London Luton Airport (LLA) (the Proposed Development) [\[APP-001\]](#) was submitted by London Luton Airport Limited (the Applicant) to the Planning Inspectorate on 27 February 2023 under s37(2) of the PA2008. It was accepted for Examination under s55 of the PA2008 on 27 March 2023 [\[PD-001\]](#).
- 1.3.2. The Proposed Development would build on the current operational airport to increase the overall passenger capacity from 18 million passengers per annum (mppa) to 32mppa. This would involve the construction of a new passenger terminal and additional aircraft stands to the northeast of the existing runway. In addition, the Proposed Development would include:
- the extension and remodelling of the existing passenger terminal (Terminal 1);
 - earthworks to create an extension to the current airfield platform;
 - airside facilities including new taxiways and aprons, together with relocated engine run-up bay and Fire Training Ground (FTG);
 - landside facilities, including buildings which would support the operational, energy and servicing needs of the airport;
 - enhancement of the existing surface access network, including a new dual carriageway road 'the Airport Access Road' (AAR), accessed via a new junction on the existing New Airport Way (A1081) to the proposed new passenger terminal along with the provision of forecourt and car parking facilities;
 - extension of the Luton Direct Air-Rail Transit (DART) with a station serving the new passenger terminal;
 - landscape and ecological improvements, including the replacement of existing open space; and
 - further infrastructure enhancements and initiatives to support the target of achieving zero emission ground operations by 2040, with interventions to support carbon neutrality being delivered sooner including facilities for greater public transport usage, improved thermal efficiency, EV charging, on-site energy

generations and storage, new aircraft fuel pipeline connection and storage facilities and sustainable surface and foul water management installations.

- 1.3.3. Further details of each of the works can be found in Chapter 4 of the Environmental Statement (ES) [\[AS-074\]](#).

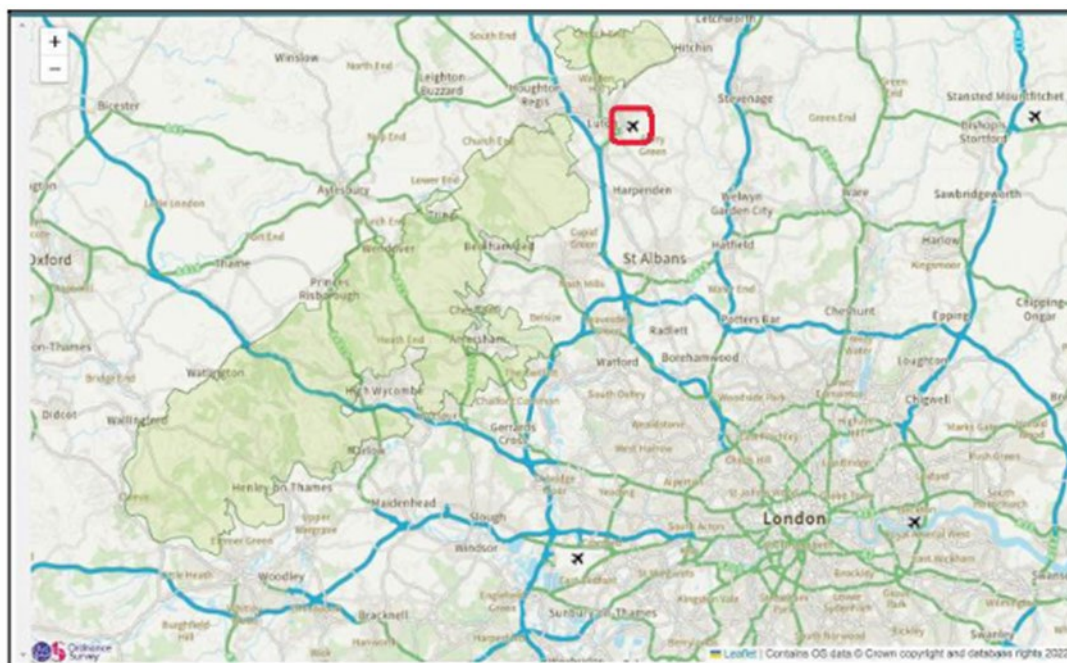
DETERMINATION UNDER PA2008

- 1.3.4. The Planning Inspectorate agreed with the Applicant's view [\[APP-002\]](#) that the Proposed Development is a Nationally Significant Infrastructure Project (NSIP). This is because it includes development falling within s14 and s23 of the PA2008 as it is for the alteration of an airport in England to enable an increase by at least 10 million per year the number of passengers for whom the airport is capable of providing air passenger transport services.

LOCATION OF THE PROPOSED DEVELOPMENT

- 1.3.5. LLA is located approximately 45 kilometres (km) north-west of London. Luton town centre is approximately 2.5km to the west of LLA and the airport is about 4km from M1 Junction 10 (M1 J10) motorway. The main Midland railway line passes to the west of LLA. Luton Airport Parkway Station which is directly connected to the airport by the DART is approximately 1.5km to the west. The airport is bounded by open countryside to the south and east. Industrial and commercial areas lie to the west with housing to the north (see Figure 1 below).

Figure 1: London Luton Airport and the surrounding area



Key: LLA (in red), Chilterns National Landscape (in green), motorway network (in blue) and other major southeast England airports: London Heathrow, London City and London Stansted (black plane symbols from left to right)

- 1.3.6. Chapter 2 of the ES [\[APP-030\]](#) provides a detailed description of the site and the surrounding area. In summary:

- The general topography of the area to the south and east of Luton consists of a series of generally parallel ridges and valleys that run from north-west to south-east.
- Luton lies in the Lee Valley in a gap between areas of high ground to the north and south-west, both of which include the Chilterns National Landscape (NL) (formerly Area of Outstanding Natural Beauty (AONB)).
- The airport has one runway, which is located along a roughly east-west axis. This is located to the south of the aprons and the majority of LLA's buildings including the existing terminal, hangars, DART station, bus and coach terminus, maintenance facilities and multi-storey car parks. The single runway is designated 07/25 as it is used in both directions. Planes taking off to the east on a bearing of 70 degrees from north are described as being on runway 07 whereas planes taking off to the west on a bearing of 250 degrees are on runway 025.
- Someries Castle Scheduled Monument (SM) is situated close to the south-east boundary of LLA and Luton Hoo, a grade I listed building (LB) with grade II* registered park and garden (RPG) is about 1km to the south-west.

1.3.7. The Proposed Development is wholly within England and elements of the scheme lie within the administrative boundaries of Luton Borough Council (LBC), Central Bedfordshire Council (CBC), North Hertfordshire District Council (NHDC), Dacorum Borough Council (DBC) and Hertfordshire County Council (HCC). For the purposes of the Examination a number of these Council's submitted joint representations. There were two groupings: the Hertfordshire Host Authorities (HHA) which consisted of NHDC, DBC and HCC and the Joint Host Authorities (JHA) which consisted of the HHA, LBC and CBC. For the purposes of the Report the ExA has referred to the HHA or JHA unless a specific point is related to an individual authority.

RELEVANT PLANNING HISTORY

- 1.3.8. An overview of the relevant planning history for the application is set out in Appendix A of the Planning Statement [\[APP-195\]](#).
- 1.3.9. In addition, several airport related developments are currently at various stages of planning and delivery at the airport. These developments and their potential relationship and interaction with the Proposed Development are described in the Planning Statement [\[REP11-009\]](#), Section 4].
- 1.3.10. During the Examination the Secretaries of State for Levelling Up, Housing and Communities and for Transport granted planning permission for an application that sought to vary five conditions attached to a 2017 planning consent for extensions and alterations to the airport (LBC Ref: 15/00950/VARCON). The granting of this consent in October 2023 enables, subject to a number of conditions, LLA to increase its capacity to 19mppa (the P19 permission).

ENVIRONMENTAL IMPACT ASSESSMENT

- 1.3.11. The Proposed Development is development for which an Environmental Impact Assessment (EIA) is required.
- 1.3.12. The Applicant's Scoping Report, submitted in March 2019, can be found in [\[APP-166\]](#) and [\[APP-167\]](#). In May 2019 the Planning Inspectorate, on behalf of the Secretary of State (SoS) provided a Scoping Opinion [\[APP-168\]](#). On 7 July 2023 the Applicant provided the Planning Inspectorate with a certificate confirming that s56

and s59 of the PA2008 and Regulation 16 of the Infrastructure Planning (EIA) Regulations 2017 (the EIA Regulations) had been complied with [\[OD-003\]](#).

- 1.3.13. Appendix A of this Report sets out the documents which comprise the ES. Consideration is given to the adequacy of the ES and matters arising from it in Section 2.5 of this Report.

HABITATS REGULATIONS ASSESSMENT

- 1.3.14. The Applicant submitted a Habitats Regulations Assessment (HRA) No Significant Effects Report (NSER) [\[APP-171\]](#) to support its application. Consideration of the HRA NSER and matters arising from it is undertaken in Section 2.6 of this Report.

1.4. PRE-EXAMINATION

RULE 9

- 1.4.1. To ensure that the ExA had as much information as it needed as early as possible in the process, the ExA issued two Procedural Decisions (PDs) [\[PD-005\]](#) and [\[PD-006\]](#) requesting further information and seeking clarifications and corrections on the submitted documents. Amongst other things these included a request for the submission of Principal Areas of Disagreement Summary Statements (PADSS); a review of the transport modelling in light of Department for Transport (DfT) advice regarding the treatment of the COVID-19 pandemic in transport modelling; further information in relation to noise, Green Controlled Growth (GCG) and the landscape and visual impact assessment (LVIA); additional drawings and a glint and glare assessment.

RELEVANT REPRESENTATIONS (RR)

- 1.4.2. Over 1600 RR were received by the Planning Inspectorate. All RRs have been fully considered by the ExA. The issues that were raised are considered in the relevant sections of this Report.

THE PRELIMINARY MEETING (PM)

- 1.4.3. On 13 July 2023, the ExA wrote to all IPs, Statutory Parties and Other Persons under Rule 6 of the Infrastructure Planning (Examination Procedure Rules) 2010 (EPR) [\[PD-007\]](#) outlining:
- the arrangements and agenda for the PM;
 - notification of initial hearings to be held in the early stages of the Examination;
 - an Initial Assessment of Principal Issues (IAP);
 - the draft Examination Timetable;
 - availability of Examination documents; and
 - the ExA's PDs.
- 1.4.4. The PM took place on 10 August 2023 at Venue 360, 20 Gipsy Lane, Luton LU1 3JH. The PM and most of the subsequent hearings were blended events, meaning that they were held in person, with some participants opting to attend online using Microsoft Teams. A recording [\[EV4-001\]](#), a transcript [\[EV4-002\]](#) and a note of the PM [\[EV4-005\]](#) were published on the project page of the National Infrastructure website. The Examination Timetable, where possible, was revised to take account of the issues raised at the PM. The ExA published a revised Examination Timetable as part of its Rule 8 letter [\[PD-008\]](#), dated 17 August 2023.

1.5. PROCEDURAL DECISIONS

1.5.1.

The PDs taken by the ExA, during the Examination, are recorded in the EL referenced [PD-]. They detail the ExA's decisions relating to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development. Further, they were generally complied with by the Applicant and relevant IPs. They comprised:

- [\[PD-009\]](#) amending the deadlines for a number of action points and the submission of the Statement of Common Ground (SoCG) with the JHA and confirming that the ExA did not intend to undertake an Accompanied Site Inspection (ASI).
- [\[PD-011\]](#) asking for comments on the implications of the granting of planning permission that would allow the passenger cap to be raised to 19mppa.
- [\[PD-012\]](#) providing the ExA's response to a proposed change request [\[AS-151\]](#) and [\[AS-152\]](#).
- [\[PD-014\]](#) providing the ExA's response to another proposed change request [\[REP3-047\]](#) and a request for further information in relation to the P19 permission, trip distribution plans and a response to [\[REP3-118\]](#).
- [\[PD-016\]](#) request for a cover letter explaining the next steps/ context following submission of [\[AS-159\]](#).
- [\[PD-017\]](#) a request for a draft copy of the unsigned s106 agreement.
- [\[PD-019\]](#) asking for:
 - several documents [\[REP7-063\]](#), [\[REP4-020\]](#) and [\[REP7-079\]](#) to be checked for potential omissions/ updates/ errors;
 - copies of plans for a proposed solar farm on land to the south of the runway;
 - further information on the effect of the Proposed Development on heritage assets (HAs); which works should be subject to a design review;
 - a position statement from the Environment Agency (EA) regarding the Water Framework Directive (WFD);
 - details of outstanding issues and their potential for resolution regarding the transport modelling;
 - copies of and comments on the road safety audits (RSA);
 - information to be provided to Network Rail (NR) and for them to comment;
 - details on cycling and walking provision for all locations where off-site highways works are proposed;
 - a response on Luton Local Plan 2011-2031 (LLP) Policy LLP6D(i);
 - comments on the appropriate penalty scale and time period for persistent breaches of limits;
 - clarification regarding Category Three interests;
 - comments on quota count (QC) budgets and the proposed shoulder period ATM cap; and
 - further justification regarding the approach to updated transport modelling for the outcomes of the Environmental Appraisal.
- Following the publication of the ExA's schedule of changes to the draft DCO [\[PD-018\]](#) the Applicant requested an 'other meeting' under Rule 6(3) of the EPR [\[AS-160\]](#). In the interests of openness and fairness the ExA declined this request [\[PD-020\]](#).
- Following D8 the ExA asked for further written information and written comments [\[PD-021\]](#) in relation to the Chilterns AONB Special Qualities Assessment (SQA) [\[REP7-046\]](#), the FTG (Work No. 2d), the multi storey Car Park P1 (Work No. 4g); shoulder period air transport movement (ATM) cap, core growth limits, the Environmental Scrutiny Group (ESG), noise insulation scheme, Requirement 19; effects on European Sites, agriculture and land holdings [\[APP-033\]](#), SoCG,

response to further written question BCG.2.4 [\[REP7-087\]](#) and response to ISH9 Action Point 37 [\[REP8-040\]](#).

- [\[PD-022\]](#) amended the Examination Timetable under Rule 8(3) of the EPR following a request from the Applicant [\[AS-161\]](#) to defer the submission of a number of documents to a later deadline. To enable IPs the opportunity to respond on anything submitted a new deadline (D) 11, was inserted.
- Following D9 the ExA asked [\[PD-023\]](#) for further information regarding proposed protective provisions, Crown Consent, Prospect House Day Nursery, the Noise Insulation Delivery Programme, accurate visual representations (AVR) and the HRA NSER.
- In [\[PD-024\]](#) the ExA asked for a number of clarifications and responses from the Applicant, the Civil Aviation Authority (CAA) and the JHA.

1.6. THE EXAMINATION

- 1.6.1. The Examination began on the 10 August 2023 and concluded on 10 February 2024. The principal elements and events of the Examination are summarised below.

REQUESTS TO LEAVE/ JOIN THE EXAMINATION

- 1.6.2. The following statutory parties requested to join the Examination at or after the PM:

- NR Infrastructure Ltd [\[AS-136\]](#);
- Three Rivers District Council [\[AS-135\]](#); and
- Conrad (Sundon) Ltd.

- 1.6.3. Huntingdonshire District Council [\[AS-063\]](#) and [\[PDA-004\]](#) advised that it did not intend to participate further in the DCO process and the ExA confirmed [\[PD-008\]](#) that it would be removed from the consultee database for the Application.

WRITTEN REPRESENTATIONS (WR) AND OTHER EXAMINATION DOCUMENTS

- 1.6.4. The Applicant and IPs were provided with opportunities to:

- Make WRs;
- comment on WRs made by the Applicant and other IPs;
- summarise in writing oral representations given at hearings;
- make other written submissions requested or accepted by the ExA; and
- comment on documents issued for consultation by the ExA including a commentary on the draft Development Consent Order (DCO) published on 16 January 2024 [\[PD-018\]](#).

- 1.6.5. All WRs and other examination documents have been fully considered by the ExA. The issues that they raise are covered in the relevant Sections of this Report.

LOCAL IMPACT REPORTS

- 1.6.6. Local Impact Reports (LIR) were received from all the host authorities. Section 2.4 discusses the LIRs in more detail.

STATEMENTS OF COMMON GROUND

- 1.6.7. By the end of the Examination, the following bodies had concluded and signed SoCGs with the Applicant:

- Bedfordshire Police [\[REP2-008\]](#);
- World Fuel Services [\[REP6-011\]](#);
- Prax Downstream UK Ltd [\[REP6-012\]](#);
- NATS (Services) Ltd [\[REP8-026\]](#);
- NATS (En Route) PLC [\[REP8-041\]](#);
- Historic England (HE) [\[REP9-034\]](#);
- EA [\[REP9-035\]](#);
- CAA [\[REP9-037\]](#);
- Bedfordshire Fire and Rescue Service (BFRS) [\[REP9-039\]](#);
- Natural England (NE) [\[REP9-040\]](#);
- Cadent Gas [\[REP10-031\]](#);
- Thames Water Utilities Ltd (TWUL) [\[REP11-029\]](#);
- Affinity Water (AW) [\[REP11-031\]](#);
- LBC [\[REP11-033\]](#);
- CBC [\[REP11-035\]](#);
- East of England Ambulance Service (EEAS) [\[REP11-037\]](#);
- National Highways (NH) [\[REP11-093\]](#);
- HCC [\[REP11-095\]](#);
- NHDC [\[REP11-097\]](#);
- DBC [\[REP11-099\]](#); and
- Buckinghamshire Council (BC) [\[REP11-101\]](#).

1.6.8. The SoCG with the UK Health Security Agency and the Office for Health Improvement and Disparities [\[REP10-033\]](#) (UKHSA and OHID) remained unsigned at the end of the Examination. However, at D10 the UKHSA and OHID confirmed [\[REP10-066\]](#) that it had worked with the Applicant on the preparation of the SoCG and that the latest version reflected its position.

1.6.9. The SoCGs have been considered by the ExA in all relevant Sections of this Report.

PADSS

1.6.10. At the request of the ExA [\[PD-005\]](#) PADSS were submitted by a number of IPs. These were updated throughout the Examination with the final versions submitted at D8. At the close of the Examination the ExA had received PADSS from the following:

- BC [\[REP8-048\]](#);
- CBC [\[REP8-053\]](#);
- Chilterns Conservation Board (CCB) [\[AS-055\]](#);
- EA [\[AS-056\]](#);
- HCC, DBC, NHDC [\[REP8-056\]](#);
- Luton and District Association for the Control of Aircraft Noise (LADACAN) [\[REP2-062\]](#);
- LBC [\[REP8-060\]](#);
- National Trust [\[REP2-066\]](#);
- NE [\[AS-061\]](#); and
- NH [\[REP8-064\]](#).

WRITTEN QUESTIONS

1.6.11. The ExA asked two rounds of written questions:

- Written Questions (ExQ1), dated 10 October 2023 [\[PD-010\]](#); and
- Further written Questions (ExQ2), dated 15 December 2023 [\[PD-015\]](#).

- 1.6.12. In addition, to assist Issue Specific Hearing (ISH) 1, ISH4 and the Compulsory Acquisition Hearing (CAH) 1, the ExA issued Supplementary Agenda Additional Questions [\[EV5-002\]](#), [\[EV6-002\]](#) and [\[EV9-002\]](#), which were largely matters of clarification with the Applicant and various IPs, who were able to respond to at D3.
- 1.6.13. ExQ1 were published on 10 October 2023 rather than with the Rule 8 letter as is normal practice. The ExA considered this preferable to allow for the submission of LIRs, WRs and the Applicant's responses, and thus potentially reduce the number of written questions enabling more efficient use of Examination time.
- 1.6.14. All responses to the ExA's ExQ1 and ExQ2 have been fully considered and taken into account in the relevant Sections of this Report.

UNACCOMPANIED SITE INSPECTIONS

- 1.6.15. The ExA undertook a significant number of unaccompanied site inspections (USI) visiting publicly accessible locations in and around the airport to gain an understanding of the Main Application Site and its context. Site notes providing a procedural record of each USI can be found in the EL [\[EV1-001\]](#) to [\[EV1-013\]](#), [\[EV1-015\]](#), [\[EV1-017\]](#), [\[EV1-018\]](#), [\[EV1-020\]](#), [\[EV1-021\]](#) and [\[EV1-023\]](#).

ACCESS REQUIRED SITE INSPECTIONS

- 1.6.16. The ExA undertook access required site inspections (ARSI) to view the current airside operations [\[EV1-014\]](#) and view the RPG at St Paul's Walden Bury [\[EV1-016\]](#) and Luton Hoo [\[EV1-019\]](#) and [\[EV1-022\]](#). As these inspections entailed accessing private land permission had to be obtained from the owners of the land to allow the ExA access.

ACCOMPANIED SITE INSPECTION

- 1.6.17. The ExA asked for suggested locations for an accompanied site inspection (ASI) to be submitted at D1 and for the Applicant to provide a suggested itinerary based on these suggestions at D2. Having reviewed the suggested itinerary [\[REP2-031\]](#) the ExA concluded that it had visited most of the locations suggested. Furthermore, it considered that those locations that hadn't been visited could be done either through a further USI or ARSI. As a result, the ExA concluded that an ASI was not required. This was confirmed orally at ISH6 [\[EV11-007\]](#) and in writing [\[PD-009\]](#).

HEARINGS

- 1.6.18. ISHs were held under s91 of the PA2008 on:
- The draft DCO – ISH1 [\[EV6-001\]](#) and ISH10 [\[EV17-001\]](#);
 - Need, socio-economic matters, greenhouse gases (GHG) and climate change - ISH2 [\[EV7-001\]](#);
 - Noise, vibration and related effects – ISH3 [\[EV8-001\]](#);
 - Traffic and transport (TT)– ISH4 [\[EV9-001\]](#) and ISH7 [\[EV14-001\]](#);
 - Air quality and related effects – ISH5 [\[EV10-001\]](#);
 - Biodiversity, water, land-use, landscape and visual, design, heritage and any other matters – ISH6 [\[EV11-001\]](#);
 - Environmental matters – ISH8 [\[EV15-001\]](#); and
 - GCG – ISH9 [\[EV16-001\]](#).
- 1.6.19. The following CAH were held under s92 of the PA2008:

- CAH1 [\[EV5-001\]](#); and
- CAH2 [\[EV13-001\]](#).

1.6.20. All Affected Persons affected by Compulsory Acquisition (CA) and/ or Temporary Possession (TP) were provided with the opportunity to be heard. The ExA also used these hearings to examine the Applicant's case for CA and/ or TP.

1.6.21. The following Open Floor Hearings (OFH) were held under s93 of the PA2008:

- OFH1 [\[EV2-001\]](#);
- OFH2 [\[EV3-001\]](#); and
- OFH3 [\[EV12-001\]](#).

1.6.22. All IPs were provided with an opportunity to be heard on any relevant subject matter that they wished to raise.

1.7. CHANGES TO THE APPLICATION

1.7.1. Changes to the key application documents, including the wording of the draft DCO, were submitted throughout the Examination. The changes sought to address points raised by IPs and the ExA and to update or provide additional information resulting from changes and discussions that had occurred during the Examination.

1.7.2. The Applicant produced a 'Guide to the Application' at each deadline which tracked which documents had been updated/ submitted and the changes made to those documents.

1.7.3. The Applicant submitted a formal change request on 22 September 2023 [\[AS-151\]](#). The change related to the preferred option for the discharge of foul water and contaminated surface water.

1.7.4. On 13 October 2023, the ExA issued a PD to accept this change [\[PD-012\]](#), concluding that it was not so substantial to constitute a materially different project, and it did not change the conclusions of the ES.

1.7.5. The Applicant submitted a further formal change request on 5 October 2023 [\[REP3-047\]](#). The change related to the inclusion of an acoustic barrier alongside the proposed new AAR.

1.7.6. On 6 November 2023, the ExA issued a PD to accept this change [\[PD-014\]](#), concluding that it was not so substantial to constitute a materially different project, and it did not change the conclusions of the ES.

1.8. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS

1.8.1. The Applicant proposed that several of the proposed mitigation measures would be secured by a s106 agreement. A signed s106 agreement was submitted at D11 [\[REP11-108\]](#) this is referred to in the relevant sections of this Report.

1.8.2. In addition, several parties confirmed that, during the Examination, they had reached, or were reaching agreement on private or side agreements with the Applicant regarding protection of their assets and/ or interests. These are referred to, where appropriate, in the relevant Sections of this Report.

OTHER CONSENTS AND LICENCES

- 1.8.3. The consents and agreements position statement [\[REP11-003\]](#) identifies consents and agreements that may be needed in addition to development consent under the PA2008.
- 1.8.4. The ExA has considered the available relevant information and, without prejudice to the exercise of discretion by future decision-makers, has concluded that there are no apparent impediments to the implementation of the Proposed Development, should the SoS grant the application.

1.9. THE STRUCTURE OF THIS REPORT

- 1.9.1. The structure of the remainder of this report is as follows:

[Section 2](#) records the policy background in determining the Proposed Development.

[Section 3](#) provides a commentary and conclusion in relation to the planning issues.

[Section 4](#) sets out the findings and conclusions in relation to the Habitats Regulation Assessment.

[Section 5](#) sets out the balance of planning considerations arising from Sections 4 and 5 of the Report and applies the tests of s105 of the PA2008.

[Section 6](#) sets out the ExA's examination of CA and TP proposals.

[Section 7](#) considers the implications of the matters arising from the preceding Sections for the recommended DCO.

[Section 8](#) summarises all the relevant considerations and sets out the ExA's recommendation to the Secretary of State.

Appendix A – Reference table for the Environmental Statement

Appendix B – Key legislation and policy

Appendix C – Made DCOs

Appendix D – Abbreviations

Appendix E – Recommended DCO

Appendix F – Examination Library

2. DETERMINING THE APPLICATION

2.1. INTRODUCTION

- 2.1.1. This Section sets out the key legislation and policies the ExA has applied in making its recommendation to the SoS. A full list of legislation and policy considered relevant to this application, including the Equality Act 2010 (EA2010), the Human Rights Act 1998 and the Climate Change Act 2008 (CCA2008), can be found in Appendix B to this Report.

2.2. LEGISLATION AND POLICY

PA2008 AND NATIONAL POLICY STATEMENTS (NPS)

- 2.2.1. The application is to be assessed against s105 of the PA2008. This is because although there is an NPS for Airports (the ANPS) this only has 'effect' in relation to the delivery of additional airport capacity through the Heathrow Northwest Runway project and as a result the ExA considers that s104 of the PA2008 does not apply.
- 2.2.2. Section 105(2) of the PA2008 sets out the matters to which the SoS must have regard when determining the application. In summary, the matters set out in s105(2) include any LIR any matters prescribed in relation to development of the description to which the application relates, and any other matters which the SoS thinks are both important and relevant to their decision.
- 2.2.3. Whilst the ANPS provides the primary basis for decision making on applications for a Northwest Runway at Heathrow Airport, the ExA considers that it is also seen as an important and relevant consideration in respect of applications for other airport infrastructure in London and the southeast of England (paragraphs 1.12 and 1.41). The ExA has therefore considered the ANPS at the relevant points in this Report.
- 2.2.4. The NPS for National Networks (NPSNN) (2014), amongst other things, provides planning guidance for NSIP on the road and rail network. Works are proposed to the Strategic Road Network (SRN) at M1 J10 and as a consequence the ExA considers that it is an important and relevant consideration under s105(2) of the PA2008. The National Networks NPS (2024) was designated following submission of the application and based on the transitional provisions in paragraph 1.16, the NPSNN remains the relevant NPS in respect of this application.

OTHER KEY RELEVANT NATIONAL POLICIES AND STRATEGIES

- 2.2.5. Other relevant Government policy has been considered by the ExA including, but not limited to:
- The Noise Policy Statement for England (2010) (NPSE);
 - The Aviation Policy Framework (March 2013) (APF);
 - UK Airspace Policy: a framework for balanced decisions: on the design and use of airspace (February 2017) and Government's Consultation Response (October 2017);
 - Beyond the Horizon: The future of UK aviation – Making best use of existing runways (June 2018) (MBU);
 - Aviation 2050: The Future of UK Aviation (2018);
 - Build Back Better: Our Plan for Growth (March 2021) (BBB);
 - Flightpath to the Future: a strategic framework for the aviation sector (2022) (FttF);

- Jet Zero Strategy: delivering net zero aviation by 2050 (July 2022) (JZS);
- Jet Zero Strategy: one year on (2023) (JZSOYO);
- National Planning Policy Framework (December 2023) (NPPF);
- The Overarching Aviation Noise Policy Statement (March 2023) (OANPS); and
- Planning Practice Guidance.

2.2.6. Appendix B provides further detail on the relevance of each of the above policies to the Proposed Development. These policies are also covered in greater detail in the relevant sections of Section 3 of this Report.

REGIONAL AND LOCAL PLANNING POLICY

2.2.7. The Applicant identified the relevant Development Plans and policies in its Planning Statement [[REP11-009](#), section 6.4]. Further details were set out in the LIR's [[REP1A-001](#)] to [[REP1A-004](#)] alongside any relevant strategies. Two development plans include a specific planning policy for LLA. The LLP contains policy LLP6 (LLA Strategic Allocation) which recognises the strategic role of LLA and which sets out various criteria that would need to be met if the airport was to expand. St Albans City and District Council is developing a new local plan. However the current local plan is The City and District of St Albans District Local Plan Review 1994, which includes Policy Intention 9 (LLA and Hatfield Aerodrome) which states that the Council opposes proposals to expand LLA if this would result in amongst other things the district being affected by aircraft noise above 1984 levels and further pressure for major road building.

2.2.8. Where relevant, individual policies are referred to in issue specific sections of this Report and in Appendix B.

2.3. OTHER MADE DEVELOPMENT CONSENT ORDERS

2.3.1. The recommended DCO includes wording derived from other made DCOs as explained in the Explanatory Memorandum (EM) [[REP10-005](#)]. A list of these Orders is set out in Appendix B of this Report.

2.4. LOCAL IMPACT REPORTS

2.4.1. LIRs were submitted by:

- BC [[REP1A-001](#)];
- CBC [[REP1A-002](#)];
- HCC, DBC and NHDC [[REP1A-003](#)] and [[AS-147](#)]; and
- LBC [[REP1A-004](#)].

2.4.2. The ExA has had regard to all matters raised in the LIRs, as required by s105(2) of the PA2008.

2.5. ENVIRONMENTAL IMPACT ASSESSMENT

2.5.1. The ES followed standard EIA methodologies, reflecting legislation, standards and accepted industry criteria. Consultation in respect of the EIA is outlined in ES Chapter 1 [[APP-029](#)]. The ES compared the anticipated changes in conditions that would arise from the Proposed Development in future (the 'Do Something' (DS) scenario) against the continuing operation of LLA under its current consented limits (the 'Do Minimum' (DM) scenario). It also considers changes in conditions that might arise over time in the absence of development (the future baseline).

- 2.5.2. The ExA considers that the ES, together with any other environmental information provided throughout the Examination, is sufficient to enable the SoS to reach a decision in compliance with the EIA Regulations.
- 2.5.3. The ExA considered that changes to the documentation (including errata [\[REP5-036\]](#)), comprising the ES during the Examination, together with the two Change Requests [\[AS-151\]](#) and [\[AS-152\]](#), and [\[REP3-047\]](#), did not individually or cumulatively undermine the original scope and assessment of the ES. The conclusions of the ES are considered in more detail under each topic in Section 3 of this Report.

2.6. HABITATS REGULATION ASSESSMENT

- 2.6.1. The SoS is the competent authority for the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) which were amended by the Conservation of Habitats and Species (Amendment)(EU Exit) Regulations 2019.
- 2.6.2. The Proposed Development was identified as not likely to give rise to any likely significant effects on European sites. As a result, the Applicant submitted a 'Habitats Regulation Assessment No Significant Effects Report' [\[APP-171\]](#), Appendix 8.3]. The ExA is satisfied that it sets out the necessary information for the SoS to undertake a HRA under the Habitats Regulations.

2.7. TRANSBOUNDARY EFFECTS

- 2.7.1. On behalf of the SoS, the Planning Inspectorate carried out a transboundary screening under Regulation 32 of the 2017 EIA Regulations on 23 July 2019 [\[OD-001\]](#) following the Applicant's request for an EIA Scoping Opinion [\[APP-0151\]](#). No significant effects were identified which could impact on another European Economic Area (EEA) member State in terms of extent, magnitude, probability, duration, frequency or reversibility.
- 2.7.2. A transboundary re-screening was undertaken on 13 July 2023 after the submission of the application documents on 27 February 2023. It also concluded [\[OD-001\]](#) that the Proposed Development was unlikely to have a significant effect either alone or cumulatively on the environment of an EEA member State.
- 2.7.3. Regulation 32 duty is an ongoing duty on the SoS. The ExA has considered whether any facts have emerged to change these screening conclusions, up to the point of closure of the Examination. No mechanisms whereby any conceivable transboundary effects could occur emerged.

3. PLANNING ISSUES

3.1. INTRODUCTION

- 3.1.1. In this Section the ExA sets out its findings and conclusions on the planning issues. This Section is structured to firstly examine the matters of principle including need and alternatives, followed by generic topic headings arranged in alphabetical order. The order in which these section headings are presented should not be taken to imply any order of merit.
- 3.1.2. In each section, the ExA provides a summary of the Application as made, then report on the main issues that were examined for each topic. Findings and conclusions are then set out for each topic including whether the effects carry very little, little weight, moderate weight, great weight, or very great weight for nor against the making of the DCO.

3.2. INITIAL ASSESSMENT OF PRINCIPAL ISSUES

- 3.2.1. As required by s88 of the PA2008 and Rule 5 of the EPR, the ExA, in advance of the PM, made a list of issues relating to all phases of the Proposed Development arising from an initial examination of the Application documents and submitted RR. This IAPI was discussed at the PM and can be found in Annex C of the Rule 6 letter [\[PD-007\]](#).
- 3.2.2. The ExA considers that the issues raised by IPs were broadly in line with the IAPI and were subject to written and oral questioning during the Examination. The ExA has nevertheless had regard to all submissions from IPs and has reported on these, if required, within the appropriate topic below.

3.3. PRELIMINARY MATTERS

- 3.3.1. During the Examination there were a number of overarching procedural or technical matters that the ExA was asked to consider. Where appropriate the ExA has considered these in the relevant topic area. However, to provide context and prevent repetition several of these matters are addressed below.

GREEN CONTROLLED GROWTH FRAMEWORK

- 3.3.2. The Applicant recognised [\[REP11-011\]](#) that while airports can deliver positive economic benefits, they can also generate negative environmental effects which, unless controlled and managed, can impact on surrounding communities. To attempt to address these effects the Applicant has designed a GCG Framework [\[REP11-013\]](#). As GCG would be an overarching control it will be referred to in a number of sections. This section provides a general overview of GCG and how the Applicant considers it would work.

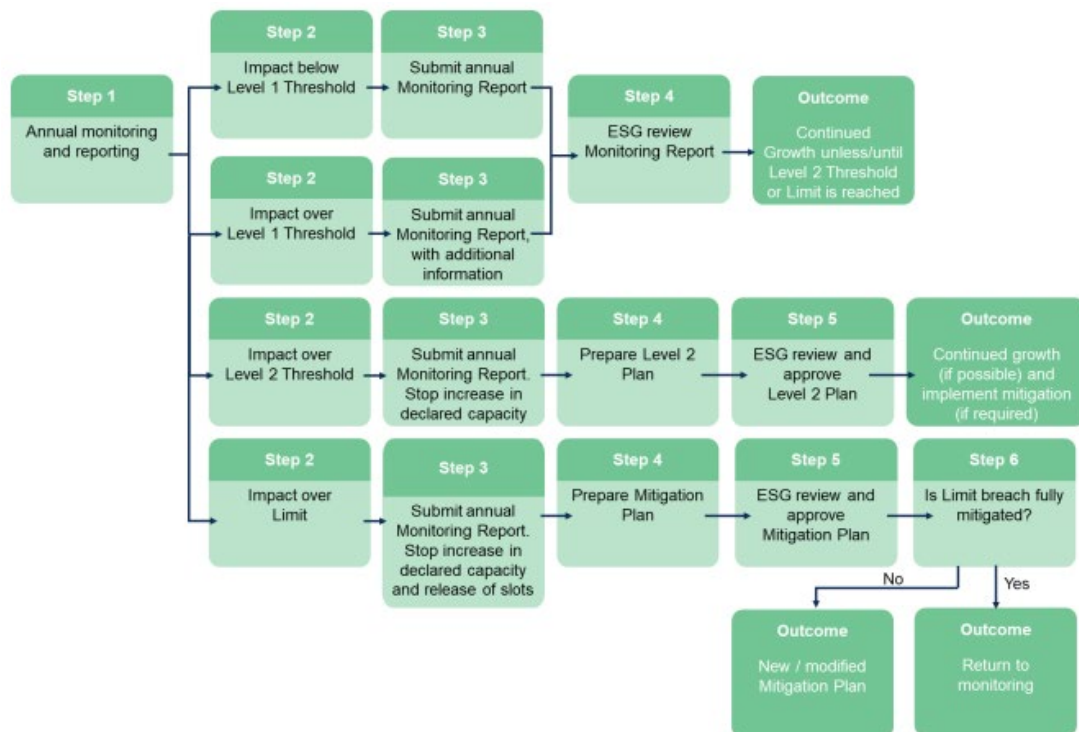
GCG would place controls on four key categories of environmental effect which the Applicant considered would change over time as passenger numbers increased. The categories to be limited are in Table 1 below:

Table 1: Green Controlled Growth Limits

Topic	Parameters by which limit would be set
Aircraft noise	by the total area of land experiencing noise above a certain threshold
Air quality	by the concentrations in the air of the pollutants most relevant to human health
GHG emissions	by emissions from airport operations and surface access
Surface access	by percentage of passengers and staff travelling by unsustainable modes of transport

3.3.13. The GCG Framework sets out numerical values for these limits and thresholds to provide an early warning of any potential increase in environmental effects, the aim being that the limit itself would therefore not be breached. Figure 2 below from [\[REP11-011\]](#), Figure 2.8] sets out the proposed GCG approach.

Figure 2: Proposed Green Controlled Growth Approach



3.3.14. The GCG Framework would be overseen by an independent body called the Environmental Scrutiny Group (ESG). The ESG would be made up of an independent chairperson and an independent aviation specialist, representatives from LBC and neighbouring councils and a slot allocation expert. The ESG would be supported by four technical panels, one for each of the environmental topics. The GCG Framework would be secured through specific Requirements in the DCO [\[REP11-091\]](#), Requirements 18 to 25].

- 3.3.15. If monitoring were to indicate that a Limit was in danger of being breached, then under the GCG Framework the airport operator would need to produce plans setting out how that breach would be avoided. These plans would need to be approved by the ESG. If any of the Limits were subsequently breached, unless for a reason outside the airport operator's control as set out in [\[REP11-015\]](#), A4.5] and [\[REP11-017\]](#), B4.6], mitigation would be implemented and the Applicant envisages that, ultimately, airport capacity would be constrained until environmental performance returned below the Limits.
- 3.3.16. The GCG Framework would only apply to any growth that would occur at the airport above the current passenger cap. It would be triggered by the undertaker serving a notice under article 44(1) of the DCO. Upon serving a notice the conditions attached to the existing planning permission would cease to apply and the GCG Requirements along with other Requirements relating to the operation of LLA would come into force.
- 3.3.17. GCG will be considered in the following Sections of this report: 3.6 Air Quality, 3.12 GHG, 3.18 Noise and vibration and 3.20 Traffic and transport.

AIRSPACE CHANGE PROCESS (ACP)

- 3.3.18. A substantial number of representations raised issues with the consultation undertaken between 19 October 2020 and 5 February 2021 in respect of LLA's (LLA) AD6 airspace change, which created new stacking over the South Cambridgeshire area, the impacts and effects of this and the potential for the Proposed Development to give rise to future airspace change impacts eg [\[RR-0155\]](#), [\[RR-0172\]](#), [\[RR-0226\]](#), [\[RR-0932\]](#) and [\[RR-1095\]](#). Similarly, representations were received in relation to the effect of concentrating flights along certain flightpaths including [\[RR-0950\]](#), [\[RR-1202\]](#), [\[RR-1249\]](#), [\[RR-1314\]](#) and [\[RR-1320\]](#).
- 3.3.19. The impact of airspace changes is subject to a separate process administered by the CAA in accordance with the requirements of the Air Navigation Directions 2023 as explained in the CAA publication (CAP) 'CAP1616 The Process for Changing the Notified Airspace Design'. As a result, the ExA deemed these matters to be outside the scope of the Examination.

WEB-BASED TRANSPORT ANALYSIS GUIDANCE (WEBTAG)

- 3.3.20. WebTAG is a DfT appraisal guidance and toolkit. It consists of software tools and guidance on transport modelling and appraisal methods that are applicable for highways and public transport interventions. These tools facilitate the appraisal and development of transport interventions, enabling analysts to build evidence to support business case development, to inform funding decisions. As such development of analysis using WebTAG is a requirement for all interventions that require Government approval. For interventions that do not require Government approval the guidance serves as a best practice guide (paragraphs 1.2.1 and 1.2.2 of Transport Analysis Guidance: An overview of Transport Appraisals (2014)).
- 3.3.21. The Applicant used the WebTAG transport appraisals M2 TAG methodology [\[REP8-009\]](#) in the TT assessment [\[APP-203\]](#), [\[AS-123\]](#), [\[APP-205\]](#) and [\[APP-206\]](#) when assessing the implications for the surface access network capacity WebTAG. The WebTAG databook was also used as a source in setting out the longer term Gross Domestic Product (GDP) forecasts for the UK economy (2028 to 2050) as part of the updated demand forecasts submitted at D8 [\[REP8-037\]](#) although the

data within the WebTAG databook was taken from the Office for Budget Responsibility June 2023 Long-term Economic Determinants. The Applicant did not use WebTAG elsewhere in its assessments, although it was raised by IPs in the context of GHG emissions.

- 3.3.22. The ExA received representations from the LADACAN [\[AS-058\]](#), [\[REP1-095\]](#), [\[REP2-061\]](#), [\[REP2-062\]](#), [\[REP3-121\]](#), [\[REP5-072\]](#), [\[REP7-104\]](#), [\[REP9-081\]](#) and [\[REP11-082\]](#) and the New Economics Foundation (NEF) [\[REP3-131\]](#), [\[REP5-081\]](#), [\[REP7-106\]](#), [\[REP7-107\]](#) and [\[REP9-082\]](#) maintaining that the Applicant should have used WebTAG in its assessment of a number of the topics including socio-economic and noise effects.
- 3.3.23. NEF [\[REP9-082\]](#) argued that DfT considers WebTAG to be best practice in aviation sector appraisal and that the updated WebTAG guidance published in November 2023 reinforced this position as “*WebTAG is a requirement for all interventions that require government approval*”. NEF considered this matter to be important as, it believed that, if WebTAG was used to rework the economic assessment [\[REP5-081\]](#) the overall benefits of the Proposed Development would be significantly reduced. LADACAN [\[REP9-081\]](#) suggested that nothing in the same 2023 guidance indicated that WebTAG should not be used.
- 3.3.24. In response the Applicant [\[REP1-023\]](#), [\[REP2-039\]](#) and [\[REP4-096\]](#) advocated that WebTAG was not intended for an application of this type, as it is a central Government tool for assessing the value for money offered by public sector transport interventions and Government funding decisions. In response LADACAN [\[REP2-061\]](#) argued that as public money had been invested in the airport, it was publicly owned and therefore required WebTAG analysis.
- 3.3.25. The Applicant [\[REP3-060\]](#) maintained that as “*investment in the airport infrastructure will ultimately be funded from airport profits. It is a commercial investment.*” At the close of the Examination [\[REP11-049\]](#), paragraph 4.4.15 (d)] the Applicant highlighted paragraph 1.1.4 of the DfT TAG Unit A5.2 which states that “*decisions on planning applications for airport development will be considered in the normal way, including to take account of relevant material considerations which may include evidence relating to the strategic, commercial, financial and management case of a development proposal*”.
- 3.3.26. The Applicant also noted [\[REP4-096\]](#) and [\[REP11-049\]](#) that its position was consistent with the Bristol Airport and Luton P19 inquiry decisions (respectively Decision APP/D0121/W/20/3259234 dated 2 February 2022 and Department for Levelling Up, Housing & Communities and DfT, Decision in relation to Application Ref: 21/00031/VARCON, 13 October 2023 respectively)-

WebTAG – ExA conclusions

- 3.3.27. The ExA considers that the question of whether a WebTAG assessment should be undertaken for aviation developments has been addressed in the Bristol Airport appeal decision and the P19 decision, which both rejected the need for such an assessment. On a similar basis, the ExA considers that a WebTAG assessment is not required for the current application as the Proposed Development is not a Government intervention and would be commercially funded from airport profits. Furthermore, WebTAG is clear that planning applications should be considered in “*the normal way*”. The scoping reference to WebTAG was raised in the context of airspace design options, where WebTAG assessment is required, but, as previously highlighted, airspace change is subject to separate regulatory processes and was

therefore not considered as part of this application. The ExA considers that the Gatwick application having a WebTAG assessment is irrelevant for the purposes of this application, as the content of applications varies depending on the specific requirements of a Proposed Development.

CAR PARK FIRE

- 3.3.28. On 10 October 2023 the existing Terminal Car Park 2 was the subject of a major fire incident when a vehicle caught fire on the third floor. Demolition of the carpark was required due to the extent of the damage. Several IP's eg [\[REP4-176\]](#) queried whether the fire and subsequent demolition of the car park would affect the application. The ExA explored this matter at ISH7 where the Applicant confirmed that replacement to pre-incident status would be realised through a planning application made direct to LBC. It was anticipated that, subject to necessary consents, a build time of 14-18 months was envisaged. The Applicant concluded that on the working assumption the DCO would be consented at the end 2024, it did not envisage any impact from car park works on the Proposed Development [\[REP6-065\]](#).

JOINT HOST AUTHORITIES AND HERTFORDSHIRE HOST AUTHORITIES

- 3.3.29. The Proposed Development lies within the administrative boundaries of LBC, CBC NHDC, DBC and HCC. For the purposes of the Examination a number of these Council's submitted joint representations. There were two groupings the HHA which consisted of NHDC, DBC and HCC and the JHA which consisted of the HHA and LBC. For the purposes of the Report the ExA has referred to the HHA or JHA unless a specific point or comment is related to an individual authority where they are then referred to by specific name.

PHASING

- 3.3.30. Chapter 4 of the ES [\[REP5-012\]](#) explains that the Applicant intends to construct the Proposed Development incrementally to deliver capacity in response to forecast demand. However, for the purposes of the EIA, this was divided into three delivery assessment phases. The Applicant stated that, in practice, the development would be developed in undefined increments which appropriately respond to demand over time [\[AS-065\]](#). In reality, this means that some construction during the different phases could take place simultaneously (see Table 2 below [\[APP-165\]](#), Table 4.1)). The design life of the project would be 60 years [\[APP-035\]](#).

Table 2: Proposed Development assessment phases

Assessment Phase	Passenger capacity (mppa)	Construction start year	Construction completion year	Year passenger capacity reached
Phase 1	21.5	2025	2027	2027
Phase 2a	27	2033	2036	2039
Phase 2b	32	2037	2041	2043

- 3.3.51. Whilst the Applicant was clear throughout the Examination that the Proposed Development would not be phased, for the purposes of this section of the Report

the ExA has, where appropriate referred to the phases as assessed in the ES by the Applicant. The question of whether it would or would not be appropriate to restrict the Proposed Development to phases is considered in Section 3.10 of this Report.

DECOMMISSIONING

- 3.3.52. Due to the anticipated lifetime of the Proposed Development, decommissioning was not considered within the scope of the ES assessment [REP5-012, Section 4.14]. Any future decommissioning would be subject to appropriate planning and assessment requirements. The ExA is satisfied with this approach and matters relating to decommissioning were therefore not considered.

ADEQUACY OF CONSULTATION

- 3.3.53. There was criticism of the Applicant's pre-application consultation process in RRs commenting that it was insufficient or inadequate eg [RR-0103], [RR-0565], [RR-0731], [RR-0946] and [RR-1149]. This included matters such as lack of consultation and engagement, presentation of misleading or biased information, criticism over the limited or closed response options in the questionnaires, criticism over lack of consultation in certain geographical locations, and the use of an excessive level of overcomplicated information.
- 3.3.54. The Applicant responded to these concerns [REP1-020, pages 59 to 61], [REP1-022] and [REP1-023] stating that it took the views of local communities very seriously and that consultation was undertaken over three stages, including a non-statutory consultation undertaken between 25 June to 31 August 2018, a first statutory consultation undertaken from 16 October to 16 December 2019 and a second statutory consultation undertaken between 8 February to 4 April 2022. The 2022 statutory consultation was undertaken in accordance with the PA2008 which included, amongst other matters, a digital consultation due to the uncertainties surrounding the COVID-19 pandemic; 24/7 virtual exhibition spaces; and 13 in-person consultation events taken at a number of different geographical locations agreed with the JHA during different days of the week including Saturdays and at different times of day including evenings.
- 3.3.55. Having reviewed the Consultation Report [AS-048] and the adequacy of consultation responses [AoC-001] to and including [AoC-018], the ExA is satisfied that the level and amount of pre-application consultation was adequate. The suitability of the consultation was considered as part of the acceptance process, where it was deemed to have met the requirements of the PA2008 and was sufficient to enable the application to be accepted for Examination. Furthermore, the ExA considers that IPs have also had sufficient opportunity to raise comments throughout the Examination. On this basis, the ExA did not examine the matter further.

AONB/ NATIONAL LANDSCAPES

- 3.3.56. The Chilterns AONB is located approximately 3km north and 5km west of LLA. On 22 November 2023, all designated AONBs in England and Wales became NL's. However, the legal designation and policy status of AONBs remains unchanged, with section 15 of the NPPF published in December 2023 continuing to reference AONBs. This report generally refers to the Chilterns NL but reverts to the term Chilterns AONB when undertaking a legislative and/ or policy assessment, or when referring to comments made in submissions that predate the name change eg the LIR, RR or WR.

RELEVANT REPRESENTATIONS

- 3.3.57. The ExA received over 1,600 RR. The ExA considered that in the interests of readability it would not be appropriate to report every RR submitted for a particular topic. Instead, where appropriate, the ExA has listed a small number of RR for each topic to provide an example of the concerns that were raised. The ExA wishes to emphasise that the examples cited are a random sample from the RR and should not be taken as an indication that the ExA considers these RR more significant than any other RR that was submitted. When considering a topic the ExA has had regard to all submissions.

PROJECT CURIUM

- 3.3.58. Planning permission was granted in 2014 for Project Curium (LBC ref: 12/01400/FUL). This involved extensions to passenger terminals, construction of additional aircraft stands and new taxiways, improvements to transport links including new parking facilities and remodelling of bus and coach interchange to enable the capacity of LLA to increase from 12mppa to 18mppa. The expected increase to 18mppa was predicted to occur over a period to 2028.
- 3.3.59. Project Curium is currently under construction. The following works have been completed:
- extension of southern apron for additional aircraft stands (to deliver additional commercial remote stands);
 - reconfiguration of external areas for surface access improvements including works to the drop off zone;
 - construction of Taxiway Foxtrot and new aircraft de-icing facilities; and
 - extension and reconfiguration of the passenger terminal.
- 3.3.60. Additional apron and taxiway works remain outstanding. Spoil material generated by Project Curium, and the Luton DART, has been stored at six sites around the airport (LBC ref: 17/02219/FUL) and would be used to reprofile slopes around the airport as part of the Proposed Development.
- 3.3.61. The Project Curium permission was subject to four noise related conditions. Three concerned airborne related noise and one concerned ground noise. The conditions included a number of controls and requirements for the monitoring of noise. Further controls and monitoring were included within a s106 legal agreement.
- 3.3.62. In 2015 the current airport operator, LLA Operations Ltd (LLAOL), submitted an application (LBC ref: 15/00950/VARCON) to vary Condition 11 (noise violation limits) of the Project Curium consent. This was approved in October 2017. This permission superseded the original Project Curium permission.

APPLICATION TO TEMPORARILY VARY NOISE CONTOURS

- 3.3.63. The expansion of LLA combined with increased demand across the aviation sector meant that passenger numbers grew more quickly than forecast by the 2014 permission. As a result, towards the end of 2016, noise monitoring indicated that a breach of Condition 10 (noise contours) was likely to occur. Breaches did occur at night in 2017 and 2018 and during both the day and night in 2019. To remedy the breach, it was agreed between LLAOL and LBC that a planning application to vary the contours for a temporary period would be the most appropriate course of action. In 2019 an application was submitted (LBC ref: 18/00428/EIA) to increase the

57dB(A) daytime noise contour by 2km² and the night-time one by 6.9km². Following receipt of a significant number of objections the application was withdrawn.

THE 19MPPA PLANNING APPLICATION

- 3.3.64. In 2021 LLAOL submitted an application (LBC ref: 21/00031/VARCON) to vary a number of conditions imposed on the varied Project Curium permission (LBC ref: 15/00950/VARCON) these included:
- condition 8 (passenger throughput cap);
 - condition 10 (noise contours);
 - condition 22 (car parking management);
 - condition 24 (travel plan); and
 - condition 28 (approved plans and documents).
- 3.3.65. The application did not include any physical or infrastructure changes. The proposal would allow the airport to accommodate 19mppa and amend the permitted day and night contours.
- 3.3.66. In December 2021 LBC resolved to grant planning permission. However, the application was subsequently called in and referred to the SoS for determination. The inquiry to consider the called-in application was held in autumn 2022. On 13 October 2023 the SoS's for DLUHC and DfT granted, subject to a number of conditions the P19 permission.
- 3.3.67. The ExA [\[PD-011\]](#) wrote to all IP's asking the Applicant and all IP's to review the decision and submit any comments on the implications for the Proposed Development. Where relevant the ExA has taken these views into account when coming to its decision.

NEW CENTURY PARK/ GREEN HORIZONS PARK

- 3.3.68. In December 2017 Luton Rising submitted a hybrid planning application (LBC ref:17/02300/EIA) for a mixed-use business park to the east of LLA. The proposal comprised a new access road connected to Airport Way to the west of LLA, office space (Class B1), warehouse and industrial space (Class B2 and B8), mixed employment space (Class B1/B2/B8), a hotel (Class C1), café space (Class A3); energy recovery centre (sui generis); internal access roads, car parking, landscaping and associated works including earthworks, utility diversions, sustainable drainage systems (SuDS), tree removal and tree protection. The application was approved in June 2021. Originally referred to as New Century Park it was renamed Green Horizons Park (GHP) which is how the ExA has referred to it throughout this report. Details of the GHP permission can be found in the EL at reference [\[REP1-006\]](#) to [\[REP1-011\]](#).
- 3.3.69. The Applicant [\[REP11-009\]](#), paragraph 5.9.9] anticipated that some elements of GHP would be implemented under that planning permission, and that these would be subject to future Reserved Matters/ approval of details submissions to LBC. At ISH10 [\[EV17-001\]](#) LBC advised that it was expecting submission of these details in 'early 2024'. This report has been written on the assumption that the GHP consent would remain extant. As the GHP consent would expire in June 2024 after the submission of this report the ExA recommended the SoS to check on the status of this permission prior to making their decision.
- 3.3.70. The ES has taken into account the relationship between GHP and the Proposed Development [\[REP11-009\]](#), paragraph 5.9.10] and in Chapter 21 of the ES

[[REP10-011](#)]. The draft DCO [[REP11-091](#), Article 45] makes provision for managing the interface for the implementation of the GHP permission and the Proposed Development and this is considered further in Section 7 of this Report.

WIGMORE VALLEY PARK AND COUNTY WILDLIFE SITE

- 3.3.71. This Report refers to both Wigmore Valley Park and Wigmore Park, which the ExA notes have sometimes been used interchangeably in the representations. For the avoidance of doubt, in this Report 'Wigmore Valley Park' refers to the open space identified on the LBC Policies Map. 'Wigmore Park' refers to the County Wildlife Site within the open space, reflecting the wording in the Luton Local Plan.

3.4. THE NEED CASE

INTRODUCTION AND POLICY BACKGROUND

- 3.4.1. The need for the Proposed Development and any socio-economic and other benefits that the Proposed Development would deliver was identified by the ExA in its initial assessment of the application [PD-007, Annex C]. Whilst this Section of the Report considers need, socio-economic matters including the effect of the Proposed Development on economics and employment are considered separately in Section 3.19. However, the ExA recognises that there are strategic economic matters such as job creation and the contribution that the Proposed Development could make to levelling up that are also relevant to the Applicant's need case.
- 3.4.2. The relevant national aviation policy and strategies were listed in Section 2.2 with further detail provided in Appendix B of this Report. These documents, along with LLP Policy LLP6, form the primary policy context for assessing the need for the Proposed Development. In addition, other important and relevant publications include the General Aviation Strategy (March 2015) and the General Aviation Roadmap (April 2021).

THE APPLICATION

- 3.4.3. The Applicant's assessment of need is primarily contained in the Need Case [AS-125] and supporting appendices [APP-214]. A summary of the need case is set out in Section 2 of the Planning Statement [REP11-009] and Chapter 4 of the Applicant's Closing Submissions [REP11-049]. Chapter 11 of the ES [APP-037] provides an assessment of economics and employment effects.
- 3.4.4. The Need Case [AS-125] was based around the following subject matters:
- the strategic economic case for aviation growth;
 - national aviation policy;
 - economic context;
 - LLA's current market performance;
 - future demand forecasts;
 - current airport capacity and future capacity requirements; and
 - economic benefits of the development.
- 3.4.5. To provide context to the Need Case, the key points in respect of each can be summarised in the following sub-sections:

The strategic economic case

- 3.4.6. The Applicant's strategic economic case [AS-125, Section 2] explained why aviation connectivity and airport growth were important to the UK economy and the regions which they serve, through Foreign Direct Investment, trade, labour market effects, agglomeration and tourism.
- 3.4.7. The Applicant [AS-125, Section 2.4] stated that the need for aviation growth to support growth in the UK's economy in the future was established by the UK Government's national economic policy, with reference made to BBB. Of note, this contained a vision for a 'Global Britain', which emphasised the importance of 'levelling up', and the contribution infrastructure made in enabling economic growth. BBB expressed the importance of the UK's ability to interact with the global economy as a trading nation and highlighted that growing air connectivity was vital for that vision to be achieved.

- 3.4.8. In a regional and sub-regional economic context, the Applicant explained [\[AS-125, Section 2.4\]](#) that a growing LLA would be vital to the success of the Oxford-Cambridge Arc (the Arc) initiative as it was the only airport situated within it. It also argued that expansion of LLA would be vital in the context of the 'levelling up' agenda as Luton was identified as a priority area for the Levelling Up Fund.

National aviation policy

- 3.4.9. The Applicant advocated that there was clear Government policy support for aviation growth and for airports making best use of their runways, as set out in various national aviation policy documents including the APF; ANPS, MBU; Aviation 2050 – the future of UK aviation 2018; FttF; JZS; JZSOYO; and OANPS.
- 3.4.10. The Applicant argued that the Proposed Development would make best use of the existing runway, consistent with policy in the ANPS and MBU. MBU states that decisions should be taken having regard to “...*all relevant considerations, particularly economic and environmental impacts and proposed mitigations*” (paragraph 1.29), which is consistent with policy originally set out in the APF which states that growth is supported “...*within a framework which maintains a balance between the benefits of aviation and its costs, particularly its contribution to climate change and noise*” (Paragraph 5).
- 3.4.11. The Applicant also made reference to the JZS supporting the growth of airport capacity. It also highlighted that the Government does not intend to introduce demand management measures to meet its climate change obligations. The Applicant considered [\[AS-125, paragraph 3.4.6\]](#) that the JZS supported growth in principle, where the focus was on addressing the impacts of aviation rather than constraining growth.
- 3.4.12. In addition to national aviation policy, the Applicant stated [\[REP11-049\]](#) that LLP Policy LLP6 supported the principle of the development by making provision for LLA to respond positively to future growth and safeguarding its contribution to jobs and wealth creation, within an environmental and transport framework regulating future growth.

Economic context

- 3.4.13. The Applicant explained [\[AS-125, Section 4\]](#) that LLA is situated within an internationally focussed region with concentrations of air intensive and air sensitive sectors, which rely on air travel and that offer significant opportunities for future growth, located within Luton, the Three Counties (Bedfordshire, Buckinghamshire and Hertfordshire) and the Six Counties (Three Counties plus Oxfordshire, Cambridgeshire and Essex). [\[AS-125, Table 4.1\]](#) provided a breakdown of the extent of employment across the three areas in air sectors and Table 4.2 listed the Location Quotient (LQ) above 1 of those sectors located within the Three Counties and Six Counties (a LQ quantifies the concentration of particular industries within an area compared with a benchmark).
- 3.4.14. [\[AS-125, Table 4.3\]](#) listed the LQ of science and technology clusters in Luton, the Three Counties and the Six Counties, which were seen by stakeholders as important drivers for the national and international economy. [\[AS-125, Figure 4.5\]](#) contained a map illustrating the location of key international business assets in the wider area around LLA with examples provided of how LLA supported individual businesses. Information was also provided explaining the importance of trade in the east of England and the importance of tourism with the locations of tourist attractions across the Three Counties illustrated in [\[AS-125, Figure 4.9\]](#). Issues

around pockets of deprivation that exist around LLA, notably in Luton, Bedford, Milton Keynes and Stevenage, was provided in [\[AS-125, Section 4.8\]](#).

- 3.4.15. In summary, the Applicant considered [\[AS-125, Section 4.9\]](#) that growth of LLA would be required to ensure that areas around the airport would have access to a growing base of connectivity, retain companies, attract investment and create jobs.

LLA's current market performance

- 3.4.16. The Applicant explained [\[AS-125, Section 5\]](#) that LLA experienced fast passenger growth between 2009 to 2019. This was greatest from 2014 onwards where passenger numbers increased from around 10.5mppa to around 18.2mppa during 2019 [\[AS-125, Figure 5.1\]](#). In 2019, approximately 15.1 million were leisure passengers (which includes a combination of holiday and visiting friends and relatives) and 2.2 million were business passengers. The Applicant stated that LLA was showing strong recovery from the effects of the COVID-19 pandemic and was on track to attain 2019 traffic levels by 2024 [\[AS-125, Section 5.4\]](#). Aircraft movements during the same 10-year period also grew, albeit at a lower rate than overall passengers [\[AS-125, Table 5.1\]](#).
- 3.4.17. The Need Case [\[AS-125, Tables 5.2, 5.3, 5.4 and 5.6\]](#) provided further details of passenger origins and destinations in 2019 for both leisure and business passengers. In 2019 business passengers were mainly originating from the Three Counties (38%) and Six Counties (44%) with Luton attracting 5%. For leisure passengers Three Counties (30%) and Six Counties (40%) with Luton attracting 4%. [\[AS-125, Figures 5.14 and 5.18\]](#) provided a breakdown showing the distribution of business and leisure passengers between the London Airports in 2019.
- 3.4.18. In summary, the Applicant stated [\[AS-125\]](#) LLA commands a high market share of the passenger demand in areas around it, specifically the Three Countries and extending into north London along the Thameslink corridor. It also advocated that the recent expansion had enabled it to better serve the needs of its catchment area, enhanced connectivity and increased its wider economic contribution.

Future demand forecasts

- 3.4.19. The Need Case [\[AS-125, Section 6\]](#) included forecasts for both passenger and aircraft movements, which were developed by the Applicant's aviation consultant (York Aviation) using econometric methodologies supplemented by data obtained from CAA surveys. Due to uncertainties in forecasting demand over the longer term, a reasonable range of potential forecasts were presented in the Applicant's forecasting model. The forecasting methodology was explained in Sections 6.2 and 6.3 of the Need Case [\[AS-125\]](#) although for context, a summary is set out below.
- 3.4.20. The approach to producing demand forecast was in two stages. The first was to establish the scale of the market generally to understand underlying passenger demand. This initially forecasted growth in the underlying market in which the airport operates (essentially the southern half of the UK). Future growth rates were determined based on the two main drivers of demand: economic growth (usually UK and/ or overseas GDP) and modelled air fares (essentially the cost of travel) which vary based on factors such as fuel price and consumption, air passenger duty, cost of carbon, aircraft size and load factors in different market segments. How the changes in economic growth and air fares translated into growth was based on demand elasticities identified in the DfT's forecasting model used in UK Aviation Forecasts 2017 and the JZS [\[AS-125, Table 6.1\]](#). To factor in uncertainty on matters relating to economic growth, carbon prices, air passenger duty and fuel prices, a

Monte Carlo simulation was applied to the model to define the potential range of future growth of air travel demand within the catchment area. This produced a range of underlying market growth rates using the 50th percentile (most likely), 20th percentile (realistic lower bound) and 80th percentile (realistic upper bound).

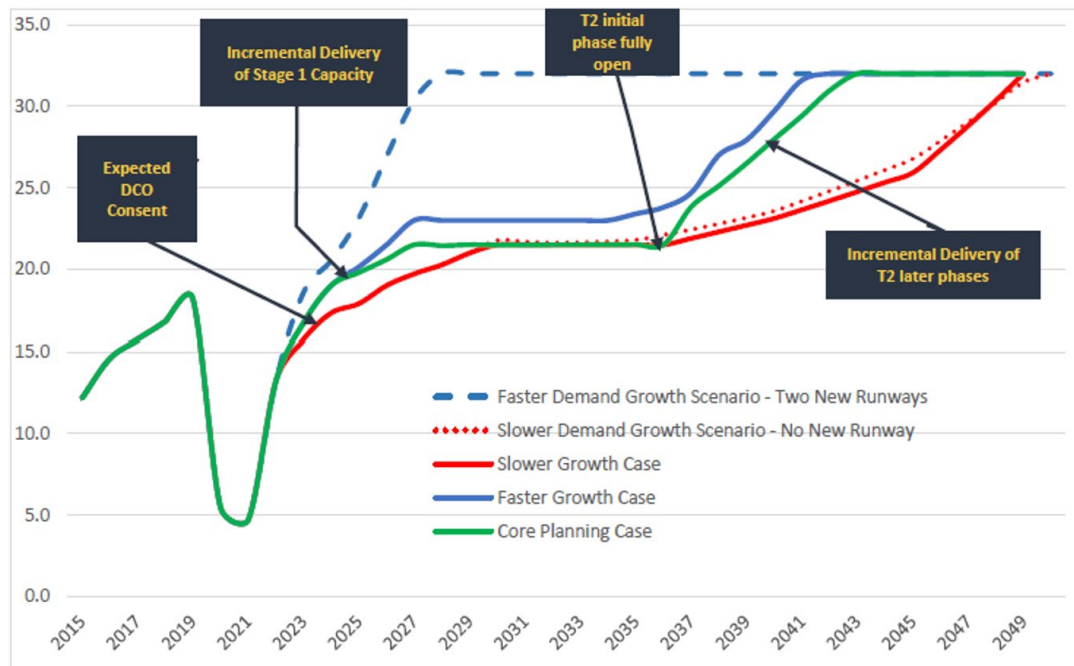
3.4.21. The second stage of the forecasting model used a regression based multinomial logit model (similar in concept to that used by the DfT within its passenger allocation model for aviation forecasts) to allocate how the identified pool of demand in the first stage would be allocated at airports serving the southern and central part of England. Adjustments were then made to the model to include matters such as airport capacity constraints (notably assumed capacities of 90mppa at Heathrow and 50mppa at Gatwick were applied to the model), COVID-19 pandemic effects and long-haul forecasts.

3.4.22. The two stages of the modelling process were then combined to produce both unconstrained and constrained passenger forecasts. The unconstrained forecasts presented a number of scenarios for growth using the underlying market growth rates and applying different scenarios for the development of a new runway in the London airport system at Heathrow in 2033, Gatwick in 2030, a combination of new runways delivered at both Heathrow and Gatwick or no runways. Three scenarios were defined for the potential underlying growth in demand for the unconstrained forecasts:

- A central demand growth scenario: Based on ‘most likely’ market growth rate (50th percentile) combined with a hybrid of allowing for one new runway at either Gatwick or Heathrow.
- A slower demand growth scenario: Based on a hybrid of:
 - ‘lower bound’ market growth rate (20th percentile) with no additional runways; and
 - ‘most likely’ market growth rate (50th percentile) with two additional runways delivered.
- A faster demand growth scenario: Based on:
 - ‘upper bound’ market growth rate (80th percentile) with two additional runways delivered; or
 - ‘most likely’ market growth rate (50th percentile) with no additional runways delivered.

3.4.23. The central demand growth scenario represented the Applicant’s core planning case with one new runway elsewhere in the London airport system. The constrained forecasts were produced taking the unconstrained forecasts but then factoring in likely constraints in delivering the Proposed Development, such as realistic timescales for implementing Terminal 2 (T2). The forecast findings showing the Core Planning Case and potential Faster and Slower Growth Cases were presented in [\[AS-125\]](#), Figure 6.4] (see Figure 3 below):

Figure 3: Planning forecast cases for assessment, taken from Figure 6.4 in the Need Case [\[AS-125\]](#)



Source: York Aviation

- 3.4.24. The graph shows the following forecasts, with Table 6.5 in the Need Case [\[AS-125\]](#) providing a yearly breakdown across the three growth cases:
- Core planning case – 32mppa reached in 2043;
 - Slower growth case – 32mppa reached in 2049; and
 - Faster growth case – 32mppa reached in 2042.
- 3.4.25. The forecasts were subsequently updated throughout the course of the Examination. Further details of this is provided below.
- 3.4.26. The Applicant disaggregated the forecasts into more detailed parameters to include aircraft movement projections (commercial, business and cargo) which also allowed for future fleet mix, average seats per flights, busy day and October day timetables and detailed projections of movements in the 92-day summer period (16 June to 15 September inclusive each year) which informed the noise assessment. [\[AS-125, Table 6.9\]](#) forecasted total aircraft movements in the core, faster and slower growth cases for each year up to 2049 with a total annual movement of 209,410, which was broken down as follows:
- 177,110 Passenger Air Transport Movements (PATM) (or commercial passenger movements) per annum, which was calculated by dividing the total number of passengers (ie 32 million) by the average number of passengers per movement which was forecasted to be around 181 passengers per PATM.
 - 2,300 dedicated cargo aircraft movements, which would represent no increase from the current case. Any increase in cargo would be through ‘bellyhold’ operations on long haul passenger services that would not commence until 2037 when five Code E aircraft stands would be constructed as part of the T2 apron to accommodate long haul services.
 - 30,000 business aviation movements which would represent no increase in the current case.

- 3.4.27. As a result, the Applicant considered that there was a clear need for expansion of LLA to meet future passenger demand.

Current airport capacity and future capacity requirements

- 3.4.28. The Applicant advised [[AS-125](#), Section 7] that the current passenger terminal could accommodate just over 3,800 departing passengers and approximately 3,000 arriving passengers per hour during busy periods. In 2019, there were 42 Code C aircraft stands (which accommodate aircrafts such as Airbus A320s and Airbus A321s including Neo versions) which would rise to 46 following completion of Project Curium. The runway had a capacity declaration in 2019 of up to 37 aircraft movements in the busiest hours, of which no more than 26 could be departing aircraft movements, with a total of no more than 124 movements over four hours.
- 3.4.29. The Need Case [[AS-125](#), Section 7] explained that the key capacity constraints were the available number of aircraft stands to accommodate aircraft and the limited taxiway infrastructure which inhibits access to the runway. Such issues resulted in the airport not reaching its capacity declaration in 2019. The Proposed Development would address this through the provision of additional taxiway infrastructure and additional runway entry points, a second parallel taxiway at the eastern end of the runway, Rapid Exit Taxiways and new aircraft stands. With the infrastructure upgrades as part of the Proposed Development, the runway would have a sustainable capacity of at least 50 aircraft movements per hour.
- 3.4.30. The Need Case [[APP-214](#), Appendix D] contained an Airfield Capacity Validation Study with modelling illustrating how the proposed layout of the airfield would handle the projected demand.

Economic benefits

- 3.4.31. The Applicant stated that the airport was central to the economy of Luton, the Three Counties and the Six Counties area. It was an important connectivity asset and economic driver supporting 11,800 jobs in Luton, 16,600 jobs in the Three Counties, 19,900 jobs in the Six Counties and 28,400 jobs in the UK through direct, indirect and induced impacts. LLA's total impact on GDP once indirect and induced effects are included was stated to be around £830 million in Luton, £1.1 billion in the Three Counties, £1.3 billion in the Six Counties and £1.8 billion across the UK as a whole.
- 3.4.32. The following details were provided by the Applicant in terms of what the Proposed Development would support compared to 2019 levels:
- around £698 million in additional GDP and 4,400 more jobs in Luton;
 - around £0.9 billion in additional GDP and 6,100 more jobs in the Three Counties;
 - around £1.1 billion in additional GDP and 7,500 more jobs in the Six Counties; and
 - around £1.5 billion in additional GDP and 10,800 more jobs across the UK.
- 3.4.33. It was stated by the Applicant that the wider economic impacts of increased connectivity would:
- support international businesses operating in the areas around the airport to trade more efficiently;
 - make the regions around the airport more attractive to investors, helping to retain and grow the global business base;

- enhance competition by increasing the transparency of markets; help the development of internationally focussed clusters, facilitating agglomeration effects;
- attract high skilled people to come and live and work in the area; and
- increase the number of inbound tourists using the airport.

3.4.34. In addition, the Applicant stated that there would be other social benefits due to the revenue that could be translated to front line services at LBC who own LLA.

3.4.35. Further detail on the approach that was taken to assessing the socio-economic impacts of the Proposed Development, including the assessment of direct, indirect and induced impacts, which are collectively referred to as the operational impacts, the wider economic impact, and the high-level socio-economic cost benefit analysis was contained in [\[APP-214, Appendix E\]](#).

Summary of Applicant's Case

3.4.36. The Applicant advocated that there was a strong need for the Proposed Development. It considered that the principle of development making best use of LLA's existing runway was supported in policy (MBU), as also confirmed in the JZS.

3.4.37. The Applicant advised that there were a large number of businesses with international connections in the area served by LLA and these businesses needed enhanced aviation connectivity in order to remain globally competitive and deliver growth in productivity and output. Expansion of LLA would deliver substantial socio-economic benefits in terms of jobs and a boost to economic activity in the local and wider area, thereby supporting the Government's 'levelling up' agenda.

3.4.38. Notwithstanding the effects of the COVID-19 pandemic, the Applicant expected there to be strong growth in demand for air travel, with the market recovering to 2019 levels by around 2024. This growth was expected to continue, and additional capacity would be required at LLA if it was to continue to deliver the aviation connectivity that the area around it required.

ISSUES CONSIDERED

3.4.39. Taking into account submissions received throughout the Examination, the key issues in respect of the need case focused around three main themes:

- the principle of development including national aviation policy;
- the strategic economic case; and
- demand forecasts.

Principle of development and national aviation policy

3.4.40. This section begins with explaining the matters raised both for and against the principle of the Proposed Development. Whilst aviation policy is intrinsically linked to considering the principle of the development, a separate policy section focuses on the more detailed matters raised relating to the content of aviation policy.

Principle of development

Matters raised by the councils in LIRs

3.4.41. LBC considered the principle of development in [\[REP1A-004, Section 4.1\]](#) primarily focusing on the content of national aviation policy as well as the strategic case for aviation growth, the socio-economic context and future demand forecasts and

capacity. In paragraph 4.1.12, LBC stated that the policy commitment of the Government was very clear and unambiguous in its support for airport growth where it could be delivered within existing environmental obligations.

- 3.4.42. None of CBC's RR [\[RR-0210\]](#), WR [\[REP1-046\]](#) or LIR [\[REP1A-002\]](#) provided comments on need. However, their SoCG [\[REP11-035\]](#), ID ref CBC13], which reiterated the position of LBC's SoCG [\[REP11-033\]](#), ID ref LBC12], confirmed that it agreed national aviation policy, namely the APF, ANPS, and MBU, was supportive of airports making the best use of their existing runways. CBC also commented that support for expansion plans without restrictions upon airport growth had been confirmed in subsequent Government frameworks and strategies.
- 3.4.43. The RRs from the three HHA [\[RR-0297\]](#) [\[RR-0558\]](#) and [\[RR-1119\]](#) did not identify any fundamental concerns with the Applicant's need case although they considered it would need to be a priority and fully interrogated as part of the Examination. The HHA LIR [\[REP1A-003\]](#) noted that the application falls to be considered under s105 of the PA2008 and therefore, should be determined 'on its merits' having regards to LIR's, prescribed matters, and the overall 'planning balance' of needs and benefits with regard to important and relevant matters. Their opinion was that support was not unconditional and there was not enough evidence to demonstrate that the economic and other benefits of the Proposed Development outweighed the adverse impacts.
- 3.4.44. BC's LIR [\[REP1A-001\]](#) noted that there was clear Government policy support for aviation growth and for airports making best use of their runways, as set out in various national aviation policy documents.
- 3.4.45. Responses from the Applicant to the content of the LIR's was contained in [\[REP2A-004\]](#), [\[REP2A-005\]](#), [\[REP2A-006\]](#) and [\[REP2A-007\]](#). Notably, in response to the comments from the HHA [\[REP2A-006\]](#), the Applicant referred to its response in [\[REP2-035\]](#), page 188] that the Planning Statement [\[REP11-009\]](#) concluded that the substantial benefits of the Proposed Development clearly and demonstrably outweighed any residual harms that would arise with the proposed suite of mitigation measures in place. The Applicant considered the Proposed Development to be compliant with national aviation policy, national planning policy and the relevant development plan documents when taken as a whole.

Matters of objection raised in Relevant Representations and Written Representations

- 3.4.46. Approximately 200 RRs objected to the Proposed Development on a general in principle basis. The Applicant provided a summary of and responses to these in [\[REP1-020\]](#), Section 2.15], [\[REP1-022\]](#), [\[REP1-023\]](#), [\[REP1-025\]](#) and [\[REP1-026\]](#). Further objections were received in WRs. These raised general comments against the need which the Applicant responded to in [\[REP2-033\]](#), [\[REP2-034\]](#), [\[REP2-035\]](#), [\[REP2-037\]](#), [\[REP2-038\]](#) and [\[REP2-039\]](#). The common issues raised are summarised below:
- Proposed airport expansion was unnecessary eg [\[RR-0103\]](#), [\[RR-0220\]](#), [\[RR-0512\]](#), [\[RR-0980\]](#) and [\[RR-0931\]](#).
 - Expansion would be contrary to climate change obligations where there should be a reduction in air travel eg [\[RR-0226\]](#), [\[RR-0290\]](#), [\[RR-0982\]](#), [\[RR-1090\]](#) and [\[RR-1207\]](#).

- The Climate Change Committee (CCC) had recommended that no further expansion of airports should be allowed eg [\[RR-0174\]](#), [\[RR-0634\]](#), [\[RR-1107\]](#), [\[RR-1285\]](#) and [\[RR-1453\]](#).
- The airport was in an unsuitable location and was unsuitable for expansion for reasons such as its position near residential areas, its restricted size and local topography eg [\[RR-0026\]](#), [\[RR-0265\]](#), [\[RR-1052\]](#), [\[RR-1249\]](#) and [\[RR-1257\]](#).
- There was already sufficient provision and capacity at other airports which would be better placed to accommodate any required growth eg [\[RR-0568\]](#), [\[RR-0668\]](#), [\[RR-0703\]](#), [\[RR-1091\]](#) and [\[REP1-074\]](#).
- Concerns on the need for the development from a financial perspective, with reasons including a lack of business case for the Proposed Development, cost of the development and the (perceived) track record of LBC eg [\[RR-0103\]](#), [\[RR-406\]](#), [\[RR-1107\]](#), [\[RR-1297\]](#) and [\[RR-1332\]](#).
- Consumer demand was not the same as need and there is no right to fly. Query whether people enjoying a holiday overrides the right of others to the quiet enjoyment of their homes [\[REP1-126\]](#).

3.4.47. The Applicant provided the following comments in response to the issues raised:

- *Airport expansion unnecessary:* The airport is central to the local economy and is an important connectivity asset for the broader region. Expansion was required to maintain connectivity and to address existing capacity constraints to accommodate further growth for the economic benefit of the region [\[REP1-020\]](#), page 134].
- *Contrary to climate change:* It is not currently Government policy to restrict demand for air travel or the number of flights. The Applicant made specific reference to the JZS which supports the continued growth of aviation to 2050 [\[REP1-020\]](#), page 140] and [\[REP1-023\]](#). [\[REP1023\]](#).
- *CCC recommendations:* Advice from the CCC was not legally binding and in response to similar advice by the CCC in its 2022 report, the Government's response of March 2023 remained supportive of airport expansion and did not consider that demand should be capped [\[REP1-020\]](#), page 28]
- *Unsuitable location:* The design of the Proposed Development had considered site constraints. Furthermore, the airport was well placed to serve demand for air travel in its catchment area drawing on the Thameslink corridor [\[REP1-023\]](#).
- *Sufficient capacity exists:* The demand forecasts in [\[AS-125\]](#) took into account growth at other airports although in any case, the expansion would meet demand local to Luton and the surrounding areas [\[REP1-020\]](#), page 129]. [\[REP1-020\]](#), page 129].
- *Finance / lack of business case:* The original Funding Statement [APP-012] confirmed the Proposed Development would be funded by LLA's net revenues depending upon prevailing market conditions. LBC would not fund the Proposed Development. The Proposed Development would be a sensible capital investment which would benefit Luton and the surrounding area [\[REP1-020\]](#).

Matters of support raised in RRs and WRs

3.4.48. There were over 100 RRs received from members of the public, non-statutory organisations and charities eg [RR], [RR], [\[RR-0022\]](#), [\[RR-0538\]](#), [\[RR-1013\]](#), [\[RR-1125\]](#), [\[RR-1548\]](#), [\[RR-1572\]](#) that supported the proposal. A number of these made submissions at OFH 1 [\[EV2-001\]](#), OFH2 [\[EV3-001\]](#) and OFH3 [\[EV12-001\]](#) explaining the benefits that an expanded airport would bring through factors such as increased jobs, enhanced connectivity and the increased social benefits of support to the community. A number of these comments were noted by the Applicant although where a response was provided, it was to acknowledge that comments confirmed the economic contribution of LLA within the region [\[REP1-023\]](#), page 193].

National Aviation Policy

Matters raised in IP submissions

- 3.4.49. The main area of disagreement which remained between the Applicant and IPs was the weight to be attributed between balancing the need for the development in terms of economic benefits against negative environmental impacts.
- 3.4.50. As the Examination progressed, each of the HHA's SoCGs [REP11-095, ID ref HCC13], [REP11-097, ID ref NHDC13] and [REP11-099, ID ref DBC13] did not agree that national aviation policy was supportive of the Proposed Development as any support required careful account of all relevant considerations, particularly economic and environmental impacts. The HHA judged that the negative impacts of the Proposed Development were unacceptable.
- 3.4.51. The WR from the Harpenden Society [REP1-165, paragraph 56] accepted that national economic policy supported aviation growth although it also considered that the need for the Proposed Development had little evidential foundation and should be given little weight by the ExA (paragraph 55). The Applicant responded in [REP2-037, page 26] that it disagreed and considered the need case should be given substantial positive weight due to the Government's clear emphasis on the role of aviation in boosting connectivity and supporting levelling up.
- 3.4.52. LADACAN [RR-0817] considered that the application failed to interpret policy in a balanced way over-emphasising the alleged economic benefits. LADACAN considered that MBU policy refers to "*more intensive use of existing infrastructure*" (subject to environmental issues being addressed), not "*significant development to make maximum possible use of every airport runway*" which in their opinion would be absurd as supply would then exceed demand.

Matters raised by the ExA

- 3.4.53. The ExA explored aspects of national aviation policy at ISH2 [EV7-001], firstly asking the Applicant to clarify whether FttF and the JZS constituted policies as referred to in the (then) Planning Statement [AS-122]. In response, the Applicant advised [EV7-002] that it considered these documents did constitute policy and that they represented a continuation of the policy approach from the APF but draw upon the more recent findings from the Aviation 2050 consultation document. It also referred the ExA to paragraphs 55 and 63 of the SoS decision letter dated 18 August 2022 for Manston Airport.
- 3.4.54. In light of the findings of the Airports Commission on the need for more intensive use of existing infrastructure, the ExA queried whether MBU and the ANPS extended support to the construction of new infrastructure such as the proposed taxiways and Rapid Exit Taxiways in order to intensify the capacity of the existing runway. The Applicant explained [EV7-002] that MBU policy was about allowing airports to develop the additional infrastructure needed to ensure that a runway could be better used, which could include the provision of new taxiways. Noting the work of the Airports Commission on whether additional runways were needed in the southeast, the Applicant did not see that making best use of an existing runway or infrastructure was restricted to what was currently on the ground. The JHA [EV7-002] commented that there were varying combinations of words in the documentation where it is referred to as 'runway capacity' and in other places 'existing capacity' which could have different interpretations. However, they did not disagree with the Applicant's position that MBU covered the use of taxiways.

LADACAN commented that the interpretation of 'best' needed to be looked at carefully in relation to other policy weighting in the planning balance.

- 3.4.55. The ExA queried whether the wording in point 3 of FttF, which '*supports growth in airport capacity where it is justified, ensuring that capacity is used in a way that delivers for the UK*' (ExA's underlining), represented a shift from the position in MBU, given that MBU did not explicitly reference a need to demonstrate justification. The ExA asked how this should be taken into account when assessing need.
- 3.4.56. The Applicant did not consider the wording a shift in policy [EV7-002]. It was their opinion that the socio-economic benefits had to be taken into account when assessing a proposal and FttF was a re-expression of the tests that needed to be applied. It stated that the government wanted a competitive aviation system which did not mean filling up each airport in turn. The Applicant advised that London has a number of different airports with different geographical catchment areas which all serve different markets so should be looked at in their own local context whilst recognising that travelling to different airports adds to costs and inconvenience to passengers.
- 3.4.57. The JHA commented [EV7-002] that the plan was not revolutionary but underlined Government philosophy that rising passenger demand should be satisfied. They had a different view to the Applicant on airports in the southeast where people would decide which airport offers the best frequency, comfort, timing, price destination to meet their travel need. They were not convinced that pricing-off demand to re-distribute passengers between airports would have a huge effect on passenger numbers.

ExA conclusions on principle and national aviation policy

- 3.4.58. All parties were in agreement that the ANPS does not have effect for airport development other than the proposed Northwest Runway at Heathrow although its content is still an important and relevant consideration. The ExA agrees with the HHA [REP1A-003] that it is not the case that "*there is a presumption in favour of the application being granted in accordance with the Airports NPS*" but rather a determination of the application "*on its merits*" having regard to environmental and economic factors.
- 3.4.59. There was also agreement that MBU is supportive of airports making best use of existing runways, albeit with differences on the weight to attach between the economic and environmental considerations. After listening to the responses at ISH2 [EV7-001], the ExA was also satisfied that MBU policy does not restrict airports seeking to increase the infrastructure within their airfields to intensify existing runways. The ExA therefore considers that the provision of the proposed airfield infrastructure in the Proposed Development would comply with MBU policy. Whilst not a topic of debate, by reference to NSIP in paragraph 1.27 the ExA is also satisfied that the policy within MBU is important and relevant to decision making in respect of proposed airport development being submitted as an NSIP.
- 3.4.60. The ExA considers that FttF provides an updated Government position from MBU, where Government support for sustainable airport growth was reiterated on page 9 along with the key role of airport expansion in enhancing connectivity. The ExA noted that FttF supports growth "*where it is justified*", which is also repeated in paragraph 2.27 of the JZS. After listening to the responses at ISH2 [EV7-002] and [EV7-004], the ExA considers that it does not represent a material shift in policy noting reference in paragraph 1.42 of the ANPS of the possibility for other airports to

demonstrate sufficient need for their proposals. The ExA considers that FttF reiterates that whilst there is support for sustainable airport growth, that support is not unconditional and this ultimately means demonstrating a case for any expansion proposal to justify the negative environmental impacts that may be experienced against any economic benefits. The ExA considers the Applicant's case in more detail in the following sections of this Report.

- 3.4.61. With regard to matters raised in RRs and WRs, the ExA notes the number of objections to the principle of the Proposed Development due to climate change matters. However, when considering the principle of the development, the ExA considers that there is nothing in policy that seeks to reduce air travel due to climate change or to meet net zero obligations. The ExA also notes that the Government responded to the CCC's Annual Progress Report in October 2023 stating on page 42 that it was anti-aviation emissions, not flying, and that its existing policy frameworks provided a robust and balanced framework for airports to grow sustainably within strict environmental criteria such that it did not consider it needed to limit aviation growth. Further consideration of the Proposed Development's impact on climate change is contained in Section 3.12 of this Report.
- 3.4.62. A number of concerns raised regarding the suitability of the current location of LLA. However, as the principle of an airport in this location is well established, this is a matter that falls outside the consideration of this application. However, the appropriateness of the proposed expansion is a matter to be considered on its own merits which the ExA undertakes throughout this Report. The ExA has considered the comments raised regarding other airports being more suited to expansion or being able to accommodate any capacity although, as stated by the Applicant at ISH2 [EV7-002, 43:20], the Government seeks a competitive aviation system which does not mean filling up each airport in turn. Further consideration of how existing capacity at other airports may affect the forecasting figures is considered in more detail below.
- 3.4.63. On the subject of funding, the ExA can only consider the planning merits of the Proposed Development and whether the Applicant has sufficient funding is not a relevant matter in considering the need for the Proposed Development. However, whether funding is available to compulsory acquire land is considered in Section 6 of this Report.
- 3.4.64. Overall, as a making best use of existing runway proposal, the ExA is of the opinion that there is clear in-principle policy support for the Proposed Development. Whilst the ExA acknowledges the number of RRs questioning the need for the Proposed Development, Government policy is supportive of sustainable airport expansion in principle, as demonstrated on page 20 of FttF which states "*Airport expansion has a key role to play in boosting our global connectivity*" and that "*We remain supportive of sustainable airport growth, and our existing planning frameworks provide a robust and balanced framework for airports to grow within our strict environmental criteria*".
- 3.4.65. However, in accordance with MBU (paragraph 1.29) that in-principle support has to be considered against the economic and environmental considerations which the ExA addresses throughout this Report.

Strategic economic need case for airport growth

Matters raised by the councils in LIRs

- 3.4.66. LBC's LIR [REP1A-004, paragraphs 4.1.15 and 4.1.16] noted that the NPPF sets out the overarching economic objective of "*a strong, responsive and competitive*

economy” (paragraph 8). Reference was also made to BBB which outlines three key areas of investment for economic recovery and levelling up, namely: a radical uplift in infrastructure investment; creating new skills training opportunities across the UK; and fostering the conditions to unleash innovation. LBC commented that the Levelling Up White Paper (February 2022) aimed to boost productivity, pay, jobs and living standards and spread opportunities. It considered that the socio-economic impact of the proposal would be wholly positive and that LLA was a vital asset to the region with its growth being a central pillar to the Council’s Strategic Vision.

- 3.4.67. CBC’s LIR [\[REP1A-002\]](#), Section 5.5] did not raise any specific comments on the need for the development from a strategic economic perspective but noted policies SO1, SO5 and SO7 of the Central Bedfordshire Local Plan (CBLP) and the approximate number of jobs that could be delivered as a result of the proposal.
- 3.4.68. BC’s LIR [\[REP1A-001\]](#), paragraph 2.2.4] commented that it understood Government policy on aviation in the context of need and could see benefits for Buckinghamshire in respect of economic development and growth.
- 3.4.69. At D4, the JHA submitted an Economic Impact Assessment Independent Review [\[REP4-189\]](#) prepared by Genecon which, amongst other matters, reviewed the soundness of the assumptions and conclusions informing the need case and did not identify any principal areas of disagreement.
- 3.4.70. A number of RRs, WRs and submissions throughout the Examination raised objections/ comments relevant to the strategic economic need case. The issues raised can be summarised as follows:
- The development would not bring economic benefits and would provide low skilled jobs eg [\[RR-0440\]](#), [\[RR-0533\]](#), [\[RR-0654\]](#), [\[RR-1087\]](#), [\[RR-1255\]](#).
 - Stated job numbers were optimistic due to no net growth in air transport jobs since 2006 eg [\[RR-0103\]](#), [\[RR-0743\]](#) and [\[RR-1087\]](#).
 - There was disproportionate overreliance of the local economy on aviation eg [\[RR-0103\]](#), [\[RR-0327\]](#) [\[RR-0743\]](#) and [\[RR-0760\]](#).
 - Economic benefits could be experienced through other developments/ initiatives without airport expansion eg [\[RR-0251\]](#), [\[RR-0261\]](#), [\[RR-0709\]](#), [\[RR-1469\]](#).
 - Proposal would not have any benefit to the Arc as it has been cancelled/ downgraded by the Government eg [\[RR-0251\]](#), [\[RR-0289\]](#) and [\[RR-0290\]](#).
 - The benefits to business travel were overstated and there was no need for extra capacity to serve business demand due to business passenger numbers falling since 2006 eg [\[RR-0054\]](#), [\[RR-0721\]](#), [\[RR-1015\]](#), [\[RR-1087\]](#), [\[RR-1151\]](#), [\[RR-1566\]](#) and [\[REP1-115\]](#).
 - Contribution to levelling up was not relevant with reasons such as previous expansions of LLA had not benefitted the area or that expansion would exacerbate inequity in other areas of the country that have less travel connectivity than that available in the south east and expansion should be focused in those areas eg [\[RR-0008\]](#), [\[RR-0103\]](#), [\[RR-0226\]](#), [\[RR-0858\]](#) [\[RR-1087\]](#), [\[RR-1406\]](#), [\[REP1-126\]](#) and [\[REP6-156\]](#).
 - Proposal would give rise to tourist deficits due to predominantly being a leisure airport eg [\[RR-0289\]](#), [\[RR-0290\]](#), [\[RR-0459\]](#), [\[RR-0564\]](#), [\[RR-1087\]](#) and [\[RR-1566\]](#).
- 3.4.71. The Applicant’s responses to the above raised issues can be summarised as follows:

- The economic benefits of the Proposed Development were fully explained in the Need Case [\[AS-125\]](#), Section 8].
- Jobs at the airport were generally higher paid than average [\[REP1-020\]](#), page 139]. Furthermore, average wages of airport direct employees were on average 12.5% higher than for all employees across the Three Counties area [\[REP1-023\]](#), page 181].
- It was not appropriate to consider only jobs classified within the air transport sector (as defined by the Office of National Statistics) as there are many other occupations, particularly related to retail and catering activity that are an intrinsic part of an airport's direct economic footprint. [\[REP1-023\]](#), page 180].
- The Proposed Development would be an enabler of wider economic growth in Luton and surrounding areas. Without expansion of LLA, local jobs and opportunities for economic growth would be lost along with the proposed Community First Fund. It was unclear to the Applicant how economic benefits of the scale proposed could be realised locally without the Proposed Development [\[REP1-020\]](#).
- The Proposed Development was intended to support economic growth in Luton and the surrounding areas in support of the 'levelling up' agenda and there was no suggestion within Government policy around levelling-up that any area should be 'held back' to support growth elsewhere. [\[REP1-023\]](#).
- It was not Government policy to restrict outbound tourism activity because of the wider social and economic benefits it brings. Over half of the UK resident leisure trips from LLA in 2019 were travelling for the purpose of visiting friends and relatives. The Bristol Airport and Stansted Airport inquiries found there was no evidence to suggest that outbound leisure travel from the UK was detrimental to the UK economy [\[REP1-023\]](#).

3.4.72. In addition to their RR [\[RR-1087\]](#) and WR [\[REP1-115\]](#), the NEF made a number of detailed submissions throughout the Examination [\[REP3-131\]](#), [\[REP5-081\]](#) and [\[REP7-107\]](#) which in summary largely challenged the economic benefits of aviation growth and the benefit to business productivity. NEF's WR [\[REP1-115\]](#) attached a copy of NEF's report 'Losing Altitude: The Great Economics of Air Transport in Great Britain' which argued that the Government's last comprehensive review of the economic impacts of air transport was in 2012. However, trends in the British air travel sectors have changed dramatically since then. It also challenged assertions around the positive benefits of aviation growth. The Applicant provided responses to these in [\[REP2-038\]](#), [\[REP4-096\]](#) and [\[REP6-063\]](#) commenting that the merits of air transport was a core element of aviation policy, which was strongly supportive of sustainable air transport growth because of economic benefits it brings.

3.4.73. Similar detailed submissions which also challenged the benefits of airport growth were made by The Harpenden Society [\[RR-1506\]](#), [\[REP1-165\]](#), [\[REP3-144\]](#), [\[REP4-215\]](#), [\[REP4-217\]](#), [\[REP6-131\]](#) and [\[REP11-088\]](#). The Applicant responded to these in [\[REP3-065\]](#), [\[REP5-051\]](#) and [\[REP6-063\]](#).

3.4.74. A number of RRs, WRs and submissions in OFH's [\[EV2-001\]](#), [\[EV3-001\]](#) and [\[EV12-001\]](#) raised comments in support of the strategic economic need case. The main comments raised can be summarised as follows:

- LLA is the region's main international gateway and is a clear driver of regional economic growth eg [\[RR-1364\]](#).
- Opportunities for employment for local businesses and apprenticeships eg [\[RR-0022\]](#) and [\[RR-1547\]](#).
- LLA helps to attract skilled workers eg [\[RR-0579\]](#), [\[RR-1364\]](#) and [\[REP3-093\]](#).

Matters raised by the ExA

- 3.4.75. The strategic economic case was examined orally at ISH2 [EV7-001] and also in ExQ1 [PD-010, NE.1.5 to NE.1.9]. This was to allow the ExA to better understand the importance of aviation growth and why further growth was needed to support the national, regional and local economy, the role of the Arc and why businesses within it and in the area around the airport required further connectivity, and how growth would support levelling up.

Oxford-Cambridge Arc

- 3.4.76. The ExA asked at ISH2 [EV7-001] how a growing LLA would be central to achieving the aspirations of the Arc. The Applicant responded that the strategic economic arguments were much broader and not solely reliant on the Arc but also included matters such as air transport as a key economic driver, the social value of LLA, the need for additional jobs and economic growth in an area that needs levelling up and for improving connectivity to an area like the Arc. The Arc had been included as contextual background for the economic aspirations for the area. The JHA responded to the question through Action Points [REP3-093] where LBC drew attention to a pan-regional partnership that had been set up to drive economic growth across the region where sustainable aviation is a key asset. LBC also quoted from the Government response to a question to the Department for Levelling Up, Housing and Communities from Sarah Owen MP which stated *“Luton is indeed part of the Oxford-Cambridge Arc. Luton’s strong automotive and engineering sectors, leading airport and links to the Central Area of the Arc make it a key part of Government’s plan to transform the Oxford-Cambridge Arc into one of the world’s premier economic growth corridors”*. CBC reiterated that economic benefits would arise from the expansion.

- 3.4.77. The ExA [PD-010, NE.1.5] asked for evidence of where it was stated in documentation that expansion of LLA, or any other airport, was needed to deliver the aspirations for the Arc. The Applicant [REP4-059, page 6] referred to pages 24 and 25 of the ‘Oxford-Cambridge Arc economic prospectus’ (October 2020) which were more specific about the role of LLA in supporting the Arc as a sector in terms of aviation and contribution to sustainable airport operations. The HHA acknowledged that there did not appear to be mention of LLA in any of the relevant documents on the Arc, a point the ExA had made to the Applicant at ISH2 [EV7-002] and [EV7-004].

- 3.4.78. The Harpenden Society [REP4-215] referred to the *“Government ambition and joint declaration between government and local partners”* which referred twice to Heathrow in the context of links but neither LLA or Stansted. The economic prospectus did not refer to air connectivity but rail and road connectivity.

Air Connectivity and importance for business

- 3.4.79. The ExA [PD-010, NE.1.5, NE.1.7, NE.1.8 and SE.1.12], also sought to understand the need for greater connectivity for businesses within not just the Arc, but also the wider region why it was required and the evidence that existed, and the impact to businesses in the absence of expansion. The Applicant’s response in [REP4-059] to the first part of NE.1.5 quoted page 18 of FttF as succinctly capturing why aviation connectivity matters: [REP4-059] to the first part of NE.1.5 quoted page 18 of FttF as succinctly capturing why aviation connectivity matters:

“A central aspect of achieving our future ambitions will be to continue to enhance our global aviation impact. At the heart of aviation is facilitating travel internationally to connect people, goods, and businesses across the globe. The UK will promote and improve its global connectivity to facilitate sustainable growth, as well as

embracing UK aviation strengths and competitive advantage to deliver our ambitions to incentivise UK trade and investment opportunities”.

- 3.4.80. The Applicant provided further comments on connectivity in response to ExQ1 [\[REP4-059\]](#) stating that the availability of air services is a ‘necessary’ condition for internationally focussed companies. The Applicant stated this matter was explored in more detail in a joint report by Oxford Economics and York Aviation (The Economic Value of International Connectivity – A report for Transport for London (TfL) by Oxford Economics and York Aviation 2013) which describes the mechanisms by which air connectivity influences a number of channels for economic benefit, such as the ability to trade, to attract foreign direct investment, and to benefit from agglomeration effects. The Applicant referred to [\[AS-125\]](#), Figure 5.15] which showed the extent to which the airport already provided connectivity to a range of globally significant business cities. The Applicant considered [\[REP4-059\]](#) that there was also a competitive factor between cities and regions for connectivity and if an area becomes less connected, it would be less competitive as a place for business which in turn would lead to lower productivity, lower GDP and reduced employment opportunities. In response to ExQ1 [\[PD-010\]](#), NE.1.9] the Applicant advised [\[REP4-059\]](#) that as LLA mainly comprised low cost carriers, when the airport reaches capacity then carriers would likely focus on higher volume routes to leisure type destinations, such as Malaga or Alicante, than more marginal services to smaller European cities which would result in reduced opportunities for business travel.
- 3.4.81. In response to ExQ1 [\[PD-010\]](#), SE.1.12], LBC stated [\[REP4-187\]](#), page 41] that in 2019 LLA served around 141 destinations across 41 different countries. It referred to easyJet being based at Luton with around 1,000 employees as well as TUI. They also referred to business jet Fixed Base Operators located at the airport, companies that service and provide supplies to aircraft and non-aviation related businesses from food manufacturing, logistics, AI and technology sectors who generally see enhanced connectivity as crucial to their business operations as it supports increased collaboration and productivity. LBC [\[REP4-187\]](#), page 43] advised that their Skills and Employability Team has noted that in the last few years multiple businesses that have moved to Luton have cited the airport and its connectivity to the rest of the world as one of their main reasons for locating or starting up in Luton.
- 3.4.82. Contrary opinions were provided by the Harpenden Society [\[REP4-215\]](#), who did not consider that air connectivity was a challenge for an area within an hour or two’s drive of Heathrow for European and global connectivity and, on the eastern side of the Arc, within an hour of Stansted for European connectivity.
- 3.4.83. NEF commented [\[REP5-081\]](#) that business passengers and business productivity impacts were overstated. It maintained the position from their earlier submissions [\[REP1-115\]](#) and [\[REP3-131\]](#) that contrary to the Applicant’s forecast of significant underlying demand, given ongoing economic stagnation in the UK and global economies, and the accelerated growth of remote-working capacity, a reasonable forecast would suggest that there would not be significant additional business passenger demand until the mid-2030s at the earliest. It also disagreed with the Applicant that constrained airport capacity would meaningfully constrain business passenger demand advising of business passengers’ higher willingness to pay than leisure travellers. In response, the Applicant [\[REP2-038\]](#) stated that business travel across London Airports had risen in broad relationship to GDP and in terms of LLA, the share of business passengers across the London Airports had increased. The Applicant considered that latest evidence suggested an acceleration of the recovery in business travel.

Exports

- 3.4.84. In ExQ1 [PD-010, NE.1.6] the ExA queried how significant a contribution growth at the airport could have to exports in the east of England, noting that the Need Case was identifying limited growth in cargo operations. The Applicant responded [REP4-059] explaining that the 30% of regional gross value added (GVA) deriving from exports related to both exports of goods and of services. For export of goods, there was a need for improved air passenger connectivity to create sales.
- 3.4.85. The JHA [REP4-116], [REP4-126] and [REP4-187] explained that the issue of the importance of LLA's growth to exports in the east of England was a more nuanced argument which should consider not only the export of high value goods (as cargo), but the importance of the role of LLA as a hub that can play an increasingly important role in driving information and knowledge exchange, and therefore supporting the growth of high value sectors of the area's economy.
- 3.4.86. The Harpenden Society [REP4-215] considered that the references to increasing air cargo were aspirational rather than grounded in reality due to no provision being provided for additional cargo. Furthermore, LLA's share of air freight was very small in the national context (between 1-2% of UK air freight), and the future destinations shown in the busy day scenario were illustrative only and so there was no strategy for development air freight on long haul routes.

Summary of IPs position on strategic economic case

- 3.4.87. At the close of the Examination, there were no areas of disagreement between the Applicant and the JHA on the strategic economic case for airport growth although disagreement remained between the NEF, The Harpenden Society and other IPs.

ExA conclusions on Strategic economic case

- 3.4.88. The ExA has considered the submissions raised by all parties and is of the opinion that the role of airports in supporting the economies they are situated within and supporting the UK's global connectivity is well rehearsed in Government policy eg APF (chapter 1); FttF (Executive summary); and JZS (paragraph 2.27). Whilst the ExA notes the NEF's comments in respect of the Government's last comprehensive review of the economic impacts of air transport it considers that the more recently published FttF (particularly pages 19 to 21) and JZS include similar statements to those expressed in chapter 1 of the APF. This is also true of BBB which was referenced by the Applicant and LBC.
- 3.4.89. In respect of jobs, the detail of the number of jobs created, GDP benefits and quality of jobs is considered further in the socio-economic section. However, it is clear to the ExA that the Proposed Development has the potential to generate a significant number of jobs both directly at the airport and indirectly through supply chains and other services. Whilst economic benefits could well be experienced through other developments if they were to materialise, these schemes are not before the ExA and as such cannot be given any weight. What is evident to the ExA, is the role of LLA to the local economy and that expansion has the potential to give rise to substantial economic effects.
- 3.4.90. On the subject of need for air connectivity, the ExA is mindful of the comments in the Executive Summary of the JZS that the Government recognises the aviation sector's role in making the UK one of the world's best connected and most successful trading nations in the world. In the context of LLA, the ExA does not dispute that the Proposed Development could support the aims of the Arc although

considers that the full extent of this is unclear. However, noting the responses by the JHA [REP4-116], [REP4-126] and [REP4-187] explaining the importance of LLA's growth to international connections and exports in the east of England, the ExA accepts that the wider areas surrounding LLA contain international businesses that may require increased connectivity which an expanded airport could help to facilitate. Whilst the ExA accepts the comments made by the Harpenden Society [REP4-215] that air connectivity is not necessarily a challenge for the South East, the ExA also recognises the importance of competition within the aviation sector to meet the interests of air passengers and other users noting the content of paragraph 8 of the APF, FttF and the Applicant's comments at ISH2 [EV7-002].

3.4.91. Whilst there were a number of IPs that questioned the need for extra capacity to serve business demand due to falling business passenger numbers, the ExA is mindful that the need for the Proposed Development is not solely reliant on serving business demand. As shown in [AS-125, Figure 6.5] it is anticipated that 64% of the 32mppa would be through UK Leisure passengers, 25% through foreign business with 8% as business passengers. Whilst the ExA notes the comments made in IPs that the proposal would give rise to tourist deficits, the ExA agrees with the Applicant that Government policy does not seek to restrict outbound tourism activity. FttF (page 19) also highlights the importance of promoting an improving international connectivity which *"includes supporting the UK's essential inbound visitor economy, which has huge economic and local benefits throughout the UK"*.

3.4.92. The ExA considered the conflicting comments made by IPs regarding the contribution of the Proposed Development to Levelling Up in the written submissions and orally at the OFHs. The ExA considers that the Proposed Development could play an important role in supporting the Government's levelling-up agenda, particularly noting that the content of page 42 of FttF states *"Aviation has an essential role to play in delivering a wide range of benefits for the UK and supporting the Government's levelling up agenda"*.

Demand forecasts

3.4.93. There were a number of matters raised regarding the demand forecasts in RRs and WRs. These ranged from comments on the findings of the forecasts in general to more specific matters that would affect forecasts, such as changes in GDP growth rates, existing/ future capacity and the proximity of airports in the southeast and rises in the number of PATM.

Matters raised by the councils in LIRs

3.4.94. LBC's LIR [REP1A-004, paragraphs 4.1.17 and 4.1.18] advised that, along with the other host authorities, it had commissioned Chris Smith Aviation Consulting Limited (CSACL) to review the Applicant's demand forecasts and traffic projections (including cargo forecasts, business aviation forecasts, fleet mix [both passenger and cargo], the busy day timetable and aircraft movement in the night period (23:00 to 07:00). Whilst the review was still being completed, the initial assessment considered that many of the forecasts were reasonable and based on the DfT's econometric forecasting approach, which was a reasonable methodology. The main issue raised was that due to major world events that had taken place (such as the COVID-19 pandemic and the Russian invasion of Ukraine), the Applicant's forecasts could be too high. It was also noted that whilst the construction of one runway at either Gatwick or Heathrow was reasonable, the assumption that those airports would stop growing seemed unlikely in the absence of a passenger cap at either airport, which could impact the speed of growth at Luton. Further details of the findings by CSACL are detailed below.

- 3.4.95. The HHA WR [\[REP1-069\]](#) noted that the major influence on demand at LLA was the capacity available and its utilisation at Stansted, Gatwick and Heathrow, which in turn depends on whether a new runway would be built at Heathrow or the emergency runway at Gatwick being brought into regular use. In their opinion, there was considerable uncertainty, and considerable down-side risks that the Applicant's forecasts were likely to be too high where in turn, the need case and economic benefits may be over-estimated.
- 3.4.96. BC's LIR [\[REP1A-001\]](#), paragraph 2.2.1] noted there was expected to be a strong growth in demand for air travel and that additional capacity would be required at LLA to keep pace with projected demand. BC made no further comments on the Applicant's forecasting throughout the Examination.
- 3.4.97. Following the publication of the JHA LIRs and WRs, The JHA aviation consultant CSACL submitted an initial review of the need case at D2 [\[REP2-057\]](#). The key points raised in the review can be summarised as follows:
- The methodology adopted was generally appropriate. Use of the DfT's income and price elasticities for econometric forecasting was appropriate although it should be noted that there were changes to the DfT model prior to the production of the JZS and the recommendations from the CCC advocating no net expansion of airport capacity in the UK to manage down demand.
 - The central, slower and faster scenarios were reasonable. However, the three hybrids had not been derived through mathematical calculation but by judgement, which nullifies any close examination of the forecast's evolution.
 - There were a number of downside risks which would lower demand below that predicted, such as the Russian invasion of Ukraine and its impact on cost of living, potential for changes to Air Passenger Duty Levels, cost of Sustainable Aviation Fuel (SAF) and issues with post-COVID-19 recovery such as staff shortages and the air transport sector addressing finances.
 - The passenger forecasts were a function of two considerations: growth in general air passenger demand in the southern part of the UK and assumptions made about runway capacity at Heathrow and Gatwick. While the basic approach to forecasting overall passenger demand applied by York was considered reasonable, the economic and price assumptions used were likely to generate forecasts which were too high in the Central Demand Growth scenario due to the downside risks which would reduce passenger demand.
 - In the absence of caps on their passenger capacities, applying a limit of 90mppa for Heathrow and 50mppa for Gatwick without additional runways in the forecasts was unlikely in practice due to ever-increasing number of PATM. Additional capacity at these airports would result in fewer passengers at other London airports.
 - The major influence on demand at LLA was available capacity at Heathrow and Gatwick and whether a new runway at one or both would be constructed. Both was considered unlikely and the core case using one runway was reasonable. However, in the absence of passenger caps at these airports the average number of passengers per ATM would continue to increase, with those airports finding ways to increase passenger throughput. If no new runway was constructed, it was likely that the proposed capacity of 32mppa would be used relatively soon after the planned completion of T2, in the late 2030s or early 2040s. If one new runway was provided, then a passenger throughput of 32mppa would slip to the late 2040s or possibly later.
 - The approach to estimating long haul demand was reasonable although there was uncertainty that these would materialise due to the long-term nature of the forecasts and previous long-haul services not being retained.

- The forecasts for ATMs were appropriate. The forecasts assumed an average load factor for 'no frills airlines' of 89%, slightly below the average of 91% for these types of operations across all airports in 2019. Whilst a little conservative it was not considered unreasonable.
- The fleet mix shown in [AS-125, Table 6.1] shows that the A319s have been phased out with 73% forecast to comprise a mix of A320neos and A321neos and 18% being types from the B737 family. These were considered reasonable assumptions as was restricting inclusion of next generation aircraft in the core planning case.
- The Busy Day Timetable [APP-214, Appendix C], indicative October timetables [AS-125, paragraphs 6.6.24 – 6.6.40], 92 day movement and passenger busy hours forecasts were considered reasonable.
- The forecasts for the night period were reasonable although the assumption that cargo movements during the period could be reduced could be problematic although not unachievable.
- In a no development case, it was considered likely that passengers per PATM would continue to grow even with an annual passenger cap rather than remain constant as forecasted. An increase in the passengers per PATM would result in a decrease from the 105,800 per annum forecast in [AS-125, Table 6.8] to 103,000 in 2042.

3.4.98. The Applicant's response to the CSACL report [REP2-042] made the following comments:

- Use of DfT's elasticities, which have been calibrated over a long time period, as a basis for the forecasting but then adapted represented the most robust approach for projecting air passenger demand.
- There was no reason to assume that the Government's position on the CCC's advice would change.
- *Economic Assumptions:* Whilst there were more recent projections in the DfT's forecasts (SAF Mandate and JZSOYO) these have also been superseded by more recent economic projections, which are more optimistic over the medium to long-term than those used for the Need Case (updated GDP Growth Rates contained in [REP2-042, Table 2.1]).
- *Air fare assumptions:* There will always be positive and negative variables which was why slower and faster growth forecasts have been developed. On the matter of SAF, the demand forecasts were consistent with DfT's and take into account both the cost to the airlines of paying for residual carbon in future and/or relevant abatement costs. The Applicant did not consider that the economic and price assumptions were out of date or that the forecasts were too high.
- *Airport capacity at Heathrow and Gatwick:* The capacity assumptions of 90mppa and 50mppa respectively were the same as those used by the DfT in their capacity constrained forecasts in 2017. Where larger aircraft replaced smaller aircraft, this would favour routes with larger aircraft to long haul destinations over smaller aircraft operating domestic and short haul routes. Any increase in passengers at these airports would not materially affect the demand projections.
- *CSACL timings as to when 32mppa could be reached:* The Applicant considered that its core planning case forecasts remained the most likely outcome due to more robust preparation of passenger forecasts and intimate understanding of the operation of LLA having regard to most up to date economic projections and correct treatment of air fare related costs and airport capacities.

3.4.99. Overall, whilst the Applicant noted that there were areas of disagreement that existed, it felt that none of CSACL's conclusions suggested that its demand

forecasts were not robust and realistic for the purpose of assessing the need for and impacts of the development, as any identified risks had been accounted for by the consideration of the Slower Growth Case as part of the range of forecasts.

Matters raised by other IPs

- 3.4.100. There were several comments raised in RRs and WRs raising the following general concerns over the forecasts:
- Accuracy and overstatement of the forecasts due to factors such as lack of evidence to substantiate figures, changes in business practice reducing need to travel such as increase in virtual meetings, susceptibility to changes in national and international policy, post Brexit economy, post COVID-19 pandemic, rising cost of living, susceptibility to changes in economic outlook, lack of sensitivity testing and impact from increase in load factors on aircraft eg [\[RR-0226\]](#), [\[RR-1087\]](#) [\[RR-1340\]](#) and [\[REP1-124\]](#).
 - Uncertainty over future fleet forecasts eg [\[RR-0327\]](#) and [\[RR-1416\]](#).
 - That factors such as climate change awareness would reduce demand for travel eg [\[RR-0050\]](#), [\[RR-0062\]](#), [\[RR-0076\]](#), [\[RR-0511\]](#), [\[RR-0682\]](#), [\[RR-1120\]](#), [\[REP1-126\]](#) and [\[REP1-134\]](#).
 - Unclear why additional capacity was needed, particularly as the Need Case [\[AS-125\]](#) refers to business travel when the airport is a leisure airport eg [\[RR-0953\]](#), [\[RR-1015\]](#), [\[RR-1223\]](#) and [\[RR-0615\]](#). Unclear why additional capacity was needed, particularly as the Need Case [\[AS-125\]](#) refers to business travel when the airport is a leisure airport eg [\[RR-0953\]](#), [\[RR-1015\]](#), [\[RR-1223\]](#) and [\[RR-0615\]](#).
 - Uncertainty over long haul forecasts which seem optimistic [\[REP10-080\]](#).
- 3.4.101. In response to accuracy of forecasts, the Applicant stated [\[REP1-020\]](#), pages 132 to 134] that the demand forecasts were based on recent economic indicators. Assessments of carbon and other costs were kept under review up until submission of the application which took account of Brexit, COVID-19 pandemic, the war in Ukraine, the cost-of-living crisis (including fuel price increases) and increasing concerns about climate change. The Applicant advised that there was no indication that climate concerns were materially slowing the demand for air travel [\[REP1-020\]](#), page 129]. The projections used are broadly consistent with the DfT projections for growth in air passenger demand across the UK, as published in March 2022. The forecasts took into account the expectations that growth in business travel would be less than leisure.
- 3.4.102. The RR from Nicol Taylor Consulting [\[RR-1095\]](#) asked a number of questions regarding the forecasting model. This included, but was not limited to, querying how the forecasts aligned with those in the JZS, the assumptions made in respect of constrained demand, whether the new runway assumed in the forecasts was at Heathrow or Gatwick as this would give rise to different effects and should be split, the assumptions made in respect of spill to other south east airports where traditionally Luton fills last and a request for evidence that take up of additional capacity at Gatwick would have no effect on the forecasts. The Applicant responded to these queries in [\[REP1-022\]](#), pages 43 and 44] advising that the forecasts were a hybrid of a new runway at Heathrow or at Gatwick with capacities assumed in the 2040s to be 135mppa at Heathrow and 70mppa at Gatwick. The Applicant considered that expansion at LLA would be required whether additional runway capacity was delivered at Heathrow or Gatwick and that the spill model to other airports was described in the Need Case [\[AS-125\]](#), Section 6.3].

- 3.4.103. There were also some general comments in RRs and WRs in support of the Proposed Development considering that expansion was required to meet forecasted demand eg [\[RR-1547\]](#). NH [\[RR-1076\]](#) considered that the forecasts were sound and sufficiently robust.
- 3.4.104. Examination into the main factors raised by IPs that could affect the forecasts can be focused into three subtopics which are existing and future airport capacity, changes in economic forecasts (such as GDP), and passenger loads on aircraft.
- Existing and future airport capacity in the southeast
- 3.4.105. A number of RRs eg [\[RR-0321\]](#), [\[RR-0732\]](#), [\[RR-1039\]](#), [\[RR-1399\]](#), [\[RR-1506\]](#) and [\[RR-1597\]](#) considered that there was already sufficient capacity at other airports in the south east, or that already earmarked developments such as a third runway at Heathrow could accommodate any required increase in airport capacity and as a result there was no need or justification for the Proposed Development.
- 3.4.106. A RR from London Southend Airport [\[RR-0858\]](#) supported the notion of allowing airports to grow to serve their markets, but stated it already had the infrastructure to provide the additional capacity that London and the south east requires both now and in the future without the need for further significant development. Attention was also drawn to the issue of placing more flights into the current congested London airspace. In response, the Applicant stated [\[REP1-022\]](#) that London Southend Airport was not considered to be a realistic alternative for the passenger demand expected to use the airport with the Proposed Development.
- 3.4.107. The WR from the Harpenden Society [\[REP1-165\]](#), paragraphs 101 to 110] provided comments on the authenticity of the demand forecast in light of the available capacity at other airports in the south east. In particular, it commented that using CAA data, which showed that London airports accounted for 61% of the total UK airport passengers in 2019, and forecasts in the JZS which projects 436mppa in 2042 would result in a required capacity of 266 million passengers at London airports. The Harpenden Society was of the opinion that if Heathrow opted to expand then enough capacity would exist in the London market. If it did not, then the additional capacity requirement at LLA would be very small. In response [\[REP2-037\]](#), pages 45 to 47], the Applicant commented that its forecasts accounted for different combinations of airport capacity. If Heathrow did not proceed, then airlines would more likely focus on long haul flights which carry more passengers, leading to a displacement of short haul services that would increase demand at LLA. The Applicant also commented that the proposed growth was aimed at meeting demand within its own catchment.
- 3.4.108. To allow the ExA to understand the current capacity situation and restrictions attached to airports located in the south east of England, the Rule 6 letter [\[PD-007\]](#), Annex F, Section 13] contained a request for information on the current caps on passenger and aircraft movement and the total number of passengers and aircraft movements to each of the five airports in the south east in the year 2019 along with any changes to current restrictions that have taken place since 2019 (see Table 3 below).

Table 3: Current annual limits on passengers and aircraft movements for airports in the Southeast of England, taken from [\[REP4-059\]](#)

Airport	Current Annual Limits		Revised Annual Limits		Utilisation 2019	
	Passengers	Aircraft Movements	Passengers	Aircraft Movements	Passengers	Aircraft Movements
Heathrow	n.a.	480,000	n.a.	n.a.	80,890,031	478,059 ¹
Gatwick	n.a.	n.a.	n.a.	n.a.	46,576,473	284,987
Stansted	35 mppa	265,000 air transport movements, of which no more than 243,500 can be passenger air transport movements and no more than 20,500 can be cargo air transport movements	43 mppa	274,000 aircraft movements, of which no more than 16,000 can be cargo air transport movements	28,124,292	199,925
London City	6.5 mppa	111,000 aircraft movements	n.a.	n.a.	5,122,271	84,260
Southend	n.a.	53,300 aircraft movements	n.a.	n.a.	2,035,535	36,327

3.4.109. The Applicant noted in its response to ExQ1 NE.1.3 [\[REP4-059\]](#) that where an airport does not have a passenger cap, this does not mean that capacity is unconstrained as there would also be physical limitations on the capacity available with the existing infrastructure. The Applicant provided a summary of its opinion of available capacity at each airport as follows:

- Heathrow: Evident there was limited spare capacity in 2019.
- Gatwick: Runway has a current declared capacity of 55 aircraft movements per hour. According to Airport Coordination Ltd in the Start of Season report for summer 2019, the airport had very limited spare capacity available on a regular basis throughout the week. The scope for growth with the existing infrastructure was considered to be highly limited.
- Stansted: Has spare capacity but by August 2023, was handling more passengers than in the equivalent month in 2019.
- London City: Has applied to increase its passenger cap to 9mppa which is the subject of a planning appeal.
- Southend: Has spare aircraft movement capacity but its market is localised and would not provide an alternative to LLA's catchment area.

3.4.110. In response to the comments made by IPs on existing airport capacity, the Applicant reiterated in [\[REP1-020\]](#), page 129] and also [\[REP4-059\]](#) that the demand forecasts in the Need Case [\[AS-125\]](#), paragraph 6.3.21] took into account capacity and growth at other airports, including increases in runway capacity at both Heathrow and Gatwick. It also commented that although spare capacity may exist elsewhere, it did not follow that there would not be demand specific to LLA [\[REP11-049\]](#), page 20] and the existence, or potential existence, of spare capacity at other airports was not a reason for refusal of an MBU application [\[REP4-059\]](#), page 5].

3.4.111. An area of disagreement between the Applicant and the JHA throughout the Examination was the assumed capacity at both Heathrow (90mppa) and Gatwick (5mppa) applied in the forecasts referred to earlier which, in the absence of passenger caps and increases in the number of passengers per ATM, could impact

on the rate of growth. The JHA noted [\[REP3-093\]](#) that Gatwick Airport considered that it could accommodate 67mppa in a no development scenario in comparison to the Applicant's 50mppa. The Applicant commented [\[REP2-042\]](#) that the capacity assumptions applied were the same as those used by the DfT in their capacity constrained forecasts in 2017 and those used by the Airports Commission.

- 3.4.112. In ExQ2 [\[PD-015, NE.2.2\]](#) the ExA asked the Applicant to explain the differences in the maximum passenger assumptions it had applied to Gatwick in comparison to the 67mppa figure quoted by the JHA (which was taken from Gatwick's DCO application) and implications on the forecasting figures. In response [\[REP7-055\]](#), the Applicant advised that it would consider the implications in more detail as part of revised forecasts to be submitted at D8 (which is reported on further below) but maintained that an assumption of 50mppa was reasonable noting it was similar to that used by the DfT. As per their response to ExQ1 NE.1.4 in [\[REP4-059\]](#), any increase in aircraft size and load factors could result in a marginal increase to around 53.5mppa by 2050. The Applicant further noted that an increase to 67mppa at Gatwick would require a 15% increase in passenger aircraft movements from 2019 passenger levels which it considered to be unrealistic given current capacity constraints and delays being experienced at that airport. The JHA considered [\[REP7-084\]](#), [\[REP7-087\]](#), and [\[REP7-090\]](#) that the capacity assessment by Gatwick gave weight to the position of CSACL that the Applicant had under-estimated the capacity available at Gatwick, and in turn this would delay achievement of a 32mppa throughput at LLA.

Passengers per PATM and load factors

- 3.4.113. The Need Case [\[AS-125, paragraph 6.6.7\]](#) stated that the average number of passengers per PATM had increased over recent years climbing from 138 passengers per aircraft in 2012 to 165 in 2019, which resulted in a slower rate of growth in aircraft movements. Essentially, the trend at LLA has seen the average number of seats per flight increase due to airlines replacing older aircraft with larger versions of the same aircraft family eg A319 to A320 and a higher proportion of seats being sold on each flight (known as the load factor). The forecasts assume that the average passengers per PATM would increase by approximately 1% per annum until the mid-2020s and slow to 0.25% per annum until the end of the forecast period, resulting in an average total of around 181 passengers per PATM.
- 3.4.114. The ExA asked questions on the implications of increased passengers per PATM in ExQ1 [\[PD-010, NE.1.4\]](#) and ExQ2 [\[PD-015, NE.2.3 and NE.2.4\]](#) to understand how this could affect the forecasts, particularly the number of passengers that could be accommodated at other airports in the London system in a no development scenario noting the absence of passenger caps at Heathrow and Gatwick. In response the Applicant [\[REP4-059\]](#) considered it highly unlikely that load factors would continue at the previous rate experienced as there would be a limit that would be reached and this would reduce the scope for increases in passengers per PATM. Applying a 1% followed by a 0.25% increase of passengers per PATM at both Heathrow and Gatwick would not in the Applicant's view make a material difference in the forecasts.
- 3.4.115. A further response from the Applicant [\[REP7-055\]](#) maintained that the applied percentage increases were reasonable and the assumed increase in passengers per PATM reflected the anticipated transition to new generation aircraft, with a table supplied showing average seat capacity of both current and new generation aircraft and that LLA would remain a predominantly short haul airport. The Applicant also stated that the forecast for other airports were not dependant on passenger per

movement calculations nor specific load factor assumption but were allocated by passenger preferences limited by legal passenger caps. The JHA in response [\[REP8-051\]](#), [\[REP8-055\]](#) and [\[REP8-058\]](#), maintained that the Applicant had incorrectly applied passenger caps for Heathrow and Gatwick in its modelling.

- 3.4.116. Separately, the ExA questioned at ISH2 [\[EV7-002\]](#) and [\[EV7-004\]](#) whether the increase in PATM could result in the total projected 209,410 aircraft movement figure not being reached, noting the situation for Project Curium when the forecasted 157,000 ATM reached a peak of 141,000 ATM. The Applicant responded acknowledging that increased load factors had influenced this and could continue to, but commented that load factors were reaching a ceiling point. The Applicant considered that if airlines continued to put more seats on aircraft, it would mean that it had been conservative in assessing the effects of aircraft movements.

Summary of IPs position on existing airport capacity, passengers per PATM and load factors

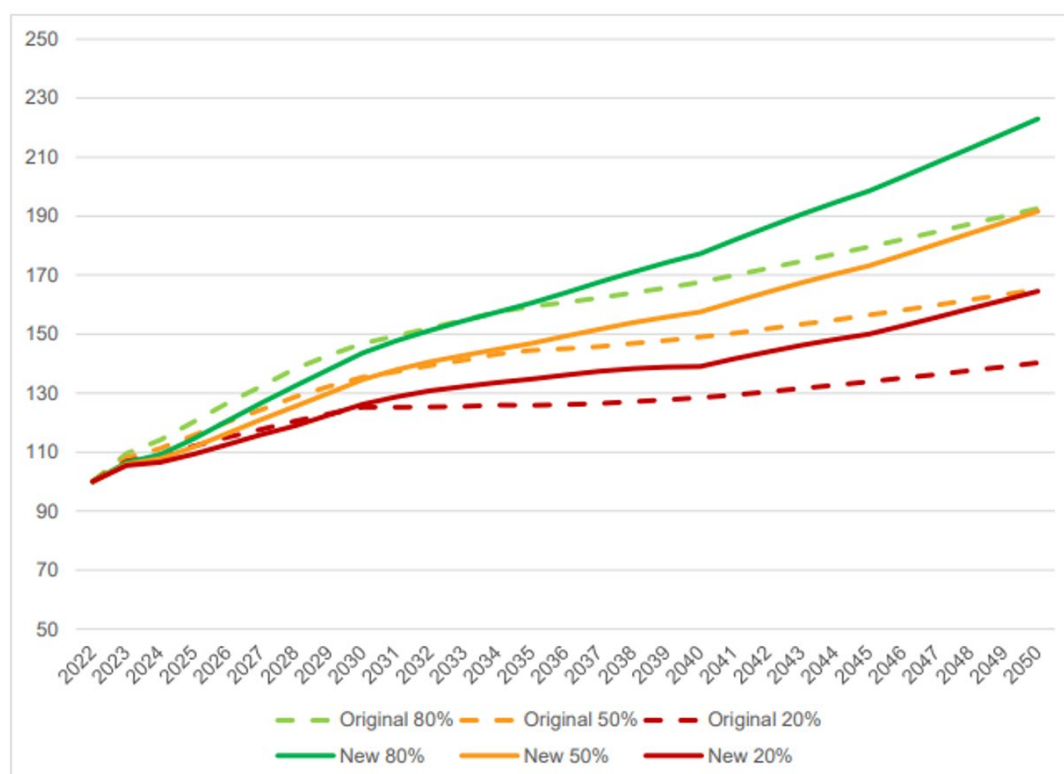
- 3.4.117. At the close of the Examination, the capacity that could be attributed to both Heathrow and Gatwick in a no development scenario remained an area of disagreement between the Applicant and the JHA [\[REP11-033\]](#), page 18], [\[REP11-035\]](#), page 16], [\[REP11-095\]](#), page 20], [\[REP11-097\]](#), page 18] and [\[REP11-099\]](#), page 18]. However, LBC's Final Position Statement [\[REP11-069\]](#) queried whether the speed of growth mattered, referencing the content of paragraph 30 of the Stansted decision letter.

Changes in economic forecasts

- 3.4.118. The response from the Applicant [\[REP2-042\]](#), Table 2.1] to the review by CSACL [\[REP2-057\]](#) contained updated GDP growth rates, which showed growth at -0.2% in 2023 compared to 1.8% used for the forecasts. At ISH2 [\[EV7-001\]](#), the ExA asked what effect this change would have on the demand forecasts. In response, the Applicant acknowledged that growth was projected to be lower than initially forecast in the Need Case [\[AS-125\]](#) although it advised that LLA was achieving the expected passenger throughput in 2023 with the lower GDP. As such, the Applicant advised that it would put more weight on the GDP projections for 2024 onwards. The Applicant explained that if GDP didn't grow as expected, there would be lower forecasts and if GDP grew more quickly, there would be higher forecasts which is why a range of forecasts had been developed.
- 3.4.119. Further changes to the economic forecasts by the Office for Budget Responsibility were published in November 2023. Due to the time that had elapsed since the Applicant's demand forecasts were produced, which was based on data from March 2022, the ExA requested [\[PD-015\]](#), NE.2.2] revised forecasts for the central, slower and faster planning case based on the November 2023 Office for Budget Responsibility data and a written commentary of the extent to which the revised economic forecast affected the previous demand forecasts. The Applicant submitted an initial response [\[REP7-055\]](#) stating that it did not consider short term economic or market fluctuations were directly relevant to a long-term planning decision particularly given that a range of forecasts had been developed in this case. Notwithstanding this, the Applicant provided an update to the underlying forecasts at D8 [\[REP8-037\]](#) in the form of sensitivity tests.
- 3.4.120. The updated economic forecasts identified lower GDP growth in the short to medium term than that set out in the Need Case [\[AS-125\]](#). The Applicant stated the effect of this meant that growth to 21.5/ 23mppa may be lower in the short term with slippage to 2028 rather than 2027 in the core planning case. However, UK GDP

growth was forecasted to be higher over the period to 2050 than that originally forecasted. This was shown in Figure 3.2 in [\[REP8-037\]](#) (reproduced in Figure 4 below):

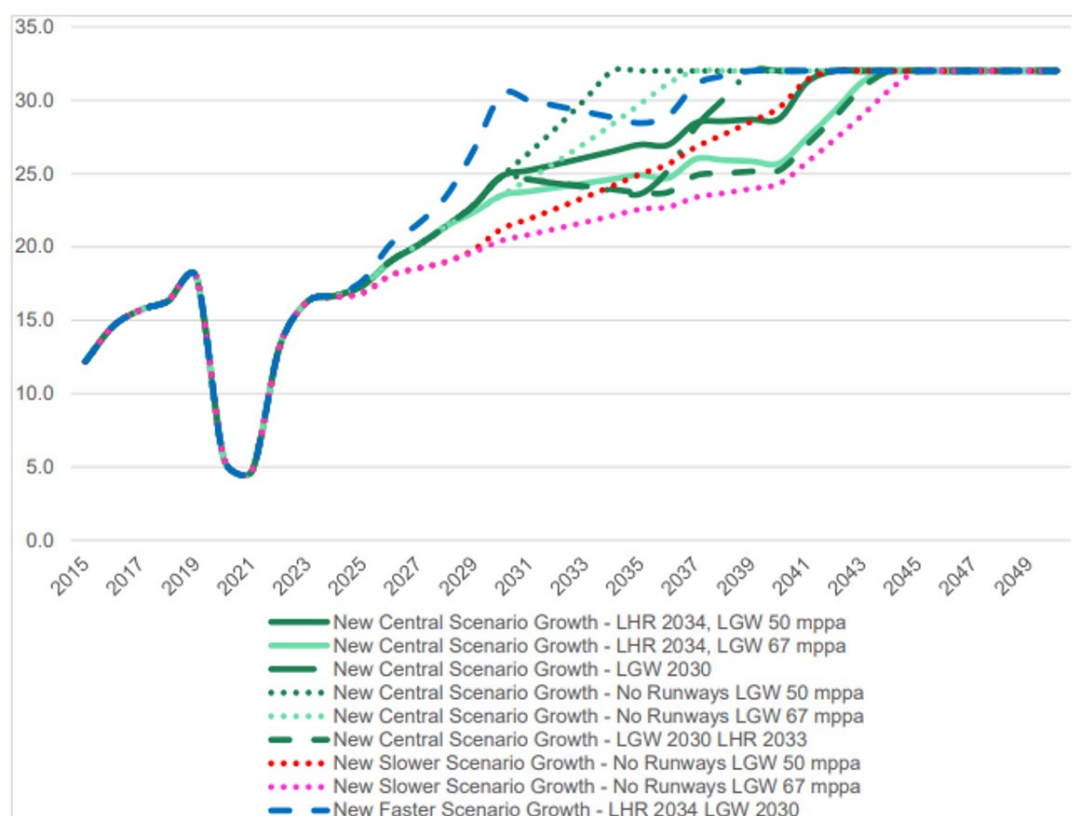
Figure 4: Comparison of UK Demand Growth Rates Original and Updated Forecasts (Index 2022 = 100), taken from [\[REP8-037\]](#), Figure 3.2]



Source: York Aviation

- 3.4.121. Based on the updated GDP projections, the graph below (Figure 5) shows the updated range of demand forecasts taken from [\[REP8-037\]](#), Figure 4.3], which also accounted for different capacities at Gatwick of 50mppa and 67mppa (notwithstanding that the Applicant maintained its opinion on the unlikelihood of this scenario) with no new runway at that airport as part of its response to the second part of ExQ2 [\[PD-015\]](#), NE.2.2]:

Figure 5: Comparison of LLA scenarios with Gatwick Capacity of 67mppa and 50mppa based on Updated Economic Growth Projections, taken from [REP8-037, Figure 4.3]



Source: York Aviation

- 3.4.122. Overall, the updated forecasts showed no change to the findings for the Core Planning Case or Faster Growth Case where 32mppa would still be reached in 2043 and 2042 respectively. Due to higher projected GDP growth in the longer term, the forecasts predicted the Slower Growth Case would reach 32mppa in 2045.
- 3.4.123. The Applicant concluded [REP8-037] that the neither the adoption of updated economic forecasts nor the raising of the assumed single runway capacity of Gatwick had a material effect on the three forecast cases or the conclusions of the environmental assessments which employed them.
- 3.4.124. CSACL provided comments on the updated forecasts in [REP9-064] stating that the improvements in GDP assumptions were not large and the Applicant's forecasts may be lower than those of DfT. CSACL expressed concerns that the 90mppa cap applied to Heathrow would likely be higher. In terms of available capacity, CSACL considered that LLA would not reach 32mppa until several years after 2050.
- 3.4.125. The Applicant responded to these comments in [REP10-045] stating that the demand forecasts were robust to short-term fluctuations in economic variables. Furthermore, testing higher capacity at Heathrow was not part of the request for ExQ2 [PD-015, NE.2.2] and whilst increases in baseline capacity at either Heathrow or Gatwick could defer the timescales for achieving 32mppa at LLA, it would have no material effect on the three assessment cases. The Applicant disagreed with the approach adopted by CSACL in allocating projected airport capacity as it assumed airports fill up in turn which did not reflect reality (as shown in the recent growth at

LLA) nor supported in policy, highlighting the position taken by the SoS in the Manston DCO decision.

Conclusions on Demand forecasts

- 3.4.126. At the close of Examination, there was no disagreement between the Applicant and the JHA that an expanded airport could attract 32mppa. The key issue was the timing of when that could be realised which ranged from 2043 in the Applicant's case to after 2050 in the JHA case.
- 3.4.127. The ExA has considered the matters raised by IPs but is of the opinion that a number of the downside risks mentioned earlier in this section (the Russian invasion of Ukraine and its impact on cost of living, potential for changes to Air Passenger Duty Levels, fluctuations in economic growth, cost of Sustainable Aviation Fuel and issues with post-COVID recovery) have been adequately accounted for in the Applicant's modelling, which follows a similar methodology in its approach to that used by DfT in its own forecasting models.
- 3.4.128. The ExA has considered IP comments that there is already both sufficient and proposed capacity at other airports in the southeast. The Applicant's evidence [REP4-059, pages 2 and 3] is considered sufficient to demonstrate that spare capacity at the other London airports is limited. This is consistent with the Government's position that London airports would be capacity constrained by the 2030s and that growth at LLA could play an important role in relieving this. The ExA also agrees with the Applicant's response [REP4-059, pages 3 to 5] that the existence, or potential existence, of spare capacity at other airports is not, of itself, a reason for refusal of a MBU application.
- 3.4.129. The ExA agrees that existing airports would seek to utilise as much of their capacity as possible which could continue to see increases in passenger per ATM which in turn could affect passenger demand to LLA. However, given that the forecasts in the core planning case accounts for the potential for an additional runway in the London airport system, or indeed two runways in both a slower and faster growth scenario, it is considered by the ExA that any increases in both passengers per PATM and load factor would likely have a limited effect on the forecasts, noting the revised forecasts illustrated in [REP8-037, Figure 4.3].
- 3.4.130. The ExA notes that LBC [REP11-069, paragraph 3.7] quoted paragraph 30 of the Stansted appeal decision which queried whether it matters when anticipated levels of growth would be reached. The ExA is minded to agree with this position and takes the view that it may well be the case that a permitted increase in capacity at an airport would increase operator confidence to invest in expanding operations at a particular airport to meet that capacity.
- 3.4.131. The ExA considers that the effect of changes in GDP on the forecasts since they were previously undertaken was sufficiently addressed by the Applicant at D8.
- 3.4.132. Overall, whilst noting the Harpenden Society [REP6-131] considered that the Applicant's model was not evidence of demand, the ExA is satisfied that the forecasts have been prepared using established industry practice for transport forecasting models, similar to that used by DfT. The ExA notes that DfT's forecast within the JZS accounts for a capacity at LLA of 32mppa. Whilst it would not be appropriate for the ExA to give weight to the merits of this figure given that the DfT's forecasts are primarily to inform longer term strategic policy rather than detailed forecasts at each individual airport ('UK Aviation Forecasts – Moving Britain Ahead

October 2017'), what is apparent is that the DfT predicts increased demand in aviation passengers to 2050, similar to that in the Applicant's long-term forecasts.

- 3.4.133. The ExA recognises that there are inherent uncertainties in undertaking long-term forecasts, due to fluctuations in matters relating to economic growth and oil prices, and is satisfied that the Applicant's model sought to factor in those uncertainties as best it could. Notwithstanding, given that the forecasts have been prepared based on established practice for air traffic forecasting, including the DfT's own methods for projecting aviation forecasts, means that the ExA attaches positive weight to them. However, due to the inherent uncertainties and long-term nature of the forecasts presented which in this case is reliant on increased economic growth in the longer term, the ExA considers that the demand forecasts would attract moderate positive weight in favour of making the Order.

CONCLUSIONS ON NEED

- 3.4.134. Overall, the ExA is of the opinion that great positive weight should be attributed to the need for the development in the context of support in national aviation policy for airports to make best use of existing runways (subject to environmental considerations being addressed) and the strategic economic case. The demand forecasts would also weigh positively in favour although due to the inherent uncertainties and long-term nature of the forecasts presented, the ExA considers that they would attract moderate positive weight. Overall, the ExA considers that the need case for the Proposed Development would attract great positive weight in favour of making the Order for the following reasons:

- Compliance with MBU policy that the Proposed Development seeks to make best use of its existing runway, not forming an extension of the existing or proposing a new runway.
- The expected socio-economic benefit that the development would bring in terms of job creation and indirect jobs through supply chains associated with the air travel industry.
- Providing increased connectivity which could benefit businesses, leisure, improve the potential for exports, create access to jobs in high value sectors and help to facilitate competition within the aviation sector to the benefit of consumers.
- The contribution the development could make to addressing identified airport capacity pressures in the southeast of England, as set out in the ANPS.
- The contribution to filling the projected passenger numbers in the forecast figures.

- 3.4.135. However, in accordance with MBU, this weight must be balanced against the other economic and environmental considerations as set out in this Report which is done in Section 5 of this Report.

3.5. ALTERNATIVES

INTRODUCTION AND POLICY BACKGROUND

- 3.5.1. This section considers the alternatives to the Proposed Development.
- 3.5.2. The obligation to consider alternatives is set out in Regulation 14(2)(d) of the EIA Regulations, which requires: *“a description of the reasonable alternatives studied by the applicant, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the development on the environment.”*
- 3.5.3. Schedule 4 of the EIA Regulations state that an ES must include *“a description of reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.”*
- 3.5.4. The legislation and policy specifically related to the assessment of alternatives is set out in Appendix B. Of note, the ANPS (paragraph 4.28) requires the assessment of alternatives to address the EIA Regulations, other legal obligations and any specific policy requiring consideration of alternatives, for example flood risk.

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- 3.5.5. The Applicant's assessment of alternatives is primarily contained within the ES Chapter 3 – Alternatives and Design Evolution [AS-026]. Further information was included within Section 4 of the Design and Access Statement (DAS) [AS-049] and Appendix B of the DAS [APP-209] to [APP-212].
- 3.5.6. The Applicant's submission explained that the reasonable alternatives considered were in line with the requirements of Regulation 14(2)(d) and Schedule 4 of the EIA Regulations [AS-026, Section 3.1].
- 3.5.7. [AS-026] described the optioneering process for selecting the preferred option and considerations that were taken into account during the design evolution, including environmental matters. [AS-026, Section 3.1] explained how the principles for the Proposed Development were developed through an iterative sifting process. Table 4 below [AS-049, Table 4.1] provided an overview of the process of scheme development from the LLA Limited (LLAL) vision in 2017 to the Statutory Consultation in 2022.

Table 4: Design evolution timeline (from [AS-049, Table 4.1])

Year	2017		2018		2019		2020	2021	2022
Design Evolution	LLAL Vision	Sift 1	Sift 2		Sift 3 Design Review		Design Review Back-check of sifts		
Consultation				Non-Statutory Consultation		Statutory Consultation			Statutory Consultation

- 3.5.8. In [AS-026, paragraph 3.1.8] the Applicant explained how, throughout scheme development, the design had been informed by the EIA process. The Applicant

explained that in the preparation of the ES, full consideration had been given to the reasonable alternatives studied in terms of engineering design, including technology, location, size and scale.

3.5.9. [\[AS-026\]](#) provided:

- an overview of the strategic alternatives considered, using the sifting process (Sift tables are included in Appendix B of the DAS [\[APP-209 to APP-212\]](#)), including the main reasons for selecting the chosen strategic option and a comparison of the environmental effects of the main alternatives studied [\[AS-026\]](#), Section 3.2];
- a summary of design evolution leading up to the 2019 Statutory Consultation [\[AS-026\]](#), Section 3.3];
- a summary of design evolution leading up to the 2022 Statutory Consultation [\[AS-026\]](#), Section 3.4]; and
- a summary of the design evolution leading up to the submission of the application for development consent [\[AS-026\]](#), Section 3.5].

3.5.10. The Applicant concluded that full consideration had been given to feedback received from each consultation stage and the technical engagement undertaken with statutory stakeholders. The Applicant stated that the process had resulted in Option 1A being selected as the preferred option and developed into the Proposed Development as described in ES Chapter 4 [\[AS-026\]](#), Section 3.6].

ISSUES CONSIDERED

3.5.11. IPs raised the concern that LLA was in an unsuitable location and other airports such as London Heathrow or Stansted could be used as an alternative to expanding LLA. These issues are covered within the Need section of this report (Section 3.4).

3.5.12. Concerns were raised in RRs that alternative modes of transport should be encouraged, such as investment into public transport and rail travel, rather than meeting the demand for air travel eg [\[RR-0076\]](#) [\[RR-1007\]](#) [\[RR-1090\]](#), [\[RR-0679\]](#) and [\[RR-0980\]](#). The Applicant [\[REP1-020\]](#) stated that it was not Government policy to restrict the demand for air travel and it considered there was no indication of a change in attitudes towards flying where any restrictions imposed at LLA would likely result in passengers flying from other airports, this is discussed in Socio-Economics, Section 3.19 of this Report. The Applicant also commented [\[REP1-020\]](#), page 140] that 7% of passengers were travelling to domestic destinations, such as Scotland and Northern Ireland, and referred to [\[AS-125\]](#), which projects that demand for international flights is expected to grow more quickly than for domestic flights. Overall, the Applicant considered that it was unlikely that demand for air travel would be replaced by alternative modes of transport.

3.5.13. The ExA considers that Government policy does not seek to reduce demand for air travel and seeks overall to grow the UK's connectivity, as discussed in FttF. Based on the content of the forecasts in the Need Case [\[AS-125\]](#) the ExA accepts that the proposed expansion is, in part, intended to serve international destinations, some of which would not be practicable by alternative modes of surface access. In addition, the ExA considers that there is no evidence that, should the expansion not go ahead, potential passengers would choose alternative forms of transport rather than fly from another airport.

3.5.14. The EA raised concerns regarding the proposed discharge of foul and surface runoff [\[AS-056\]](#). A change request [\[AS-151\]](#), [\[AS-152\]](#) was submitted in respect of an

alternative drainage design. This issue is covered within the Water Resources section of this report (Section 3.22).

- 3.5.15. The ExA received several objections from landowners who considered that the CA of their land would be unnecessary. This issue is covered within the CA Section (Section 6).
- 3.5.16. The Proposed Development would require the CA of Prospect House Day Nursery and Ace sandwich bar and café. This has been considered in the Health and Community section of this report (Section 3.13) and the CA Section (Section 6).
- 3.5.17. Concerns were raised by CBC [\[REP1A-002\]](#) on the location of the FTG (Work No. 2d). This issue, including alternative locations considered by the Applicant, was covered within the Landscape and Visual section of this report (Section 3.15).
- 3.5.18. [\[RR-0023\]](#) commented that several regional airports, such as Birmingham and Manchester, have or are consolidating multiple terminals into one and it was argued that proposing a multi terminal approach was inefficient. The ExA asked the Applicant at ISH6 [\[EV11-001\]](#) whether redevelopment of the existing terminal had been considered as an alternative to a new terminal.
- 3.5.19. The Applicant explained [\[REP3-053\]](#) that the existing terminal was somewhat landlocked and constrained by airport infrastructure such as taxiways. It did not take forward a single terminal option as it would have been logistically challenging to construct and would have an adverse impact on operational efficiency of LLA. The ExA is satisfied with the Applicant's response on this matter.
- 3.5.20. In [\[PD-010, PED.1.1\]](#), the ExA queried the consultation that had taken place on the methodology for the alternatives assessment, whether any other factors had informed the choice of alternatives in addition to the Airports Commission Appraisal Framework (April 2014) and to justify how all the options in Strategic Option 5 would *"maintain and where possible improve"* the quality of life for Luton's residents.
- 3.5.21. The Applicant [\[REP4-061\]](#) explained that consultation included feedback from more than 40 stakeholders on the draft sift criteria, including for the final choice. It was also explained that objectives in the Airports Commission Appraisal Framework were adapted to relate to Luton's context and strategies published by LBC had been included to inform the choice of criteria. For quality of life, the Applicant explained that balancing the benefits against adverse impacts had been considered and [\[APP-210, Table 5.6\]](#) included an assessment against six sub-criteria which concluded that in balancing the access to employment, there would be slight beneficial improvement in quality of life. The ExA is satisfied with the Applicant's responses on these matters.
- 3.5.22. The ExA queried the location of LLA Operational Road (Work No. 6c(03)) [\[PD-010, PED. 1.4\]](#) and whether alternative options had been considered to reduce visual effects. In response [\[REP4-061\]](#) the Applicant advised that the proposed location was required as other locations would not be possible due to the earthworks slope. The ExA is satisfied with the Applicant's response on this matter.
- 3.5.23. The ExA's ExQ1 asked the Applicant to explain why the Surface Movement Radar (SMR) [\[PD-010, PED.1.36\]](#) and the entirety of the fuel pipe (including the associated Above Ground Installation (AGI)) [\[PD-010, PED.1.37\]](#) needed to be positioned within the Green Belt (GB) and whether alternative locations not in the GB had been

considered. These issues are discussed in the Land Use section of this report (Section 3.16).

- 3.5.24. At ISH8 [\[EV15-013\]](#) the ExA sought clarification on whether Best and Most Versatile Land (BMV) was considered during optioneering. The Applicant responded [\[REP6-066\]](#) and confirmed that at the early strategic option level BMV agricultural land was not considered as a key deciding factor. However, BMV land was considered later, at Sift 2, as a sub-criterion to the LVIA and land use assessment, during the optioneering appraisals. The ExA was satisfied with this response. BMV land is considered in more detail in the Land Use section of this report (Section 3.16).
- 3.5.25. The HHA [\[REP5-067\]](#) questioned the evolution of the master planning process in relation to landform appraisal. This matter is discussed further within the Design section of this report (Section 3.10).
- 3.5.26. In CAH1 [\[EV5-007\]](#) and in ExQ2 [\[PD-015\]](#), CA.2.2] the ExA explored how alternative locations for car parking, which would not require construction on Wigmore Valley Park (WVP), had been considered. The Applicant explained [\[REP7-051\]](#) that an alternative option (Option 1d) which retained WVP had been considered. The Applicant explained that Option 1d performed very poorly compared to the other options and was subsequently discontinued after Sift 3 [\[APP-211\]](#). The Applicant [\[AS-026\]](#), paragraphs 3.3.14 to 3.3.24] also explained how alternative carpark sites were reviewed to determine which sites to include in the Proposed Development. The ExA is satisfied that the Applicant has considered alternative car parking locations in its assessments of options.
- 3.5.27. Friends of Wigmore Park (FoWP) [\[REP6-125\]](#) asked why land at the Airport Business Park on Provost Way could not be used as a location for airport parking and a new business park. The Applicant explained [\[REP7-064\]](#) that the area suggested by FoWP was unsuitable because it was currently in use by the airport operator and would be affected by the construction of the AAR. The ExA is satisfied with the Applicant's response on this matter.
- 3.5.28. Stop Luton Airport Expansion (SLAE) suggested that other existing business parks (Butterfield Green industrial estate, Leagrave Park, Wardown Park and Lewsey Park) could be expanded so that WVP would not be required [\[REP3-140\]](#). SLAE [\[REP6-143\]](#) also suggested that there was an opportunity to re-plan GHP, T2 and associated airport infrastructure and save on the cost of the AAR by reconsidering GHP, Bartlett Square and the Proposed Development. SLAE suggested that this would present an alternative option for additional car parking and avoid building on WVP. The Applicant responded to SLAE [\[REP7-063\]](#) explaining that GHP and Bartlett Square were subject to separate planning permissions and did not form part of the Proposed Development. The Applicant also noted that the AAR was included in the Proposed Development as it would be required to access the expanded airport. The ExA is satisfied with the Applicant's response on this matter.

CONCLUSIONS ON ALTERNATIVES

The ExA is satisfied that the assessment of alternatives accords with the EIA Regulations and the ANPS (paragraph 4.28). Alternatives neither weigh for nor against the making of the Order.

3.6. AIR QUALITY

INTRODUCTION

- 3.6.1. This section of the Report considers the effects on air quality from emissions and odour that would arise from the Proposed Development. Over 400 RR referenced air quality (or pollution and odour) including effects on health and quality of life as an issue of concern. Air quality and odour were identified as a principal issue in the ExA's IAPI [\[PD-007, Annex C\]](#).
- 3.6.2. Air quality effects on biodiversity are considered under Section 3.6 of this Report; on HAs in Section 3.13; and on human health in Section 3.13. Landfill gas and GHG issues are considered separately in Sections 3.11 and 3.12 respectively.

POLICY BACKGROUND

- 3.6.3. A brief overview of key policies is provided below; a list of relevant policies and legislation can be found in Appendix B.
- 3.6.4. The APF recognises that air quality can have a significant impact on health and the local environment (particularly in Air Quality Management Areas (AQMA)). The need to achieve compliance with legal obligations and relevant air quality standards is emphasised. Whilst NO_x emissions from aviation reduce rapidly beyond the runway, vehicle traffic is highlighted as a main cause of nitrogen oxides (NO_x). Surface Access Strategies (SAS) are recommended as a means to reduce air quality impacts.
- 3.6.5. Aviation 2050, FTTF and MBU place a similar emphasis on air quality issues and emphasise the need for appropriate mitigation to be developed in consultation with stakeholders and communities.
- 3.6.6. The ANPS (paragraph 5.23) recognises the impact of pollutant emissions during construction and operation on people's health and the environment. ANPS paragraphs 5.24 to 5.27 highlight relevant legislation that sets limit values for key pollutants such as NO_x, particulate matter, heavy metals and polycyclic aromatic hydrocarbons eg the Air Quality Standards Regulations 2010 and the National Emissions Ceilings Regulations 2002 or successors.
- 3.6.7. The ANPS (paragraphs 5.32 to 5.34) sets out the requirements for an assessment of potential air quality effects during construction and operation, including from surface access. In paragraphs 5.35 to 5.41 it addresses potential mitigation measures for construction and operation, advising that the SoS will need to be satisfied that measures are acceptable. Local communities and relevant stakeholders should be consulted on the precise package of measures.
- 3.6.8. The ANPS (paragraph 5.42) states that "*In order to grant development consent, the Secretary of State will need to be satisfied that, with mitigation, the scheme would be compliant with legal obligations that provide for the protection of human health and the environment.*" Paragraph 5.43 explains that air quality considerations are likely to be particularly relevant where the Proposed Development is within or adjacent to AQMAs, nature conservation sites or affects roads that are identified as being above limit values.
- 3.6.9. The ANPS (paragraphs 5.233 to 5.238) sets out the requirements for assessment of odour and dust and the provision of sufficient information on necessary mitigation.

- 3.6.10. The NPSNN sets out the policy against which decisions on major road projects will be made. It recognises that emissions may arise from new road schemes but NO_x and particulate matter 10 micrometres or less in diameter (PM₁₀) are likely to decrease significantly in future years due to tighter emissions standards and new vehicle technology. NPSNN (paragraphs 5.6 to 5.15) set similar assessment and mitigation requirements to the ANPS. Substantial weight must be given to projects that, following mitigation, would lead to significant air quality impacts, deterioration in air quality in a zone/agglomeration or affect compliance. The NPSNN is only considered to have relevance in relation to work adjacent to the M1 J10.
- 3.6.11. The NPPF (paragraph 8c) sets out the sustainable development objective to minimise pollution and highlights the potential for sustainable transport to improve air quality (paragraph 109). Paragraph 180 requires that: *“Planning policies and decisions should contribute to and enhance the natural and local environment by... (e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of... air... pollution...”* and that *“wherever possible, help to improve local environmental conditions such as air... quality”*.
- 3.6.12. The ANPS (paragraph 191) seeks to ensure that *“new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment...”*
- 3.6.13. The ANPS (paragraph 192) states that decisions should *“sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement”* and *“ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.”*
- 3.6.14. The ANPS (paragraph 194) emphasises that where control of processes or emissions are subject to separate pollution control regimes, planning decisions should assume that these operate effectively.
- 3.6.15. Planning Practice Guidance for Air Quality (PPGAQ) places similar emphasis on legal compliance and highlights that odour and dust can be important issues for local amenity. It suggests that mitigation measures are likely to be locationally specific and should be developed in consultation with local planning authorities (LPAs).
- 3.6.16. LLP paragraph 11.61 highlights that Luton has AQMAs in the town centre and adjacent to the M1 and that poor air quality in Luton largely relates to traffic and congestion. LLP Policy LLP6 (part B) sets out the policy requirements in relation to airport expansion and operation, including any surface access improvements. Proposals for development will only be supported where they meet nine criteria, where applicable/ appropriate having regard to the scale and nature of the proposals. Policies B (ii), (iv) and (vii) are relevant to air quality:
- ii. they contribute to achieving national aviation policies;...*
- iv. they fully assess the impacts of any increase in Air Transport Movements on surrounding occupiers and/or local environment (in terms of... air quality ...), and*

identify appropriate forms of mitigation in the event significant adverse effects are identified;

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

- 3.6.17. Policy B(viii) references measures such as incorporation of sustainable transportation and surface access measures that would have potential to impact on air quality.
- 3.6.18. Policy LLP38 requires that developments demonstrate whether they will give rise to significant air quality effects (including dust, fumes, smoke and gaseous emissions), individually or cumulatively and that such impacts are suitably mitigated.
- 3.6.19. Luton Local Transport Plan 4 (April 2021) Policy 12 and Luton Local Transport Plan 3 (2011-2026) (March 2011) Policy 19 seek to improve air quality, requiring provision of air quality assessment for proposals that would change traffic volumes, composition or speed or affect areas nearly air quality thresholds.
- 3.6.20. Other local authority development plan and neighbourhood plan policies contain broadly similar objectives to the LLP, with road traffic highlighted as the major source of emissions in Hertfordshire and Buckinghamshire and AQMA highlighted in Central Bedfordshire, North Hertfordshire and Buckinghamshire.

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- 3.6.21. ES Chapter 7 [\[AS-076\]](#) and supporting appendices comprise the Applicant's assessment of likely significant air quality and odour effects. The assessment identified key pollutants of concern resulting from construction and operation of the Proposed Development and that have potentially elevated background concentrations from other sources. These are PM₁₀ and fine particulate matter 2.5 micrometres or less in diameter (PM_{2.5}), NO_x and ammonia (NH₃).
- 3.6.22. Air quality mitigation measures were summarised in the mitigation route map [\[REP10-023\]](#). Proposed construction related air quality controls were set out in the ES Appendix 4.2 Code of Construction Practice (CoCP) [\[REP8-013\]](#) and the outline Construction Traffic Management Plan (oCTMP) [\[REP11-005\]](#). Operational air quality controls are set out in the outline operational air quality plan (oOAQP) [\[REP9-013\]](#), the GCG Framework [\[REP11-013\]](#), GCG explanatory note [\[REP11-011\]](#), GCG Appendix D air quality monitoring plan [\[REP9-028\]](#) and the proposed odour reporting process [\[REP8-034\]](#).
- 3.6.23. The construction stage assessment considers the air quality and odour effects arising from works at the airport, the proposed landfill works, off-site highway works and from construction and operational traffic. The operational stage assessment considers the effect of operational traffic emissions, aviation emissions, airport ground operations and odour from the Water Treatment Plant (WTP) (Work No. 4d).
- 3.6.24. The industry standard assessment methodologies were set out in ES Chapter 7 [\[AS-076\]](#) and ES Appendix 7.1 [\[AS-028\]](#), which described the baseline data gathering, air quality survey methodologies, worst case assumptions/ limitations, aviation and traffic air quality modelling approach and the Applicant's approach to defining the assessment study area and significance criteria.

- 3.6.25. ES Chapter 7 [\[AS-076\]](#), Section 7.5] explained that the operational emissions were modelled using the Atmospheric Dispersion Modelling System - Airport model (ADMS) and that two traffic datasets were modelled, one based on local transport plans of relevant authorities and the other based on WebTAG. A compliance risk assessment based on the Design Manual for Roads and Bridges (DMRB) LA 105 'Air quality' methodology was provided. It also explained that odour assessment was based on Institute of Air Quality Management (IAQM) guidance. IAQM/ Environmental Protection UK (EPUK) guidance was used to define significance criteria for traffic and operational emissions.
- 3.6.26. Assessment years and assessment phases were defined as: assessment Phase 1, 2025 – 2027 with peak construction traffic expected in 2025; assessment Phase 2a, 2033-2036 with peak construction traffic in 2035; and assessment Phase 2b, 2037 to 2041 with peak construction traffic expected 2040). Peak year construction traffic was added to operational traffic for each assessment phase to represent a reasonable worst-case.
- 3.6.27. The Applicant's assessment of construction and operational phase likely significant effects was set out in ES Chapter 7 [\[AS-076\]](#), Sections 7.9 and 7.14]. Proposed construction air quality mitigation included CoCP measures to reduce dust and emissions and controls on construction traffic routing. Mitigation for surface access emissions included use of sustainable transport measures. Operational emissions mitigation included measures to reduce emissions from airport sources eg buildings, vehicles and Fixed Electrical Ground Power units. Details of consultation on mitigation proposals is set out in ES Section 7.4 [\[AS-076\]](#). The Applicant concluded that, with mitigation, there would be no significant effects alone or in combination with other projects during construction and operation from site works, surface access or aviation emissions for human and ecological receptors.
- 3.6.28. The Applicant's Equality Impact Assessment (EqIA) [\[AS-129\]](#) suggests that there would be no air pollution effects on protected characteristics groups on the basis that air quality effects would not be significant.

ISSUES CONSIDERED

Construction dust and emissions

- 3.6.29. Over 100 RRs eg [\[RR-0462\]](#), [\[RR-0966\]](#), [\[RR-1592\]](#), [\[RR-1129\]](#), [\[RR-1566\]](#) identified construction or construction vehicle impacts as a concern, with air quality, dust and effects on health being a key consideration.
- 3.6.30. CBC's LIR [\[REP1A-002\]](#) highlighted the potential for air quality impacts during construction from dust for residential properties and public rights of way (PRoW) to the south of LLA. It welcomed the CoCP measures but considered that Dust Monitoring Plans were not 'empirically informed' and that the management of effects including cumulative effects required additional detail. The HHA LIR [\[REP1A-003\]](#) focused on the impact of particulate emissions on air quality (but primarily from operation). LBC LIR [\[REP1A-004\]](#) considered that the information provided within the draft DCO was sufficient to consider air quality.
- 3.6.31. At the close of examination, the JHA and BC SoCG were in general agreement with the construction air quality and odour assessments and mitigation proposed [\[REP11-033\]](#), [\[REP11-035\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#), [\[REP11-099\]](#) and [\[REP11-101\]](#).

- 3.6.32. At ISH5 [\[EV10-001\]](#) the ExA explored whether 24-hour working, which was allowed for in the CoCP [\[REP8-013\]](#), had been sufficiently addressed in the ES. The Applicant [\[REP3-052\]](#) confirmed that the conservative nature of its assessment assumed a worst-case, with machinery operating for the full working day and at the maximum spatial extent that would cover short-term peaks during 24-hour working. All works were considered to be 'high risk' for dust, meaning that CoCP mitigation measures addressed a worst case.
- 3.6.33. At ISH5 the ExA also sought clarification regarding the basis for determining the magnitude of dust effects for works at M1 J10. The Applicant [\[REP3-052\]](#) explained that whilst the magnitude of effect was not explicitly described in the ES, a precautionary approach had been adopted by committing to adopting measures relevant to high-risk sites, which allowed a conclusion of negligible effects to be determined. The Applicant [\[REP11-049\]](#) noted air quality measures in the CoCP [\[REP8-013\]](#) included emissions reduction targets in environmental procurement requirements and a monitoring regime.
- 3.6.34. The ExA [\[EV10-001\]](#) and [\[EV15-001\]](#) requested confirmation of whether a conveyor belt system to transport materials on site had been considered in the assessment, particularly in light of the potential for contaminated material to be present on site. The Applicant [\[REP3-052\]](#) and [\[REP6-066\]](#) confirmed that whilst emissions from a conveyor belt system had not specifically been assessed in the ES, contaminated material would not be transported using a conveyor system, conveyors would be likely to be electric and have no local emissions and the original modelling was based on use of dump trucks, which represented a worst case in emissions terms.
- 3.6.35. The ExA [\[EV15-001\]](#) asked the Applicant to explain whether freight consolidation would be used as mitigation. The Applicant [\[REP6-066\]](#) confirmed that the assessment assumed no freight consolidation. [\[REP6066\]](#) confirmed that the assessment assumed no freight consolidation.
- 3.6.36. The ExA considers that the application would have benefited from an explicit assessment of 24-hour air quality effects. However, the Applicant has adopted a conservative worst-case assessment and identified all sites as high risk for dust mitigation, meaning that it would be unlikely that the conclusions of significance would have been different.
- 3.6.37. The ExA is satisfied that, with mitigation, use of a conveyor and works at M1 J10 would not give rise to significant dust effects and that the assessment of construction vehicle movements rather than a conveyor operation represents a reasonable worst case.
- 3.6.38. Whilst the ANPS (paragraph 5.40) lists freight consolidation as a possible mitigation measure that may be employed the ExA considers that lack of a freight consolidation system does not weigh for nor against the making of the Order. The ExA is satisfied with the construction stage assessment and mitigation proposals and that these are sufficient for the purposes of decision making. The ExA accepts the Applicant's conclusion that such effects are subject to mitigation and not deemed to be significant, however the ExA considers that such effects would contribute to a temporary, non-significant worsening of air quality around the construction works areas in all phases compared with the DM scenario, which attracts a little negative weight against the making of the Order.

Surface access

- 3.6.39. Numerous RR and WR raised the issue of pollution from increased vehicle movements on the affected road network (ARN) eg [\[RR-0472\]](#), [\[RR-1448\]](#), [\[RR-1458\]](#), [\[RR-0856\]](#), [\[REP1-106\]](#), [\[REP1-099\]](#), [\[REP1-170\]](#), [\[REP1-168\]](#) particularly in the Wigmore area. Many representations highlighted recent studies that suggested Luton had some of the highest levels of air pollution in the UK due to traffic eg [\[REP3-122\]](#). It was noted that air quality would be worsened because traffic volumes would increase, roads would be widened and would therefore be closer to receptors, new signalised junctions would result in queuing traffic and increased exhaust fumes, and vegetation that mitigated some of these effects would be lost. It was highlighted that this could affect vulnerable groups such as babies and children (eg walking to school and at school) [\[RR-1458\]](#), [\[RR-0598\]](#), [\[REP1-106\]](#) and [\[RR-0267\]](#), people with pre-existing respiratory conditions and older people in care homes eg [\[RR-0530\]](#), [\[REP1-064\]](#) and [\[REP3-122\]](#).
- 3.6.40. The Applicant [\[REP11-049\]](#) maintained that the ES had not predicted any significant air quality effects arising from traffic movements on the ARN and that the Examination had not changed this position. ES Appendix 7.3 [\[REP4-013\]](#) set out the modelling results for NO₂, PM₁₀ and PM_{2.5} emissions, which suggested that pollutant concentrations would tend to worsen in most locations, show little change or in a limited number of cases show an improvement. Changes in pollutant levels were more pronounced for NO₂ than for particulate matter. Health effects and impacts on vulnerable groups are considered further under Section 3.13 of this Report.
- 3.6.41. BC LIR [\[REP1A-001\]](#) initially disagreed with the traffic modelling and considered that construction traffic could route through Buckinghamshire affecting local villages on the affected highway network or AQMA in Aylesbury. However, all air quality matters were agreed in the Buckinghamshire signed SoCG.
- 3.6.42. CBC [\[REP1A-002\]](#) noted that some additional highway movements could occur within AQMA in Dunstable but this was approximately 10km away and unlikely to be directly impacted.
- Construction traffic routeing
- 3.6.43. ES Chapter 7 [\[AS-076\]](#) assumed that construction traffic would use the M1 and A1081 to access the Main Application Site. However, the oCTMP [\[REP11-005\]](#) assumed that some traffic might use the A602 / A505 corridor. ExQ1 [\[PD-010\]](#), AQ.1.3] asked how this assumption had been assessed in the ES and suggested that the Applicant draw on evidence for traffic distribution from the operator's recent Project Curium works. The Applicant confirmed that no allowance had been made for construction traffic on the A602 / A505 corridor [\[REP4-053\]](#) but that the small amount of predicted traffic and the management and monitoring measures in the CTMP meant that the Proposed Development would be unlikely to give rise to significant effects on air quality. It stated that data for Project Curium was not readily available.
- 3.6.44. At the close of examination, the JHA signed SoCGs made no comment on construction traffic routeing [\[REP11-033\]](#), [\[REP11-035\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#), [\[REP11-099\]](#). BC [\[REP11-101\]](#) welcomed prioritisation of movements on the primary route network.
- 3.6.45. The ExA notes that in the P19 permission, the SoS accepted that the M1 would provide the best route for accessing the airport. However, there remains some uncertainty in the ultimate routeing of construction traffic and therefore the geographic distribution of air quality effects. If additional traffic used the A602/ A505

corridor as the Applicant implied, this could give rise to increased emissions within the Hitchin AQMAs. ES Chapter 7 [AS-076] and [REP7-079] identified considerable headroom for nitrogen dioxide (NO₂) and PM₁₀ in Hitchin meaning that it was unlikely the AQMA designations or compliance with legal limits would be affected in any phases even if emissions increased. In contrast there was little headroom for PM_{2.5} in Phase 2b, therefore the ExA considers that there would be the potential for additional construction traffic to contribute to an exceedance of PM_{2.5} limits in the absence of mitigation.

- 3.6.46. The oCTMP [REP11-005] includes specific provisions relating to traffic routeing and timing, which provides an appropriate mechanism to manage such movements. GCG Appendix D air quality monitoring plan [REP9-028] also includes monitoring locations in Hitchin that could trigger GCG control measures in future, if required. The ExA concludes that the approach to construction traffic routeing would be satisfactory for Phases 1 and 2a and GCG controls would be in place to avoid exceeding air quality limits in Phase 2b. This matter is considered to be neutral and weighs neither for nor against the making of the Order.

COVID-19 implications for traffic modelling

- 3.6.47. At ISH5 [EV10-001] the ExA asked the Applicant to explain whether the air quality assessment was affected by COVID-19. The Applicant [REP3-052] explained that recent data suggested that COVID-19 had led to some reduction in pollutant concentrations and that concentrations hadn't exceeded or returned to pre-COVID-19 levels but in its opinion, this did not affect the conclusions of the assessment.
- 3.6.48. The ExA [PD-005] and [PD-006] requested updated traffic modelling to address Government guidance on the implications of COVID-19 for traffic modelling. The Applicant's updated traffic modelling was accompanied by 'Accounting for COVID-19 in transport modelling - environmental appraisal' [REP7-079]. The appraisal took account of a likely delay in delivery of non-airport, LBC road improvements (eg dualling of Vauxhall Way, was no longer predicted to occur in Phase 1). The updated air quality assessment did not identify any significant effects, although consistent with the original assessment, a general increase in pollutant concentrations was observed for the majority of receptors in the future DS scenarios compared with the baseline (a small number of receptors were predicted to experience improvements in air quality).
- 3.6.49. The ExA [PD-019] and HHA [REP9-067] questioned the criteria used to screen out road links from further detailed air quality assessment in the COVID-19 environmental appraisal. The Applicant [REP8-040] explained that the assessment was based on identifying road links at greatest risk of a significant effect on air quality due to both total pollutant concentration and change in concentration at a receptor. It confirmed that two road links had been screened out in 2027 but that no significant effect had been identified in either case.
- 3.6.50. The ExA is satisfied that the updated modelling has taken account of COVID-19 effects and provides an appropriate basis for decision making.

Modelling study area

- 3.6.51. TfL [RR-1543], [REP1-168] argued that the Applicant's assessment was largely limited to the Luton area and was concerned that the Applicant had not sought to understand the potential air pollution impacts beyond that, particularly within the Greater London area, since London remained a key origin/destination for LLA passengers. It expressed concern regarding the potential for detrimental effects on

highways already close to, or above, legal air quality limits. ES Chapter 7 [\[AS-076\]](#) stated that the study area was agreed as part of the SoS scoping opinion and developed in consultation with stakeholders.

3.6.52. The air quality study area was agreed in the JHA SoCG [\[REP11-033\]](#), [\[REP11-035\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#) and [\[REP11-099\]](#). BC [\[REP11-101\]](#) did not comment on the study area except to note that it did not extend to Buckinghamshire.

3.6.53. The ExA is satisfied that the Applicant's study area was agreed through scoping and with the local authorities and provides an appropriate basis for decision making.

Impacts on Hitchin AQMAs

3.6.54. The HHA [\[REP7-085\]](#) stated that they had no ongoing concerns in relation to the Hitchin AQMAs, however the NHDC and HCC signed SoCG [\[REP11-097\]](#) and [\[REP11-095\]](#) highlighted that mitigation proposals for Hitchin junctions (Work No. 6e(k to m)) were neither agreed nor in keeping with policy aspirations for active and sustainable travel, suggesting that there was insufficient information to determine whether these were deliverable. The councils also suggested that the measures might attract additional traffic to the Hitchin AQMAs.

3.6.55. The Applicant [\[REP6-074\]](#) provided additional air quality modelling information in relation to their Hitchin junction designs for the core planning case, which considered the effects on Stevenage Road and Payne's Park AQMAs (both declared for NO₂) and demonstrated that the maximum NO₂ and PM₁₀ concentrations were predicted to be well below the annual mean objective of 40µg/metres cubed (m³) in the DM and DS scenarios. PM_{2.5} levels were predicted to be below the objectives or to experience less than 0.1µg/m³ change between the DM and DS scenarios.

3.6.56. In ExQ2 [\[PD-015, AQ.2.1\]](#), the ExA queried whether the conclusions would change in the faster growth scenario. The Applicant [\[REP7-050\]](#) stated that maximum pollutant concentrations would increase for all pollutants but that NO₂ and PM₁₀ levels remained well within the relevant standards. For PM_{2.5} the Applicant identified a maximum PM_{2.5} concentration of 10.1µg/m³ at receptor H188 in Phase 2b but assessed this to be a slight beneficial reduction from the DM of 10.2µg/m³.

3.6.57. The ANPS (paragraph 5.43) highlights that air quality considerations are likely to be particularly relevant where the proposed scheme is within or adjacent to an AQMA and would change its size or bring about changes to exceedances of the limits. NPPF paragraph 192 states that new development in an AQMA should be consistent with the local air quality action plan (AQAP). The NHDC 'AQAP for the Stevenage Road, Hitchin AQMA and the Payne's Park, Hitchin AQMA (2018)' refers to the North Hertfordshire Local Plan 2011-2031 (2022) (NHLP) Policy D4, which requires appropriate air quality assessment and mitigation in respect of effects from development.

3.6.58. The ExA concludes that the Applicant's assessment, based on its submitted junction designs, is consistent with the requirements of Policy D4 and therefore satisfies NPPF paragraph 192. Having reviewed the findings of the assessment, the ExA considers that the Proposed Development is unlikely to give rise to a change in the AQMA size or a new exceedance of the limit values for NO₂, PM₁₀ or PM_{2.5}.

3.6.59. The NHDC and HCC signed SoCG [\[REP11-097\]](#) and [\[REP11-095\]](#) suggested they were in negotiations with the Applicant regarding a change to signalised junctions in

Hitchin. The ExA recommends that in light of the potential for junction designs to change and given that such changes have not been subject to assessment the SoS may wish to obtain further information relating to the final junction solutions, how these satisfy local policy ambitions and their effects on the AQMAs.

Impacts due to loss of roadside vegetation and distance to receptors

- 3.6.60. A number of representations highlighted that junction works and road widening would result in loss of screening roadside vegetation and bring receptors closer to exhaust emissions on approach roads to the north of LLA, including walking routes used by school children eg [\[RR-1008\]](#), [\[RR-1498\]](#), [\[RR-1370\]](#), [\[RR-0026\]](#) and [\[RR-0854\]](#).
- 3.6.61. The Applicant stated that the air quality assessment had considered the impact of junction works and highway widening and that predicted effects were not significant [\[REP1-020\]](#).
- 3.6.62. LBC did not specifically comment on loss of roadside vegetation in its LIR [REP1A] or SoCG [\[REP11-033\]](#). [REP11033](#).
- 3.6.63. The ES concludes that air quality would worsen slightly for receptors compared with the DM scenario but notes that these effects are not significant.
- 3.6.64. The NPPF (paragraph 192) states that opportunities to improve air quality or mitigate impacts should be identified including green infrastructure (GI) provision and enhancement.
- 3.6.65. The ExA is satisfied with the assessment conclusions but notes that the off-site highway works lack detail regarding any proposed measures to replace the limited roadside GI that would be lost during construction. This does not fully accord with NPPF (paragraph 192), which the ExA considers attracts a very little weight against the making of the Order.

Surface access - conclusions

- 3.6.66. The ExA is satisfied with the surface access assessment and mitigation proposals are consistent with the ANPS (paragraph 5.33) requirement to consider surface access emissions and provide an appropriate basis for decision making. The ExA accepts the Applicant's conclusion that such effects are not deemed to be significant, however the ExA considers that such effects would contribute to a non-significant worsening of air quality in proximity to the ARN in all phases in the DS scenario, which attracts a little weight against the making of the Order.

Operation

Baseline air quality monitoring

- 3.6.67. A number of RRs eg [\[RR-0779\]](#), [\[RR-0090\]](#), [\[RR-1440\]](#), [\[RR-0166\]](#) and [\[REP1-130\]](#) raised issues with baseline air quality monitoring. [\[RR-0779\]](#) stated that "*air pollution ratings were taken as far away from its source as legally possible and are not reflective of the additional pollution people in the area would suffer from*". Similarly, [\[RR-1440\]](#) and [\[REP1-130\]](#) suggested that pollution monitors were unrepresentative. BC [\[RR-0166\]](#) raised issues with the low data capture from the real time automatic monitor at the airport. Luton Friends of the Earth [\[REP1-099\]](#) stated that it had placed NO₂ diffusion tubes around Luton including on school walking routes during March and April 2018. Their results suggested exceedance of

the objectives in two junction locations but elevated levels under the objective at five other locations.

- 3.6.68. The Applicant [\[REP1-020\]](#) highlighted that monitoring had been ongoing since 2019 and included automatic and passive monitoring in 12 locations representative of key receptors that had been used to inform model verification. This monitoring was supplemented by BC and LLAOL monitoring covering a range of pollutants including NO₂, PM₁₀, PM_{2.5}, sulphur dioxide (SO₂), Ozone (O₃), carbon monoxide and volatile organic compound (VOC) species of Benzene, Toluene, Ethylbenzene, m/p-Xylene and o-Xylene, and Naphthalene. These were subject to relevant validation and ratification standards and subject to third party audits.
- 3.6.69. The JHA and BC SoCGs agreed with the Applicant's approach to baseline data collection [\[REP11-033\]](#), [\[REP11-035\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#), [\[REP11-099\]](#) and [\[REP11-101\]](#).
- 3.6.70. The ExA notes the concerns expressed in relation to air quality monitoring but has not received evidence that would undermine the Applicant's baseline monitoring data. It is unclear whether the Friends of the Earth diffusion tube sampling and analysis were undertaken by professional experts or whether the values reported are representative of relevant exposure at receptor locations. In any case they do not represent the future baseline DM case, which is the basis for the Applicant's comparative assessment and is predicted to improve in future as engine technology improves (based on Department of Environment Food and Rural Affairs (Defra) projections). The ExA notes the local authorities' agreement with the Applicant's approach and is satisfied that the baseline air quality monitoring provides an appropriate basis for decision making.

Modelling assumptions

- 3.6.71. At ISH5 [\[EV10-001\]](#) and in ExQ1 [\[PD-010\]](#), AQ.1.4 to 1.8] the ExA questioned a number of basic assumptions within the Applicant's air quality model including runway modal split differences between the air quality and noise models, effects of terrain, aircraft thrust, pollutants and averaging periods, use of generators and carriageway width assumptions used in air quality modelling. The Applicant's responses in [\[REP3-052\]](#) and [\[REP4-053\]](#) provide justification for these assumptions.
- 3.6.72. Mr White [\[REP7-108\]](#) questioned whether additional tanker refuelling journeys would be required and whether they had been assessed. The Applicant [\[REP8-038\]](#) confirmed that these had been assessed in the ES [\[AS-076\]](#).
- 3.6.73. CPRE [\[RR-0289\]](#) and [\[RR-0290\]](#) suggested that the Applicant placed reliance on assumptions of newer generation aircraft, and efficient and cleaner vehicles to reduce emissions in future but there was no guarantee that such technologies would be taken up or achieved as forecasted. The Applicant [\[REP1-023\]](#) responded that the method was agreed with local councils and was conservative in its assumptions regarding future road traffic emissions and aircraft types (eg assuming no improvement in emissions after 2030).
- 3.6.74. The ExA [\[EV10-003\]](#) explored elements of the Applicant's model validation and verification process. It also identified discrepancies between the appendices [\[REP4-013\]](#) and [\[REP4-015\]](#) and the ES [\[AS-076\]](#) conclusions. The Applicant [\[EV10-003\]](#), [\[REP3-052\]](#), [\[REP4-088\]](#) responded to these matters.

- 3.6.75. The HHA [REP3-096] and [EV10-003] confirmed that they had no comments on the model verification process. LBC [REP3-106] stated that most air quality matters were agreed.
- 3.6.76. Several representations suggested that pollutants such as O₃ had not been adequately considered [RR-0103], [RR-1406] and [RR-0743]. The ExA [EV10-003] asked for further justification for ruling out O₃ from consideration on the basis that the International Civil Aviation Organisation (ICAO) white paper 'Aviation impacts on air quality: state of the science (2016)', suggests that ground O₃ is formed by aviation emissions. The Applicant [REP3-052] stated that the scope of pollutants had been agreed with the local authorities, that O₃ is a transboundary pollutant influenced by regional effects and O₃ is monitored at the airport along with a wide suite of other pollutants. The ExA [EV10-001] asked the Applicant to comment on the potential for O₃ to generate secondary pollutants. The Applicant [REP3-052] responded that this had been considered in the Clapp and Jenkins approach in the model and that sensitivity tests in [REP4-015] demonstrated that the approach was conservative.
- 3.6.77. The ExA [EV10-001] asked whether a delay in the diesel ban would affect future baseline air quality assumptions. The Applicant [REP3-052] explained that the air quality model was conservative and assumed no improvement in air quality performance following 2030, meaning that it was unaffected by the delay to the diesel ban.
- 3.6.78. The ExA is satisfied that relevant pollutants have been modelled, consistent with the requirements of the ANPS and that the operational air quality model is representative of future conditions. The ExA notes the potential for a slight underprediction in the modelling for PM₁₀ and some larger variations in modelled and monitored NO₂ data within or near the Luton AQMAs but is satisfied that the conservative assumptions built into the Applicant's model ensure that the results are sufficiently representative. The ExA considers that whilst air quality effects may not be significant, there would be some deterioration in air quality across the ARN relative to the DM scenario in future years. This would slow the trajectory of improvement in air quality, at odds with the NPPF (paragraph 180e) aim that development, where possible, should help to improve local environmental conditions such as air quality and is inconsistent with the requirements of ANPS (paragraph 5.43) to avoid deterioration and weighs against the making of the Order. However, the ExA notes that this would not impact on compliance and is not assessed as significant in EIA terms and therefore attracts a little negative weight.

Impacts on Central Bedfordshire

- 3.6.79. CBC SoCG [REP11-035] and LIR [REP1A-002] were concerned about the lack of detail for predictions of air pollution in Central Bedfordshire (in particular at Luton Hoo and Someries Castle). The Applicant considered that its modelling methodology [AS-028] was robust and included receptors in both areas, which concluded negligible impact in any phase.
- 3.6.80. The ExA acknowledges that [AS-028] does not allow for receptors to be easily categorised at a local authority level. Whilst this might be helpful for understanding the individual impacts, the EIA Regulations do not prescribe how to present this information. The ExA is satisfied that the scope of assessment in respect of Central Bedfordshire provides an appropriate basis for decision making.

Impacts on athletes - Luton Town Football Club (LTFC)

- 3.6.81. SLAE [\[REP1-161\]](#) suggested that emissions from the Proposed Development could impact on LTFC's athletes using their training ground and new stadium and presented case studies from other countries regarding the effects of air quality on health and performance. LTFC [\[REP6-141\]](#) acknowledged that aviation could give rise to pollution effects but stated that it was uncertain whether data from abroad could be directly related to UK pollution levels and that it did not anticipate issues in athlete health or performance if air quality remained within UK legal limits.
- 3.6.82. The ExA notes that the assessment does not identify significant effects in relation to air quality and is satisfied that significant effects on LTFC may be excluded.

Ultra-Fine Particulates (UFP)

- 3.6.83. LADACAN [\[REP1-095\]](#), Luton Friends of the Earth [\[REP1-099\]](#) and the HHA [\[REP2-022\]](#), [\[REP2-023\]](#), [\[REP2-024\]](#) highlighted that aviation can give rise to UFP. LADACAN requested that the ExA examine whether the application specified adequate provisions for the health and safety of airport staff exposed to UFP. The HHA [\[REP3-096\]](#) signposted to a 2018 Defra report 'UFP in the UK' which recommended establishing one permanent UFP monitoring site in the vicinity of a major airport although it also noted that UFP is only monitored at three sites in the south east of England; there are no ambient air quality standards for UFP in the UK or elsewhere; aviation is likely to become an important contributor to UFP emissions as road transport emissions decrease; and 100% of aviation particulate emissions are in the PM_{2.5} or less size class.
- 3.6.84. The Applicant [\[REP2-037\]](#) stated that there were no locations where people spend time equivalent to the short-term targets and no exceedance of short-term objectives. In [\[REP11-095\]](#) it acknowledged the request for UFP monitoring but stated that monitoring would not be undertaken as there are no legislated air quality standards for UFP. The HHA [\[REP11-095\]](#), [\[REP11-099\]](#), [\[REP11-097\]](#) agreed that in the absence of any standards, UFP monitoring should not be undertaken.
- 3.6.85. The ExA considers that in the absence of legislated standards for UFP, it would not be appropriate to impose monitoring requirements for UFP. The ExA notes that the Applicant has committed to monitor PM_{2.5} emissions, which incorporate the UFP size fraction. The ExA considers that the assessment has considered relevant pollutants and provides an appropriate basis for decision making.

In-combination climate change assessment

- 3.6.86. At ISH5 [\[EV10-001\]](#) the ExA questioned a potential discrepancy between the embedded design measures in ES Chapter 3 [\[AS-026\]](#), Table 3.4 Climate Change Resilience (CCR) (i) and (k)] to reduce the impact of high winds and the conclusion in ES Chapter 7 [\[AS-076\]](#), Table 7.11] that suggested changes to wind speed were not significant because they were of remote likelihood, improbable occurrence, and very low consequence.
- 3.6.87. The Applicant [\[REP3-052\]](#) suggested that the measures in [\[AS-026\]](#) were not related to the In-Combination Climate Change Impact (ICCI) assessment, for which measures were set out in ES Chapter 7 [\[AS-076\]](#). The Applicant also highlighted the uncertainty of wind speed forecasting and that average wind speed and direction was the main factor influencing annual mean concentrations.

- 3.6.88. The ExA considers that there is inconsistency in the Applicant's position, which embeds mitigation measures for high wind resulting from climate change on the one hand and on the other concludes that changes to wind speeds are unlikely. However, the ExA considers that high wind speeds would tend to increase dispersion and reduce pollutant concentrations and is satisfied that the assessment provides an appropriate basis for decision making.

GCG Framework – air quality

- 3.6.89. The GCG Framework [\[REP11-013\]](#) for air quality differed from other GCG controls. Limits and Thresholds were set relative to legislative standards. The GCG Framework included air quality monitoring at 15 locations (see GCG Framework, Figure 4.1) that must be carried out in accordance with the requirements of GCG Appendix D [\[REP9-028\]](#). Of the 15 locations, certain locations were 'in scope' for GCG controls and others were 'out of scope' and identified just for monitoring (see GCG Framework, Table 4.2). In and out of scope locations would vary between phases and pollutants, with no in scope locations identified in Phase 2a. Where in scope locations identified that air quality exceeded the Threshold or Limit values in Table 4.2 and the operator could not demonstrate that a breach was due to factors unrelated to the airport, the operator would be required to undertake further analysis to demonstrate the airport's proportional contribution, requiring a change in pollutant concentrations 5% greater than the contributions shown in Table 4.2 to trigger the GCG controls.
- 3.6.90. The framework and draft DCO [\[REP11-091\]](#), Requirement 25] included a review of GCG processes within three years from the date that the Article 44(1) notice was served, then on a five yearly basis. The review would be reported to the ESG. The review would assess whether monitored pollutant concentrations were 20% higher than originally forecast, in which case they would be brought in scope for GCG. A change in UK legal limits would trigger a review within six months to consider the appropriateness of aligning the Limits and Thresholds with the new legal limits but there would be no absolute requirement to do so. The Applicant explained that the framework was developed in response to feedback from statutory consultation in 2019 and was subject to statutory consultation in 2022 and engagement with statutory bodies [\[REP11-011\]](#).
- 3.6.91. GCG processes for air quality would be subject to a transition period as set out in Part 3 of the Applicant's draft DCO [\[REP11-091\]](#).

Transition period

- 3.6.92. At ISH1 [\[EV6-001\]](#), the ExA sought to clarify the wording of the transition period in the Applicant's GCG explanatory note [\[APP-217\]](#) and draft DCO [\[APP-006\]](#) and whether it could result in a period of up to 2.5 years before the GCG air quality controls would apply. LADACAN expressed concern that the lack of controls during the transition period would allow the Applicant to increase the number of flights through capacity declarations without any GCG controls being in place.
- 3.6.93. At ISH9 [\[EV16-004\]](#) the Applicant proposed that GCG would apply from the first of January in the calendar year following the service of the Article 44(1) notice, so that all Thresholds and Limits would apply immediately from that point. [\[REP8-038\]](#) suggested that this was in part necessary to allow monitoring to be set up and to avoid applying GCG controls to baseline conditions.
- 3.6.94. Requirement 21(1) of the Applicant's draft DCO [\[REP11-091\]](#) reduced this period stating "*The undertaker must, in accordance with the Monitoring Plans, monitor—...*

...(b) air quality... from 1 January following the end of the calendar year in which that notice is served."

- 3.6.95. In the ExA's schedule of proposed changes to the DCO [PD-018] the ExA proposed that there should not be a transitional period and that monitoring should commence during the year prior to serving the Article 44(1) notice to ensure that the monitoring was operating and effective. The Applicant [REP8-036] was concerned that a Requirement to deliver monitoring in advance of serving Article 44(1) notice would delay implementation of the Proposed Development. In contrast, the JHA [REP8-052] were supportive of this approach.
- 3.6.96. The oOAQP [REP9-013, paragraph 2.8.1] commits to "*establish air quality monitors... by 1st July in the year in which notice under Article 44(1) of the DCO is served.*" The JHA SoCGs [REP11-033], [REP11-035], [REP11-095], [REP11-097] and [REP11-099] stated that "*in response to specific concerns raised by the Hertfordshire authorities, the Applicant will use reasonable endeavours (noting that this will require installation of air quality monitoring equipment outside of the red line boundary) to undertake Air Quality monitoring 6 months ahead of serving notice under Article 44(1).*"
- 3.6.97. The ExA finds that the Applicant's commitment to install air quality monitoring six months in advance of serving notice under Article 44(1) is not secured. The oOAQP [REP9-013] secures monitoring following serving of notice but is capable of amendment under Requirement 2 of the draft DCO. Draft DCO Requirement 21 would allow a period of approximately two years to elapse before monitoring data was available to inform whether mitigation would be necessary under the air quality component of the GCG Framework.
- 3.6.98. The ExA considers that although air quality effects are not determined to be significant, there is some uncertainty in the phasing of development, growth and consequent emissions. To ensure that effective air quality mitigation measures would be in place the ExA proposes additional Requirement wording in Section 7 to ensure that air quality monitoring would be in place and effective prior to serving Article 44(1) notice.
- 3.6.99. With the additional Requirement wording, the ExA is satisfied that the Proposed Development could operate GCG air quality mitigation measures from the point of serving Article 44(1) notice which would not weigh against the case for the Proposed Development. If the SoS considers that the additional wording is not necessary, then the ExA takes the view that, for the reasons set out above, the potential effects of the Proposed Development on air quality would attract a little negative weight against the making of the Order.

Short-term air quality effects, monitoring and emissions inventories

- 3.6.100. The HHA LIR [REP1A-003], WR eg [REP1-069], [REP3-089] and closing position statement [REP11-063] suggested that the Applicant's air quality GCG Thresholds and Limits should support a proactive approach to emissions management. They recommended including short-term limits, particularly for PM_{2.5}, since short-term events could affect acute health conditions such as asthma. The HHA [REP11-063] suggested adopting the World Health Organisation (WHO) interim target three for 24-hour mean concentration. TfL [REP1-168] and HarpendenSky [RR-0530] suggested that limits should be more challenging also arguing that WHO guideline values for PM_{2.5} air quality should have been adopted. In [REP1-064] and [REP2-056] HarpendenSky highlighted evidence that Luton was in the top four

areas for PM_{2.5} related deaths as a percentage of total deaths in the UK. Slip End Parish Council (PC) [RR-1408] suggested that a limited range of contaminants had been considered and that there was no monitoring west of LLA. Daisy Cooper MP [REP1-050] suggested that monitoring should be undertaken by an independent body.

- 3.6.101. The Applicant [AS-076], [REP1-021], [REP7-054] and [REP6-076] set out its position on short-term measurements and monitoring. It stated that monitored and modelled annual mean concentrations of NO₂, PM₁₀ and PM_{2.5} did not exceed the short-term standards. As a result, detailed assessment of short-term effects was not undertaken, consistent with the requirements of Defra local air quality management technical guidance. The Applicant also considered that short-term exposure would only be relevant at locations where people spent time equivalent to the short-term limits and that attributing short-term peaks to the airport would be a significant challenge due to local variables. In [REP2-034] the Applicant emphasised that GCG activities would be overseen by the ESG.
- 3.6.102. In response to HHA concerns, the Applicant agreed to monitor short-term emissions but not to set short-term Thresholds or Limits in the GCG Framework [REP11-013]. The Applicant pointed out that in central Luton where PM_{2.5} is monitored, it was currently at the objective of 10µg/m³, to be achieved by 2040 and the assessment assumed no improvement in background levels after 2030 [EV10-003].
- 3.6.103. The HHA LIR [REP1A-003] and closing position statement [REP11-063] disagreed with the Applicant's proposed choice of 'AQMesh or equivalent' indicative monitoring for PM₁₀ and PM_{2.5}, arguing that it did not meet the relevant British Standards for monitoring and suggested that a Palas Fidas 200 dust monitor would be more appropriate.
- 3.6.104. In ExQ2 [PD-015, GCG.2.9], the ExA requested information on the Applicant's calibration regime for air quality monitors and whether it would conform with EA Monitoring Certification Scheme (MCERTS) standards.
- 3.6.105. The Applicant [REP6-076] set out reasons why indicative monitoring rather than a Defra equivalent reference method (reference MCERTS) was proposed for continuous ambient monitoring as follows:
- Reference MCERTS are required for EU reporting purposes;
 - Certification of indicative MCERTS monitors means data would be fit for purpose;
 - ES Chapter 7 [AS-076] predicted no significant effects therefore lower cost indicative monitors were proportionate;
 - indicative MCERTS monitors could be deployed more easily in certain locations; and
 - rigorous quality assurance and control procedures would be in place, including colocation with a reference monitor.
- 3.6.106. The Applicant [REP7-054] stated that different suppliers would have different calibration requirements therefore it would not be suitable to confirm the calibration regime. GCG Appendix D [REP9-029] assumed that AQMesh or equivalent data would be used to report particulate matter and provided for one Defra equivalent reference monitor at one GCG monitoring location. The Applicant did not specifically comment on the Palas Fidas 200.

- 3.6.107. The HHA [\[REP11-063\]](#) sought monitoring close to the airport to capture both short and longer-term pollution exposure, stating that this had been partly addressed in [\[REP9-028\]](#).
- 3.6.108. The HHA [\[REP3-096\]](#), [\[REP7-085\]](#) and JHA [\[REP6-094\]](#) also sought real-time air quality controls (using continuous sensor monitoring systems) and a more adaptive approach. The Applicant [\[REP8-038\]](#) rejected these proposals on the basis that Thresholds and Limits were based on an annual objective and measured using diffusion tubes that would require bias adjustment. It committed to provide near real-time open-source data from the continuous monitoring system, observing that it would be in the interests of the airport operator to take early action where risks of exceedances were identified.
- 3.6.109. The HHA [\[REP1A-003\]](#) requested use of an emissions inventory to control and review emissions of pollutants from airport sources. The Applicant [\[REP6-076\]](#) stated that an emissions inventory would be carried out to report total emissions from aircraft and on airport sources and that this would support validation of monitoring results.
- 3.6.110. The ExA [\[PD-018\]](#) explored the option of securing a monitoring plan Requirement. The Applicant [\[REP8-036\]](#) stated that the existing DCO Requirements in respect of air quality were effective in reviewing and amending monitoring proposals as necessary.
- 3.6.111. LBC's final position statement [\[REP11-069\]](#) indicated that it was satisfied with the approach to air quality monitoring. [\[REP7-090\]](#) stated that it did not consider a Requirement to be necessary.
- 3.6.112. The ExA is satisfied that the GCG Framework Thresholds and Limits reflect relevant UK legal obligations for air quality, consistent with the requirements of the ANPS and NPSNN. The ExA finds that there is no specific policy or legislative requirement to adopt WHO targets. In relation to monitoring the ExA considers that reference MCERTS monitoring equipment would provide the greatest assurance that air quality measurements were robust but in light of the lack of significant effects identified in ES Chapter 7 [\[AS-076\]](#) and the commitment to one reference MCERTS monitor and real-time reporting, is satisfied with the Applicant's proposed monitoring is sufficient for the purpose of decision making.

Faster growth contours

- 3.6.113. TfL [\[REP1-168\]](#), paragraph 5.5] argued that GCG limits "*should be further tightened, currently based on a core forecast with additional headroom*". The Applicant [\[REP2-039\]](#) stated that the air quality limits were based on UK legal limits and included a review mechanism should these limits change in future.
- 3.6.114. The ANPS (paragraph 5.42) and NPSNN (paragraph 5.10) emphasise the need to comply with legal obligations for air quality. The ExA considers that the Applicant's assessment has demonstrated compliance with legal obligations and that the proposed GCG controls are over and above the minimum requirements for mitigation, given that the ES did not identify significant air quality effects. The ExA is satisfied that the controls are sufficient for the purposes of decision making.

In scope locations and percentage contributions

- 3.6.115. The ExA [\[EV10-001\]](#) and [\[PD-021\]](#) questioned the approach to determining in scope locations and the use of a '5% above the percentage contribution' criterion to

determine whether pollutant contributions should be subject to GCG processes in [REP11-013, Table 4.2] and draft DCO Requirement 19(b) [REP11-091].

- 3.6.116. The Applicant [REP5-090] and [EV10-003] explained that ES Chapter 7 [AS-076] considered impacts on 601 air quality receptors and that it was necessary to refine this for a proportional assessment to 15 key locations. In scope locations were determined by total airport contributions (existing operations plus the Proposed Development), in contrast to the assessment of likely significant effects which were based on consideration of the additional contributions from the Proposed Development.
- 3.6.117. The Applicant [EV10-003] and [REP3-052] stated that the 5% allowance reflected practical constraints around monitoring airport contributions to air quality and isolating that from general background situations. It also represented a buffer, broadly reflecting the bandings of significance set out in Table 3.2 of the IAQM/ EPUK 2017 guidance.
- 3.6.118. The ExA [EV10-003] questioned whether the 5% allowance could create a situation where the applied GCG Limits would be above the statutory air quality objectives. The Applicant responded that the GCG Framework was designed so that the airport would need to take proactive management of effects when a threshold or limit was exceeded.
- 3.6.119. The ExA [EV10-003] asked whether the lack of in scope locations in Phase 2a meant that the GCG provided no limits on emissions at all. The Applicant stated that its assessment demonstrated negligible impact across the three pollutants in Phase 2a meaning that no locations needed to be in scope but the review process could bring locations in scope if the 20% threshold were exceeded.
- 3.6.120. The ExA highlighted that with a five yearly review process there could be a gap between levels increasing and any action being taken, if air quality effects were worse than predicted. The Applicant [REP4-089] proposed amendments to the GCG Framework for Phase 2a, suggesting that it would review the airport contribution to any increase in pollutant concentration at that location and consider whether to bring a location in scope. The findings would be shared with ESG who would approve or refuse a decision as to whether the location would remain out of scope or be brought in scope. The JHA [REP6-094] suggested that the revised review process for Phase 2a should apply to all out of scope locations.
- 3.6.121. The ExA [PD-021] requested a worked example to demonstrate how the 5% criterion would apply to the exceedance of a limit (given that it could result in different total contributions being determined at different locations) and to explain why the 5% criterion needed to be secured by Requirement. The Applicant [REP9-057, Appendix B] suggested that without this criterion a 0.01µg/m³ change could trigger GCG processes. 5% was also consistent with IAQM/ EPUK significance bands. It considered a Requirement was necessary to make clear how an exceedance should be interpreted, noting that it was not contested, nor was it capable of review in the way that other elements of GCG would be.
- 3.6.122. At ISH5 [EV10-003] the Applicant stated that GCG for air quality focused only on surface access emissions. The ExA asked why. The Applicant [REP3-052] explained that airport emissions contributed a relatively small proportion of pollutants. [REP3-076] provided a breakdown of non-surface access emissions to demonstrate the small proportional contribution of LLA relative to traffic, except for

receptors in close proximity to the airport. It then confirmed that, in fact, GCG considered air quality for all project related emissions, not just surface access.

- 3.6.123. In ExQ1 [\[PD-010\]](#), GCG.1.10] and ExQ2 [\[PD-015\]](#), GCG.2.10] the ExA questioned how the proportional contribution of LLA to emissions would be established. The original GCG Appendix D [\[APP-222\]](#) suggested that Automatic Number Plate Recognition (ANPR) would be used to establish vehicle movements to the airport, informing the assessment of the contribution.
- 3.6.124. At ISH5 [\[EV10-003\]](#) the ExA asked what progress had been made towards establishing ANPR. The Applicant [\[REP3-052\]](#) explained that it would be an extensive undertaking to implement a network of ANPR cameras across all locations. It stated that work to determine the airport's contribution would take place once a Threshold or a Limit had been exceeded, on a case-by-case basis in response to monitored air quality concentrations. In ExQ1 [\[PD-010\]](#), GCG.1.10], the ExA asked what process would be used if ANPR was not used. The Applicant [\[REP5-090\]](#) clarified that it would not mandate an approach and did not intend to establish an ANPR monitor network from the outset but that it was one method that could be used and that over the lifespan of the Proposed Development other methods might be available. LBC [\[REP7-090\]](#) did not require ANPR data but recognised that it could be very useful.
- 3.6.125. CBC LIR [\[REP1A-002\]](#) and SoCG [\[REP11-035\]](#) considered that the lack of monitoring in Central Bedfordshire (in particular locations in the southwestern parishes near to the airport) was unacceptable. CBC highlighted ANPR references in the outline Transport Related Impacts Monitoring and Mitigation Approach (oTRIMMA) [\[REP10-036\]](#). The Applicant [\[REP2A-005\]](#) ruled out monitoring in South Bedfordshire on the basis that no air quality impacts had been identified in that location.
- 3.6.126. The local authority SoCGs and final position statements did not raise any specific concerns with the 5% or 20% thresholds [\[REP11-063\]](#), [\[REP11-069\]](#), [\[REP11-033\]](#), [\[REP11-035\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#), [\[REP11-099\]](#) and [\[REP11-101\]](#).
- 3.6.127. Based on the evidence provided, the ExA has reservations that 5% percentage contribution and 20% greater than modelled thresholds could create headroom for the Applicant that reduces the likelihood of a GCG air quality control being implemented. However, the ExA finds that, in light of the assessment conclusions of no likely significant air quality effects and in the absence of comment from the local authorities, it is satisfied that the contributions are reasonable as part of the backstop control measure.
- 3.6.128. The ExA considers that use of ANPR data from the outset would assist in determining the airport's proportional contribution to pollutant concentrations but acknowledges that other methods may be available to achieve this. The ExA acknowledges CBC concerns regarding the extent of ANPR coverage and monitoring but notes that three monitoring locations are on the border with Central Bedfordshire and that the Applicant's assessment did not identify significant air quality effects in South Bedfordshire that required further assessment. In the absence of comments from other local authorities on proportional contributions, the ExA is satisfied with the proposed approach.
- 3.6.129. The ExA considers that the GCG monitoring controls are acceptable and would contribute towards compliance with relevant limit values for pollutants and are therefore consistent with the requirements of the NPPF (paragraph 192) and the

ANPS. The ExA considers that the controls are sufficient for the purposes of decision making.

Mitigation toolbox

- 3.6.130. The GCG Framework explanatory note [\[REP11-011\]](#) references a “*toolbox of measures*” to mitigate air quality effects. The HHA [\[REP1-069\]](#) highlighted that mitigation measures would be retrospective. IPs eg [\[REP1-119\]](#) and [\[REP1-056\]](#) questioned the measures or the ability of the airport operator to deliver them. At ISH5 [\[EV10-003\]](#) and [\[EV10-005\]](#) the ExA requested this clarification and asked how many of the mitigation measures proposed for air quality in the oOAQP [\[REP9-013\]](#) were committed as opposed to aspirational.
- 3.6.131. The Applicant [\[EV10-003\]](#) stated that the toolbox of measures was similar for air quality and surface access and supported by measures in the Framework Travel Plan (FTP) [\[REP11-027\]](#) eg encouraging use of public transport and cleaner or zero emission vehicles. It considered that GCG was a backstop and measures within the toolbox were not necessarily committed to now because the air quality assessment showed no significant effects or requirement for mitigation now and requirements could change over a 20-year expansion program. In addition, air quality effects were necessarily retrospective because they related to annual emissions targets. In [\[REP4-070\]](#) the Applicant stated that all actions in the oOAQP were committed to and it had worked in partnership with the airport operator to review and draft the measures.
- 3.6.132. The ExA is satisfied that the oOAQP sets out relevant measures to mitigate operational air quality effects and that it is supported by FTP surface access measures. The ExA considers that uncertainty remains regarding the precise mitigation measures that would be employed if an exceedance of GCG air quality Limits occurred. However, the ES [\[AS-076\]](#) identified no significant air quality effects, so such measures would be an additional backstop and the duration of the expansion creates a degree of uncertainty that argues for some flexibility.
- 3.6.133. Mitigation could be retrospective but the ExA considers that the GCG Level 1 and Level 2 Thresholds would act as a proactive measure to avoid potential exceedances. Since the outcome of an exceedance would be to prevent further growth, this would act as an incentive for the Applicant to resolve an exceedance in a timely fashion. Overall, the ExA is satisfied that the proposed approach would achieve its aims and is consistent with the requirements of national policy to mitigate effects and are sufficient for the purposes of decision making.

Review

- 3.6.134. The ExA [\[EV10-003\]](#) asked whether it would be acceptable to wait six months to trigger a review when a new legal provision came into force and whether the provision meant that the Applicant would not need to comply with UK legislation.
- 3.6.135. The Applicant [\[REP4-070\]](#) suggested that this was not the intent of the wording and that it sought to prevent an automatic transposition of any new legislation into the GCG process, which might prevent implementation of consents. It also suggested that precedent for its position had been established through the appeal decision for Stansted Airport’s proposed increase to 43mppa. The Applicant set out a number of elements that a review would need to consider such as the extent of airport contributions relative to new legal limits, the extent of any proportionate mitigation needed and how measures could be incorporated within the oOAQP. It also suggested a change of wording to review “*within six months of new legal limits*

being published” rather than “*within six months of new legal limits coming into force*”. The ExA notes that the GCG Framework ([[REP11-013](#)], eg paragraphs 4.2.2 and 4.4.1) retains both forms of wording.

- 3.6.136. The ExA has considered the Applicant’s submissions and considers that the approach to review of limits is satisfactory, however the ExA recommends that the SoS obtains an updated GCG Framework that consistently refers to “*within six months of new legal limits being published*”.

GCG Framework – air quality – conclusions

- 3.6.137. The ExA is satisfied that the GCG Framework provides a back stop for air quality effects. In combination with measures in the mitigation route map, the oOAQP and FTP it provides an appropriate basis for control of emissions to air from the Proposed Development. This is consistent with mitigation requirements in the ANPS, NPSNN and NPPF and is sufficient for the purposes of decision making.

Water Treatment Plant odour

- 3.6.138. The ExA explored the implications of the proposed WTP as a source of odour. It considered that there was a lack of clarity regarding the WTP design and the potential for odour effects to arise from the WTP in [[APP-034](#)] and [[APP-061](#)].
- 3.6.139. ES Chapter 7 [[AS-076](#)] concluded that the magnitude of odour impacts would be slight adverse and not significant. [[APP-061](#)] stated that the WTP would be an insignificant source of odour and that odour control technology would be provided to mitigate odour “*should it be required*”.
- 3.6.140. ES Chapter 13 [[REP10-009](#)] required identification of more than one significant effect on a receptor to identify a significant community effect. The ExA considered that uncertainty in the significance of odour effects on amenity in WVP meant that there was potential that an additional significant community effect could occur.
- 3.6.141. At ISH5 [[EV10-001](#)] the ExA asked the Applicant how it would determine whether mitigation was required. The ExA also asked for clarification regarding the extent of study areas and sought to clarify whether reference to ‘*an acceptable level of odour*’ in [[AS-028](#)] equated to ‘*no significant odour effect*’. In relation to the statement of statutory nuisance the ExA [[PD-010](#), AQ.1.9] asked how odour and flies from the WTP (which included sludge handling processes) would be addressed.
- 3.6.142. The Applicant [[REP3-052](#)] confirmed that the final design would be subject to an Environmental Permit and that the EA would not permit a site that would result in a significant impact. It confirmed that an acceptable level of odour equated to a conclusion of no significant effect on recreational amenity. The Applicant considered including a commitment to employ appropriate means to minimise the risk of detectable odour outside the boundary, although ultimately it did not include relevant wording in the final oOAQP [[REP9-013](#)]. LBC [[REP6-106](#)] suggested that the Environmental Permit limits were usually stringent and applied at a site boundary.
- 3.6.143. During Examination the Applicant submitted a change request for an alternative drainage solution, discharging effluent to the Thames Water sewer [[AS-152](#)]. It suggested this would avoid the need for sludge handling facilities on site and avoid the risk of odour effects. The Applicant sought flexibility to continue with both disposal options. At the close of the Examination, the Applicant had reached agreement with TWUL regarding protective provisions for its infrastructure and

TWUL withdrew its previous representations. It is noted that accommodation of foul drainage was potentially subject to upgrades to TW's existing treatment works that had not been budgeted for [REP11-029]. This created uncertainty as to whether off-site disposal was achievable within relevant timescales.

3.6.144. The UKHSA and OHID [REP10-033] agreed with the odour assessment.

3.6.145. The ExA considers that discharge of foul drainage to the TWUL sewer would remove the potential odour source and avoid odour effects on WVP. However, the Applicant sought consent for both on-site treatment and the TWUL sewer option (for which timelines are uncertain). The Applicant maintained that the permitting process would avoid significant odour effects from the WTP. The ExA places reliance on the permitting process to avoid significant odour and concludes that odour effects attract a little negative weight against the making of the Order.

Fuel odour, fuel dumping and VOCs

3.6.146. Fuel odour, fuel dumping and the health impact of inhaling VOCs were the subject of several representations eg [RR-0199] [RR-0959], [REP1-074], [REP4-193] and [REP1-095]. LADACAN [REP5-071] and Mr Reddington [AS-156] and [AS-157] suggested the airport operator be required to put in place measures to investigate kerosene odours and produce a plan to reduce odour events. Mr Reddington suggested that complaints should be subject to immediate investigation [REP8-078], [REP10-081] otherwise odour could have dissipated.

3.6.147. During the ExA's USIs one localised incidence of increased fuel odour was observed [EV1-002] in the vicinity of the private jet stands. No fuel odour was observed in other locations, however the site inspections were necessarily time limited.

3.6.148. The Applicant [REP1-020] emphasised that fuel odour was subject to an assessment in accordance with IAQM guidelines, including sniff testing and VOC monitoring. It concluded that there would be no exceedances of environmental limits and no likely significant effects. The Applicant stated that best practice mitigation measures were provided in the oOAQP [REP9-013]. At ISH5 [EV10-003] the Applicant stated that in their professional opinion, fuel odours were most likely to relate to operational ground movements.

3.6.149. The Applicant's oOAQP [REP9-013] included a commitment to an operational odour control process as set out in [REP8-034] and agreed with LBC [REP11-033]. The Applicant [REP11-050] stated that the odour reporting process followed EA odour management guidance and was appropriate to determine odour impact. Since the impact criteria included frequency and duration, in a situation where events dissipated quickly this would inform the overall assessment of odour impact.

3.6.150. [RR-1574] suggested that fuel was regularly jettisoned over Stockwood Park. However, the HHA [REP3-096] stated that "*It is understood fuel dumping is rare and only in the event of an emergency*" and only a single incident of suspected fuel dumping in 2020 was highlighted by NHDC, which impacted a residential district in Hitchin. NHDC [REP3-096] stated that this incident was reported to the CAA and LLA but no detailed response or explanation had been provided, leaving a number of unanswered questions. As the Applicant was unable to provide any further information on the incident or the frequency of such incidents, the ExA [PD-024] directed a question to the CAA regarding the incident.

- 3.6.151. The CAA [\[REP11-071\]](#) stated that mandatory data on fuel dumping incidents is confidential and therefore could not be disclosed, however the CAA emphasised that such events were rare, only required for essential aircraft safety reasons and subject to procedures co-ordinated with Air Traffic Control.
- 3.6.152. With respect to fuel dumping, the CAA has explained the necessary circumstances in which fuel dumping is required for safety reasons. The ExA notes that apart from anecdotal evidence, only one documented incidence of suspected fuel dumping was presented to the Examination by the HHA, supporting the CAA observation that such events are infrequent. The ExA considers that this matter is neutral and weighs neither for nor against the making of the Order.
- 3.6.153. The ExA acknowledges that fuel odour effects arise in the Luton area but has not received additional evidence that demonstrates that the Applicant's findings on likely significant effects from fuel odour or VOCs are incorrect. The ExA is satisfied that the odour reporting process agreed with LBC provides an appropriate mechanism for the monitoring and control of fuel odour in future. The ExA considers that in spite of mitigation the incidence of odour could potentially increase due to an increase in aircraft ground movements. This attracts a little negative weight against the making of the Order.

Other matters

- 3.6.154. The ExA has also taken into account a number of additional issues raised by local residents including amongst other things tree death in gardens, coatings on furniture and the proposed new Luton stadium. However, no technical or substantive evidence was presented on these matters and as a result the ExA can give them negligible weight in reaching its conclusions.

CONCLUSIONS ON AIR QUALITY

- 3.6.155. The ExA explored air quality effects through hearings and questions, considering aspects of the Applicant's construction and operational air quality assessments and the GCG control mechanism. The ExA considers that the Applicant has considered an appropriate range of pollutants. The ExA is satisfied that the Applicant's construction and operational air quality assessments are sufficient for the purposes of decision making. The ExA is satisfied that the Applicant has proposed relevant mitigation measures, although it has some reservations regarding the GCG Framework and whether the Proposed Development would ever be deemed to have triggered the GCG air quality controls. The ExA finds that with mitigation in place there would still be a non-significant increase in emissions and odour to air, which would be below the limit values and would not affect compliance.
- 3.6.156. The ExA notes that at the close of Examination, the JHA and BC were broadly content with the air quality and odour assessment, its conclusions and proposed mitigation measures. However, many IPs remained of the view that airport expansion should not be consented because any increase in pollutants would exacerbate the existing poor air quality in Luton.
- 3.6.157. Policy LLP6(B)(ii) requires that Airport expansion proposals "*contribute to achieving national aviation policies*". The ExA has reviewed the requirements of MBU, APF, ANPS and the NPSNN and considers that the Applicant's assessment meets the requirement to assess future air quality, odour and dust effects, including from surface access, and demonstrates that the Proposed Development would not result in breaches of legal obligations for air quality. The ExA is satisfied that proposed mitigation measures are acceptable for construction and operation, and that they

have been subject to consultation with communities and stakeholders, including during Examination.

- 3.6.158. The proposed operational mitigation including surface access measures is agreed with the local authorities, apart from the Applicant's approach to short-term emissions limits and monitoring in the case of the HHA. The ExA is satisfied with the Applicant's reasoning for focusing on assessment of long-term emissions and finds that the Applicant's approach satisfies the requirements of the ANPS and is sufficient for the purposes of decision making.
- 3.6.159. The ANPS (paragraphs 5.42 to 5.238) set out the requirements for decision making in relation to odour and dust, noting that all reasonable steps should be taken to minimise any detrimental impact on amenity. It states that the SoS should consider whether there is justification for a defence of statutory authority against nuisance claims, or disapply such a defence. The NPSNN (paragraphs 5.6 to 5.15 and 5.84 to 5.89) sets out similar assessment, mitigation and decision-making requirements to the ANPS in respect of air quality, odour and dust. Article 47 of the draft DCO [\[REP11-091\]](#) contains a defence to proceedings in respect of statutory nuisance, which addresses dust and odour. The ExA finds that the necessary steps to reduce the risk of nuisance events have been taken and that this provision is not a buffer against the consequences of poor practice. It exists and is an appropriate provision against circumstances where unforeseen but unavoidable nuisance occurs.
- 3.6.160. The ExA considers that the Applicant's proposed mitigation measures are consistent with measures outlined in Aviation 2050 and seek to minimise local air quality emissions. The NPSNN (paragraph 5.10) and PPGAQ set out similar assessment and mitigation requirements to the ANPS and that these are satisfied by the Applicant's assessment, which takes account of updated legislation relating to find particulate matter. Air quality effects on habitats are considered in Section 3.7 on biodiversity. The ExA considers that the assessment is sufficient for the purposes of decision making.
- 3.6.161. A slight deterioration in air quality below the relevant limit values is predicted for receptors (including AQMA in Hitchin) in the DS scenarios compared with the DM scenario. The ExA considers that this does not fully accord with the objectives of the NPPF (paragraph 180e) that development, where possible, should help to improve local environmental conditions such as air quality or the ANPS (paragraph 5.43) and weighs against the making of the Order. However, these effects were not identified to be significant by the Applicant or to affect compliance, a conclusion that has been found to be sound during Examination, therefore the ExA considers that the deterioration in air quality attracts a little negative weight. The ExA is satisfied that as such effects are not significant air pollution would not give rise to significant differential effects on groups with protected characteristics.
- 3.6.162. The NPPF (paragraph 191) also requires that decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health and living conditions. The ExA has considered representations that suggest LLA is an inappropriate location for expansion due to the disproportionate effect it has on a larger local population than other airports. The ExA has some sympathy with comments regarding population exposure, however the Proposed Development's location is dictated by the existing airport and in light of the findings regarding significant effects, it finds that the Proposed Development would be appropriate for its location.

- 3.6.163. NPPF (paragraph 192) requires that new development is consistent with the local AQAP and considers GI provision. The ExA has concluded that the development is consistent with the local NHDC AQAP for Hitchin. As highlighted above, off-site highway improvement proposals currently lack provision for mitigation of GI loss. The ExA considers that this weighs against the making of the Order, however in light of the relatively small area of loss, attracts a very little negative weight.
- 3.6.164. LLP6 B(iv) requires an assessment of increases in ATM to be provided and identification of appropriate forms of mitigation. Similarly Policy LLP38 requires an assessment of individual and cumulative air quality effects and suitable mitigation. LLP6B(viii) requires consideration of sustainable transportation and surface access measures. NHLP objective ECON7 and DBCS Policy CS8 also emphasise the role of sustainable travel in improving air quality.
- 3.6.165. Other local authority development plan policies and neighbourhood plans are supportive of development that does not give rise to unacceptable air quality impacts or significant impacts on air quality in or near AQMAs and that provides suitable mitigation for such effects. For the reasons set out above in respect of national policy, the ExA considers that the Proposed Development is consistent with local policy eg LLP Policy LLP6, LLP25, LLP38, DLP Policy CS38, NHLP Policy D4, CBLP Policy HQ1, CS8 and VALP Policy NE5.
- 3.6.166. The proposals are not considered to meet the requirements of St Albans District Local Plan saved policy intention 9, which opposes proposals to expand Luton Airport if they would result in further pressure for major road building but this is out of date and attracts a very little weight in light of the national policy position in MBU.
- 3.6.167. Overall, the ExA considers that effects on air quality attract a little negative weight against making the order.

3.7. BIODIVERSITY

INTRODUCTION

- 3.7.1. This section considers the potential effects of the Proposed Development on protected species, habitats and sites of national, regional and local interest. Issues relating to biodiversity were identified in the ExA's initial assessment of the principal issues [\[PD-008\]](#).
- 3.7.2. Assessment of air quality was presented in ES Chapter 7 [\[AS-076\]](#) and is discussed in Section 3.6 of this Report. Outcomes from this assessment with implications for biodiversity are incorporated below.
- 3.7.3. European sites, including the Chiltern Beechwoods Special Area of Conservation (SAC) and Lea Valley Special Protection Area (SPA), are separately considered in Section 4 under the Conservation of Habitats and Species Regulations 2017 (as amended), where it is concluded that the potential for likely significant effects on the designated sites may be ruled out.

POLICY BACKGROUND

- 3.7.4. A brief overview of key policies is provided below; a list of relevant policies and legislation can be found in Appendix B.
- 3.7.5. The ANPS (paragraph 5.91) requires demonstration that the project has maximised opportunities to conserve biodiversity. The NPPF (paragraph 180) states that impacts on biodiversity should be minimised and net gains provided, including by establishing coherent ecological networks. The ANPS (paragraph 5.104) states that consideration should be given to whether the applicant has maximised the opportunities for building in beneficial biodiversity as part of good design, particularly through establishing and enhancing green infrastructure.
- 3.7.6. The ANPS (paragraph 5.94) directs developers to the mitigation hierarchy in the NPPF (paragraph 186). This establishes that if significant harm to biodiversity cannot be avoided, adequately mitigated, or, as a last resort, compensated, then planning permission should be refused. The same sequential criteria are reflected in LLP Policy LLP28(A).
- 3.7.7. Both the ANPS (paragraphs 5.103 and 5.103) and the NPPF (paragraph 186) state that development should not be consented if it would result in the loss or deterioration of irreplaceable habitats, including habitats and species of principal importance, and aged or veteran trees, unless the national need for and benefits of the development clearly outweigh the loss, and a suitable compensation strategy exists.
- 3.7.8. The ANPS (paragraphs 5.102) notes that sites of regional and local interest have a fundamental role to play in meeting overall national biodiversity targets. These must be given due consideration but, given the need for new infrastructure, these designations should not be used in themselves to refuse development consent. Adequate compensation should always be considered, and ecological corridors and their physical processes should be maintained as a priority to mitigate widespread impacts.
- 3.7.9. LLP Policy LLP28 states that proposals adding to the net stock of wildlife habitats or delivering a net gain are supported. LLP Policy LLP28(E) requires that site layouts should retain any existing areas of National Priority Habitats wherever possible and

enhance their value where appropriate. The policies in the LLP are broadly reflected in the other Host Authorities' development plans.

THE APPLICATION

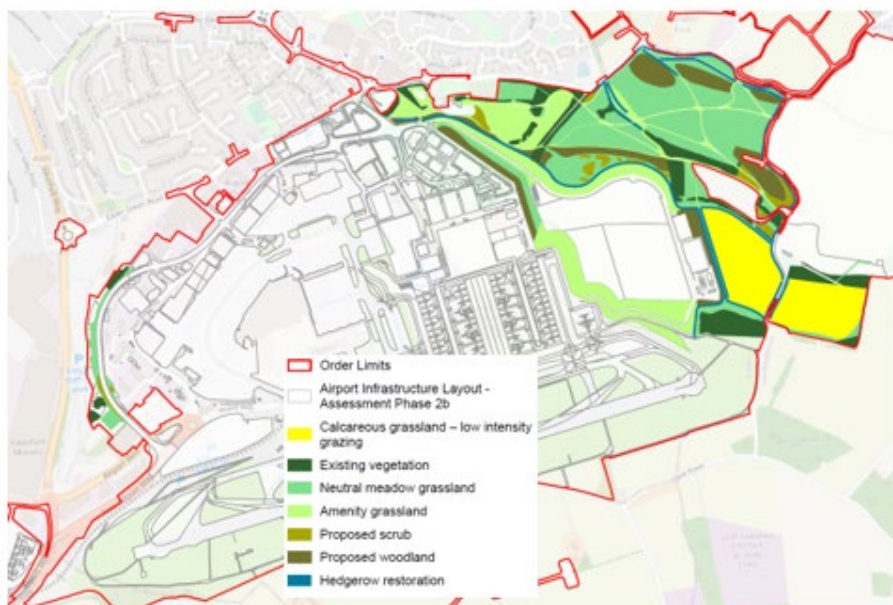
- 3.7.10. The Applicant's assessment of the potential effects on biodiversity from the construction and operation of the Proposed Development was in ES Chapter 8 [\[AS-027\]](#). Potential air quality effects on ecological receptors, including statutory designated sites, were presented in ES Chapter 7 (Air Quality) [\[AS-076\]](#).
- 3.7.11. A full list of supporting figures and appendices, including ecological surveys and citations can be found in Appendix A of this report. Of note are the figures showing the location of sites and ecological features [\[AS-043\]](#), the Ecology Baseline Reports [\[AS-033\]](#) to [\[AS-034\]](#) and the Biodiversity Net Gain Report [\[APP-067\]](#). Mitigation measures are described in sections 8.8 and 8.10 of [\[AS-027\]](#) and in the Mitigation Route Map [\[REP10-023\]](#). Monitoring was summarised in [\[AS-027\]](#), paragraph 8.13].
- 3.7.12. There are 13 Sites of Special Scientific Interest (SSSI) and eight Local Nature Reserves (LNRs) within 10km; none are within the Order Limits. Given the designated features of these sites, the Applicant did not anticipate that construction activities would result in significant effects [\[AS-027\]](#), paragraph 8.7.7]. Changes to operational air quality on five SSSIs were assessed, and no likely effects were identified [\[AS-027\]](#), Table 8.17].
- 3.7.13. There are 30 non-statutory designated nature conservation sites within 2km of the Order Limits, full details of which are in the Ecology Baseline Report [\[AS-033\]](#) to [\[AS-034\]](#). Six of these were scoped in to the assessment due to potential direct effects from development, plus a further 13 were considered in terms of air quality impacts [\[AS-027\]](#), Table 8.12]. The Applicant concluded that there would be minor adverse effects on most of these, which would be not significant [\[AS-027\]](#), Table 8.17], with the exception of the sites discussed below.
- 3.7.14. The CWS at Wigmore Park (WP) is within the Order Limits (see Figure 6 below). The site is designated for species rich neutral grassland, calcareous grassland, orchids and hedgerows [\[REP4-187\]](#), Appendix 1]. Almost the entire 15.4 hectares (ha) that makes up the CWS would be lost during construction; one hedgerow would remain which would be incorporated into the provision of open space.
- 3.7.15. Also of note are Dairyborn Scarp District Wildlife Site (DWS) and Luton Parkway Verges DWS, which are partly within the Order Limits. Dairyborn Scarp DWS comprises a steep chalk scarp dominated by ruderal vegetation and scrub, with a mosaic of calcareous grassland and a small remnant of ancient woodland. Approximately 20% (1.3ha) would be lost for construction of the AAR and overhanging sections of the woodland may need to be cut back. Luton Parkway Verges DWS, recognised for its calcareous and neutral grassland, would be partly within the area designated for new off-site multi-storey Car Park 1 ((Work No. 4g). Approximately 0.21ha (37%) of the site would be lost during construction as a worst case. The citations for these sites can be found in [\[REP4-187\]](#), Appendix 1]. See Figure 6 below which shows the location of the CWS and DWs in relation to the Order Limits.

Figure 6: Location of the CWS and DWSs in relation to the Order Limits (from Figure 8.2 of ES Chapter 8)



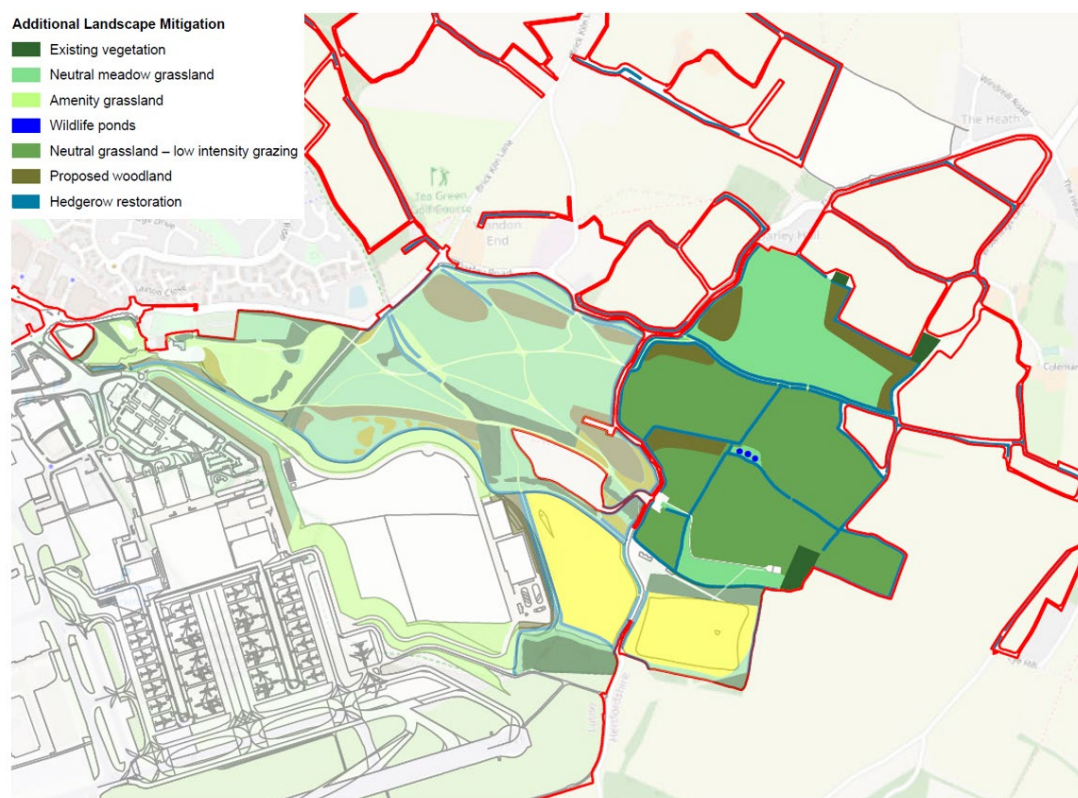
- 3.7.16. The Applicant acknowledged that there would be significant adverse effects on these nature conservation sites in the short term [AS-027, section 8.9]. The Applicant states that these would be ‘major’ for the CWS and ‘moderate’ at the DWSs.
- 3.7.17. However, the Applicant noted that embedded mitigation for these effects through approximately 47.6ha of habitat creation would be provided as part of the provision of open space adjacent to WP CWS (see Figure 7 below), with an additional small area at Dairyborn Scarp DWS. This would be in addition to the control measures that would be secured in the CoCP [REP8-013] and the individual Ecological Mitigation Strategies in [APP-068] to [APP-071]. As a result, the Applicant concluded that adverse effects from habitat loss would not be significant once the replacement habitats matured over a period of between 5 to 15 years.

Figure 7: Embedded landscape mitigation (from Figure 14.9, ES Chapter 14)



- 3.7.18. The Applicant then advised that when additional mitigation provided through approximately 43ha of 'additional Habitat Creation Area' to the east of the replacement open space (see Figure 8 below) was taken into account, the residual effects on these wildlife sites were assessed as temporarily minor adverse, becoming negligible after maturation of the new habitats [\[AS-027, section 8.11\]](#).

Figure 8: Additional landscape mitigation (from Figure 14.10, ES Chapter 14)



- 3.7.19. The replacement and additional habitats would be managed over a 50-year period, as detailed and secured in the Outline Landscape and Biodiversity Management Plan (oLBMP) [\[AS-029\]](#).
- 3.7.20. Winch Hill Wood CWS/ Local Wildlife Site is an ancient woodland inventory site of approximately 2ha just beyond the east end of the runway. The citation provided by LBC [\[REP4-187, Appendix 1\]](#) states that the site is designated for broad-leaved woodland with areas of hedgerow, scrub and open bracken. Some trees would need to be removed on the perimeter for arboricultural reasons. The site would experience temporary increased isolation and degradation through connecting habitat loss during construction, which would be partially mitigated through habitat creation and removal of adjacent land from agriculture [\[AS-027, section 8.9\]](#). However, the Applicant considered that any adverse effects would be outweighed by the commitment to long-term management of the site to improve its condition through the oLBMP [\[AS-029\]](#). Taking into account the embedded design measures, long-term management and enhancement secured in the oLBMP [\[AS-029\]](#), CoCP [\[REP8-013\]](#), Drainage Design Statement (DDS) [\[REP5-096\]](#) and Design Principles (DP) [\[REP9-030\]](#), the Applicant concluded that the potential impacts on Winch Hill Wood CWS/ Local Wildlife Site and ancient woodland inventory site would be minor adverse, negligible in the longer term, and thus not significant.
- 3.7.21. The Applicant stated that the assessment of air quality was undertaken in accordance with published guidance, including that from NE and the DMRB.

Temporary minor adverse effects were identified on 17 sites, including Winch Hill Wood CWS [AS-027, Table 8.17]. However, the Applicant concluded that the areas affected were often small and already subject to edge effects from roads and surrounding agriculture, which has reduced the botanical interest of the affected areas; the addition would be a small proportion of this and presents little potential for further change. In addition, long-term management of these sites and removal of land from agricultural production would improve their condition in the long-term [AS-027, section 8.9].

- 3.7.22. Turning to habitats and species, the Applicant reported that approximately 2ha of broad-leaved semi-natural woodland would be lost, mainly associated with WP CWS, and this would be a moderate effect from Phase 2a, reducing to not significant in 10 to 30 years following establishment of replacement habitat. About 2ha of broadleaved plantation woodland, over 1km of species rich hedgerow, some neutral semi-improved grassland and calcareous grassland, arable land and several hectares of scrub would also be lost during construction. However, allowing for habitat creation, the Applicant concluded that the residual effect would be negligible overall and ultimately the development would be beneficial, given the additional area planted, the quality of the replacement habitats and long-term management of this [AS-027, Table 8.17].
- 3.7.23. The Proposed Development would result in a net loss of ponds. However, the majority of these would be soakaways and ponds associated with fire training of limited biodiversity value according to the Applicant. Although bird strike risk would restrict creation of large new ponds, a cluster of small wildlife ponds is proposed in the Habitat Creation Area. Overall, the Applicant concluded that this would not be a significant effect [AS-027, Table 8.17].
- 3.7.24. The Applicant identified no significant impacts on habitats from indirect construction impacts, including dust, pollution, degradation of water quality or change to flows because of the good practice mitigation secured which would be secured via the CoCP [AS-027, Table 8.17]. Removal of Japanese Knotweed would have a minor beneficial effect. The Applicant proposed to translocate one ancient and veteran tree (T343), an ancient ash coppice stool, which is in the area of the new terminal and associated works (Work No. 3b (01), the new apron (Work No. 2b(03)), and Car Park P10 (Work No. 4p(02), by Phase 2.
- 3.7.25. The Applicant predicted temporary minor adverse residual effects for several species during the construction phases through habitat loss, killing, injury and disturbance from noise and lighting [AS-027, Table 8.17]. Loss or disturbance of bat roosts or badger setts would be conducted under NE licences.
- 3.7.26. The Applicant reported that amphibians, including common toad, would be affected by loss of ponds and construction works, [AS-027, section 8.9] but these effects would be managed via the Amphibian and Reptile Mitigation Strategy [APP-068]. Loss of habitats supporting a notable assemblage of invertebrates: a picture-winged fly, the set-aside downy-back beetle and the dingy skipper butterfly would initially be a significant moderate adverse effect. Construction work would inevitably result in the death of a range of ground dwelling invertebrates. However, in all these cases, the Applicant concluded that this would not permanently affect the populations and that the effects would not be significant over a period of approximately 5 years once replacement habitats had become established [AS-027, Table 8.17].
- 3.7.27. The Applicant considered that disturbance from the operation of the Proposed Development might discourage species such as bats, badger and birds from using

habitats adjacent to the airport because of noise and lighting [AS-027, section 8.9]. In addition, effects might occur due to changes in the quantity and direction of surface water runoff. However, the Applicant advocated that with mitigation in place, including through design and specific mitigation strategies for badgers, bats and birds [see the CoCP, [REP8-013] these effects would not be predicted to be significant [AS-027, Table 8.17]. Furthermore, habitats of increased biodiversity value would be created, and this could lead to a positive effect for some species in the longer term, including badgers and some birds, from the development of new habitat further from the airport and long-term management of this [AS-027, section 8.11].

- 3.7.28. Potential effects, including harm and disturbance from construction and operation on mammals, including riparian mammals, breeding birds, Schedule 1 birds (barn owl and red kite), winter birds, reptiles, common amphibians and Roman snail were assessed. The Applicant concluded the effects would be minor to negligible [AS-027, Table 8.17].
- 3.7.29. The Applicant intended to provide over 10% biodiversity net gain (BNG) as set out in [APP-067] through habitat creation. In addition, areas of off-site hedgerow restoration would be provided in the wider area, further improving the habitat quality and the connectivity for a range of species.

ISSUES CONSIDERED

- 3.7.30. Approximately 220 RR referred to the potential negative effects on biodiversity, including those from the joint CPREs [RR-0289], [RR-0290], the FoWP [RR-0472], the Chiltern Society [RR-0226] and Preston PC [RR-1220]. These included concerns about the assessment, the loss of trees, rare plants and orchids, the effect of air pollution on ancient woodland, bat foraging and disruption to toad migration routes. Numerous representations strongly objected in general terms to the loss of Wigmore Park CWS and raised concerns about the time it would take for replacement habitats to mature for examples, see [RR-0103], [RR-1038], [RR-0721], [RR-0289], [RR-0290], [RR-0226], [RR-0735], [RR-1220], [RR-0026]. The Applicant generally responded to these satisfactorily by theme [REP1-020] and organisation [REP1-021] to [REP1-027].
- 3.7.31. By the close of the examination there were no outstanding matters in respect of biodiversity in the SoCGs with the Host Authorities [REP11-033], [REP11-035], [REP11-095], [REP11-097], [REP11-099]. All agreed that delivery of 10% BNG would be achievable and that the proposals in the Strategic Landscape Masterplan (SLM) [APP-172] would have a positive impact on biodiversity.
- 3.7.32. There were no outstanding issues in relation to biodiversity in NE's SoCG [REP9-040]. It confirmed that Letters of No Impediment for bats and badgers, had been issued and that it has no major concerns regarding bats, badger and Roman Snail [RR-1079].
- 3.7.33. The following sections discuss the main remaining issues.

Operational air quality effects

- 3.7.34. NE asked to see detailed assessments of air quality changes on SSSIs [RR-1079, AS-061]. These were provided during the Examination and NE confirmed that it was content with these and had no further concerns regarding the impact on SSSIs [REP1-112]. NE and the JHA also confirmed that they were satisfied with the approach to nitrogen deposition and the screening out of atmospheric NO_x and NO₂

effects [REP4-126, REP4-198]. NE also agreed that the effects of NO_x and NO₂ could be screened out because the equivalent concentrations of SO₂ are not anticipated.

- 3.7.35. The Woodland Trust [REP1-166, RR-1519], among others, highlighted the potential for detrimental impacts to surrounding ancient woodlands from increased nitrogen deposition. In response, the Applicant reiterated that their assessment was robust [REP1-023].
- 3.7.36. In ExQ1 the ExA invited the Applicant to quantify the reduction in nitrogen from local removal of agricultural use [PD-010, BIO.1.3]. The Applicant confirmed that, although it was undoubtedly a factor, it was not easily quantified [REP5-040]. However, the Applicant reiterated its belief that forecasts were precautionary because they did not allow for the anticipated shift to electric vehicles (EVs).
- 3.7.37. The HHA [RR-0558, RR-1119, RR-0297, AS-057] queried the potential air quality effects on the replacement and additional habitat creation land. The Applicant responded that nitrogen deposition would not prevent establishment of an ecologically diverse site and that appropriate management for 50 years would have a much greater positive effect [REP1-021].
- 3.7.38. Two representations [RR-1401] and [RR-0382] raised concerns about the effects of nitrogen on fungi and kerosene on lichen growth and mushrooms respectively. Protected and notable plant and fungi species were listed in the baseline report [AS-033, Table 2.4] and potential effects on these screened out in the assessment [AS-027]. Although the ExA does not dispute that increased nitrogen would affect the growth of fungi, there is no reason before us to suggest that the Proposed Development would cause significant effects in this regard. Without further evidence, it is not possible to know whether the observed decrease in lichen growth is caused by factors other than kerosene, such as waterlogging or pollution from nearby roads.
- 3.7.39. In conclusion, the ExA considers that air quality at non-statutory designated sites would worsen. However, the ExA acknowledges the argument that the increase would be small and that many of the ecological effects would already have taken place, so this would not be significant. In addition, the ExA agrees that the Applicant's assessment is highly likely to be conservative in the long-term, given the anticipated shift to EVs.

Mitigation of habitat loss at wildlife sites through replacement land and habitat creation

- 3.7.40. The HHA highlighted that compensation for loss of sites, habitats and species was being framed as 'embedded mitigation' [REP1A-003]. The HHA [RR-0558, RR-1119, RR-0297] also suggested that 'embedded mitigation' in some cases was compensatory habitat. The Applicant responded that as the provision of open space was provided as part of the design of the Proposed Development it was therefore embedded mitigation [REP1-021].
- 3.7.41. The ExA acknowledges that the distinction between mitigation and compensation can be difficult to determine. However, the fact that replacement habitats are within the Order Limits, in proximity to the CWS and part of the design of the project does not inevitably mean that they should be viewed as embedded mitigation, as argued by the Applicant [REP3-053]. In the opinion of the ExA, provision of replacement

habitats that neither avoids nor reduces the occurrence of negative impacts at source would, in general, be more accurately assessed as 'compensation'.

- 3.7.42. It is accepted that the proximity between WP CWS and the replacement land could mean that some of the closer conservation and habitat replacement measures could be legitimately defined as 'embedded mitigation'. However, as an example, in the case of Luton Parkway Verges DWS the main 'mitigation' for partial loss of the site would be an additional habitat creation area to the east of the Order land, which would be a considerable distance from the site. As a result, the ExA cannot see how this could be classed as anything other than compensation.
- 3.7.43. The ANPS (paragraph 5.95) suggests that the application of a 2:1 compensation ratio is the minimum requirement, but notes that there are other mechanisms for establishing ratios and that other factors, including the quality of compensation land is of key importance. In addition, any habitat creation should be focused on areas where the most ecological and ecosystem services benefits can be realised. Paragraph 2.102 states that 'adequate' compensation should be considered for loss of regional and local sites and ecological corridors and their physical processes should be maintained as a priority. Paragraph 5.105 states that where there would be harm to habitats of principal importance, consent should be refused unless the benefits (including need) clearly outweigh the harm. In such cases, compensation will generally be expected.
- 3.7.44. The NPPF (paragraph 186) states that if significant harm to biodiversity resulting from a development cannot be avoided, mitigated or compensated, then planning permission should be refused.
- 3.7.45. Policy LLP28 of the LLP states that protection of designated sites and ecological networks should be given protection commensurate with their status. Development that that would be unavoidable on designated sites and ecological networks would need to be compensated through acquisition and management of an alternative habitat of equivalent value in the vicinity.
- 3.7.46. The Applicant advised [\[REP3-053\]](#) that the proposal would more than exceed the 2:1 compensation ratio requirement; loss of approximately 15ha from WP CWS and small areas from the DWSs would be replaced with nearly 50ha of managed habitats in the replacement open space alone, without including the small-scale work within Dairyborn Scarp DWS and additional habitat creation land. The ExA concurs that the quantum of replacement land would meet the 2:1 ratio for loss of the CWS and parts of the DWSs.
- 3.7.47. The ExA notes that compensation is not just a matter of area, but also quality of compensation and location. In this regard, the Applicant has committed to a wide range of appropriate habitat creation and enhancement, in proximity to the habitats lost [\[AS-029, APP172\]](#) and long-term management of these habitats. On this basis, the ExA is satisfied that the policies in the ANPS outlined above are met for the CWSs and DWSs. CWSs and DWSs.
- 3.7.48. However, the loss of habitats would be broader than that within the designated wildlife sites and the ExA has therefore also considered compensation in the context of habitats of principal importance. The Applicant [\[AS-027, Table 8.17\]](#) proposes that a significant net increase in broadleaved semi-natural woodland would be delivered (approximately 11ha compared to that lost). The provision of neutral semi-improved grassland would be broadly equivalent to that lost. Over 1km of species-rich hedgerows would be lost in total, but approximately 4km created or restored

during Phase 1. These would be delivered as part of the development of the replacement open space.

- 3.7.49. The Applicant proposes to deliver a substantially larger area of calcareous grassland (nearly 13ha) than would be lost (less than 0.5ha) [AS-027, Table 8.17]. Apart from a small area of calcareous grassland at Dairyborn Scarp DWS, this would mainly be delivered in the 'habitat creation area' (Work No. 5d(02)) in Phase 2b, some time after the loss at Phase 1 and Phase 2a. In light of the relatively small loss and the much greater area of the proposed habitat, the ExA is satisfied that the harm to this habitat in the interim would not be significant.
- 3.7.50. Field margins would be retained where possible [AS-027, Table 8.17] and management of retained and created habitats would reduce any harm to these habitats. The Applicant concludes that this would be a minor adverse effect for a period of 5 to 10 years whilst habitat creation areas became established.
- 3.7.51. The ExA appreciates that it is not possible, nor even always desirable, to re-produce exactly what is lost, but that habitats of broadly the same overall quality should be provided. Based on the landscape proposals, long-term management of habitats and information in the BNG report [APP-067], the ExA is satisfied that the Proposed Development would broadly re-produce the habitats lost and therefore meet this requirement.
- 3.7.52. The ExA has also had regard to the mitigation hierarchy in LLP Policy LLP28(A) and the NPPF. These state that compensation should be the 'last resort'. Considering the scale of the project, its location and the proximity of the CWS and DWSs to construction, the ExA is satisfied that compensation for loss of habitats is appropriate and that the proposals meet the requirements of the mitigation hierarchy.
- 3.7.53. It was brought to the ExA's attention [eg RR-0224, RR-0472] that biodiversity lost from the borough of Luton would largely be replaced in Hertfordshire and should therefore not be allowed as either mitigation or compensation. Given that proximity to the lost habitats is preferable, the large scale of national infrastructure projects and the location of LLA on the boundary of the counties, the ExA is satisfied that it is appropriate to consider such matters on a larger scale than a single county.
- 3.7.54. The ExA conclude that 'embedded mitigation' in the form of replacement habitat is more accurately viewed as 'compensation'. The Applicant would provide sufficient compensatory habitat of appropriate quality in a suitable location to meet the recommendations in the ANPS and to comply with LLP Policy LLP28.

Duration of adverse effects from habitat loss

Numerous IPs, including LBC viewed loss of the CWS as a major adverse impact that would not be fully mitigated in the short and medium term until the replacement habitat became fully established [REP1A-004]. The HHA [RR-0297] [RR-0558] and [RR-1119] highlighted the 10 to 30 years required to replace the broadleaved semi-natural woodland and suggested that this should be viewed as a significant long-term effect.

- 3.7.55. The ExA acknowledges the Applicant's argument in ISH6 [EV11-001] that a delay in maturation of replacement habitats is both inevitable and typical in a development such as this. Although the ExA accepts that over the course of time the habitat loss would be compensated and could even improve compared with the baseline, the

effects would be adverse for a long period when measured in terms of species' life cycles and up to 30 years for trees.

- 3.7.56. The Applicant argued that these 'temporary' effects on wildlife sites and habitats are negated, even in the short term, by the commitment to provide over 40ha of additional habitat and management of replacement habitats. As an example, the Applicant concluded that the effects from loss of broadleaved semi-natural woodland would be a significant adverse effect. However, the commitment to replace these habitats led the Applicant to an overall conclusion that the effects would be negligible, even with the initial loss. The ExA disagrees with this approach and conclusion, on the basis that it would take between 10 and 30 years for the broadleaved woodland to re-establish to an equivalent quality.
- 3.7.57. There would also be harm to species of principal importance from loss of habit and foraging [[AS-027](#), Table 8.17]. This includes a moderate adverse impact on bats and invertebrates for at least 5 to 10 years, and adverse impacts on mammals, reptiles and arable plant species while replacement habitats, including habitat creation areas matured. In addition, there would be adverse effects on breeding and wintering birds, and Schedule 1 birds until replacement habitats matured.
- 3.7.58. Paragraph 5.105 of the ANPS states that where there would be harm to habitats and species of principal importance, consent should be refused unless the benefits (including need) clearly outweigh the harm.
- 3.7.59. Based on the above, the ExA concludes that habitats and species of principal importance would be harmed. This weighs against the development and could be a reason for refusal; the extent to which it weighs against the development will be determined when the overall public benefit is determined in Chapter 5 below.

Orchid translocation

- 3.7.60. Several IPs submitted representations raising concerns about the loss of orchids eg [[RR-0633](#)], [[RR-1448](#)]. It was suggested that a quality match for orchids could not be achieved given the specific fungal soil required and that surveying taken outside the flowering period could have missed the Southern Marsh orchids [[RR-0633](#)].
- 3.7.61. The Applicant noted that it is entirely likely that natural colonisation would occur in the replacement habitat, adding that there have been many examples of natural colonisation occurring very quickly in proximity to the proposed site. The ExA asked for evidence of this [[PD-010](#), BIO.1.1] and an additional figure was provided showing orchids identified during baseline surveys [[REP5-040](#), Appendix A]. It was noted that Grassland 5 had been previously taken out of agricultural use and colonised by a range of 'agricultural associated species' including orchids [[AS-033](#)]. The Applicant provided the example of colonisation at sites managed by the Herts and Middlesex Wildlife Trust. It was also explained that seed mixes could be bought, if required.
- 3.7.62. Several IPs highlighted that the orchid translocation exercise in the summer of 2019 was unsuccessful eg [[RR-0633](#)]. At ISH6 [[REP3-053](#)] the Applicant explained that the Method Statement [[REP8-011](#)] had taken into consideration the failure of the previous translocation exercise, which was not in dispute and was largely due to the exceptionally hot weather at the time.
- 3.7.63. In conclusion, the ExA considers that the population of orchids from WP CWS would be lost. However, management of the replacement land via the oLBMP [[AS-029](#)]

and monitoring of this should ensure that a new orchid population is established. The Applicant has demonstrated awareness of the pitfalls of the earlier translocation exercise. The ExA is satisfied that there would be no adverse effects in the longer term and, given that there are no specific protections for those species, concurs that the effects are not significant. This matter does not weigh for nor against the making of the Order.

Winch Hill Wood CWS/ DWS and ancient woodland inventory site

- 3.7.64. The Forestry Commission and Woodland Trust [\[RR-0462\]](#), [\[RR-1519\]](#), [\[REP4-169\]](#), [\[REP4-218\]](#) raised concerns regarding construction of a car park adjacent to Winch Hill Wood and potential impacts on the site that could arise from nearby earthworks, lighting, car parking, severance, vibration, noise, fumes, reduction in air quality and hydrological changes.
- 3.7.65. In [\[REP4-070\]](#), the Applicant explained that 'limited works' were proposed in the catchment of the woodland that could impact the hydrology, namely Work No. 5b(04), the creation of a new PRow. The Applicant expressed confidence that the drainage strategy would not have a significant effect on the ancient woodlands [\[REP3-053\]](#), [\[REP6-066\]](#). In addition, based on the EA Hertfordshire Groundwater Model, the groundwater is expected to be up to at least 10m below ground level in the vicinity of the woodland and the National Vegetation Classification survey did not identify communities that would be groundwater dependent. Water supply is principally from rainfall and runoff. The ExA sees no reason to disagree with these findings.
- 3.7.66. At ISH8 [\[EV15-001\]](#), the ExA queried the potential effects of the significant change in landform that would be introduced to the south associated with the reconfigured Car Park 10 (Work No. 4p(02) in Phase 2b. This would result in a drop of at least 10m starting less than 20m from the edge of the woodland. The Applicant accepted that this could result in a reduced moisture content in the underlying soil. However, it argued that the distance from the woodland to the top of the slope, together with the existing topographical fall towards the dry valley means that the changes in landform were not expected to result in a significant change to the woodland water balance. The ExA concurs that this is a reasonable conclusion.
- 3.7.67. The Forestry Commission stated that guidance for buffer zones was currently under review and was likely to be recommended that they are increased. It said that that roadside pollution can extend approximately 100 metres (m) into adjacent woodlands, which could be particularly harmful for irreplaceable Ancient Woodlands. Therefore, where a significant increase in traffic is likely, it would recommend that buffer zones are increased beyond the minimum 15m required [\[REP4-169\]](#).
- 3.7.68. Although it is not anticipated that there would be a significant increase in road traffic within 100m of the woodland, at ISH8 the ExA clarified the proximity of Car Park 10 (Work No. 4p) to Winch Hill Wood [\[EV15-001\]](#). The Applicant confirmed that the car park was only 35m away rather than 64m, as suggested at D5 and assessed in the EIA. The ExA then sought to explore implications for the air quality assessments from this. The Applicant responded that car parking would only make a small contribution to the nitrogen levels in the woodland and that this car park would be temporary. It acknowledged that some construction works would be closer than assessed, but an appropriate buffer zone would be maintained and activity would be managed via the CoCP [\[REP8-013\]](#). In addition, the 50-year oLBMP [\[AS-029\]](#) would deliver improvements to the woodland through active management. It concluded

that the change in distance would not materially change the conclusions of the assessment, which it maintained was 'worst-case'.

- 3.7.69. The ExA acknowledges that, in theory at least, Car Park 10 would only be approximately 35m away for a temporary period before being reconfigured in Phase 2a to be about 64m away. Again, the ExA notes that the 'temporary period' would not be secured by the Order and could therefore be longer. Nevertheless, it is intended that it is temporary and the ExA is satisfied that the assessment is conservative. The ExA also sees no reason to disagree with the Applicant's conclusion that there would be a permanent minor adverse effect on air quality from the reconfigured Car Park 10 (Work No. 4p(02)). The ExA concludes that there would be minor adverse effects on air quality from car parking in the vicinity of Winch Hill Wood.
- 3.7.70. The Applicant would provide directional lighting methods such as smart LED lighting with integrated baffles, cowls or hoods, to avoid light spill onto retained and adjacent habitats [AS-027, paragraph 8.8.6], secured via the DP [REP9-030]. The ExA notes that permanent effects from lighting associated with the large Car Park 10, which would be less than 70m away from Winch Hill Wood at its closest point, have been ruled out on this basis and sees no reason to come to a different conclusion.
- 3.7.71. The Applicant acknowledges that there would be severance of the woodland from the green corridors to the north and east during Phase 2a as the fuel storage facility (FSF)(Work No. 4c(01)) and infiltration tanks (Work No. 4v) were constructed. However, it concluded that these effects would be temporary and, once landscape restoration had occurred in Phase 2b (Work No. 5c(02)) the high quality of the habitats created could be beneficial in the longer term. The ExA sees no reason to come to a different conclusion on the principle of this, but, again, has concerns that reliance on phasing creates uncertainty because the timescales for delivery are not enforceable. The ExA concludes that there would be adverse effects on a temporary basis, the timing of which is not defined.
- 3.7.72. The ExA notes that the land to the north-west of the woodland is currently open fields and hedgerows. The area to the south is landscaped, associated with the existing runway. The Proposed Development would bring development much closer on a permanent basis to the western side of the woodland. This would include the large areas associated with the new runway access and rapid exit taxiways (Work No. 2c (02)) and an airside utilities corridor (Work No. 2h(02)), which would be within an estimated 50m of the west of the Main Application Site. In addition, the very large Car Park 10 (Work No. 4p(02)) would fill the fields to the northwest. The ExA's view is that this would cause permanent severance effects to the north and west, and that this would be harmful, but minor.
- 3.7.73. The ExA has reviewed the potential effects from construction and operation on Winch Hill Wood CWS/DWS and ancient woodland inventory site, which is within the Order Limits. Although the effects would likely be negative, the ExA is satisfied that the woodland would not suffer from significant cumulative or in-combination effects when the proposals for mitigation and long-term management of the site are taken into account. This is a matter that does not weigh for nor against the Proposed Development.

Retained ancient and veteran trees

- 3.7.74. The Woodland Trust brought to our attention that the British Standard guidelines do not recognise that ancient and veteran trees need particular care to ensure

adequate space is allowed for their long-term retention [\[REP1-166\]](#). The standing advice (written with the Forestry Commission) states that the buffer zone should be at least 15 times larger than the diameter of the tree and 5m from the edge of the tree's canopy. In response to ExQ1 [\[BIO.1.6\]](#) the Woodland Trust said that 'given the scale of the scheme' the Applicant should ensure larger buffer zones than 15m to address potential pollution concerns, such as dust and noise [\[REP4-218\]](#).

3.7.75. The Applicant provided additional information showing that all the ancient trees remaining at the site were, in any case, generally over 100m from any earthworks [\[REP6-066\]](#).

3.7.76. The ExA concludes that there is unlikely to be significant harm to retained ancient and veteran trees. This is a matter of neutral weight which neither weighs for nor against the making of the Order.

Ancient and veteran tree T343

3.7.77. The Woodland Trust strongly objected to the scheme because of direct impact and 'likely loss' of T343, an ancient ash tree set to be translocated [\[RR-1519\]](#) and [\[REP1-166\]](#).

3.7.78. The Applicant argued that it was entirely feasible to successfully translocate a veteran tree subject to preparation. However, the specialist contractors consulted by the Applicant advised that, although translocation of an ash tree is technically possible, it would not be advisable due to the risks of the disease and '*potential reputation damage for organisations involved*' [\[REP4-070\]](#).

3.7.79. In response to the ExA's question regarding the likely success of translocation at ISH6 [\[EV11-001\]](#) the Applicant provided a case study of translocation of mature oak by a specialist contractor and a translocation methodology, in addition to a long-term management and care plan [\[REP4-070, Annex A\]](#). The Applicant quoted research that estimated 80% of all Ash Trees in the UK will be killed by Ash Dieback disease [\[REP4-070\]](#). The Applicant continued to assess the effects on the basis that the tree would be translocated, subject to review of the tree and situation regarding ash dieback post consent. If the tree died in the intervening period or showed signs of infection prior to the translocation date, an alternative option, for example a replacement with other native species planted on the margins of Winch Hill Wood would be discussed and agreed with the LPA as part of the oLBMP [\[AS-029\]](#) secured by Requirement 10 of the draft DCO [\[REP11-091\]](#).

3.7.80. The Applicant notes that while the ES assumes the tree would be translocated, successful translocation cannot be guaranteed, therefore the residual effect is not reduced but reported as the effect of the tree being lost as a worst-case scenario [\[REP4-070\]](#). The Planning Statement [\[AS-122\]](#) was updated at D5 to reflect this [\[REP5-016\]](#).

3.7.81. Although technically possible, there is obviously considerable uncertainty around the likely success of translocating an ancient and veteran tree. The ExA concludes that this cannot be relied upon and there must be a high chance that the ancient and veteran tree would either be lost or damaged.

3.7.82. The ANPS (paragraph 5.103) and the NPPF (paragraph 186) state that consent should not be granted if it would result in the loss or deterioration of aged or veteran trees unless the national need for and benefits of the development clearly outweigh

the loss. Footnote 67 of the NPPF requires that, in these circumstances, a suitable compensation strategy must be provided.

- 3.7.83. Guidelines on 'appropriate compensation' are in the Planning Practice Guidance (Paragraph: 034 Reference ID: 8-034-20190721, Revision date: 21 07 2019). This states that measures need to be decided on a case-by-case basis and be appropriate to the scale, nature and impacts of the development. Such compensation might include planting individual trees that could become ancient or veteran trees in the future.
- 3.7.84. The Applicant committed to planting new native woodland and specimen trees in the oLBMP [AS-029], albeit this is not specifically linked to the loss of T343 and there is no proposal to plant ash trees. On balance, given the extent of new native tree planting proposed, the ExA concludes that appropriate compensation would be provided.
- 3.7.85. Based on the above, the ExA concludes that it is likely ancient and veteran tree T343 would suffer loss or deterioration. Compensation would be provided. This weighs against the development and could be a reason for refusal; the extent to which it weighs against the development will be determined when the overall public benefit is determined in Chapter 5 of this Report.

Biodiversity Net Gain

- 3.7.86. LBC suggested that, given a CWS would be lost, a BNG target of 20% would be more appropriate than the Applicant's offering of at least 10% [REP1A-004]. The HHA observed that much of the proposed BNG and hedgerow restoration would be in Hertfordshire and the Proposed Development therefore has the potential to generate positive impacts for them, but recommended that a management group should be established to deliver this [REP1A-003]. The HHA also identified that if BNG was to be relied upon then the oLBMP [AS-029] should secure this [REP1A-003]. CBC welcomed the commitment to 10% BNG but requested that it be appropriately managed [REP1A-002].
- 3.7.87. NE [RR-1079] stated that, as BNG was pre-mandatory for NSIP, it would not require specific measures. However, it raised concerns about the creation of neutral grassland at 'good condition' and recommended that condition scores were downgraded due to impacts from visitor pressure, differences in soil fertility and uncertainties in provision of seed sources/ green hay and hydrology. NE advised that BNG would be difficult to achieve considering the likely unavoidable adverse impacts on WP CWS and potential impacts on ancient woodland. It questioned the dual purpose of the open space for BNG and community purposes and advised robust control measures [REP9-040]. The Applicant responded at [REP1-027] that designated pathways would be provided with signage and that as 20ha was to be created, the impacts were likely to be minimal.
- 3.7.88. The ExA acknowledges the representations that requested the proposals for BNG were more ambitious, including those from the LBC [REP2A-006]. However, BNG is not currently a legal requirement for NSIP and there are no other definitive policy requirements as to the quantum of gain.
- 3.7.89. The ExA is satisfied that the enforceable oLBMP [AS-029] would deliver BNG and, as this is not yet a requirement for NSIP, it would not be reasonable to impose additional scrutiny through a dedicated management group.

- 3.7.90. The ExA has considered whether its conclusion that the 'mitigation' offered for lost habitats is, in fact, compensation would affect the delivery of 10% BNG where it relied on the habitat creation areas. The only habitat of principal importance that appears to rely on the habitat creation area for compensation is the calcareous grassland. However, less than 0.4ha would be lost in total, with some being compensated at Dairyborn Scarp DWS. It is concluded that a very small area of land would be required to compensate for this loss, and removal of this from the BNG calculations is unlikely to make a significant difference.
- 3.7.91. The NPPF (paragraph 180) states that net gains should be provided. The ANPS (paragraph 5.104) states that consideration should be given to whether the applicant has maximised the opportunities for building in beneficial biodiversity as part of good design. LLP Policy LLP28 states that proposals adding to the net stock of wildlife habitats or delivering a net gain are supported. Even allowing for 'compensation' of habitat loss rather than 'mitigation, the ExA is satisfied that the commitment to 10% BNG, secured via the DP [\[REP9-030\]](#) could be delivered, and the requirements of these policies are therefore met.

Other matters

- 3.7.92. Other issues were explored during the Examination, including those relating to certainty in delivery of mitigation, justification of judgements regarding the value of ecological features, the baseline dataset, wording of the oLBMP [\[AS-029\]](#), National Trust sites, the Highway Authority's tree estate, the effects of climate change on woodland, application of the Urban Tree Calculator for BNG, functionality of smaller habitat parcels and application of the Environment Act 2021. By the close of the Examination, the ExA was satisfied with the responses it had received on all these matters.

CONCLUSIONS ON BIODIVERSITY

- 3.7.93. The ExA is satisfied that the scope of the Applicant's assessment is sufficient for the purposes of decision making.
- 3.7.94. The NPPF (paragraph 180) states that impacts on biodiversity should be minimised. The ExA is satisfied that the CoCP [\[REP8-013\]](#) would ensure this is achieved during construction works.
- 3.7.95. However, the development would result in the unavoidable loss of WP CWS, and a notable portion of both Dairyborn Scarp DWS and Luton Parkway Verges DWS. The latter would also be subject to permanent, albeit not significant, adverse effects during operation, which would be managed through the oLBMP [\[AS-029\]](#). Air quality at nearby wildlife sites would deteriorate, although this would be unlikely to be to the extent that significant adverse effects would arise due to elevated nitrogen levels. The ANPS (paragraph 5.102) is clear that such effects should not be used in themselves to refuse development consent.
- 3.7.96. The ANPS (paragraph 5.102) states that adequate compensation should always be considered where sites of regional and local interest are adversely affected. Compensation for loss of habitats is a requirement under the hierarchy referenced in the ANPS (paragraph 5.91), the NPPF (paragraph 186) and the LLP (Policy LLP28(A)). During the Examination, the Applicant maintained that the approach should be one of mitigation rather than compensation. The ExA has come to a different conclusion; that, while such habitat loss may be mitigated locally on a small scale, where the main redress for this is replacement habitat on a different part of the site then this must be viewed as compensation.

- 3.7.97. The quantum of land for compensation is typically larger than that lost to account for the uncertainty in delivery, as described in the ANPS (paragraph 5.95). The ExA is satisfied that a larger area of land of equivalent value to those wildlife sites and habitats lost would be provided on the replacement land and in the habitat creation areas, with an associated commitment to long-term management of these. The ExA concludes that the proposals are in accordance with the policies.
- 3.7.98. However, the ExA notes the potentially significant time lag for habitats to mature to compensate for the loss of habitats and accepts that to a large degree this is inevitable. It is acknowledged that over the course of time the habitat loss would be compensated and could even improve, however the effects on habitats and species would be adverse and significant for a notable period. This would include habitats and species of principal importance and, in these circumstances, the ANPS (paragraph 5.105) states that consent should be refused unless the benefits (including need) clearly outweigh the harm. If it is concluded that the overall public benefits of the scheme are established, then harm to the habitats and species of principal importance would be a matter of a little negative weight against the making of the Order given their local to regional value. If the net benefits of the proposal are not established, then this would be a matter for refusal.
- 3.7.99. The NPPF (paragraph 180) states that net gains should be provided. The ANPS (paragraph 5.104) states that consideration should be given to whether the applicant has maximised the opportunities for building in beneficial biodiversity as part of good design. LLP Policy LLP28 states that proposals adding to the net stock of wildlife habitats or delivering a net gain are supported. Even allowing for 'compensation' of habitat loss rather than 'mitigation', the ExA is satisfied that the commitment to 10% BNG, secured via the DP [\[REP9-030\]](#) is likely to be deliverable, and the requirements of these policies are therefore met.
- 3.7.100. The ExA has reviewed the potential effects from construction and operation on Winch Hill Wood CWS/DWS and ancient woodland inventory site, which is within the Order Limits. Although the effects would likely be negative, the ExA is satisfied that the woodland would not suffer from significant cumulative or in-combination effects when the proposals for mitigation and long-term management of the site are taken into account. This is a matter that does not weigh for nor against the Proposed Development.
- 3.7.101. However, the ExA considers that there would be likely deterioration or loss of an irreplaceable ancient and veteran tree. Where irreplaceable habitats would be lost or would deteriorate, the ANPS (paragraph 5.102) and NPPF (paragraph 186) both state that development should not be consented unless the benefits clearly outweigh the loss or deterioration, and a suitable compensation strategy exists. The ExA is content that an appropriate compensation strategy has been provided through the LBMP [\[AS-029\]](#). Allowing for this and the small quantum of loss into account, if it is concluded that the overall public benefits of the scheme are established, then loss or deterioration of the tree would be a matter of a little negative weight against the making of the Order. If the net benefits of the proposal are not established, then this would be a matter for refusal.
- 3.7.102. The NPPF (paragraph 180) requires that coherent ecological networks should be established. The ANPS (paragraph 5.104) states that consideration should be given to whether the applicant has maximised the opportunities for building in beneficial biodiversity as part of good design, particularly through establishing and enhancing GI. The ANPS (paragraph 5.91) requires demonstration that the project has maximised opportunities to conserve biodiversity. The ExA is satisfied that the

Proposed Development would deliver GI, including ecological networks, and maximises opportunities to conserve biodiversity through the oLBMP [\[AS-029\]](#) and the DP [\[REP9-030\]](#). This is a matter of neutral weight.

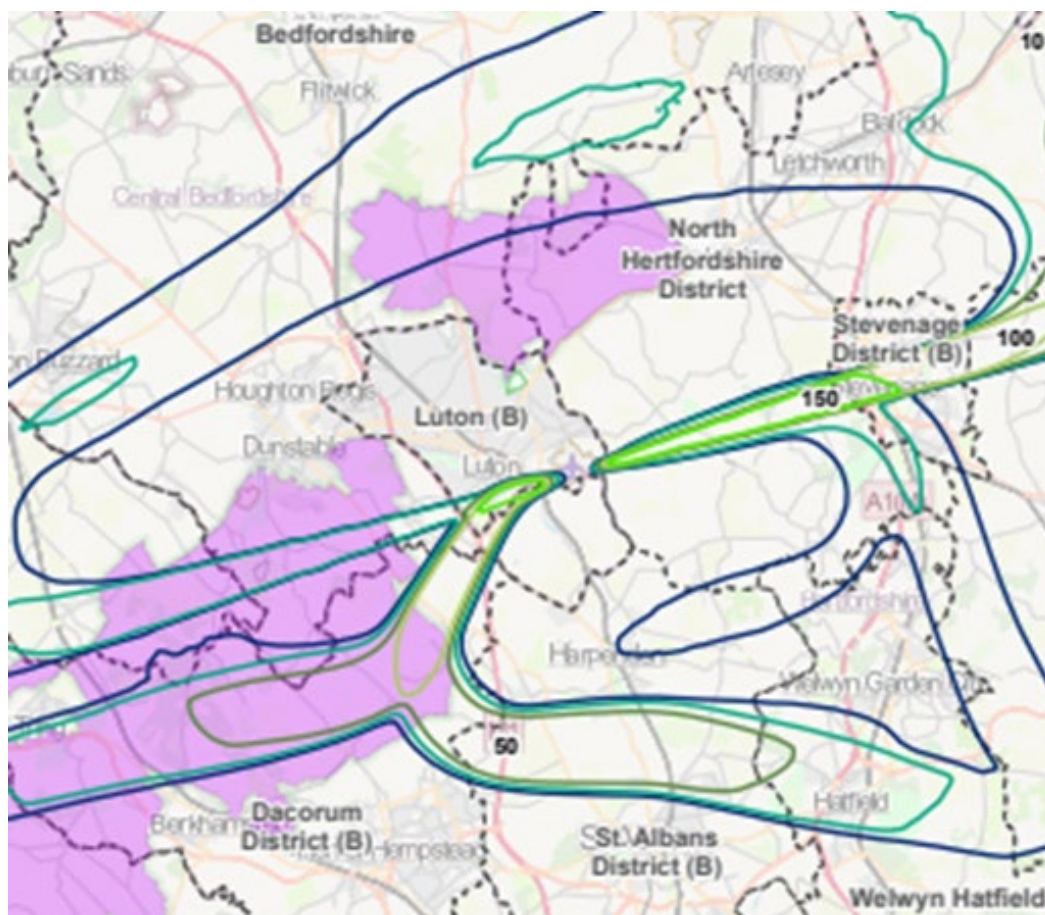
- 3.7.103. If the benefits of the Proposed Development clearly outweigh the harm, then the loss or deterioration of the ancient and veteran tree, and harm to habitats and species of principal importance would be a matter of a little weight against the making of the Order.
- 3.7.104. If the benefits of the Proposed Development do not clearly outweigh the harm, then the loss or deterioration of the ancient and veteran tree, and harm to habitats and species of principal importance would be a reason to refuse the Order.

3.8. CHILTERN NATIONAL LANDSCAPE

INTRODUCTION

- 3.8.1. This Section focuses on the effects of the Proposed Development on the Chilterns NL, which is situated approximately 5km to the west of LLA and 3km to the north at its closest points. Chilterns NL is shown in pink in the inset Figure 9 [REP4-037], extract from Figure 14.14].

Figure 9: Location of Chilterns NL (from Figure 14.14, ES Chapter 14), also showing aircraft overflight contours for the 2019 baseline



- 3.8.2. The term AONB is still referred to in this section where appropriate as the term AONB is still referred to in legislation and policy.

POLICY BACKGROUND

- 3.8.3. A brief overview of key legislation and policies is provided below; a list of relevant policies and legislation can be found in Appendix B.

Countryside and Rights of Way Act (CRoW) 2000

- 3.8.4. S85 of the CRoW sets legislative provisions for the general duty of public bodies in exercising or performing any functions in relation to, or so as to affect, land in an AONB in England. Changes to s85 came into force on 26 December 2023 through s245 of the Levelling-up and Regeneration Act 2023 (LURA) including new subsection A1, which requires a relevant authority to “seek to further the purpose of

conserving and enhancing the natural beauty of the area of outstanding natural beauty”.

National Planning Policy

- 3.8.5. The relevant national policies relating to AONBs are contained in paragraphs 5.219 to 5.222 of the ANPS and paragraphs 180, 182 and 183 of the NPPF.
- 3.8.6. NPPF (paragraph 182) requires that great weight is given to conserving and enhancing landscape and scenic beauty in AONB. Development within an AONB's setting should be sensitively located and designed to avoid or minimise adverse impacts on the AONB.
- 3.8.7. The ANPS (Paragraph 5.219) also states that great weight should be given to conserving landscape and scenic beauty in nationally designated areas. ANPS (paragraph 5.219) notes that these designated areas have specific statutory purposes which help ensure their continued protection and which the SoS has a statutory duty to have regard to in decisions.
- 3.8.8. Paragraph 5.222 emphasises that the duty to have regard to the purposes of nationally designated areas also applies when considering applications for projects outside the boundaries of these areas which could have impacts within them. Such developments should avoid compromising the purposes of designation, and such projects should be designed sensitively given the various siting, operational, and other relevant constraints.

Local Planning Policy

- 3.8.9. The relevant local development plan policies are set out in CBLP; DBC Core Strategy (DBCS); LLP; NHLP; and Vale of Aylesbury Local Plan (VALP).

The Chilterns Conservation Board

- 3.8.10. The CCB has a statutory duty to prepare and review a management plan for the Chilterns AONB. The current version of the management plan covers the 2019-2024 period. While this is a non-statutory planning document it is important and relevant for the assessment of this application. The CCB is an independent statutory body which has two statutory purposes under s87 of the CROW: to conserve and enhance the natural beauty of the AONB; and to increase the understanding and enjoyment of the Special Qualities (SQ) of the AONB.
- 3.8.11. Section 2 of the management plan identifies 13 SQ of the Chilterns which are considered so important, nationally and internationally, that they require protection. Section 3 provides information on the state of the Chilterns and summarises key issues affecting the NL. In particular, it notes that the Chilterns faces unprecedented pressure from housing, transport infrastructure and climate change. A summary of pressures relevant to the Chilterns NL notes airport expansion and increased over-flying as a key issue, with predicted trends without intervention including erosion of character, increased noise, air and light pollution, and the Chilterns NL being less enjoyable to visit. Section 4 contains a 10-point vision for securing the future of the Chilterns.

THE APPLICATION

- 3.8.12. The Applicant's assessment was primarily contained within ES Chapter 14 [\[AS-079\]](#), Appendix 14.4 [\[AS-086\]](#) and the Chilterns AONB SQA [\[REP7-046\]](#).

3.8.13. This concluded that:

- There would be a moderate adverse significant effect on the aesthetic or perceptual characteristics of the landscape within the Chilterns AONB during construction assessment Phase 2b and during the operational period [AS-079]; and
- No significant effects on the SQ of the AONB [REP7-046].

Landscape and visual impact assessment Findings

3.8.14. [AS-086] identified moderate adverse significant effects on the Chilterns NL in construction assessment Phase 2b and operation effects in 2043 and the design year (2056). This was due to aircraft movements increasing over the AONB during assessment Phase 2b, associated with the increase from 21.5mppa to 32mppa when the Applicant considered that the change would result in a noticeable deterioration to the aesthetic and perceptual characteristics of the AONB. The magnitude of landscape impact was judged to be low adverse during each of those assessment years.

3.8.15. The Assessment also considered that both NSIP and planning applications for Heathrow, Gatwick and Stansted were outside the cumulative LVIA scope and therefore judged that there would be no change in the total magnitude of impact and therefore no cumulative significant effects.

SQA Findings

3.8.16. The SQA [REP7-046] explained that there was no formal guidance for assessing the impacts of development on the SQs of AONBs in England. At ISH6 [EV11-001] and in [REP7-046] the Applicant explained that Nature Scot (referred to under its previous name of Scottish Natural Heritage) had produced draft guidance for assessing the impacts of development proposals on Special Landscape Qualities of National Scenic Areas in Scotland. The Applicant considered that these were comparable to SQ for AONBs.

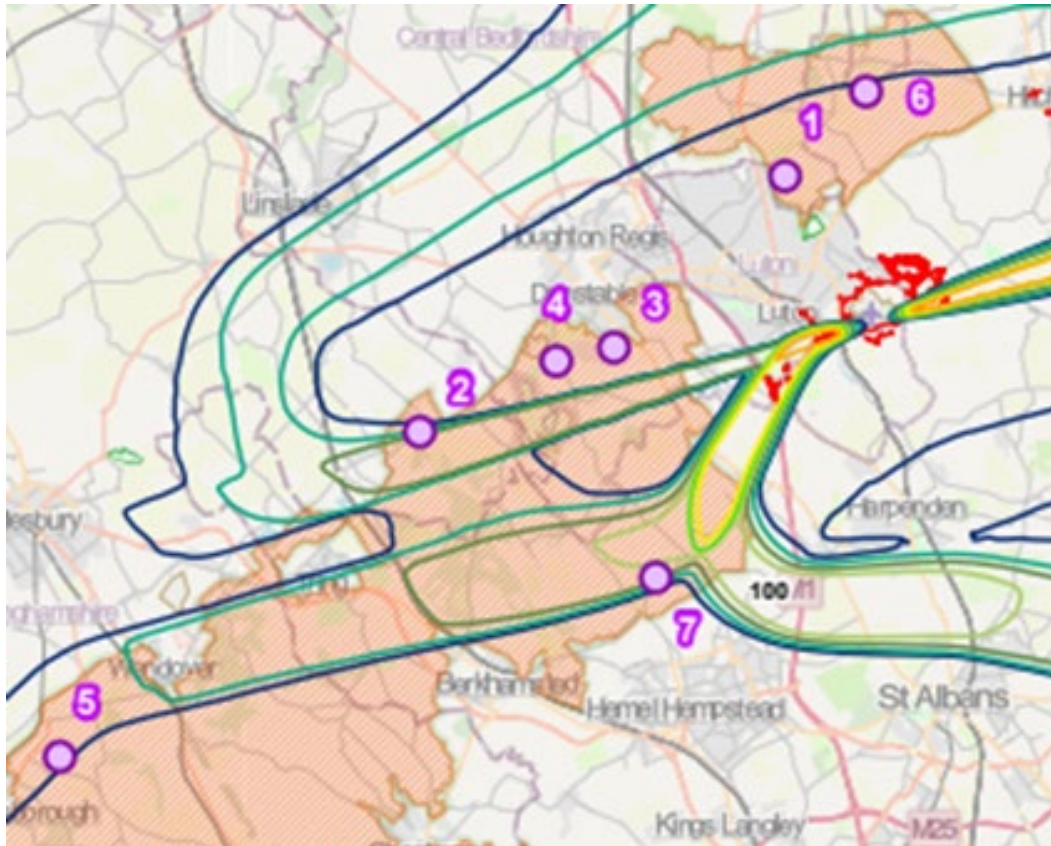
3.8.17. A summary of the significance of the AONB was set out in [REP7-046, paragraph 4.1.2] which referred to page 7 of the Chilterns AONB Management Plan. Paragraph 4.1.2 noted that the Chilterns was designated to “...*protect its special qualities which include the steep chalk escarpment with flower-rich downland, woodlands, commons, tranquil valleys, ancient routes, villages with brick and flint houses, chalk streams and a rich historic environment of hillforts and chalk figures*”.

3.8.18. [REP7-046, section 4.2] identified the 13 SQs of the Chilterns AONB. Of those, the following SQs were scoped into the assessment with more detailed reasons provided in Table 5.1:

- Panoramic views from and across the escarpment interwoven with intimate dip slope valleys and rolling fields.
- Relative tranquillity and peace on the doorstep of ten million people, one of the most accessible protected landscapes in Europe; relatively dark skies, of great value to human and wildlife health; unspoilt countryside, secret corners and a surprising sense of remoteness.
- A dense network of 2000km of rights of way; two national trails, the Ridgeway and Thames Path; notable regional routes such as the Chiltern Way and the Chilterns Cycleway (scoped in in part).
- Numerous ancient routeways and sunken lanes including part of the Icknield Way.

- 3.8.19. [REP7-046, Section 6] provided an assessment of effects on those SQs during each of the three construction assessment phases and the operational stages. A total of seven VP locations were identified to assess effects. These locations are shown in the inset Figure 10 below.

Figure 10: Viewpoint locations (from Figure 6.1, Special Qualities Assessment), also showing aircraft overflight contours for Phase 2b



- 3.8.20. The number of overflights per average 92-day summer daytime period (07:00 to 23:00) at each of these locations was set out in Table 6.1, which was also supplemented by maps illustrating the data in Figures 6.3 to 6.6. Overflights are defined in CAA guidance 'CAP1498: Definition of overflights' as "An aircraft in flight passing an observer at an elevation angle (approximately the angle between the horizon and the aircraft) that is greater than an agreed threshold, and at an altitude below 7,000 ft."
- 3.8.21. The assessment of effects on panoramic views in [REP7-046] concluded that there would be minor adverse (not significant) effects on that SQ from assessment Phase 2b onwards. For relative tranquillity, [REP7-046] concluded that there would be minor adverse (not significant) effects across all of the five assessment phases.
- 3.8.22. Overall, the SQA considered that there would be no significant effects on the SQs of the AONB from limited increases in aircraft movements over areas already overflown. It also considered that in most instances, the increase in aircraft movements would result in "a small expansion of existing aircraft movement contours rather than the introduction of new aircraft movement contours".
- 3.8.23. However, the LVIA identified moderate adverse significant effects on the perceptual and aesthetic qualities of the AONB. It stated that the assessment conclusions for

the SQs differed from those in the ES because it was assessing the likely effects on different (albeit related) receptors which resulted in different effects being reported.

EXAMINATION ISSUES

- 3.8.24. NE's RR [\[RR-1079\]](#), paragraph 2.6] commented that the LVIA should be supported by an assessment of how the scheme, both in its construction and operational phases, would impact on the defined SQs of the Chilterns AONB. NE advised that a significant adverse impact on a SQ of the AONB would affect the area's capacity to deliver its statutory purpose. It also stated that potential mitigation measures for any identified impacts should be addressed, noting that whilst alternatives might be unworkable eg for air safety and practical operational reasons, the need to explore potential mitigation measures was fully justified by the designation status of the Chilterns AONB. Further advice was provided in paragraphs 4.10 to 4.22, particularly the need to give very careful considerations to comments provided by the CCB.
- 3.8.25. CCB provided initial responses in [\[RR-0227\]](#), [\[REP4-214\]](#), [\[REP7-115\]](#) and a PADSS [\[AS-055\]](#). In [\[RR-0227\]](#) it noted the direct impacts on the AONB and its setting from the physical infrastructure of the expanded airport, direct impacts on tranquillity (including both aural and visual intrusion) and indirect impacts from emissions to air arising from increased overflying. It considered that these impacts should be afforded great weight in the consideration of the proposal.
- 3.8.26. BC's LIR [\[REP1A-001\]](#) drew attention to the requirements of VALP Policy NE3 and commented that a large area of the Chilterns AONB falls within the BC's administrative area. It encouraged the Applicant to place particular emphasis on protecting the Chilterns AONB, noting that it was considered an essential and highly valued resource for recreation which is currently somewhat overflown but radical changes to airspace management could lead to it being substantially overflown. It raised the impacts of increase in noise disturbance as an issue and wished to see overflights over the AONB included in the terms of reference for the Noise Envelope Design Group (NEDG). From a landscape and visual perspective, BC stated the principal issue was the nature and extent of impacts on the AONB. BC noted that the qualities of the AONB include visual amenity from vantage points such as Ivinghoe Beacon where protection from noise and visual intrusion was a key issue. In order to understand the full nature of possible effects within its area, BC sought additional clarification regarding impacts on tranquillity, areas overflown and from proposed highway works.
- 3.8.27. CBC's LIR [\[REP1A-002\]](#), paragraph 5.7.16] drew attention to the requirements of CBLP Policy EE7 and raised concerns that the construction effects, particularly during Phase 2b would result in a noticeable deterioration to the aesthetic and perceptual characteristics of the AONB. Significant impacts would also result during the operational phase due to increased aircraft movements, which could impact on the recreational use and overall enjoyment of the AONB.
- 3.8.28. The HHA LIR [\[REP1A-003\]](#) drew attention to the requirements of NHLP Policy NE3 and DBCS Policy CS24. They noted the findings in the LVIA of significant moderate adverse effects on the AONB's aesthetic/ perceptual characteristics and commented that no opportunity had been taken to provide additional mitigation. They stated that further consideration was needed of the identified landscape impacts to the AONB and concluded that the Proposed Development did not comply with NHLP Policy NE3.

- 3.8.29. None of LBC's RR [\[RR-0876\]](#), WR [\[REP1-098\]](#) or LIR [\[REP1A-004\]](#) raised specific comments on the Chilterns NL. It did however respond to questions raised on the merits of the Applicant's SQA and policy compliance throughout the Examination which are summarised in the relevant sections below.
- 3.8.30. The National Trust [\[RR-1077\]](#) and [\[REP1-110\]](#) objected on the grounds of the adverse impact that the Proposed Development would have on the tranquillity of parts of its estate within the Chilterns NL (Ashridge Estate, Dunstable Downs and Whipsnade Heath). It queried whether using lowest observed adverse effect level (LOAEL) and significant observed adverse effect level (SOAEL) thresholds, as adopted for the assessments of effects on residential and non-residential receptors, was appropriate for the assessment of relative tranquillity.
- 3.8.31. Nearly 30 RRs referred to the impact of the proposal on the Chilterns AONB where the main concern was the aural and visual intrusion associated with increased noise, light and traffic pollution that would compromise tranquillity [\[RR-0009\]](#), [\[RR-0226\]](#), [\[RR-0227\]](#), [\[RR-0289\]](#) and [\[RR-0290\]](#). RRs also commented that the implications of a proposed extension to the boundary of the AONB should be addressed [\[RR-0226\]](#) [\[RR-0227\]](#).
- 3.8.32. In responses eg [\[REP1-020\]](#), [\[REP1-021\]](#), [\[REP1-023\]](#), [\[REP1-024\]](#) and [\[REP2-035\]](#), the Applicant largely referred to the findings in [\[AS-079\]](#) on the effects on the aesthetic and perceptual qualities of the Chilterns AONB and that an assessment of effects on the SQ of the AONB was being prepared.
- 3.8.33. Based on the comments raised in submissions, the main Examination issues related to the following matters:
- Suitability of SQA including methodology and findings;
 - Proposed extension to Chilterns NL and AONB Sensitivity Test [\[APP-107\]](#);
 - Compliance with National and Local Policy; and
 - Compliance with Section 85 of CRow.

Suitability of the Special Qualities Assessment

Methodology

- 3.8.34. NE [\[REP4-198\]](#) agreed with the Applicant that there was no formal guidance for assessing the impacts of development on the SQs of England's AONBs, but the LVIA methodology provided a helpful basis for assessing those effects. NE also noted the challenges which any methodology would face in assessing the susceptibility of 'relative tranquillity' to increased air traffic over the AONB, due to the complexity of establishing a baseline for 'relative tranquillity'.
- 3.8.35. NE [\[REP5-080\]](#) endorsed CCB's comments regarding the need for a more considered approach to tranquillity. It suggested that the Applicant would need to assess effects on more of the area's SQs, factor in elements of the Scottish Natural Heritage methodology, strongly recognise the limitations of an LVIA based approach and align the assessment and its conclusions with relevant findings in the ES.
- 3.8.36. CCB provided detailed comments on the SQA methodology in [\[REP7-115\]](#), where their main areas of disagreement were that:
- Assessment of the SQ of an archaeological landscape (eg Ivinghoe Beacon) and the dramatic chalk escarpment (eg Pitstone Hill) should be included as their setting would be impacted;

- Consideration should be given to the forthcoming boundary extension in the assessment using a 'Rochdale Envelope' approach along with a brief commentary on the methodology agreed for the SQs to confirm that it was applicable to other land should it be designated;
- The SQAs finding of no significant effects on SQs should be calibrated with the findings of significant effects on the aesthetic and perceptual qualities of the AONB in the LVIA [AS-079] as the CCB considered that the receptors were the same, ie people walking/recreating in the landscape and experiencing a change in their perceptual and aesthetic appreciation of that landscape; and
- There was insufficient discussion of mitigation measures.

3.8.37. The HHA commented on the suitability of the SQA in [REP9-066] and [REP10-054]. The key issues raised can be summarised as follows:

- There was a need to establish an appropriate baseline for tranquillity;
- A stronger written narrative of the existing baseline situation was required in respect of tranquillity and dark skies because the SQA [REP7-046, section 5.3] was not considered robust;
- Understanding of tranquillity and dark skies should not rely on the reader having to interpret the CPRE tranquillity mapping [REP7-046, Figures 6.7 to 6.10] and dark skies mapping [REP7-046, Figures 6.11 to 6.14] to gain an understanding;
- There was no indication of the capacity of the existing baseline resource to absorb more overflying aircraft and this should be discussed as part of the baseline sensitivity of each SQ. This information was important to understand the susceptibility of receptors to absorb more overflying aircraft (during the day and night-time);
- Further consideration of impacts on features that contributed to the SQs was required, such as distinctive buildings; attractiveness and setting of villages, places and features that are located beyond the areas immediately below the flight paths where their attractiveness and setting could be compromised; and
- The Applicant's assessment of susceptibility in relation to tranquillity as 'medium' was questioned noting that the Applicant had considered susceptibility in relation to the relative tranquillity of the study area overall as a receptor as opposed to considering geographically specific effects. For example, at Jockey End circa 200 aircraft flights below 7000ft were predicted in Phase 2b in areas of relative tranquillity and dark skies. Consequently, effects on the AONB as a whole appeared to be 'watered down', with knock-on effects for the assessment.

3.8.38. In response [REP8-038], the Applicant stated that it had used professional judgement in the absence of any defined or accepted methodology for measuring effects on tranquillity, based on the relative tranquillity indicators set out in NE's Guidance for assessing landscapes for designation. The Applicant considered that the areas of the AONB subject to increased overflights were already subject to overflights and reduced tranquillity as a result of urban development and transport infrastructure and the assessment had not been watered down.

Assessment Findings

3.8.39. Following submission of the SQA [REP7-046], the ExA asked all Relevant Planning Authorities (RPAs), CCB and NE for their comments on the suitability of the SQA assessment findings [PD-021].

3.8.40. NE [REP9-074] deferred to the CCB to comments based on their local knowledge as a statutory consultee. In addition to previous comments, CCB [REP9-092] added that because the ES was derived from secondary legislation, its findings of significant adverse effects should carry more weight. It also considered that the

Applicant had not put forward any evidence to support their claim that traffic noise from busy road corridors such as the M1 substantially affects tranquillity in the study area.

- 3.8.41. The HHA [\[REP9-066\]](#) were critical of the SQA and did not consider that it was sufficiently robust for them to agree with the findings. The HHA reiterated comments about the potential to underestimate overflight effects due to averaging. In the absence of detailed consideration of the baseline capacity to absorb additional overflights, they considered that conclusions in the SQA [\[REP7-046\]](#) were flawed. In their opinion, further compromising the SQs would increase the magnitude of impact above 'very low' in areas like Jockey End.
- 3.8.42. The HHA [\[REP10-054\]](#) stated that the level and extent of harm was underrepresented in both the LVIA [\[AS-079\]](#) and the SQA [\[REP7-046\]](#). They raised additional concerns regarding:
- the impact of large-scale built development;
 - lack of consideration of the effects from transient lighting on the AONB;
 - lack of an intelligent narrative summary of the existing baseline; and
 - limited consideration of additional flight movements in some areas which was only limited to seven VPs.
- 3.8.43. The HHA considered the Applicant's assessment of impact on the AONB and its SQs was incomplete and inaccurate as it did not adequately justify their conclusions and failed to take into account all relevant aspects that could influence susceptibility, magnitude of change and significance.
- 3.8.44. LBC [\[REP9-068\]](#) considered that the Applicant's SQA was satisfactory.
- 3.8.45. The ExA asked the Applicant a number of questions in [\[PD-021\]](#) about the SQA [\[REP7-046\]](#), including details of tranquil and dark skies areas, commentary on the impact of overflights on the experience of people enjoying views from the chalk escarpment, and how overflights had been considered in the SQA. The ExA also sought clarity on the implications of the Proposed Development for the provisions of s85 of CROW. The Applicant response [\[REP9-057\]](#) to these questions is considered in more detail below.
- 3.8.46. At the close of the Examination, disagreement remained between the HHA and the Applicant on the methodology and assessment findings in the SQA [\[REP8-056\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#) and [\[REP11-099\]](#).
- 3.8.47. Disagreement also remained between the Applicant and NE in their SoCG [\[REP9-040\]](#). NE wanted acknowledgement that the permanent deterioration of the sense of tranquillity within the AONB would be a significant adverse effect on the AONB's statutory purpose. In response, the Applicant maintained that there was no agreed methodology for assessing effects on tranquillity and referred to the findings in the SQA [\[REP7-046\]](#) and LVIA [\[AS-079\]](#).

ExA Conclusions on suitability of SQA

Methodology

- 3.8.48. The ExA finds that there is no accepted methodology for measuring effects on tranquillity but does not agree that it is not possible to undertake a full qualitative analysis of relative tranquillity within areas of the Chilterns NL.

- 3.8.49. The ExA sought and received additional information from the Applicant on tranquillity and dark skies but has some sympathy with the HHA argument that a more detailed narrative on relative tranquillity and areas experiencing darker skies could have been provided to aid understanding of the baseline conditions eg based on more detailed written analysis, fieldwork and specific examples of receptors located within areas that experience the SQs.
- 3.8.50. The Applicant in [\[REP9-057\]](#) explained the areas that most experience tranquillity within the study area were the central and northern part of the Chilterns NL to the north of Luton; the area to the north-east of Tring and to the north of Berkhamsted; the area to the east of Wendover; and the area between Wendover and Princes Risborough. The ExA considers that a more detailed narrative of the baseline conditions within those areas and other areas of the AONB that experienced tranquillity could have been included within section 5.3.
- 3.8.51. [\[REP7-046\]](#) stated *"It is beyond the scope of this assessment to describe and evaluate in detail where contributors to and detractors from relative tranquillity are present or absent within the Study Area"*. Given that the application is an NSIP where [\[AS-079\]](#) concluded that significant adverse effects on the aesthetic and perceptual qualities would occur to a Nationally Designated Landscape, it is not clear to the ExA why it would be beyond the scope of the assessment to undertake this. The ExA considers that the Applicant has not provided robust justification for not providing additional detail regarding the location of contributors to and detractors from relative tranquillity.
- 3.8.52. [\[PD-021\]](#), Q2] asked whether the assessment should include further SQs. Whilst the ExA notes the Applicant's view that there would be a low increase in number of overflights or that baseline overflights were already high, it remains unclear to the ExA how the experience of people enjoying the SQs in those areas would be affected.
- 3.8.53. The ExA notes the Applicant's conclusion that the increase in overflights over most of the Chalk Escarpment would be relatively low. However, the ExA does not consider that it fully represents the scale of increase in those areas. [\[REP7-046\]](#), Figure 5.2] suggested that areas experiencing this SQ would fall within the contours of 50 overflights per day at Phase 2b, which is more than double the baseline of 20 overflights in Figure 6.3.
- 3.8.54. The ExA therefore considers that the SQA should have included more detailed narrative on the SQs highlighted by CCB and HHA and why those areas would not be affected.
- 3.8.55. The ExA notes the HHAs' comments on the need for a more transparent assessment of the AONB's capacity to absorb more overflights but has reservations about the reliability of conclusions from such an exercise. In the ExA's opinion, a professional judgment has to be made regarding the magnitude of impact of increases in overflights compared with the baseline conditions in affected areas. In the ExA's opinion, the SQA has sought to do this, irrespective of any differences of professional opinion in the assessment findings.

Assessment Findings

- 3.8.56. The ExA does not agree that increases in overflights in all areas of Chilterns NL would be small and considers that the effects could be experienced over a greater area than identified by the Applicant. The Applicant sought uncapped movements in

the shoulder period meaning that increases in overflights could be more pronounced during these periods.

- 3.8.57. For example, at Ivinghoe Beacon an increase from 12 daily overflights in the baseline to 18 in Phase 2b was predicted [REP7-046, Table 6.1]. This figure was based on number of overflights within a predefined elevation angle from the observer but flights outside this area would still affect receptors. During a site inspection [EV1-001] the ExA observed that the Beacon was not directly under the flightpath but was clearly affected by noise from regular, passing aircraft. In addition, the experience of the Beacon was far wider than the Beacon itself and included footpaths (FPs) to the Beacon and their panoramic views that were located under the flightpath.
- 3.8.58. The ExA is of the view that these recreational assets contribute to enjoying the SQs of panoramic views and relative tranquillity. The ExA considers that the wider appreciation of Ivinghoe Beacon would be impacted by an increase from 20 daily overflights in the baseline to 50 overflights in Phase 2b, which is more than double. The ExA therefore agrees with the HHA [REP9-066] that these increases could result in greater than a 'very low' magnitude of impact and that the assessments of predicted overflights underrepresent the extent of increases that would be experienced.
- 3.8.59. In its response to [PD-021, Q5] the Applicant advised that inclusion of overflight information for the shoulder period (06:00 to 07:00 and 23:00 to 23:30) in the assessment findings would not alter the findings [REP9-057]. It was explained that the number of overflights during this period would be very low, increasing by less than one over most areas within the study area but did not provide a detailed justification for this figure.

Relative Tranquillity

- 3.8.60. The ExA notes that the HHA questioned the assignment of susceptibility in relation to tranquillity as 'medium'. However, based on [REP7-046, Table 3.6] if susceptibility was judged to be higher than 'medium', given that the landscape value has been judged to be 'very high', the overall sensitivity of the receptor (which is a combination of susceptibility and value) would not change. As such, the ExA finds that the dispute in this finding would not materially alter the conclusions.
- 3.8.61. The ExA has considered the comments raised by the statutory parties and the assessment in [REP7-046, paragraphs 6.4.13 to 6.4.26]. Overall, based on the increases of overflights presented in Figures 6.3 to 6.7, the ExA does not agree that the magnitude of impact would be very low adverse. The ExA does not agree with the Applicant that because existing areas are already overflown, any increase in overflights would constitute a low magnitude impact. Given the proportional increases in some areas, which could be more than double, the ExA is of the view that the effect of overflights on relative tranquillity is underrepresented.
- 3.8.62. On the matter of dark skies, the ExA agrees with the HHA that this matter was not particularly well presented in the SQA. The ExA considers that the implications of lighting and the need for an assessment in accordance with the Guidelines for LVIA (GLVIA3) should have been considered. However, the ExA observed the effect of aircraft landing lights on night skies during night-time site inspections [EV1-023], from a number of VPs within the Chilterns NL including Ringshall, Dagnall, Whipsnade and Dunstable Downs, and the car park at Ivinghoe Beacon.

- 3.8.63. The ExA observed that transient lighting from aircraft was fleeting and not so prominent as to be distracting or detrimental. Whilst the SQA would have benefited from a more detailed assessment, the ExA considers that the effects from aircraft lighting were unlikely to be significant.
- 3.8.64. Overall, the ExA finds that the increase in overflights arising from the Proposed Development would undermine the SQ of relative tranquillity rather than conserve and enhance it.

Panoramic viewpoints

- 3.8.65. The HHA [\[REP10-054\]](#) commented that large-scale built development including solar panels would result in a deterioration of the SQs of the AONB. However, it is not clear to the ExA which areas of the AONB and the SQs within those parts would be affected. The ExA visited all three VPS (1, 45, and 50) within the AONB during site inspections [\[EV1-001\]](#). In the ExA's opinion, the airport was at distance and the built form of the Proposed Development would be unlikely to adversely affect views from panoramic VPs within the Chilterns NL.
- 3.8.66. The ExA considers that the enjoyment and experience of panoramic VPs would be compromised by the increased overflights and for the same reasons as described above, it considers that this would be greater than a very low adverse magnitude of impact. As such, the ExA considers that the enjoyment of this SQ would be diminished by the Proposed Development.

Proposed extension to the Chilterns NL and AONB Sensitivity Test [\[APP-107\]](#)

Proposed extension to the Chilterns NL

- 3.8.67. NE is leading a boundary review of the Chilterns NL following an application by the CCB to extend its boundary. [\[REP4-037\]](#), Figure 14.7] illustrated the Candidate Area, covering rural areas primarily within North Hertfordshire and Central Bedfordshire to the north, east and south of LLA. The boundary review project program [\[REP6-122\]](#) included making and submitting an Order to the SoS by the end of 2024. At the close of Examination, no update had been provided on whether any of parts of the Candidate Area had been identified by NE to be progressed.
- 3.8.68. The Applicant's Planning Statement [\[REP11-009\]](#) argued that no weight should be given to an unconfirmed boundary extension. CCB [\[REP9-092\]](#) did not agree with the Applicant's view that 'no weight' should be given to the boundary review and considered that some, albeit limited, weight could be given. The opinion of the JHA and CCB [\[REP6-093\]](#) was that limited weight could be given to it. The ExA explored this at ISH8 [\[EV15-001\]](#).
- 3.8.69. The Applicant's scoping opinion response [\[APP-047\]](#), ID 4.13.5] referenced the potential boundary extension and advised that the assessment in the ES should take into account the proposed designation and any significant effects that might occur. The Applicant provided a Chilterns AONB Sensitivity Test [\[APP-107\]](#) comprising a qualitative assessment of changes to the conclusions of the LVIA [\[AS-079\]](#) in the event of a designated extension.
- 3.8.70. The Sensitivity Test [\[APP-107\]](#) concluded that any extension to the boundary of the Chilterns NL would potentially increase the residual effects on some Landscape Character Areas (LCA) (Hertfordshire LCA Areas 200, 201, 202, 203 and 211) from minor adverse (not significant) to moderate adverse (significant) through construction activities and increases in aircraft movements which would deteriorate

the aesthetic and perceptual qualities experienced by those in the extended part of the NL.

- 3.8.71. The Sensitivity Test [APP-107, paragraph 2.4.2] considered that there would be no increase in the magnitude of impact or the sensitivity of a visual receptor. The sensitivity test considered that there would be no change in the significance of effect on any visual receptors as the Applicant considered that a boundary extension designation would not change the susceptibility or the value attached to views.
- 3.8.72. The ExA [PD-010, PED1.23] asked for further justification of the Applicant's findings noting that introducing a statutory landscape designation would likely increase the value of the visual receptor and its susceptibility to change. The ExA also asked the Local Authorities, NE, The Chiltern Society and CCB whether they were in agreement with the findings in the Sensitivity Assessment.
- 3.8.73. NE [REP4-198] disagreed with the findings of paragraph 2.4.2 of the Sensitivity Test [APP-107]. In its opinion, introducing a statutory landscape designation would increase both the susceptibility of visual receptors to changes within the landscape and would also increase the value attached to views. NE requested that the Applicant re-evaluate judgements around the 'susceptibility of visual receptors' and the 'value of views' for visual receptors in the Chilterns AONB Sensitivity Test [APP-107].
- 3.8.74. The HHA [REP4-126] and [REP6-093] agreed that the magnitude of impact would not change but considered that sensitivity would increase the assessed level of effects for some receptors. The HHA also suggested that sensitivity was influenced by value which included evidence of value such as designations in tourist maps and guidance. They considered that the assessment was not fully in accordance with GLVIA3.
- 3.8.75. The Applicant's response to Action Point 47 in [REP6-066] argued that no weight should be given to a theoretical boundary extension and that its LVIA took into account the value of views meriting future designation. It also suggested that it would not change enjoyment of the view, ruled out the need for GLVIA3 assessment on the basis that it applied to current not potential views and suggested that no available literature supported the value of the view. It also referenced comments in GLVIA3 that a landscape does not automatically have high susceptibility to all types of change. This position was unchanged in [REP11-049].

ExA conclusions

- 3.8.76. The ExA considers that a boundary extension would change the sensitivity for visual receptors and have implications for the conclusions of the assessment. However, in light of uncertainties in the boundary extension process and particularly the candidate area that could be taken forward by NE, the ExA considers that it would attract very little weight and it was therefore not proportionate to request the Applicant to revisit the findings in the Sensitivity Test [APP-107] as part of the Examination.
- 3.8.77. Given the ExA's reservations on the assessment findings on sensitivity relating to visual receptors, the ExA would recommend to the SoS that if there is any change to the boundary of the NL throughout the decision-making period, that an updated assessment on landscape and visual effects within the area be requested.

Compliance with National and Local Policy

- 3.8.78. The ExA [\[PD-021\]](#) requested comments from the Applicant, all RPAs, CCB and NE on the compliance of the Proposed Development with both national and development plan AONB policies.
- 3.8.79. The Applicant [\[REP10-046\]](#) referred to the ANPS (paragraph 5.222) which states that for projects outside of and which may affect an AONB, development should aim to avoid compromising the purposes of designation, and such projects should be designed sensitively given the various siting, operational, and other relevant constraints. The Applicant considered that the Proposed Development had been designed sensitively and would not compromise the purposes of the designation of the AONB, as set out in the SQA [\[REP7-046\]](#). In both [\[REP10-046\]](#) and [\[REP11-049\]](#) the Applicant acknowledged that the Proposed Development would not strictly protect or enhance the AONB, although neither would it strongly conflict with national nor local AONB policies having regard to the nature and scale of the assessed impacts and the purposes for its designation. Notwithstanding that NPPF (paragraph 182) requires 'great weight' to be given to conserving and enhancing landscape and scenic beauty of the AONB, the Applicant considered that this issue did not weigh heavily in the planning balance.
- 3.8.80. NE [\[REP9-074\]](#) responded that it would not be appropriate for them to provide comments on this matter. CCB [\[REP9-092\]](#) commented that the starting point for assessing AONB national and local policy rested with the SQs as set out in the management plan. It noted that the development plans for the areas overflowed were especially relevant and that the NPPF (paragraphs 182 and 183) gave 'great weight' to conserving and enhancing landscape and scenic beauty. The CCB suggested that the harm identified to the AONB in the Applicant's assessment meant that conservation and enhancement of the AONB could not be delivered.
- 3.8.81. LBC [\[REP10-057\]](#) commented that the areas of the AONB within its administrative boundary were located in the north-east of Luton between 3-5km from LLA which were not under the airport's flight path. LBC considered that the Proposed Development was not located in the AONB and the design of the Proposed Development would not impact upon it. LBC stated that whilst there would not be a limited increase in the number of flights, the Proposed Development would not cause material harm to those areas of the AONB within Luton and would not conflict with Policy LLP29 requirements to protect, conserve or enhance the special character, natural beauty, landscape and setting of the Chilterns NL.
- 3.8.82. The HHA [\[REP10-054\]](#) noted that the UK was a signatory to the European Landscape Convention which promotes the protection, management, and planning of landscapes. The HHA did not consider that the Proposed Development demonstrated adequate protection of the AONB. CBC [\[REP10-095\]](#) and the HHA quoted the requirements of the NPPF (paragraphs 180, 182 and 183). The HHA suggested that in the absence of any mitigation the identified adverse impacts would not be moderated. The HHA also stated that harm to the AONB from the Proposed Development would be contrary to DBCS Policy CS24 as the Proposed Development would not conserve the SQs and would not comply with the CCB Management Plan Strategic Objectives D01 and D02. The Proposed Development would also be contrary to NHLP Policy NE3 (provisions b, d and f) as it would fail to conserve and where possible enhance the AONB's SQs, distinctive character, tranquillity and remoteness.

- 3.8.83. CBC [\[REP10-095\]](#) considered that the Proposed Development did not meet the requirements of national policy or CBLP Policy EE7 because the Applicant had not included mitigation to reduce the impact of increased overflights.

ExA conclusion on policy

- 3.8.84. The ExA considers that the SQs of panoramic VPs and relative tranquillity would be harmed, such that the SQs of the Chilterns AONB would not be conserved. As such, the ExA finds that the proposal would be contrary to CBLP Policy EE7 part 1 (to conserve and enhance the AONB SQ, character and tranquillity) and part 3 (to meet the statutory aims of the Chilterns AONB management plan); and DBCS Policy CS24 which seeks to protect the AONB SQ, the scarp slope skyline and to have regard to the AONB management plan.
- 3.8.85. In addition, as areas of the AONB around Ivinghoe falling within the Vale of Aylesbury would be compromised, the ExA considers that the Proposed Development would be contrary to VALP Policy NE3, which has similar policy ambitions to CBLP and DBCS but also provides specific advice on actions to conserve and enhance the AONB.
- 3.8.86. Based on the more limited increase in overflights of the areas of the AONB in North Hertfordshire, the ExA considers that the SQs in those areas would be less affected and would not necessarily be compromised such that NHLP Policy NE3 would not be met.
- 3.8.87. Based on the above, the ExA considers that the Proposed Development could compromise the purposes of the designation of the AONB [\[REP10-046\]](#) and therefore concludes that the Proposed Development would be contrary to the requirements of the ANPS (paragraph 5.222). Whilst the ExA agrees that the built development would avoid or minimise adverse impacts on the designated areas, it considers that the scale of increase in overflights would not minimise adverse impacts and the Proposed Development would therefore be contrary to the NPPF (paragraph 182). The Applicant's mitigation measures for the Chilterns NL are limited to operational controls such as noise contour controls and future improvements in engine technology. In the absence of more specific mitigation measures being put forward the ExA considers that harm would arise to the Chilterns NL.
- 3.8.88. The ExA concludes that this would weigh against the making of the Order and given the statutory designation, assigns this great weight.

Compliance with Section 85 of CRoW

- 3.8.89. During ISH8 [\[EV15-001\]](#) the implications of the amendment to s85 introduced by LURA were examined and how it should be applied to the Proposed Development. [\[PD-021\]](#) requested comments on the s85 provisions.
- 3.8.90. The Applicant [\[EV15-001\]](#) and [\[REP6-066\]](#) acknowledged that the amendment strengthens the obligations but considered that it was consistent with the requirements of the ANPS and NPPF in respect of AONBs. It emphasised that the PA2008 permits development which has adverse effects on the natural beauty of AONBs, where the benefits of a proposal would outweigh its adverse impacts and that the LURA did not seek to prevent NSIP development. The Applicant also noted that no regulations had been published by the SoS about how a relevant authority was to comply with the revised duty under s85(A1). LBC [\[REP10-057\]](#) concurred with the Applicant's position.

- 3.8.91. NE [\[REP9-074\]](#), CBC [\[REP10-095\]](#) and [\[REP6-090\]](#) and the HHA [\[REP6-093\]](#) considered that the duty to 'seek to further' was a stronger, active duty, not a passive one and any relevant authority must take all reasonable steps to explore how the statutory purposes of the protected landscape could be furthered. NE, HHA and CBC broadly agreed that the new duty of avoiding harm and seeking to further the conservation and enhancement of a protected landscape goes beyond mitigation and a relevant authority must be able to demonstrate with reasoned evidence what measures could be taken to further the statutory purposes or demonstrate that its purposes were not affected.
- 3.8.92. CCB [\[REP9-092\]](#) suggested that the diminution of relative tranquillity due to increased movements over the AONB would harm the SQ of natural beauty and would not 'further the purpose'. It considered this harm should be given great weight in the balancing of issues. It suggested that any boundary designation to the east would exacerbate the failure to further the purpose. The HHA [\[REP10-054\]](#) considered that the LURA Amendment placed greater weight on the conservation and enhancement of AONBs and, as a result of the unmitigated significant adverse effects identified, the HHA considered that the Proposed Development was not consistent with s85 of CRoW.

ExA conclusions on compliance with s85

- 3.8.93. At the close of the Examination, there was no further update on the proposed regulations that might provide additional context for the duties under s85(1A). As such, the ExA can only provide its professional opinion on the interpretation of the Act as matters stood at the close of the Examination.
- 3.8.94. The ExA notes that s85 of CRoW requires that the decision maker "*must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty*" (ExA's underlining). The ExA noted NE's comments [\[REP9-074\]](#) that a relevant authority must be able to demonstrate with reasoned evidence what measures would be taken to further the statutory purpose.
- 3.8.95. Based on the finding of significant adverse effect on the aesthetic and perceptual qualities of the AONB [\[AS-079\]](#) in the LVIA and given the ExA's conclusion's regarding the SQA and policy compliance above, the ExA considers that the proposal would not conserve and enhance the natural beauty of the AONB and would be contrary to the requirements of s85 of CRoW.
- 3.8.96. On this matter, NHLP Policy NE3(d), CBLP Policy EE7 and VALP Policy NE3(c) require proposals to demonstrate that they make practical and financial contributions towards management plan delivery as appropriate. Noting comments from the HHA [\[REP10-054\]](#) that they were unaware of any discussion relating to this matter, the ExA asked the Applicant [\[PD-024\]](#) to confirm whether the definitions of projects eligible for Community First funds could be extended to include this or whether an alternative funding mechanism would be available. In response the Applicant [\[REP11-051\]](#) stated that they were fully committed to tackling deprivation and local decarbonisation projects and were not aware of an appropriate alternative mechanism to provide funds for the stated purpose. The Applicant also stated it was their position that mitigation through funding would not be effective in respect of impacts on the Chilterns NL.
- 3.8.97. In the ExA's opinion, the application would have benefited from additional measures to promote the SQs of the Chilterns NL and support the measures in the management plan and in VALP Policy NE3 (parts f to m). For example, the CCB

[REP7-115] explained that it was heavily engaged in the ‘Beacons of the Past’ National Lottery Heritage Fund project to record and improve the condition of the many hillforts on the escarpment. This could have provided comfort to the ExA that the Proposed Development would seek to further the purpose of conserving and enhancing the natural beauty of the AONB.

CONCLUSIONS ON CHILTERN NATIONAL LANDSCAPE

- 3.8.98. The ExA considers that the Proposed Development would compromise the SQs relating to Relative Tranquillity and Panoramic VPs within the Chilterns NL. For this reason, the ExA considers that the Proposed Development would be contrary to CBLP Policy EE7 parts 1 and 3, DBCS Policy CS24 and VALP Policy NE3. It would also be contrary to the requirements of the ANPS (paragraph 5.222) and the NPPF (paragraph 182).
- 3.8.99. The ExA considers that the Proposed Development would not conserve and enhance the natural beauty of the AONB and would conflict with the aims and objectives within the Chilterns AONB Management Plan. In the absence of specific mitigation measures being put forward by the Applicant to offset those harms, the ExA does not consider that the duty to “*seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty*” has been met and is unable to recommend to the SoS that this duty has been complied with. For these reasons, the ExA considers that the impacts on the Chilterns NL attract great weight against the making of the Order.

3.9. CLIMATE CHANGE RESILIENCE

INTRODUCTION

- 3.9.1. The Applicant's CCR assessment was reported in Chapter 9 of the ES [\[APP-035\]](#). This topic includes both the effects of climate change impacts on the Proposed Development (the CCR assessment) and the combined impact of climate change and the Proposed Development on other receptors (the ICCI assessment).
- 3.9.2. The assessment of the effects of GHG emissions from the Proposed Development on the climate, including through design, is reported separately in Chapter 12 of the ES [\[REP3-007\]](#). The Applicant's detailed assessment of water resources effects was reported in Chapter 20 of the ES [\[AS-031\]](#), which was accompanied by a Flood Risk Assessment [\[REP4-038\]](#). The effects of climate change were also raised during the Examination in relation to other topics, including noise (Section 3.18), air quality (Section 3.6) and health and communities (Section 3.13).

POLICY BACKGROUND

- 3.9.3. A brief overview of key policies is provided below; a list of relevant policies and legislation can be found in Appendix B.
- 3.9.4. NPPF (paragraph 159) requires that new development should avoid increased vulnerability to the range of impacts arising from climate change. Where development is necessary in an area at risk of flooding, such development should not increase flood risk elsewhere (paragraph 165).
- 3.9.5. The ANPS (paragraph 4.43) states that new development should be planned to avoid increased vulnerability to the range of impacts arising from climate change; care should be taken to ensure that risks can be managed through suitable adaption measures, including through the provision of GI. Section 4.45 states that the Applicant must consider the impacts of climate change when planning design, build and operation in the long-term. This should be based on the latest available UK Climate Projections (paragraph 4.46).
- 3.9.6. Section 4.47 of the ANPS states that where transport infrastructure has safety-critical elements, and the design life of the asset is 60 years or greater, the Applicant should consider at least a scenario that reflects a high level of GHG emissions at the 10%, 50% and 90% probability levels. This should demonstrate that there are no critical features of infrastructure design which may be seriously affected by more radical changes to the climate beyond those projected (paragraph 4.48).
- 3.9.7. Section 4.50 of the ANPS states that if any projected adaption measures themselves give risk to consequential impacts, then these will need to be considered in relation to the application as a whole and the principles set out in the ANPS.
- 3.9.8. LLP Policy LLP36, amongst other things, requires that new development is directed to the areas with the lowest area of flooding, that it addresses flood resilience and does not increase the risk of flooding elsewhere. Policy LLP37 states that the Council will support development proposals that contribute towards mitigation and adaption to climate change. Development plans for the other host authorities contain similar policies, requiring development to be resilient to climate change.

THE APPLICATION

- 3.9.9. For both assessments, the temporal scope was the duration of the construction works and a 60-year project design life [APP-035, paragraph 9.3]; the 2020 to 2049 time period was used for construction activities as a reasonable worst-case approach. To understand potential medium-term and long-term impacts the assessment of effects during operation was divided into two time periods: 2049 to 2069 and 2070 to 2099. These periods are consistent with available probabilistic projections from UK Climate Projections 2018 (UKCP18).
- 3.9.10. The methodology and results were scrutinised by the Airports CC and GHG stakeholder WG as they developed. This comprised representations from the host and neighbouring councils [APP-035, paragraph 9.4.2].

Climate Change Resilience assessment

- 3.9.11. The Applicant's assessment was prepared in line with, amongst other guidance, the Institute of Environmental Management and Assessment (IEMA) EIA Guide to: Climate Change Resilience and Adaption (2020) [APP-035, table 9.4]. Full details of the methodology were presented in paragraph 9.5 [APP-035].
- 3.9.12. The latest set of UK climate projections for variables including temperature, precipitation, humidity, heatwaves, frost, 'heavy' rain and dry spells were used to project from the baseline to 2099. Future baseline data were calculated using Representative Concentration Pathway 8.5, which is the highest emissions scenario available, at the 10%, 50% and 90% probability levels [APP-035, paragraph 9.5]. Climate extremes were assessed up to 2079 [APP-035, paragraph 9.3.13] using plausible higher and lower end projections, [APP-035, paragraph 9.5], including the UKCP18 probabilistic projections of climate extremes.
- 3.9.13. A full list of receptors considered was provided in [APP-035, Table 9.7] and includes, amongst other things, staff facilities, access routes, the DART, highways and fuel storage.
- 3.9.14. The likelihood of the identified hazards occurring was assessed [APP-035, paragraph 9.5] and combined with the potential impact to derive a consequence, as defined in [APP-035, Table 9.3]. The consequence was then combined with the likelihood of impact to determine the level of effect, using professional judgement.
- 3.9.15. Mitigation measures were described in [APP-035, paragraph 9.8] and in the Mitigation Route Map [REP10-023] and the CoCP [REP8-013], implementation of which would be secured by Requirement 8.
- 3.9.16. The CoCP [REP8-013, paragraph 10.3] would require the lead contractor to risk assess the impacts of extreme weather events, incorporating forecasting from the Met Office and the latest climate change projections. The lead contractor's Environment Management System would need to consider all measures to manage severe weather events and, as a minimum, would need to cover training of personnel, prevention and monitoring of adverse effects. The CoCP also references the resilience measures incorporated in the other management plans.
- 3.9.17. The Applicant reported that CCR was taken into account at the optioneering stage, informing both the proposed airport layout and the level of embedded mitigation incorporated into the design. Measures that can only be fully designed at a later stage have been included in the DP [REP9-030].

- 3.9.18. Monitoring measures required during operation were described in [\[APP-035, paragraph 9.12\]](#). These included identification of lines of responsibility for reporting under the 'Adaption Reporting Power' for a monitoring scheme. It also meets the requirement for infrastructure operators to regularly report on how they are addressing the impacts of climate change under the CCA2008 [\[APP-035, paragraph 9.12\]](#). In addition, the Applicant stated that all assets would be maintained regularly to detect deterioration. Landscape planting would allow for climate change through selection of appropriate species and a list of extreme weather-related incidents would be maintained to assist in identifying thresholds for maintenance [\[APP-035, paragraph 9.12\]](#).
- 3.9.19. The Applicant concluded that, with the incorporation of embedded and best practice mitigation measures, no significant effects on the Proposed Development as a result of climate change would arise during construction or operation [\[APP-035, paragraph 9.13\]](#).

In-combination climate change impacts assessment

- 3.9.20. The study area for the ICCI was defined by the study area boundaries for each of the environmental disciplines [\[APP-035, paragraph 9.3\]](#). A full list of receptors was considered in [\[APP-035, Table 9.8\]](#), which included biodiversity, cultural heritage and water resources. In a similar way to the CCR assessment, the likelihood of a climate change impact occurring was calculated from identification of climate hazards, the likelihood of these happening and the sensitivity of the receptor [\[APP-035, paragraph 9.5\]](#).
- 3.9.21. A list of embedded and good practice measures for construction and operation was provided in [\[APP-035, Table 9.26 and Table 9.27\]](#) respectively. This included signposting to mitigation for other relevant chapters of the ES.
- 3.9.22. No environmental impacts were identified as a result of the proposed adaption measures [\[APP-035, paragraph 9.13\]](#).

ISSUES CONSIDERED

- 3.9.23. LBC confirmed that the assessment was adequate and it is anticipated that this aspect would have a neutral impact [\[REP1A-004\]](#).
- 3.9.24. BC did not raise any objections [\[REP1A-001\]](#) but recommended that a requirement was added to the DCO to ensure a separate assessment for future decommissioning. The Applicant reiterated that decommissioning had been scoped out and would be subject to appropriate planning and environmental assessment requirements at the time [\[REP2-035\]](#). The ExA agrees with this approach.
- 3.9.25. The HHA did not raise any concerns in respect of CCR [\[REP1A-003\]](#). CBC was satisfied that the assessment was sufficient and accorded with its policies [\[REP1A-002\]](#).
- 3.9.26. The ExA did not ask any questions on this topic during the Examination.

CONCLUSIONS ON CLIMATE CHANGE RESILIENCE

- 3.9.27. The ExA is satisfied that the scope of the Applicant's assessment was sufficient for the purposes of decision making and there are no outstanding issues raised in the SoCGs with the Local Authorities or statutory consultees.

- 3.9.28. The ExA is satisfied that the proposal would meet all relevant policy tests and concludes that there would be no significant effects from climate change on the Proposed Development or surrounding receptors. This topic does not weigh for nor against the Order being made.

3.10. DESIGN

INTRODUCTION

- 3.10.1. This section considers the approach to the design of the Proposed Development. Achieving good design was listed as an overarching component in the ExA's IAPI [\[PD-007\]](#), Appendix C]. As design is an overarching matter, it is referred to in several other sections of this Report including alternatives, landscape and visual, land use, heritage and water resources.

POLICY BACKGROUND

- 3.10.2. A brief overview of key policies is provided below; a list of relevant policies can be found in Appendix B.
- 3.10.3. Paragraphs 4.29 to 4.35 of the ANPS provide the criteria for good design for airport infrastructure. Amongst other matters, the ANPS states that visual appearance should be an important factor in considering the scheme design, as well as functionality, fitness for purpose, sustainability and cost.
- 3.10.4. The NPPF (Chapter 12) sets out aspirations and criteria for achieving well designed and beautiful places, emphasising that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 135 provides a list of criteria that developments should achieve.
- 3.10.5. Local planning policies also set criteria for achieving good design. Of most relevance are LLP Policy LLP6F, which sets design criteria for the LLA Strategic Allocation, and Policy LLP25 which includes a general list of criteria for development proposals to achieve high quality design.

THE APPLICATION

- 3.10.6. The Applicant's consideration of design is primarily contained within the ES Chapter 3 – Alternatives and Design Evolution [\[AS-026\]](#), the DAS [\[AS-049\]](#) and [\[AS-124\]](#), and the DP document [\[REP9-030\]](#)
- 3.10.7. The Applicant included construction related DP within the CoCP [\[REP8-013\]](#).
- 3.10.8. In [\[AS-026\]](#), Table 3.4] the Applicant detailed the embedded design measures which were included as part of the application for development consent.
- 3.10.9. [\[AS-049\]](#) explained the Applicant's process of design evolution from the sifting of alternative strategic options to the development of the preferred option. The Applicant explained [\[AS-124\]](#) that due to the long-term nature of the Proposed Development, and in recognition of the rapidly changing nature of aviation, it had sought to build flexibility and adaptability into the design using a 'Rochdale Envelope' approach.
- 3.10.10. The parameters of authorised development (which included maximum building heights, work areas and volumes) was set out in [\[AS-124\]](#), section 5] and listed in detail in the draft DCO [\[REP11-091\]](#), Requirement 7].
- 3.10.11. In [\[REP9-030\]](#) the Applicant set out the DP (split into two categories; scheme wide and 'works') that would be followed at detailed design stage. The Applicant explained that the principles had been developed taking account of comments

received from IPs throughout the Examination. [\[REP9-030\]](#) also detailed how an Independent Design Review process had been incorporated for five specified works (Works Nos. 3b(01) and (02), 3d, 3f, 3g and 4a).

- 3.10.12. In [\[REP9-030\]](#) the Applicant explained how the design commitments would be secured through Requirement 6 (detailed design), Requirement 9 (landscaping design) and Requirement 13 (surface and foul water drainage) of the draft DCO [\[REP11-091\]](#). The Applicant stated that for the avoidance of doubt, the DP would take precedence in the governance of the detailed design of the Proposed Development and would be a certified document in the draft DCO [\[REP11-091\]](#), Schedule 9].

ISSUES CONSIDERED

- 3.10.13. The main issues that the ExA considered during the Examination were:

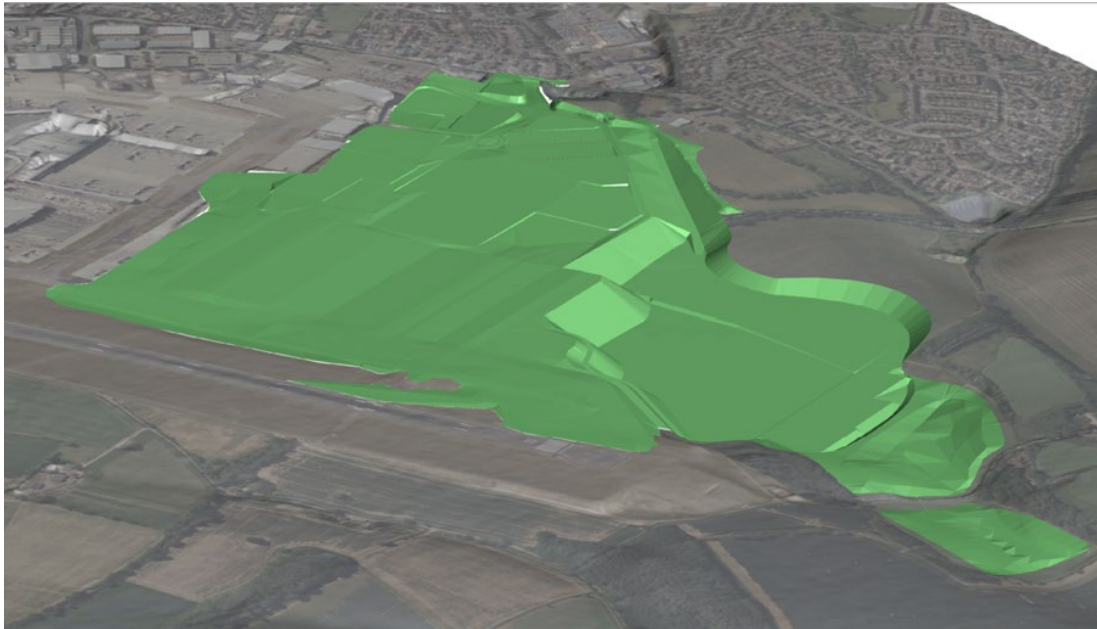
- the approach to design of certain development components;
- whether suitable measures had been adopted within the DP to achieve good design;
- the need for phasing, masterplans or design codes (DCs);
- the need to secure a design review process;
- the consideration given to primary mitigation;
- the suitability of securing the detail design in the draft DCO; and
- Public Sector Equality Duty.

Components of the development

- 3.10.14. In ExQ1 [\[PD-010\]](#) the ExA asked about the Applicant's approach to design of the earthworks (Work. No 1a and 5c(02)), Airport Operational Road (Work No. 6c(03)) and the Airport operations and maintenance building (Work No. 3i). The ExA was satisfied with the responses provided in [\[REP4-061\]](#) with regard to (Work No. 3i) and (Work No. 6c(03)).
- 3.10.15. The ExA [\[PD-010\]](#), PED.1.6] and [\[EV15-013\]](#), Q4] questioned the Applicant's design approach to the earthworks (Work. No 1a) and (Work No. 5c(02)) and how it had regard to the landscape character assessments for [\[REP11-052\]](#), Luton Borough LCA (LBLCA) 13 Wigmore Rural and Hertfordshire LCA (HLCA) 200 Plateaus Green Plateau], noting its proposed steep gradient and change in levels. The Applicant [\[AS-049\]](#), paragraph 2.4.26] and [\[REP4-061\]](#) explained the international standards and regulations that required the expanded airfield to be constructed on a platform level with the existing runway. The Applicant [\[REP4-061\]](#) explained that the illustrative proposals had been informed by the guidelines for managing landscape change in the various LCA and that the detailed landscape proposals would take account of and be informed by the LCA typologies and characteristics.
- 3.10.16. In [\[REP7\]](#) the Applicant explained that the design had been largely influenced by the need to ensure a level airfield where the 'cut and fill' works would result in a lower plateau for areas of car parking and other structures. The Applicant [\[REP7\]](#) also explained that the steepness of the earth bund would reduce land take compared with a shallower bund. A 3d illustration of the proposed earthworks is shown in Figure 11 below. [\[REP7048\]](#) also explained that the steepness of the earth bund would reduce land take compared with a shallower bund. A 3d illustration of the proposed earthworks is shown in Figure 11 below. in Figure 11 below. [\[REP7048\]](#) also explained that the steepness of the earth bund would reduce land take compared with a shallower bund. A 3d illustration of the proposed earthworks is shown in Figure 11 below.

- 3.10.17. Other components of the development including the FTG (Work No. 2d), Car Park P1 (Work. No. 4g), WTP (Work No. 4d) and the FSF (Work No. 4c(01)) are considered in more detail in the Landscape and Visual section of this Report (Section 3.15). The ExA is satisfied that the design of those works requires a functional approach and that the DP (considered further below) contain sufficient measures to inform the future design approach for these works (eg ASF.24 and ASF25).

Figure 11: 3D illustration of proposed earthworks (from General Arrangement Drawings (Part 1 of 3) [AS-018])



- 3.10.18. The design of the proposed T2 (Work No. 3b), hotel (Work No. 4a), coach station (Work No.3d) and DART station (Work No. 3g) are considered further below under the design review process.

ExA conclusions on Components of the development

- 3.10.19. The ExA considers that the design approach to the earthworks has primarily been driven by functional requirements, rather than an approach that responded to and respected landscape form, excepting the existing man-made features associated with LLA.
- 3.10.20. The ExA appreciates that LLA is situated on a raised platform with sloped embankments but considers that the design approach, which includes an approximate maximum height of 25m [AS-018, Phase 2b indicative earthworks plan], would result in an over-engineered solution that would not be aesthetically sensitive to the gently rolling landscape setting. Whilst there would be a post-consent design process, including measures in the DP (eg SW.03, SW.04 and SW.05), the ExA considers that these would be unlikely to mitigate the engineered form of the works noting that the location of the landscape restoration area (Work No. 5c(02)) [AS-016] would likely leave little scope for an alternative design solution. The ExA notes the comments by the Chilterns Society [RR-0226] that measures have been taken to reduce the scale of earthworks from that previously proposed.
- 3.10.21. The ExA understands the functional need for a level aviation platform and also appreciates that the Applicant has sought to make best use of existing earth

material on site to reduce material imports with consequential environmental impacts [\[AS-124\]](#), section 5.6] and also to reduce land take. Overall however, the ExA considers that the design approach to the proposed earthworks (Work No. 1a) and earth bund (Work No. 5c(02)) would not respond positively to the existing landform, conflicting with NPPF Paragraph 135 and LLP Policy LLP25.

- 3.10.22. Balancing the overall negative design approach against the functional requirements to reduce land take and material imports, the ExA considers that the design approach to the earthworks would have little negative weight against the making of the Order. The resultant landscape and visual effects of the proposed earthworks are considered in more detail in the Landscape and Visual section of this Report (Section 3.15).

DP and Achieving Good Design

- 3.10.23. The ExA considered that given the outline nature of the Proposed Development, the need to establish suitable DP during the Examination was an important and relevant matter.
- 3.10.24. The ExA examined what it considered to be a high level DP during ISH6 [\[EV11-001\]](#) and asked the Applicant how the DP would contribute to achieving good design. The Applicant [\[REP3-053\]](#) stated that the DP sought to provide assurance on how the design would be developed post consent, mitigate effects, and safeguard a minimum standard of design quality.
- 3.10.25. Following the hearing the Applicant received feedback from each of the JHA [\[REP4-123\]](#) and [\[REP4-161\]](#) who considered that the DP were high level and required more detail, particularly in minimising the impact of visually prominent works. The Applicant responded by providing a revised DP incorporating principles from other topics such as landscape, heritage and drainage [\[REP5-034\]](#). The Applicant [\[REP4-070\]](#) advised this would provide a robust and effective means of securing good design.
- 3.10.26. In further comments LBC [\[REP6-103\]](#), the HHA [\[REP6-100\]](#) and CBC [\[REP6-091\]](#) welcomed additions that had been made to the DP but raised further concerns in relation to how topics such as landscape, historic character, property use, lighting and design intent had been considered.
- 3.10.27. The ExA asked [\[PD-015\]](#), PED.2.2] what value including reference to design aspects complying with existing industry standards or technical design criteria would have on the DP and how it would secure good design, also noting that some technical standards may not be appropriate, or would be contrary to, securing good design and placemaking. The Applicant advised [\[REP7-052\]](#) that paragraphs 4.29 to 4.34 of the ANPS required consideration of technical standards and considered that omitting those from the DP could create the impression they were less important. The Applicant accepted that there would be trade-offs between different design objectives and functional requirements but provided examples of where good design objectives had been safeguarded where these could conflict with other functional requirements.
- 3.10.28. Following further input from the JHA ([\[REP8-058\]](#), [\[REP8-051\]](#), [\[REP8-055\]](#), and [\[REP8-056\]](#)) the Applicant revised the DP [\[REP9-030\]](#) including visual illustrations, principles for the T2 works and DART station, smoke reduction measures for the FTG, and design measures for Car Park P1.

- 3.10.29. At the close of examination there was agreement in SoCG between the Applicant and the JHA [\[REP11-033\]](#), [\[REP11-035\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#) and [\[REP11-099\]](#) that the DP had substantially improved throughout the Examination. The HHA considered that whilst the documentation could have provided a better sense of what the scheme would look like from a design perspective, the DP were generally comparable to those in other DCO proposals.
- 3.10.30. The remaining outstanding issue in the HHA SoCGs related to landscape principles. They considered that the design intent in respect of matters including building height, massing and colour and how this had already responded to site context, character and setting had not been appropriately set out.
- 3.10.31. The Applicant [\[REP11-095\]](#), NCC147], [\[REP11-097\]](#), NHDC156] and [\[REP11-099\]](#), DBC135] acknowledged that the proposals did not include a detailed design but the DP had considered building finishes, with examples of principles provided. The Applicant considered that it would not be appropriate for the DP to address building heights, colours and rooflines as these had to conform with the required parameters and could be considered further at the detailed design stage. Illustrations showing the Proposed Development in the context of the existing airport site and adjacent areas which indicate horizontal and vertical massing had been also incorporated into the updated DP.

ExA conclusions on DP

- 3.10.32. The ExA is satisfied that the DP [\[REP9-030\]](#), which would be secured by the draft DCO [\[REP11-091\]](#), Requirement 6], would provide an adequate framework to enable the RPAs to secure good design when they consider these details.
- 3.10.33. The ExA understands the comments from the HHA on landscape DP. However, the ExA considers that design intent in relation to building height and massing is a factor considered as part of the initial design process which sets the building parameters and then developed during the detailed design stage, rather than being addressed in the DP. The ExA is satisfied that matters such as colour and materials could be adequately considered at the detailed design stage.

Need for Phasing, Masterplan and Design Code

Phasing

- 3.10.34. From early in the Examination the ExA was concerned about the absence of a requirement for a post-consent phasing plan in the draft DCO. At ISH1 [\[EV6-001\]](#), the Applicant advised [\[REP3-048\]](#) that it would consider further drafting to assist the LPAs when 'parts' of the Proposed Development were being discharged. At ISH6 [\[EV11-001\]](#), the Applicant explained it did not wish to commit to phases as the airport would expand with demand and therefore required flexibility.
- 3.10.35. The Applicant explained [\[REP4-057\]](#) that an update to Requirement 5 of the draft DCO (submitted at D4 [\[REP4-003\]](#)) included reference to phasing and the need for an indicative programme for implementing works.
- 3.10.36. BC [\[REP4-112\]](#) were supportive of, and suggested, a phasing requirement. The JHA [\[REP3-108\]](#), did not initially seek a phasing requirement but sought further clarity over the definition of 'part'.
- 3.10.37. At ISH10 [\[EV17-001\]](#) the Applicant explained [\[REP6-068\]](#) that the Scheme Layout Plans [\[AS-072\]](#) provided sufficient clarity to the RPAs as to the scope/ phase of

works contained in the application. It reiterated that it did not wish the DCO to be bound to prescribing phases.

- 3.10.38. NH [\[REP6-114\]](#) also requested details of phasing and suggested a reworked requirement stipulating the need for a construction phasing scheme for each phase [\[REP6-113\]](#). The Applicant rebutted this suggestion [\[REP7-062\]](#) reiterating that, for valid commercial reasons responding to demand, it required flexibility to deliver growth in incremental phases which might differ from the three assessment phases shown in the scheme layout plans [\[AS-072\]](#). NH's suggestion was considered to be unduly restrictive.
- 3.10.39. In [\[PD-018\]](#), pages 52 and 53], the ExA suggested a new Requirement for phases. The ExA noted the Applicant's desire for flexibility but considered a phasing plan setting out the order in which works would be carried was necessary and relevant to ensure that necessary mitigation would be in place to ensure compliance with the ES.
- 3.10.40. The Applicant [\[REP8-036\]](#) accepted this principle but with modifications including flexibility on the parts that could come forward within each phase and a Requirement for the plan to be submitted to rather than approved by the RPA. The JHA welcomed the inclusion [\[REP8-052\]](#) by the ExA and the Applicant's acceptance of this requirement and inclusion within the DP [\[REP9-030\]](#), section 1.3].

ExA conclusions on phasing

- 3.10.41. The need for phasing Requirements evolved throughout the Examination in response to comments made by the ExA during ISH1 [\[EV6-001\]](#), ISH6 [\[EV11-001\]](#), ISH10 [\[EV17-001\]](#) and ExQ1 [\[PD-010\]](#). The ExA welcomes the Applicant's inclusion of a phasing Requirement into the draft DCO [\[REP11-091\]](#), Requirement 5] as it considers it an essential mechanism to manage the implementation of a major project which has a number of different mitigation measures required to be delivered at different stages.
- 3.10.42. However, the ExA does not agree with the drafting suggested by the Applicant [\[REP8-036\]](#) as it considers that any future phasing plan should be subject to approval by the RPAs in consultation with key stakeholders to ensure that the implementation of the Proposed Development is properly planned to the satisfaction of key stakeholders. Importantly, it is also required to ensure that the necessary mitigation measures as set out in the ES are properly proposed and delivered at the appropriate timescales. The ExA's recommended change is explained in the DCO Section of this Report (Section 7).

Masterplan

- 3.10.43. LLP Policy 6B states proposals for development of LLA will only be supported where listed criteria are met. Criterion (iii) includes being in accordance with an up-to-date Airport Master Plan published by the operators of LLA and adopted by the LBC.
- 3.10.44. In ExQ1 [\[PD-010\]](#), PED.1.2], the ExA asked whether the Proposed Development was in accordance with an up-to-date masterplan and if not, should it be a post-consent Requirement.
- 3.10.45. LBC advised [\[REP4-187\]](#) that the Proposed Development was not in accordance with a current airport masterplan. However, LBC considered that the Proposed Development went well beyond the development plan period and, if approved, the

DCO would be the new airport masterplan. LBC also advised that the application had sufficiently covered the aspects within the guidance on masterplans in Annex B of the APF and a further masterplan would be unnecessary.

- 3.10.46. The Applicant [\[REP4-061\]](#) provided background on the previous masterplans for the airport. It noted that the Applicant as airport owner, rather than the airport operator, had taken on responsibility for the longer-term masterplan. The Applicant considered that LLP Policy LLP6 did not envisage an expansion of the scale now proposed and also noted that the Proposed Development would go beyond the plan period. It noted that LBC officers had advised them that the Applicant's masterplan would be automatically adopted by the Council in the event of the DCO being approved. The Applicant considered that Policy LLP6B(iii) was neither relevant nor important in the determination of the application and considered that no weight should be given to its requirements.
- 3.10.47. The Applicant also considered [\[REP4-061\]](#) that the illustrative masterplan included on the Scheme Layout Plans [\[AS-072\]](#) provided significantly more detail than typically provided in an airport masterplan and therefore did not consider that there should be a Requirement for a more detailed Masterplan to be developed post-consent.
- 3.10.48. BC [\[REP4-112\]](#), CBC [\[REP4-116\]](#) and the HHA [\[REP4-126\]](#) considered that due to the scale of the Proposed Development, the lengthy construction period and the current uncertainty on when those works would be delivered, it would be appropriate for a masterplan to be developed, consulted on and approved. The HHA set out more detailed reasons maintaining their position in [\[REP6-101\]](#).
- 3.10.49. In response to [\[REP6-101\]](#), the Applicant explained [\[REP7-070\]](#) that it had inserted a new sub-paragraph to Requirement 5 in the draft DCO [\[REP7-003\]](#) committing the undertaker to providing the specified authorities with an expected programme of works for the initial five-year period and, on a five-year basis thereafter.
- 3.10.50. The HHA [\[REP8-055\]](#) and [\[REP8\]](#) remained of the opinion that the operator should engage in on-going Masterplan discussions with the HHA, stakeholders and the community throughout detailed design to ensure each 'part' of the development realised 'good design' and as part of a holistic Masterplan. It welcomed the Applicant's insertion of the programme of works in the draft DCO [\[REP7-003\]](#) although considered there was a need for greater engagement process. It welcomed the Applicant's insertion of the programme of works in the draft DCO [\[REP7003\]](#) although considered there was a need for a greater engagement process.

ExA conclusions on masterplan

- 3.10.51. Overall, the ExA notes that the Proposed Development would not be in accordance with an up-to-date masterplan and would therefore not comply with LLP Policy LLP6B(iii). However, the ExA considers that the Proposed Development extends beyond the plan period of the Local Plan and that the Proposed Development, if consented, would effectively act as a masterplan for the development. Furthermore, with the inclusion of a phasing Requirement [\[REP11-091\]](#), Requirement 5] the need to provide a masterplan would largely fall away.
- 3.10.52. Notwithstanding the requirements of LLP Policy LLP6B(iii), the ExA is satisfied that a future masterplan would not be required as part of any post consent process.

Design Code

- 3.10.53. The ExA explored the need for a DC during ISH6 [\[EV11-001\]](#), ISH8 [\[EV15-001\]](#), and through ExQ2 [\[PD-015\]](#), PED.2.1].
- 3.10.54. LBC commented [\[REP4-187\]](#) and [\[REP4-190\]](#) that it did not consider that a DC would be necessary, referring to the GHP planning permission that had required design guides due to the phased nature of that development whereas the Proposed Development would only include two public facing buildings (proposed T2 and hotel). It further advised in [\[REP6-107\]](#) that operational structures that would be public facing, eg surface movement radar, WTP and FSF, did not require to be covered by a DC.
- 3.10.55. CBC initially commented in [\[REP4-123\]](#) and [\[REP6-090\]](#) that a DC should be required although following updates to the DP throughout the Examination, it was satisfied that a DC would not be required [\[REP11-035\]](#).
- 3.10.56. The Applicant [\[REP4-070\]](#), [\[REP7-048\]](#) and [\[REP7-052\]](#) provided reasons why it did not consider a DC would be appropriate. These included the need for flexibility in the final design, that the DP contained sufficient principles that would achieve a strong framework for achieving good design and such an approach not being considered appropriate for a major aviation project nor identified as a requirement in the ANPS.
- 3.10.57. In response to comments made by LBC during ISH [\[EV15-001\]](#) that Heathrow Terminal 5 had benefitted from a DC, the Applicant [\[REP7-042\]](#) advocated that the proposed T2 had different requirements to Heathrow Terminal 5, which was a gateway to the UK, as it would handle fewer passengers mainly from the low-cost sector and therefore a much simpler form would be appropriate. The Applicant maintained that it was committed to delivering a high-quality design but, given the final design of T2 would not occur until the early 2030s it did not consider a DC to be produced as part of the DCO would be appropriate.
- 3.10.58. At the close of Examination, the JHA (LBC [\[REP11-033\]](#), LBC179], CBC [\[REP11-035\]](#), CBC175] and the HHA [\[REP11-095\]](#), HCC146], [\[REP11-097\]](#), NHDC155] and [\[REP11-099\]](#), DBC134]) agreed that following submission of a final more detailed DP at D9 [\[REP9-030\]](#) a DC would not be not required. [\[REP11-095\]](#), HCC146], [\[REP11-097\]](#), NHDC155] and [\[REP11-099\]](#), DBC134]) agreed that following submission of a final more detailed DP at D9 [\[REP9-030\]](#) a DC would not be required.

ExA conclusion on design code

- 3.10.59. The ExA considers that the principles contained within the DP [\[REP9-030\]](#), whilst more high level than would typically be included in a DC, would contain adequate measures to guide the detailed future design of the Proposed Development. Given the other measures to secure detailed design in the application, such as a design review process and the details that would be required in [\[REP11-091\]](#), Requirement 6], the ExA is satisfied that a DC would not be necessary.

Design Review Process

- 3.10.60. The ExA explored the need for a design review process in ExQ1 [\[PD-010\]](#), PED.1.15] noting the requirements of NPPF (paragraph 138).

- 3.10.61. LBC [\[REP4-187\]](#) referred to LLP Policy LLP 25 which supported the Council using design review panels to review major development proposals. LBC advised that it engaged with Design Southeast when reviewing proposals, with applicants expected to meet the costs through a s106 agreement. LBC further advised that the proposed Terminal (Work No. 3b) and hotel (Work No. 4a) would be appropriate elements to consider as part of that process.
- 3.10.62. This was examined further at ISH8 [\[EV15-001\]](#). The Applicant advised that it did not consider that a review process was necessary and amongst other matters had concerns that establishing a design review process would further complicate the process. The Applicant set out its position further in [\[REP6-066\]](#).
- 3.10.63. LBC [\[REP6-107\]](#) expressed its disappointment on the lack of reference to design review in [\[REP5-043\]](#) and the Applicant's position at ISH8, noting the requirements of the NPPF and LLP Policy LLP 25. The HHA [\[REP6-100\]](#) were supportive of a post-approval independent design review process and considered it would provide a valuable independent addition to the future detailed design.
- 3.10.64. Following [\[EV15-013, AP53\]](#), the Applicant confirmed [\[REP7-052\]](#) that it had agreed to an independent design review process for the key public facing buildings, including T2 (Work No. 3b), the plaza (Work. No. 3f) and the hotel (work no. 4a). This was added to the DP submitted at D7 [\[REP7-034\]](#).
- 3.10.65. The ExA asked the Applicant and JHA [\[PD-019\]](#) whether any other works should also be subject to design review and particularly the proposed Car Park P12 (Work No. 4r), coach station (Work No. 3d) and DART T2 Station (Work No. 3g) given their proximity to T2 (Work No. 3b).
- 3.10.66. LBC [\[REP8-057\]](#) confirmed it was supportive of the inclusion of Car Park P12 and the coach station within the design review process. The HHA [\[REP8-054\]](#) also considered the proposed terminal 1 (T1) extensions (Work No. 3a) should be included. CBC [\[REP8-050\]](#) considered that the FTG (Work No. 2d) and Car Park P1 (Work No. 4g) should be included given their concerns regarding the effect of those structures on the setting of Someries Castle and Luton Hoo RPG.
- 3.10.67. The Applicant accepted the inclusion of the coach station (Work No. 3d) and DART T2 Station (Work No. 3g) but argued [\[REP8-040\]](#) that including Car Park P12 would not be appropriate. This was because the work was proposed to be delivered in Phase 2b after other works were constructed in Phase 2a where the context for car park would have already been set.
- 3.10.68. The Applicant [\[REP9-051\]](#) rebutted a request from the HHA [\[REP8-054\]](#) for T1 extensions to be included in the design review, on the basis that these were minor works that would not justify inclusion. It also noted that principles T.01 to T.13 [\[REP9-030\]](#) related to the T1 works. The HHA [\[REP10-056\]](#) remained of the view that Car Park P12 and the T1 extension should be included but were happy for LBC to agree the scope of works to be included.
- 3.10.69. The Applicant also confirmed [\[REP9-051\]](#) that it had met and explained to CBC that the FTG would be substantially driven by operational requirements and technical standards that would not warrant a review. In respect of Car Park P1, it considered [\[REP9-051\]](#) it more appropriate to add in specific requirements to the DP. CBC [\[REP10-095\]](#) accepted this.

- 3.10.70. At the close of Examination, the JHA [\[REP11-033\]](#), [\[REP11-035\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#) and [\[REP11099\]](#) were satisfied with the proposed design review process.

ExA conclusion of design review process

- 3.10.71. The ExA considers that the securing of a design review process was a positive outcome during the Examination and demonstrates compliance with the NPPF (paragraph 128) and LLP Policy LLP25.
- 3.10.72. The ExA considers that the proposed work numbers which would be subject to the design review process are appropriate and is satisfied with the Applicant's reasons for not including Car Park P12 within the design review process. The ExA does not consider that the minor extension works to T1 would warrant inclusion in the process.
- 3.10.73. Further details of the design review process, including terms of references for a design review body and design review panel, were set out in the DP [\[REP9-030\]](#), Appendix A] which would be secured in the draft DCO [\[REP11-091\]](#), Requirement 6(e)]. The signed s106 agreement [\[REP11-108\]](#), Schedule 9] also required the Applicant to establish and appoint a design review panel in accordance with the DP with the Applicant meeting the reasonable costs of LBC commissioning the panel. The ExA is satisfied that a design review for the relevant parts of the Proposed Development would be secured.

Primary Mitigation

- 3.10.74. The HHAs [\[REP3-097\]](#) and [\[EV11-001\]](#) were concerned that there was insufficient consideration of primary mitigation. The ExA sought clarification from the Applicant [\[EV15-013\]](#), Q8] on the primary mitigation measures that had been considered in respect of the siting, layout and parameters of buildings and structures.
- 3.10.75. The Applicant [\[REP7-048\]](#) advised that the embedded design (primary) mitigation was summarised in [\[AS-026\]](#), Table 3.4] with reference to further information in [\[AS-049\]](#) and [\[AS-079\]](#), section 14.8]. Reference was made to sections of [\[AS-026\]](#) that provided details in respect of landform, drainage, car parks, fuel farm, the terminal works and changes made following statutory consultation. The Applicant [\[AS-124\]](#), sections 5.4 and 5.9] also provided details of the rationale for the location, layout and parameters of T2. [\[AS-124\]](#), Chapter 5] also described the rationale for siting of other buildings and structures.
- 3.10.76. The HHA [\[REP7-085\]](#) commented that it did not consider that primary mitigation measures had been thoroughly considered, particularly in relation to built form, including site levels, scale, massing, colour or similar. The HHA [\[REP8-055\]](#) did not consider that the documents referred to by the Applicant had provided a clear narrative of the existing landform, character and context and how it had informed the design. In their view, the Applicant's retrofitting options [\[REP7-048\]](#) were driven by technical solutions rather than an understanding of the existing site and a creative design that would respond to site character and context.

ExA Conclusions on Primary Mitigation

- 3.10.77. The ExA considers that the DAS [\[AS-049\]](#) and [\[AS-124\]](#) focused on describing the components of the Proposed Development rather than how the proposed parameters had responded to existing landform, character and context and how these informed the design. Whilst this was also not particularly clear in ES Chapter

3 [\[AS-026\]](#), the ExA notes that Table 3.4 contained embedded DP which provided a more holistic overview of the embedded mitigation measures across all environmental topics.

- 3.10.78. The ExA considers that the way in which the final layout and built parameters of the Proposed Development has responded to its surroundings lacks clarity in the application documents, particularly its relationship to the rural areas to the east. However, the ExA is satisfied that the siting and built parameters would be in keeping with the existing airport buildings and respond to functional requirements. The ExA considers that the illustrations provided in the DP usefully demonstrate how the Proposed Development could fit into and relate positively to its surroundings, as shown in Figure 12 below:

Figure 12: Illustration of how the proposed terminal and piers could appear and fit into the context of the existing airport (taken from DP [\[REP9-030\]](#))



- 3.10.79. The ExA is therefore satisfied that sufficient information has been presented on the primary mitigation measures that have been adopted as part of the outline design stage.

Suitability of the detailed design requirements in Schedule 2

- 3.10.80. The ExA examined the suitability of Requirement 5 as drafted in earlier versions of the draft DCO [\[REP2-002\]](#) and [\[REP3-003\]](#) during ISH6 [\[EV11-001\]](#) due to concerns that it would not precisely secure the details required for the proposed works. Suggestions were made that more precision and direction over the details required to be submitted for the different works could be provided.
- 3.10.81. The Applicant submitted an expanded Requirement 5 [\[REP4-003\]](#) including more detail on the information to be submitted as part of detailed design. The JHA [\[REP5-068\]](#) generally welcomed the additions subject to further suggestions. Further updates were also made by the Applicant in [\[REP7-003\]](#) and [\[REP8-003\]](#) to incorporate the design review process, details of operational lighting and a requirement for a detailed glint and glare assessment.

- 3.10.82. Following the evolution of the design mechanisms through the Examination, the ExA is satisfied that the detailed design requirements would be satisfactorily secured through the draft DCO [REP11, Requirement 6].

Public Sector Equality Duty

- 3.10.83. Details of how the design has accounted for Public Sector Equality Duty (PSED) is contained within the Equality Impact Assessment (EqIA) [AS-129, section 3.5].
- 3.10.84. The ExA is satisfied that there are provisions within the DP [REP9-030], such as DQ.02, DQ.07, DQ.10, T.29, T.53, T.58, T.62, T.63 and ASF.15 to ensure that suitable accessibility and facilities for those with protected characteristics, in accordance with the PSED, are provided. In terms of the proposed scheme layout [AS-072], the ExA notes that provision would be made to site car parking and public transport facilities close to T2 which would aid accessibility.
- 3.10.85. The ExA is therefore satisfied that suitable provision has been made within the indicative design to ensure that the Proposed Development would be accessible and usable for those with protected characteristics, in accordance with the PSED.

CONCLUSIONS ON DESIGN

- 3.10.86. Whilst the detailed design of the Proposed Development is unknown, the ExA considers that the DP would set adequate measures to inform the future detailed design stages. The ExA considers that the design review process would add positive scrutiny to the public buildings ensuring that they would be of a high quality. The ExA considers that this would attract a little positive weight for the making of the Order.
- 3.10.87. The ExA considers that the approach to the earthworks design has resulted in an over-engineered solution rather than sensitively responding to the existing landform, which is at odds with NPPF Paragraph 135 and LLP Policy LLP25. There is also a lack of clarity in the application documents as to how the final outline layout and built parameters of the Proposed Development have responded to its surroundings, particularly its relationship to the rural areas to the east. When balanced against the need for functional requirements, the ExA considers that these matters would attract a little negative weight against the making of the Order.
- 3.10.88. The application [AS-026], [AS-049] and [AS-124] has provided suitable information explaining how the design process was conducted and how the proposed design evolved (ANPS, paragraph 4.35). The ExA considers that in most instances, appropriate regard has been had to visual appearance and the Applicant has sought to mitigate adverse impacts consistent with the requirements of the ANPS (paragraph 4.30 and 4.31). Following the securing of a design review panel, the ExA considers that a sustainable and aesthetically sensitive design for the key public components of the Proposed Development could be delivered.
- 3.10.89. The ExA is also satisfied that extant security, customs and immigration measures would be maintained or re-provided in the proposed Development (ANPS, paragraph 4.32 as described further in [AS-018, page 15] and [AS-124, paragraph 5.9.8].
- 3.10.90. The ExA considers that DP and particularly the design review process would ensure that the final detailed design could meet the aspirations and criteria for achieving

well designed place (NPPF, Chapter 12) and design requirements in LLP Policy LLP25.

- 3.10.91. Overall, given that there would be both positive and negative aspects to the design, the ExA considers that design would neither weigh for nor against making the Order.

3.11. GEOLOGY AND LAND CONTAMINATION

INTRODUCTION

- 3.11.1. The Applicant's assessment of the potential effects of the Proposed Development on geology and land contamination was in Chapter 17 of the ES [\[REP7-011\]](#). This chapter focussed on the possible effects from potentially contaminated soils on human health, the environment, buildings, buried infrastructure and those arising from disturbance. A detailed assessment of the risks to controlled waters from land contamination was provided in Chapter 20 of the ES [\[REP4-009\]](#) and discussed in Section 3.11.
- 3.11.2. The chapter also considered the potential effects on land stability and mineral resources. Impacts on geological and geomorphological features of scientific interest were scoped out of the ES because there are no features in the area.
- 3.11.3. An assessment of the effects of the Proposed Development on agricultural soils is in Section 3.16, and matters relating to waste management, including soils can be found in Section 3.21.

POLICY BACKGROUND

- 3.11.4. A brief overview of key policies is provided below; a list of relevant policies and legislation can be found in Appendix B.
- 3.11.5. The NPPF (paragraph 180) states that development should not contribute to or be adversely affected by unacceptable levels of soil pollution or land instability. Development should, wherever possible, help to improve environmental conditions, and remediate and mitigate despoiled, degraded, derelict, contaminated and unstable land, where appropriate.
- 3.11.6. The NPPF (paragraph 189) requires that a site is suitable for its proposed use, including in respect of land stability and contamination. As a minimum, after remediation, land should not be capable of being determined as 'contaminated land' as defined by Part 2A of the Environmental Protection Act (1990). This requirement is reflected in paragraph 5.116 of the ANPS.
- 3.11.7. The NPPF (paragraph 218) and ANPS (paragraph 5.118) together require that Mineral Safeguarding Areas (MSA) are protected.
- 3.11.8. The ANPS (paragraph 5.22) states that a preliminary assessment of ground instability should be carried out at the earliest possible stage and that the Applicant should ensure any necessary investigations are undertaken.
- 3.11.9. LLP Policy LLP38 states that evidence must be provided to demonstrate whether the scheme will result in "*any significantly adverse effects with regard to air, land or water on neighbouring development, adjoining land, or the wider environment*". Where adverse impacts are identified, appropriate remediation will be required. This policy also requires that future stability of the land should be protected. The HHA development plans contain similar policies.
- 3.11.10. Policies relating to minerals can be found in the Minerals and Waste Local Plan: Strategic Sites and Policies (2014), jointly developed by LBC, Bedford Borough Council, and CBC.

THE APPLICATION

- 3.11.11. The Applicant recorded that a contaminated land EIA working group consisting of LBC, NHDC, CBC, the EA and LLAOL supported development of the assessment [REP7-011, paragraph 17.4]. The final assessment methodology was set out in [REP7-011, paragraph 17.5] and assumptions listed in [REP7-011, paragraph 17.6].
- 3.11.12. A baseline dataset was developed using published information, observations from walkovers and intrusive site investigation. A detailed description was presented in the Preliminary Risk Assessment [APP-113 to APP-120] and summarised in [REP7-011, paragraph 17.7]. Plans of baseline conditions and potential sources of contamination were provided in [REP7-015, Figures 17.1, 17.2] and described in [REP7-011 Tables 17.14 and 17.15]. The 'environmental setting', including geology, hydrogeology and hydrology, was described from [REP7-011, paragraph 17.7.8 onwards].

Potential land contamination

- 3.11.13. The Main Application Site was in agricultural use until it was developed as a RAF base in the second world war. By the 1960s the western area was occupied with engineering works, refuelling facilities and extensive earthworks, including the Percival Works (airport manufacturing). Much of the airport footprint seen today was in place from at least the 1980s [REP7-011, Table 17.13]. The Applicant concluded that the AAR was associated with a brick and tile works, sewage works and settlement ponds. Much of the 'off-site' land within the Order Limits had also previously been used for industry [REP7-011, Table 17.13].
- 3.11.14. The Applicant reports that Eaton Green landfill, largely located below the present-day WVP, was active from at least 1941 until the early 1990s, although the majority of the site was filled by 1975 with industrial, commercial and household waste, including liquid sludge [REP7-011, Table 17.13]. The Applicant concluded that it is approximately 20m deep in the centre and contains approximately 4.5 million cubic metres [m³] of waste [REP7-011, Table 17.18].
- 3.11.15. The landfill and other land within the Order Limits has been subject to intrusive site investigation by numerous parties, including the Applicant. Details of these investigations were provided in Appendices 17.1 to 17.4 of the ES [APP-113] to [APP-120] and summarised in [REP7-011, Table 17.9].
- 3.11.16. The Applicant developed a conceptual model of potential contaminant linkages for both human health and controlled waters [REP7-011, Table 17.20]. To represent a reasonable worst-case scenario the assessment used the maximum concentrations identified on the site and the most sensitive human receptors [REP7-011, paragraph 17.6.2]. A Generic Quantitative Risk Assessment (GQRA) and subsequent Detailed Quantitative Risk Assessment (DQRA) were presented in Appendices 17.2, 17.3 and 17.4 [APP-121, APP-122, APP-123 and APP-124]. These concluded that with mitigation there would be low risk to human health from gas, radionuclides, asbestos and groundwater vapours both during construction and in the long-term. Limited evidence was found of groundwater contamination within the Order Limits, including beneath the landfill.
- 3.11.17. The likely earthworks required for the Proposed Development are summarised in [REP7-011, Table 17.11]. The anticipated quantities and types of waste estimated to arise during construction were set out in the outline Site Waste Management Plan (oSWMP).

- 3.11.18. Landfilled waste would, in part, be excavated, processed and relocated to construct the development platform (Work No. 1a). The Applicant estimated that approximately 90% of unprocessed landfill materials would be suitable for recovery [REP7-011, paragraph 17.8.16] based on the findings of the GQRA. The remaining landfill would then be surcharged with stockpiled soils. Piling through the remaining landfill into the underlying chalk would be necessary for building foundations [REP7-011].
- 3.11.19. The Remediation Strategy would be the key document for securing mitigation for the Eaton Green Landfill Site. This would be based on the examined outline Remediation Strategy (oRS) [REP6-005] and secured by Requirement 17. This would secure the details of good practice measures, including environmental management and protective measures during construction. It would also include measures to reduce risks to human health and the environment by the creation of an engineered cover system, including a gas management system, across the former landfill [REP7-011, paragraph 17.8].
- 3.11.20. The CoCP [REP8-013, paragraph 15] described the key principles that would be followed to avoid, reduce and manage the potential effects during construction. This stated that soils and geology would be managed by the Soils Management Plan (SMP), the Framework Materials Management Plan and the oRS. Detailed method statements for construction activities would be developed once the lead contractor was appointed [REP8-013, paragraph 17.6]. The CoCP [REP8-013, paragraph 6.5] contained a framework for dealing with Unexploded Ordnance (UXO).
- 3.11.21. Additional site investigation for other potential sources of contamination, including the existing fire station training ground and AAR, would be implemented when appropriate [REP8-013]. The rest of the site has been variably investigated and the Applicant has committed to further investigation and a watching brief during development [REP8-013]. The Applicant identified the potential for undiscovered contamination and provision for this has also been made in the CoCP [REP8-013] and oRS [REP6-005].
- 3.11.22. Recovery of material from the landfill would require a permit from the EA. Waste outside the landfill would be regulated under a Deposit for Recovery (DfR) permit [REP7-011, paragraph 17.8.3].
- 3.11.23. A verification plan of the remediation works would need to be approved by the RPA [REP11-091, Requirement 12] and would be a requirement of the Environmental Permit. The plan would also identify long-term monitoring and maintenance requirements [REP11-091, Requirement 12].
- 3.11.24. Ongoing monitoring of groundwater, gas and air quality would be undertaken based on the outline Strategy Report for Groundwater, Ground Gas and Leachate Monitoring Plan [APP-127], as required in the CoCP [REP8-013, section 15.5]. The appointed lead contractor would also develop their own monitoring plan, as required by the oRS [REP6-005] and the CoCP [REP8-013].
- 3.11.25. For the purposes of EIA, the Applicant concluded that any effects from land contamination and UXO on receptors would not be significant [REP7-011, Table 17.24].

Ground stability

- 3.11.26. The Applicant stated that the geotechnical design took into account issues that may affect stability, settlement and integrity of the platform. Mitigation would include ground improvement works, slope stability analysis, surcharging and dynamic compaction of the landfill and piling in accordance with the outline Foundation Works Risk Assessment [REP6-007]. Resistant materials would be incorporated where required to protect foundations and infrastructure from aggressive ground conditions [REP7-011, paragraph 17.9.11] and [REP7-011, paragraph 17.9.20]. Further details of the mitigation measures were provided in [REP7-011, paragraph 17.8.12].
- 3.11.27. The Applicant concluded that there would be no significant effects from the Proposed Development on or from land instability.

Mineral safeguarding

- 3.11.28. The study area falls within three Mineral Local Plan areas [REP7-011, paragraph 17.7.9]. No part of the Proposed Development is within a MSA except for the Hitchin Highway Intervention, which is safeguarded for sand and gravel extraction.
- 3.11.29. The Applicant concluded that the proposed works were minor and would likely to be excluded development [REP7-011, paragraph 17.7.19]. It concluded no effects on MSAs from the Proposed Development.

ISSUES CONSIDERED

- 3.11.30. In the signed SoCG [REP9-035], the EA confirmed that the landfill had been appropriately characterised and risks from contamination adequately understood. The EA stated that the oRS was logical and that it viewed the proposed recovery of waste as positive. The watching brief on the landfill secured by [REP11-091, Requirement 17] was considered appropriate by the EA. The EA also agreed that further ground investigation for other areas and associated remediation would be required but was satisfied that this was secured through the CoCP [REP8-013], and through provision for dealing with 'unexpected contamination' in [REP11-091, Requirement 12].
- 3.11.31. The EA [REP9-035] confirmed that an environmental permit would be required for removing landfill waste. It also stated that a hydrogeological risk assessment for the piling and waste recovery plan would be required for the DfR permit, but that in principle this should be obtainable. The proposed outline groundwater, gas and leachate monitoring strategy was broadly agreed by the EA, noting that 12 months monitoring would be required for the DfR permit. All other matters were agreed, including those relating to Per- and Poly Fluoroalkyl Substances (PFAS) and Perfluorooctane Sulphonate (PFOS) and hazardous substances.
- 3.11.32. LBC stated that the most critical parts of the site had been extensively surveyed and that conditions were well understood [REP1A-004]. The Outline Monitoring Strategy Report for Groundwater, Ground Gas and Leachate Monitoring [APP-127] was agreed. A question remained surrounding the feasibility of the oRS because details were being left to the contractor but that overall it was satisfied sufficient information had been provided.
- 3.11.33. The HHA did not raise any concerns in respect of land quality or contamination [REP1A-003] and there were no outstanding issues on this topic recorded in the signed SoCGs [REP11-095], [REP11-097] and [REP11-099].

- 3.11.34. More than ten IPs submitted RR raising concerns about pollution from the landfill, including describing it as 'toxic', hazardous or harmful to health and raising concerns about odour eg [\[RR-0026\]](#), [\[RR-0455\]](#), [\[RR-1212\]](#) and [\[RR-1437\]](#). IPs queried the potential effects on the local water supply [\[RR-264\]](#), stating that risks were unquantified [\[RR-1207\]](#) and drawing the ExA's attention to the proximity of housing [\[RR-0472\]](#) and [\[RR-0825\]](#). The Applicant responded to these concerns satisfactorily in [\[REP1-020\]](#).
- 3.11.35. Luton Friends of the Earth [\[REP1-099\]](#) suggested that unregulated waste had been deposited in the landfill, including World War 2 weaponry. It also remarked that development on landfill could lead to subsidence, build-up of toxic air and explosive risk. The representation noted that piling could cause contamination of groundwater, including drinking water, and that the chalk aquifer had supported cress beds for hundreds of years at Whitwell. It considered it costly, high risk and reckless to excavate the landfill site. The Applicant responded in [\[REP2-037\]](#), drawing attention to the investigations, risks assessment and remediation proposals.
- 3.11.36. The FoWP [\[REP1-060\]](#) highlighted that operatives investigating the landfill had to wear full protective equipment. It noted that when the DART was being constructed the proper safety protocols weren't followed and for this reason concluded that the Applicant should not be relied upon to remediate the landfill in line with the regulations. It noted that only a "*miniscule volume*" of the landfill has actually been physically examined. The Applicant responded in [\[REP2-037\]](#), drawing attention to the forensic techniques employed in the investigation and the standard practices that must be adhered to.
- 3.11.37. Based on the information provided, the ExA is satisfied that the risks to both human health and controlled waters are adequately understood following a significant programme of investigation at the landfill site. Assessments have been provided that present a good understanding of the potential risks, and management and mitigation of these would be provided through design of the development and several enforceable plans, notably the CoCP [\[REP8-013\]](#) and the oRS [\[REP6-005\]](#), with an associated monitoring programme based on the Outline Monitoring Strategy Report for Groundwater, Ground Gas and Leachate Monitoring [\[APP-127\]](#).

CONCLUSIONS ON GEOLOGY AND LAND CONTAMINATION

- 3.11.38. The ES [\[REP7-011\]](#) identified that there would be risks to human health and controlled waters at the Main Application Site, both from the former landfill and a legacy of industrial use in the wider area. The ExA is satisfied that the investigation, remediation, verification and management measures secured in the draft DCO [\[REP11-091\]](#), would be sufficient to mitigate, manage and remediate potential adverse effects to the extent that they were not significant. The proposals meet the requirements of the LLP (Policy LLP38) in this respect.
- 3.11.39. The Applicant has demonstrated that the development would not contribute or be adversely affected by unacceptable levels of soil pollution or land instability, as required by the NPPF (paragraph 180). Works associated with recovery of waste at the landfill and those that pose a risk to groundwater would be regulated by the EA through an Environmental Permit. The Proposed Development would help to improve environmental conditions and remediate and mitigate despoiled as required by the NPPF (paragraph 180). The ExA considers that the site would be suitable for its proposed use and should not be capable of being determined as 'contaminated land', meeting the requirements of paragraph 189 of the NPPF and paragraph 5.116 of the ANPS.

- 3.11.40. The ExA concludes that there would not be any significant effects on MSAs from the Proposed Development and there would be no conflict with national or local policies in this respect.
- 3.11.41. This topic does not weigh for nor against the Order being made.

3.12. GREENHOUSE GASES AND CLIMATE CHANGE

INTRODUCTION

- 3.12.1. This section of the report considers the effects of GHG emissions associated with the Proposed Development, including aviation emissions. An assessment of resilience of the Proposed Development to climate change is in Section 3.9 of this Report.
- 3.12.2. Nearly 500 RR referred to the potential negative effects on climate change from GHG emissions and raised concerns about the UK's ability to meet its Net Zero target eg [\[RR-1406\]](#), [\[RR-0164\]](#), [\[RR-0879\]](#), [\[RR-1483\]](#), [\[RR-0383\]](#) and [\[RR-0042\]](#).
- 3.12.3. The emission of GHGs was identified as a principal issue in the ExA's IAPI [\[PD-007\]](#), Annex C].

LEGISLATION AND POLICY BACKGROUND

- 3.12.4. A brief overview of key legislation and policies is provided below; a list of relevant policies and legislation can be found in Appendix B.
- 3.12.5. Under the CCA2008 the SoS must ensure that the net UK carbon account for the year 2050 is at least 100% lower than the 1990 baseline ('net zero'). A net 'carbon budget' is set by the SoS for each 5-year period from 2008 to 2012. The associated UK Emissions Trading Scheme (UK ETS) sets a cap on the amount of carbon that can be emitted, including by airlines, within the EEA and Gibraltar. This cap will be reduced over time to stimulate innovation to increase carbon efficiency and to reduce emissions. The allowances under the UK ETS will be aligned with the UK carbon budgets to achieve net zero by 2050.
- 3.12.6. National policies and strategies relating to GHG emissions from aviation are in the JZS and Decarbonising Transport: a better, greener Britain (2021). The former sets out the Government's commitment to decarbonise airport operations by 2040 and aviation by 2050. The latter sets out policy on decarbonising transport in line with the UK's target of net zero by 2050. The JZS identifies a 'High Ambition' scenario, which sees aviation carbon dioxide (CO₂) emissions peak in 2019 and then follow a reducing trajectory to achieve 'jet zero' by 2050.
- 3.12.7. The ANPS (paragraph 5.76) states that the Applicant must provide evidence of the carbon impact of the project so that it can be assessed against the Government's carbon obligations, including, but not limited to, the carbon budgets. Paragraph 5.82 states that *"any increase in carbon emissions alone is not a reason to refuse development consent, unless the increase in carbon emissions resulting from the project is so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets"*.
- 3.12.8. The ANPS (paragraph 5.83) requires evidence of appropriate mitigation measures to demonstrate that the carbon footprint is not *"unnecessarily high"*. The Applicant should quantify the GHG impacts before and after mitigation to show the effectiveness of proposed mitigation measures. This will require emissions to be split into traded sector and non-traded sector emissions, and for a distinction to be made between international and domestic aviation emissions (paragraph 5.76). The ANPS lists the emissions that should be quantified (paragraph 5.77) and the mitigation measures that are likely to be incorporated (paragraphs 5.78 and 5.80).

- 3.12.9. Paragraph 108 of the NPPF states that the environmental impacts of TT infrastructure must be assessed, opportunities for avoiding and mitigating any adverse effects, and net environmental gains should be taken. Paragraph 116 requires that development should enable charging of plug-in and other ultra-low emission vehicles. Paragraphs 157 and 159(b) provide general support to development that contributes to reductions in GHG emissions. Paragraph 162 states that new development should comply with local requirements for decentralised energy supply and take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption. Significant weight should be given to the need to support energy efficiency and low carbon heating improvements to existing buildings (paragraph 164).
- 3.12.10. LLP Policy LLP25 requires high quality design that reduces carbon emissions and increases energy and water efficiency. Policy LLP37 supports proposals that contribute towards mitigation of climate change through energy use reduction, efficiency, and renewable and decentralised energy. It requires that all new non-residential developments over 1000 metres squared (m²) achieve the 2013 Building Research Establishment Environmental Assessment Method (BREEAM) 'Good' status and indicates that the energy hierarchy should be followed. The policies in the LLP are broadly reflected in the other Host Authorities' development plans.
- 3.12.11. LLP Policy LLP6(B) states that the airport expansion must contribute to national aviation policies. Proposals must fully assess the impacts of any increase in ATM on surrounding occupiers and the local environment, including climate change impacts.
- 3.12.12. LBC has declared a Climate Emergency. It published 'A town-wide vision for Luton 2040, a Net Zero Town' [\[REP3-099\]](#), which was supported by a Net Zero Roadmap [\[REP3-101\]](#) and Climate change policy and action plan [\[REP3-100\]](#). The policy document commits LBC to working collaboratively with organisations across Luton to reduce emissions but does not put specific demands on the airport.

THE APPLICATION

- 3.12.13. The Applicant's assessment of GHG emissions was set out in ES Chapter 12 [\[REP3-007\]](#). Several supporting figures and appendices, including the GHG Methodology and Data [\[APP-082\]](#) were also submitted; a full list can be found in Appendix A of this report. For the purposes of the assessment, the emission streams were divided into construction, aviation, airport operations and surface access journeys [\[REP3-007\]](#), section 12.1].

Construction

- 3.12.14. A detailed breakdown of GHG emissions from construction was presented in the GHG Methodology and Data appendix [\[APP-082\]](#) and standard emissions factors applied to each of the sources. A summary of the effects was presented in [\[REP3-007\]](#), section 12.9]. The most significant emissions would be from the embodied carbon in materials, transport, and use of electricity and fuel. Emissions would also be generated from worker travel, water used on site and waste management [\[APP-081\]](#), section 4.4].
- 3.12.15. All mitigation measures to be applied during the construction phase were set out in the CoCP [\[REP8-013\]](#), section 10]. This would require the lead contractor to develop a Carbon Efficiency Plan accounting for both embodied and operational carbon. Other mitigation measures would include the specification of materials, recycling, commitments to a reduction in water use and diesel, and promotion of sustainable

transport in line with the outline Construction Workers Travel Plan (oCWTP) [\[REP8-018\]](#).

- 3.12.16. The Applicant assessed the significance of emissions from construction by comparing them with the UK's national carbon budgets. It concluded that the emissions from construction would be a very small proportion of the budgets and the effects would therefore be not significant [\[REP3-007\]](#), section 12.11].

Aviation

- 3.12.17. Baseline emissions from aviation were based on aircraft movements by regional destination, aircraft type and the assumption of 18mppa to 2043 [\[APP-082\]](#), section 2.2]. The Core Planning case built on this using air traffic forecasts from the Need Case [\[AS-125\]](#). GHG emissions were calculated separately for the landing take-off (LTO) (below 3000 feet), and the cruise, climb and descent (above 3000 feet) phases of flight in one direction to avoid double counting with other airports [\[REP3-007\]](#), paragraph 12.5.9].
- 3.12.18. The UK ETS and the global Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) were incorporated into both the baseline and Core Planning cases through application of carbon pricing to the demand forecasts [\[REP3-007\]](#), section 2].
- 3.12.19. The Applicant applied the proposed actions from the JZS High Ambition scenario to both the Future Baseline and Core Planning cases These included uptake of SAFs from 2030, improvements in aircraft fuel efficiency at 2% per year and the introduction of Zero Emission Aircraft (ZEA) from 2040 [\[APP-081\]](#), paragraph 2.2.2].
- 3.12.20. Although the Applicant stated that emissions from aviation were largely outside its control, mitigation measures to facilitate a reduction in these were incorporated, where possible, in the DP [\[REP9-030\]](#) and outline GHG Action Plan [\[APP-081\]](#). Such measures would include single engine taxiing, electric towing and a reduction in the use of auxiliary power units. The operator would also introduce policy to encourage uptake of more efficient aircraft and SAFs [\[APP-081\]](#).
- 3.12.21. The Applicant noted the commitment in JZS to domestic flights being net zero by 2040 but did not include these in the assessment because they were 'target outcomes' rather than mitigation measures [\[REP3-007\]](#), paragraph 12.5.12].
- 3.12.22. The Applicant acknowledged that non-CO₂ impacts from aviation are known to result in a range of pollutants that could affect the climate in other ways [\[REP3-007\]](#), section 12.12]. However, the Applicant argued that these were generally short-lived and reversible. Furthermore, there remained significant uncertainty around the overall warming effects and there was no recognised benchmark against which to compare the emissions. For these reasons, whilst the Applicant accepted that it was important to acknowledge the effects of these impacts, the assessment did not quantify the effects. However, the Applicant proposed that ongoing GHG reporting would follow all Government policy as it evolves on this issue [\[REP3-007\]](#), paragraph 12.12.5].
- 3.12.23. To assess the significance of emissions from aviation, the Applicant compared them with the trajectory provided for in the JZS High Ambition scenario, the 'planning assumption' for aviation and the national carbon budgets. The Applicant concluded that the aviation emissions would account for a very small proportion of national emissions and would follow the JZS's High Ambition trajectory. Emissions would

represent less than 3% of the planning assumption for aviation over budget periods 4 (2025 to 2027) and 5 (2028 to 2035) and would represent less than 1% of the national carbon budget for period 6 (2033 to 2037) [REP3-007, Table 12.29]. For these reasons, the Applicant concluded that the effects from aviation would be not significant [REP3-007, section 12.11].

Airport operations

- 3.12.24. This category included operation of airport buildings and infrastructure, vehicles and equipment. Emissions for both the baseline and Core Planning cases were based on the activity data for power, heating and transport provided in the Energy Statement [APP-050]. Emissions from fire training and fugitive releases were assumed to be constant over the lifetime of the site [APP-082]. Engine testing and business travel were extrapolated from 2019 baseline data in proportion to aircraft movements and staff numbers. Emissions for water consumption, waste disposal and employee travel were also based on projected aircraft movements, passenger and staff numbers. The Applicant applied the Government's projected carbon emission factors, which incorporate decarbonisation of the grid [APP-082, Table 2.12].
- 3.12.25. Proposed mitigation measures included reduction of energy use through increased efficiency and sustainable building design, a reduction of emissions from ground fleet vehicles and development of infrastructure to facilitate the use of zero emission airside equipment. These would be secured via the DP [REP9-030] and outline GHG Action Plan [APP-081].
- 3.12.26. The Applicant addressed uncertainty around the details of the Government's target for airport operations to be zero emission by 2040 through the provisions in the GCG Framework [REP11-013]. This would commit the Applicant to reviewing the Thresholds and Limits within 3 months of any updated policy or guidance on this matter to ensure that they remained appropriate [REP11-013, paragraph 5.4.2]. The GHG Monitoring Plan contains procedures for monitoring and reporting the emissions from operations [REP11-021].
- 3.12.27. Again, the significance of these emissions was compared against national carbon budgets and it was concluded that, as they would be a very small proportion, emissions from the Proposed Development's airport operations would not be significant [REP3-007, section 12.11].

Surface access

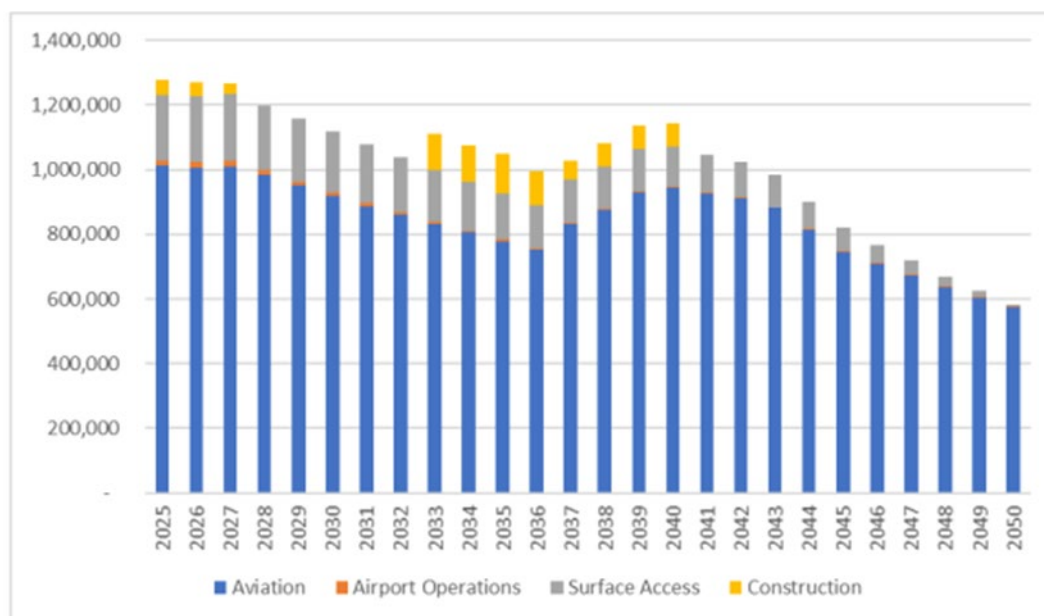
- 3.12.28. Baseline emissions for surface access journeys were based on the data for passengers, staff and freight outlined in the Transport Assessment [APP-203], [AS-123], [APP-205] and [APP-206].
- 3.12.29. Emission factors were taken from the UK Government's standard database of conversion factors for company reporting and assumptions around future decarbonisation [APP-082, section 2.2]. The baseline dataset included uptake of EVs and low carbon vehicles in line with the Government's Decarbonising Transport (2021).
- 3.12.30. A SAS [APP-228] proposed to encourage passengers and staff onto public transport, and to incentivise the use of low carbon vehicles to travel to the airport, including through provision of EV charging points [REP3-007, Table 12.16]. Further information regarding the surface access and transport strategies can be found in Section 3.20 of this Report.

- 3.12.31. The GCG Framework [\[REP11-013\]](#) places limits on the emissions from surface access. The limit for emissions in 2040 was set at zero to reflect the target in Luton Rising's Sustainability Strategy (2022) [\[REP11-011\]](#), paragraph 3.4.2]. As the Applicant considered these emissions to be largely beyond its control, it proposed to use offsetting to ensure that the limits were met. The procedure for reporting emissions from surface access and offsetting was set out in the GHG Monitoring Plan [\[REP11-021\]](#).
- 3.12.32. The significance of emissions from surface access was also evaluated against the national carbon budgets and found to be extremely small. It was predicted that overall emissions would fall by 99% between the baseline year and 2050 [\[APP-082\]](#), paragraph 12.11.54] and the Applicant concluded that this fall would align with Government policy. The Applicant concluded that GHG emissions from surface access would be not significant.

Overall emissions

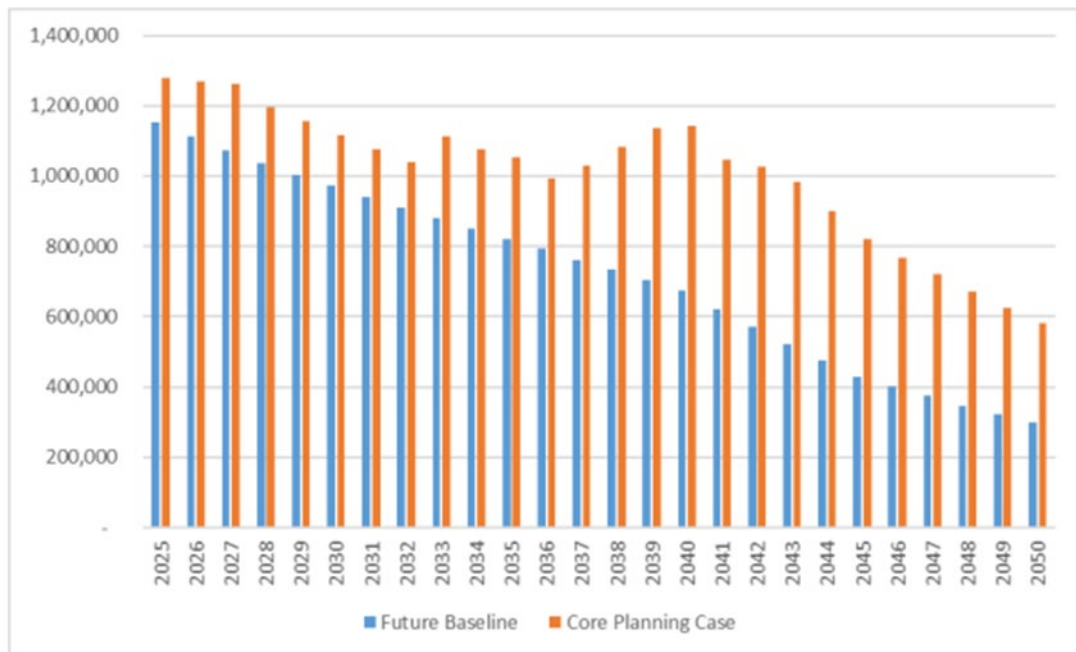
- 3.12.33. The Applicant also provided an estimate of total GHG emissions from the project to assess them against the requirements of national policies and legislation. The Core Planning Case emissions broken down by the four emission streams are shown in Figure 13 below (from [\[REP3-007\]](#)). A comparison of the Future Baseline and Core Planning case is shown in Figure 14.

Figure 13: Core Planning Case emissions (tonnes CO₂e) from Inset 12.1 [\[REP3-007\]](#)



- 3.12.34. The significance of GHG effects resulting from the Proposed Development was evaluated through quantitative comparison with relevant trajectories to net zero, and a qualitative assessment against known policy and best practice. The Applicant stated that this was consistent with the updated guidance published by the IEMA [\[REP11-049\]](#), paragraph 9.8.25]. The significance of the combined emission sources was assessed to be not significant.

Figure 14: Overall emissions (tonnes CO₂e) from Inset 12.2 [REP3-007]



- 3.12.35. The sensitivity of emissions to faster and slower growth in passenger numbers was discussed in [REP3-007, Table 12.23] and illustrated in [REP3-007, Inset 12.23].
- 3.12.36. On the basis that combined effects would not be significant, the Applicant concluded that the additional emissions would not be so significant that they would have a material impact on the Government's ability to meet its carbon reduction targets or carbon budgets [REP3-007, section 12.11].

ISSUES CONSIDERED

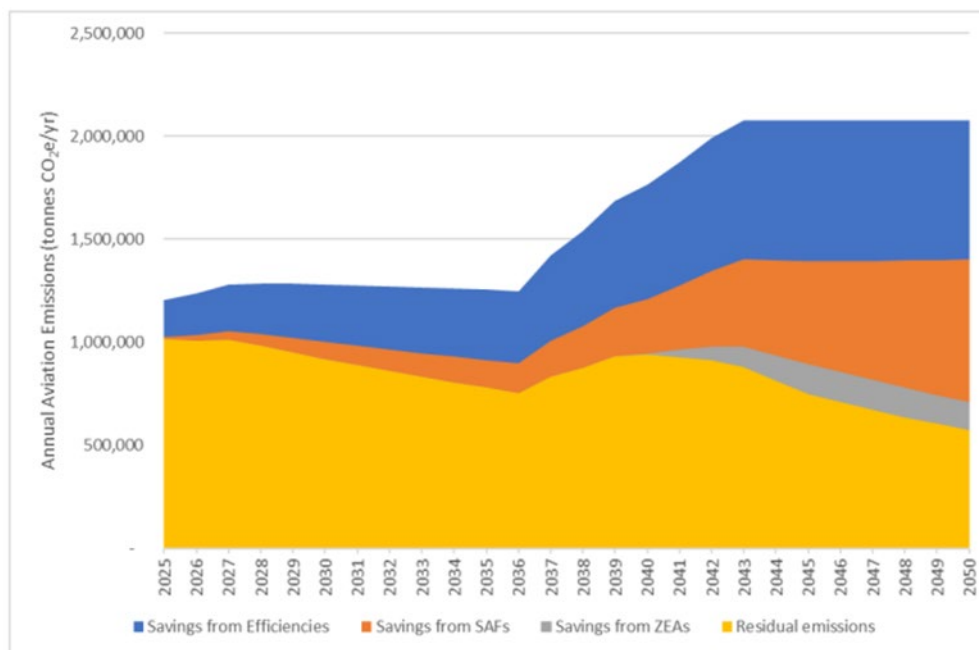
Reliance on delivery of the Jet Zero Strategy High Ambition scenario

- 3.12.37. At the end of the Examination, BC [REP11-101] still disagreed with the 'unwarranted' level of confidence in delivery of the technological 'aspirations' relied upon in the JZS, in particular the introduction of SAFs. It had previously requested eg [REP1A-001] that the Applicant undertake a sensitivity analysis to explore the effects of slower delivery of SAFs and low carbon aircraft in the future. BC drew attention [REP11-101] to the recommendations in the IEMA guidance for considering uncertainty. Other parties, including the NEF [REP3-131], LADACAN [REP1-095] and [REP6-136], and Cambridge Friends of the Earth [REP3-111] made similar requests. Other examples of concerns regarding the application of the JZS and SAFs can be found in [RR-1087], [REP1-168], [REP4-196], [RR-0165], [REP6-080] and [REP8-081].
- 3.12.38. The Applicant stated eg [REP2-037], [REP4-078], [REP5-046] and [REP5-052] that it was appropriate to base modelling on the JZS High Ambition scenario, including the technological changes that it relied upon, because this represented current Government policy on aviation. The Applicant [REP1-021] and [REP11-101] highlighted that this approach was consistent with other similar projects, including Bristol Airport and the A428 Black Cat to Caxton Gibbet.
- 3.12.39. In addition, the Applicant stressed that carbon would be capped by the UK ETS and, if technical improvements did not occur, this could lead to higher carbon pricing,

which would reduce passenger numbers and therefore emissions [REP4-078] and [REP6-066]. It drew attention to incorporation of the Department of Business, Energy and Industrial Strategy's (BEIS) target carbon values to reflect the costs necessary to achieve the Government's carbon reduction targets.

- 3.12.40. However, the Applicant recognised that these national measures would not be within their control and were subject to a degree of uncertainty [REP11-049, paragraph 9.8.40]. It drew attention to graph [REP3-007, Inset 12.4] (Figure 15 below), which presented the contribution each option would make to a reduction in aviation emissions, as a proxy for a sensitivity test [REP6-055] and [REP7-063]. The Applicant stated that a full sensitivity test was not possible given the existing availability of modelling data [REP11-101].

Figure 15: Effect of JZS mitigation policies on GHG emissions from aviation (from Inset 12.4 [REP3-007])



- 3.12.41. At the end of the Examination, BC also maintained that a quantitative assessment of the 'faster growth scenario' in the JZS should have been undertaken [REP11-101] following earlier questions on the matter, eg [REP1A-001]. Among other things, it asked what the effect upon cumulative emissions of overall annualised efficiency improvements of 2% would be. A similar question was asked by LADACAN [REP6-133].
- 3.12.42. The Applicant responded at [REP7-066] that the Government had made it clear there would be binding targets for the total amount of aviation emissions, which would cap growth, even if the 2% annual improvement did not occur.
- 3.12.43. The ExA's attention was drawn, by several IPs eg Bristol Airport Action Network [REP7-098], Cambridge and Peterborough Climate Action Coalition [RR-0173], and Cambridge Friends of the Earth [RR-0174], to the UK CCC 2023 Progress Report, which states that the JZS faces "*considerable delivery risks*" and concludes that "*there should be no net airport expansion*" until the carbon-intensity of aviation outperforms the Government's remissions reduction pathway. The ExA asked a question on this matter at ISH2 [EV7-001].

- 3.12.44. The Applicant responded that the CCC progress report should not affect the weight given to the JZS because the Government is not required to follow the advice of the committee and has rejected it several times in recent years. The Applicant quoted the Government's response to the report, which stated that expansion of any airport must meet climate change obligations and that the JZS would be reviewed every 5 years to ensure that the sector was on track [\[REP3-049\]](#) and [\[REP8-038\]](#).
- 3.12.45. At the end of the Examination BC remained concerned [\[REP11-101\]](#) that the effects of improvements in efficiency, including through use of SAFs, had not been properly accounted for. It cited the Jevons Paradox, which states that increases in efficiency could lead to lower costs and more passengers, negating any efficiency savings. In addition, it raised concerns about efficiency savings being presented as 'pure gains' within the assessment. The importance of assumptions around carbon costs was also raised by LADACAN eg [\[REP8-075\]](#), given that reliance on costs accounts for 27% of the emissions reduction in 2050 in the JZS High Ambition scenario.
- 3.12.46. The Applicant acknowledged the paradox but responded that this downward pressure would be countered by the increased costs from measures such as the UK ETS and CORSIA, as well as the higher costs associated with new technologies [\[REP11-101\]](#). It drew attention to the fact that the JZS anticipates increasing costs to airlines and noted that, in any event, passenger demand could not grow beyond the limit of the permission. Notwithstanding this, the Government has committed to a 5-yearly review of carbon emissions to ensure targets are met.
- 3.12.47. At ISH2 [\[EV7-001\]](#) the ExA queried the status and weight to be given to the JZS and Decarbonising Transport (2021) as policy as opposed to more general Government strategy. The Applicant responded [\[REP3-049\]](#) that they can be seen as policy and given weight as such. It noted that there was some element of uncertainty given that these were long-term policies, but the Applicant must still align with Government carbon targets.

ExA's conclusions on the reliance on delivery of the Jet Zero Strategy

- 3.12.48. Ultimately UK GHG emissions, including those from the aviation sector, are controlled by the carbon budgets and requirement to meet net zero by 2050 in the CCA2008. The UK ETS is an important control mechanism to help deliver the legislative requirements and the Government has the ability to introduce other mechanisms as needed. The ANPS (paragraph 4.54) is clear that decisions under the PA2008 should complement but not duplicate those taken under the relevant pollution control regime. The ExA concludes that the CAA is such a regime and must work on the assumption that it will be properly applied and enforced.
- 3.12.49. It is made clear in the JZS that multiple pathways and solutions are likely to be available to achieve the Government's trajectory for a reduction in aviation emissions. The Government has committed to monitoring progress against the trajectory annually from 2025 in addition to reviewing the overall trajectory every five years. Given this, the ExA considers it is reasonable that the Applicant has based its assessment on the current preferred High Ambition scenario and underlying assumptions, noting that regardless of which pathway is ultimately taken, the outcomes must necessarily be the same or similar to meet the legislative targets. For this reason, the ExA does not consider that it is necessary for the Applicant to assess a scenario assuming that little progress against the JZS is made or to review alternative pathways.

- 3.12.50. The CCC provides recommendations for Government, but these do not alter the policies, strategies and legislation that are before the ExA. The ExA has noted the CCC's conclusion that JZS faces delivery risk but must rely on the assumption that ultimately the CCA2008 must be adhered to and that the Government would introduce additional policy to deliver its legislative duties, if required.
- 3.12.51. The ExA has noted the recent High Court judgment '*R (Friends of the Earth Ltd) v Secretary of State for Business, Energy and Industrial Strategy* [2024] EWHC 995 (Admin)' that, among other things, concluded that the Government had breached its duty under the CCA to adopt policies which would enable the carbon reduction targets to be met. However, the ExA must work on the assumption that the Government will act accordingly and ensure that its legislative duties are complied with, including working to ensure that appropriate policies are in place to manage the emissions from the aviation industry.
- 3.12.52. The ExA concludes that reliance on delivery of JZS is a neutral matter and weighs neither for nor against the making of the Order.

Application and coverage of UK ETS and CORSIA

- 3.12.53. BC requested sensitivity analysis of UK ETS and CORSIA price development in the models for need and emissions, and the lack of this remained an area of disagreement at the end of the Examination [\[REP11-101\]](#).
- 3.12.54. In response, the Applicant acknowledged the inevitable uncertainty around the future costs of compliance and market-based mechanisms, such as UK ETS, not least because it covered multiple sectors [\[REP11-101\]](#). For these reasons, the Applicant concluded that a sensitivity analysis involving so many variables would be of limited value. However, it drew attention to the assessment of sensitivity to carbon pricing that had been included in the Need Case [\[AS-125\]](#) and [\[APP-214\]](#).
- 3.12.55. LADACAN and other IPs highlighted that CORSIA would finish in 2035 with no international agreement on what would replace it [\[REP3-121\]](#), [\[REP7-104\]](#), [\[REP8-075\]](#) and [\[REP9-081\]](#).
- 3.12.56. The Applicant stated that, while the Government had not yet announced specific plans for the replacement of CORSIA after 2035, the expectation in the JZS is that the aviation industry would achieve net-zero emissions by 2050, with the implication that an equivalent mechanism to achieve this outcome would be necessary [\[REP8-038\]](#), [\[REP10-045\]](#). It drew attention to the Government's commitment to working with the ICAO to strengthen CORSIA and that a second consultation had been launched to review the interaction between UK ETS and CORSIA.
- 3.12.57. The Applicant also stated that as the Government had assumed carbon prices for both the UK ETS and CORSIA in the High Ambition scenario it clearly expected CORSIA to be extended or replaced with a similar scheme, so this was a reasonable assumption for the assessment [\[REP4-098\]](#). In its post-hearing submission for ISH8 [\[REP6-066\]](#), the Applicant quoted DfT's JZYO, which makes clear that CORSIA was seen as an interim step that may be replaced by something more akin to the UK ETS.
- 3.12.58. LADACAN drew attention to the fact that the UK ETS does not apply to all aircraft emissions and that it appears to be the Applicant's intention for a larger number of non-EEA destinations to be served commercially in the future [\[REP7-104\]](#). NEF [\[REP5-081\]](#) stated that, based on the Applicant's submission, nearly half of the

additional carbon emissions created between 2025 and 2050 would fall within the non-traded sector and would have to dealt with through CORSIA.

- 3.12.59. The Applicant stated [\[REP6-063\]](#) that over 75% of emissions in the Core Planning case would be covered by UK ETS and a large majority of the remainder would fall under CORSIA. The Applicant acknowledged [\[REP3-049\]](#) that there were some destinations in central and eastern Europe that were not caught by the UK ETS or CORSIA. The number of these forecast in the Need Case was very small at approximately 5 out of 280 departures from Luton airport in the busy day timetable [\[REP4-055\]](#). It acknowledged that clarifications would need to be made to the CORSIA scheme, but as growth from the Proposed Development to destinations outside the EEA was not anticipated until the late 2030s there would be sufficient time for the Government to develop this.
- 3.12.60. NEF did not agree with the reliance on CORSIA in the assessment [\[REP7-106\]](#), [\[REP7-107\]](#), in part because the prices are below the carbon values which should be used in the appraisal. The Applicant responded [\[REP7-063\]](#), [\[REP7-066\]](#), [\[REP8-038\]](#) and [\[REP9-051\]](#) that the carbon costs used in the demand forecast [\[APP-214\]](#) trend upwards from the current traded carbon price for CORSIA to the BEIS appraisal values to ensure that they reflected the rising costs of carbon in the future. Current lower prices were a result of the recovery of the industry from the COVID-19 pandemic.
- 3.12.61. In conclusion, the ExA accepts that there is uncertainty around future carbon pricing and implementation of the CORSIA scheme. In addition, there would be an unconstrained, but likely very small, number of flights predicted to fly to non-EEA countries that would not be captured by either scheme. However, the overall emissions from aviation must be controlled at a national level and, at a minimum, must deliver the legislative requirements in the CCA2008. The requests for further sensitivity analysis of price development are noted but the ExA is content that the probabilistic assessment of carbon pricing provided in the Need Case [\[AS-125\]](#) and [\[APP-214\]](#) is sufficient for the purposes of the assessment.
- 3.12.62. The ExA therefore concludes that this matter is neutral and neither weighs for nor against the making of the Order.

Calculation of aviation emissions

- 3.12.63. At the end of the Examination, HCC [\[REP11-095\]](#), NHDC [\[REP11-097\]](#), DBC [\[REP11-099\]](#) and CBC [\[REP11-035\]](#) had not agreed to the calculation of emissions from aviation because only departing flights had been included. They did not consider that this approach was consistent with the IEMA guidance, including section 5.2, which states “*the assessment should seek to quantify the difference in GHG emissions between the proposed project and the baseline scenario. Assessment results should reflect the difference in whole life net GHG emissions*”. HCC stated that only counting emissions one-way did not account for the whole life cycle. NEF [\[RR-1087\]](#) also argued that all emissions should count against the scheme in the balance and stated [\[REP3-131\]](#) that GHG emissions incurred overseas should be included, quoting BEIS’ ‘valuation of energy use and GHG emissions’ (January 2023).
- 3.12.64. In response to these concerns [\[REP4-096\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#), [\[REP11-099\]](#) and [\[REP11-035\]](#), the Applicant said that this was a widely established practice to avoid double-counting emissions. The Applicant [\[REP11-049\]](#) stated that advice on the inclusion of departing flights only has been adopted by the DfT and

informed its policy on aviation and climate change. This was also the basis for the approach taken in the ANPS. The advice of the CCC is to consider emissions from departing flights only. Additionally, the United Nations Framework Convention on Climate Change recommends that for carbon reporting purposes nations submitting annual emissions totals should only consider departing flights to avoid double counting with other countries.

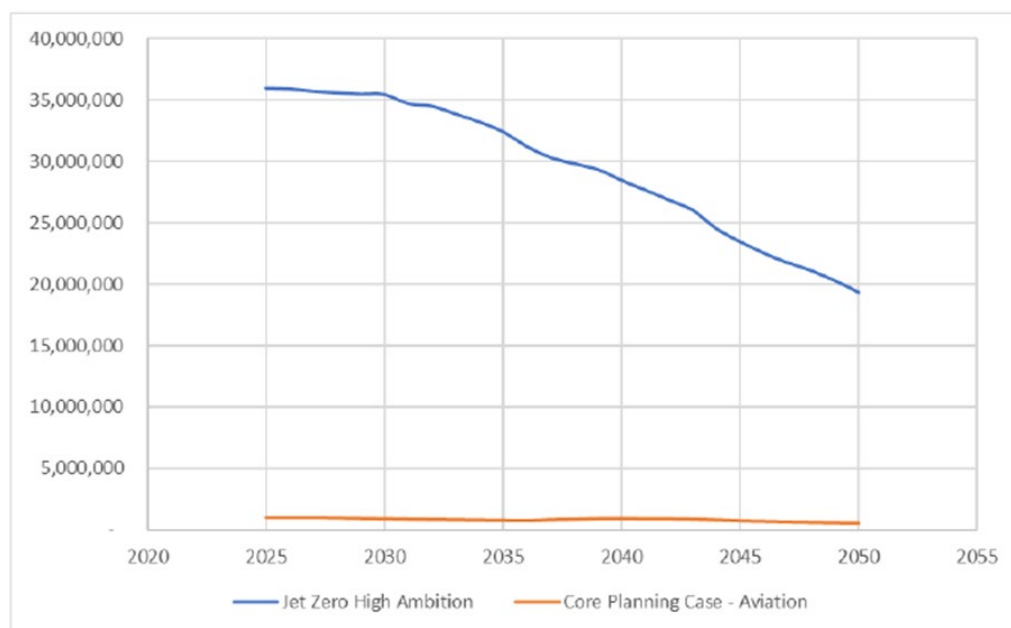
3.12.65. The ExA acknowledges the concerns that only including emissions from departing flights above 3000 feet would not account for the whole life cycle. However, given the unusual circumstances of flying, a different approach has necessarily been established and agreed internationally, to avoid double counting emissions. The ExA sees no reason to come to a different conclusion in this case.

3.12.66. This matter weighs neither for nor against the making of the Order.

Determination of significance of emissions

3.12.67. By the end of the Examination, HCC [REP11-095], NHDC [REP11-097] and DBC [REP11-099] had not agreed that GHG emissions of over 5 million tonnes CO₂e should be viewed as a minor adverse effect. The reasons given were that the assessment was not consistent with the latest IEMA GHG guidance and the magnitude of the carbon emission increase resulting from the Proposed Development. These local authorities quoted section 6.3 of the IEMA guidance; that for an effect to be 'minor adverse', a project must align with and contribute to the relevant transition scenario, keep the UK on track towards net zero, with at least a 78% reduction by 2035 to avoid significant effects.

Figure 16: Comparison of annual aviation emissions from the Proposed Development with the overall UK aviation emissions as set out for the JZS High Ambition scenario for the period 2025 to 2050 (tonnes CO₂) from Inset 12.5 [REP3-007]



3.12.68. The Applicant [REP11-095], stated that the assessment had been undertaken in accordance with best practice and had demonstrated that the development would

decarbonise in line with the JZS and Decarbonising Transport trajectories which aligned with broader Government targets. [REP3-007, Inset 12.6 and Table 12.24] were provided by the Applicant to illustrate this point (reproduced as Figure 16 above and Table 5 below). In [REP3-007, Table 12.25], the Applicant showed that the percentage reduction in emissions between 2019 and 2050 would be nearly 49% for the Proposed Development compared to slightly over 49% for national aviation in the JZS high ambition scenario.

Table 5: Core Planning Case aviation emissions as a percentage of JZS High Ambition scenario over carbon budget periods from [REP3-007, Table 2.24]

Budget Period	Years	Jet Zero Strategy High Ambition	Aviation – Core Planning Case	Percentage of Jet Zero Strategy High Ambition
4	2025-2027	107,494,018	3,033,148	2.82%
5	2028-2035	175,639,775	4,601,317	2.62%
6	2033-2037	160,936,469	4,000,259	2.49%
7	2038-2042	142,011,812	4,585,842	3.23%
8	2043-2047	118,117,711	3,822,268	3.24%
9	2048-2050	60,597,447	1,817,103	3.00%

- 3.12.69. Based on this, the ExA is satisfied the Applicant has demonstrated that the project would be compatible with the UK's current trajectory to Jet Zero and complies with up-to-date policy and good practice. The Government trajectories incorporate the 'at least 78% reduction' by 2035. In these circumstances, the IEMA guidance recommends that this is a minor adverse effect.
- 3.12.70. However, the ExA is mindful that paragraph 5.82 of the ANPS also states that if the increase in carbon emissions is so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets then this could be a reason for refusal.
- 3.12.71. The Applicant has compared emissions with national carbon budgets. Emissions from international aviation and shipping (IAS) have been included from the 6th budget onwards. Outside of the 6th budget, the CCC has recommended that aviation emissions are compared with the planning assumption of 37.5 million tonnes CO₂ equivalent (MtCO₂e) per year. The Applicant provided a breakdown of these figures in Table 12.26 [REP3-007]. The ExA has concluded that the emissions from aviation would remain less than 3% of the planning assumption up to the 6th budget period (2033 to 2037).
- 3.12.72. The specific requirement in the 6th budget for emissions relating to IAS is 965 MtCO₂e and the Applicant showed [REP3-007, Table 12.26] that the emissions from the Proposed Development would be less than 1% of this in the sixth budget period. The ExA asked the Applicant whether a further breakdown of the budget could be provided to better understand the emissions specific to aviation [EV7-001]. The Applicant responded [REP4-078] that the budget does not provide binding sectoral

totals and recommended that the JZS dataset for the high ambition scenario was the only plausible comparator.

- 3.12.73. From the figures provided in [\[REP3-007\]](#), Inset 2-1] it appears likely to the ExA that, even if the measures in the JZS were not provided, the residual emissions would remain in the region of 3% of the planning assumption and less than 1% of the total budget for aviation and shipping in the 6th carbon budget.
- 3.12.74. In conclusion, the Applicant has demonstrated to the ExA's satisfaction that the emissions from the Proposed Development would align with the Government's Jet Zero High Ambition trajectory. The Applicant has provided evidence that the predicted CO₂ emissions, even without efficiency savings and introduction of SAFs and ZEAs, would not have a material impact on the ability of Government to meet either its planning assumption for aviation or the budget for IAS in the 6th carbon budget. The ExA concludes that the increase in carbon emissions would not be so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets. The ExA acknowledges that this conclusion relies heavily on delivery of appropriate policy by the Government in the future, but consideration of the likelihood of this occurring is beyond the scope of this Examination.
- 3.12.75. However, the ExA is mindful that the Secretaries of States' recent P19 decision concluded that while the proposal would accord with national and Development Plan policies, there would be an increase in GHG emissions compared to the 'without proposal' scenario. In paragraph 26 of the decision letter, the Secretaries of State concluded that this should be a negative aspect of the proposal to be considered in the planning balance, albeit that this would be less than significant and short-term and therefore was a matter that carried limited negative weight in the final conclusion. The ExA has nothing before it to suggest that the SoS position on this matter would have changed in the short intervening period and therefore concludes that additional emissions should weigh against the proposal.
- 3.12.76. In addition, the NPPF (paragraph 159) states that new development should be planned for in ways that can help to reduce GHG emissions. While the ExA acknowledges that the Applicant has made commitments to minimise and mitigate emissions, it remains the case that the development would emit many millions of tonnes of additional GHGs to the atmosphere, which is not considered to meet the requirements of paragraph 159 of the NPPF. Given that this proposal would lead to an additional 13 million passengers compared to the P19 permitted limits, the ExA concludes that the additional GHG emissions are a matter of a greater weight than 'limited'. The ExA considers that GHG emissions attract moderate weight against the making of the Order.

Mitigation and controls on emissions from airport operations

- 3.12.77. The ExA queried [\[PD-010\]](#), CC.1.5] why the Government's stated target to have zero emissions from airport operations had not been incorporated in the assessment and management plans. This would also reflect the pledge by LBC to become a carbon neutral town by 2040 in response to their declared climate emergency [\[REP3-100\]](#).
- 3.12.78. In response [\[REP4-055\]](#), the Applicant stated that given the current uncertainty around the definition of 'operations' for the target, it had included some residual emissions as a 'worst case'. However, it was committed to amending the Limits and Thresholds in the GCG Framework [\[REP11-013\]](#) to ensure that the requirement to meet the 2040 net zero target for airport operations would be met after it was clearly

defined [\[REP4-035\]](#). The ExA is satisfied that this is an appropriate approach to the assessment.

- 3.12.79. In ExQ1 [\[PD-010\]](#), CC.1.5 and ISH2 [\[EV7-001\]](#), the ExA sought to understand if this future target could be met in principle. The Applicant stated that the majority of emissions from operation at this point would be from generation of grid electricity, with smaller emissions from firefighting foams and de-icer. It was exploring private connections to renewable energy sources outside this application [\[REP3-007\]](#), paragraph 12.5.12].
- 3.12.80. The ExA accepts the Applicant's argument that reductions in this would be largely dependent on Government policies, which aim to decarbonise the power system by 2035 [\[REP1-024\]](#). Although private solutions to the energy supply would not be secured through the DCO, the ExA has no reason to doubt that the Applicant is also exploring measures to reduce their reliance on what is likely to become an increasingly expensive mains supply. Between these two mechanisms, the ExA considers it highly likely that the 2040 target for net zero airport operations would be met.
- 3.12.81. The Applicant states that the GCG Framework [\[REP11-013\]](#) would provide the 'control measure' for emissions from operations for the environmental assessment [\[REP3-007\]](#), Table 12.9]. Emissions from airport operations, including those in Scope 3 (indirect emissions that are not within the operator's direct control), would be calculated and presented according to the GHG Monitoring Plan [\[REP11-021\]](#) for submission to the ESG, to allow comparison with the 'Thresholds' and 'Limits' in the Framework.
- 3.12.82. The Limits are based on the Faster Growth Case, which the Applicant considers represents a 'reasonable worst-case scenario' [\[REP11-011\]](#), paragraph 3.1.7] and step down with phases, which are linked in the GCG Framework to passenger numbers. Comparing the predicted CO₂ emissions in the GHG Methodology [\[APP-082\]](#), Table 3.3] with the Limits [\[REP11-013\]](#), Table 5.1] demonstrates to the ExA that, although there would be headroom in the earlier phases, the Limits could be exceeded from Phase 2b onwards. Given the mechanism to stop growth of LLA in the GCG Framework, the ExA is satisfied that the process should act as a 'backstop'. In addition, the ExA notes that if the airport were to develop quicker, the headroom between measured emissions and the Limits would become smaller sooner, potentially constraining growth.
- 3.12.83. At ISH9 [\[EV16-001\]](#), the ExA asked the Applicant to explain whether the steps between each Phase were likely to be exceeded within a monitoring year. The Applicant responded at [\[REP7-078\]](#) that the greatest risk of exceeding a Limit was when passenger throughput increased to a point where Limits stepped down that year. However, it explained that this reflected the purpose of the Framework, because the operator would need to take this into account when planning growth. The Applicant acknowledged [\[REP7-078\]](#) that once a passenger throughput of 27mppa was reached, the Limits and Thresholds would reduce to the extent that there was no significant difference between them. However, the Applicant stated that there was no point in revising these because they were a function of the extensive decarbonisation of airport operations that would be occurring by the late 2030s, which was reflected in the need to update the GCG Framework. The ExA was satisfied with this explanation.
- 3.12.84. At [\[REP9-081\]](#), LADACAN stated "*If the Applicant believes that the Jet Zero trajectory will be achieved, it should put in place Green Controlled Growth Limits*

which reflect the aviation emissions trajectory. The Applicant has consistently refused to accept that point, and now argues that to do so would put it at a commercial disadvantage. This demonstrates that the claims of Green Controlled Growth are a sham". At ISH9 [\[EV16-001\]](#) and [\[REP10-045\]](#), the Applicant was resistant to including aviation emissions in the Framework because this would distort the market by encouraging use of other airports. It considered that this view was in line with national policy, which states that carbon emissions from aviation are best dealt with at a national level. The ExA concludes that the Applicant could have incorporated aviation emissions into the Framework but accepts that there are other controls at a national level and cannot, therefore, require that they are included.

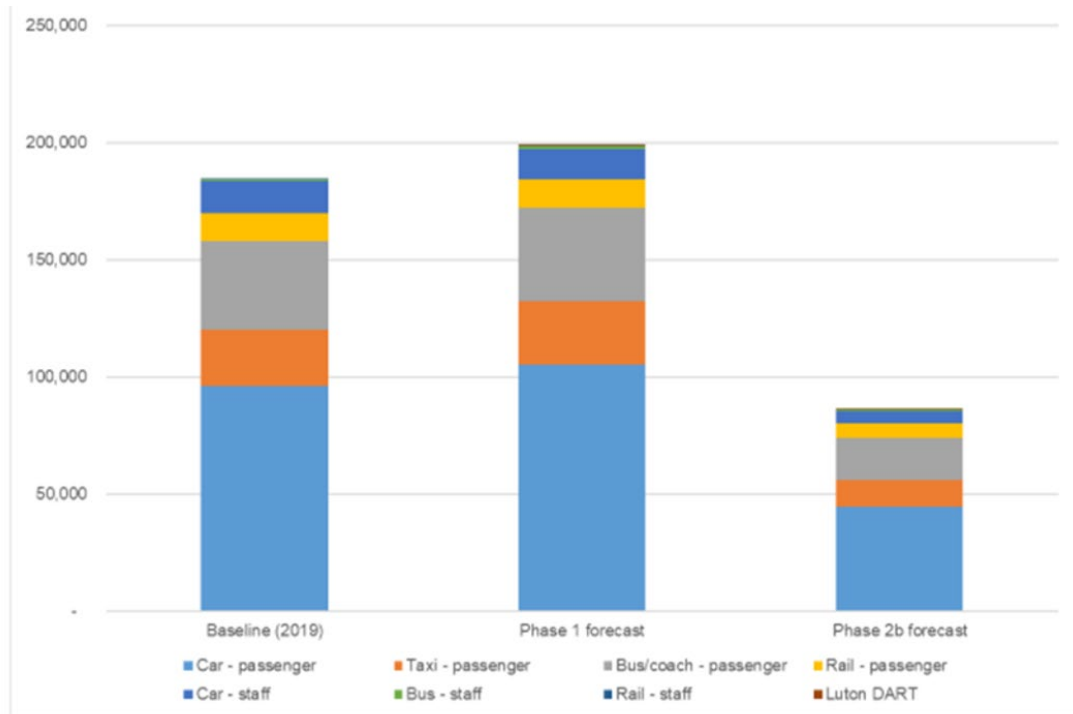
- 3.12.85. At ISH9 [\[EV16-001\]](#), the ExA also explored whether there should be a review mechanism in the GCG Framework for incorporation of new policy and legislation. The Applicant maintained that it would not be reasonable for such changes to be imposed in future where they would prevent implementation of a consent that was policy compliant at the time it was granted. However, if legislation were to change in the future, then this would apply to all airports and it would not be necessary to put it in to the GCG Framework. The ExA concedes that it cannot require the GCG Framework to deliver future policy and that some provision is allowed for to react to future policy on airport operations and carbon budgets, and through the commitment to 5-yearly review.
- 3.12.86. In conclusion, the ExA is satisfied that proposed mitigation measures ensure that emissions from airport operations would not be unnecessarily high, in line with policy requirements, regardless of the requirements of the GCG Framework. The Framework provides a 'backstop' position to ensure that the airport stops expanding if the 'worst case' Faster Growth Case emissions were realised. Given the size of the national carbon budgets compared with the emissions during operation, the ExA is satisfied that even the Faster Growth Case would not cause the effects to be significant. There would therefore be no justification for the ExA to require additional controls on GHG emissions and it is concluded that the 'backstop' position is beneficial.
- 3.12.87. The additional control on emissions from airport operations offered by the GCG Framework is a matter of a little positive weight for the making of the Order.

Mitigation and controls on surface access emissions

- 3.12.88. TfL [\[RR-1543\]](#) stated that offsetting should not be used for surface access emissions because the Applicant had substantial levers at its disposal to encourage sustainable mode shift, including varying DART fares and parking charges. It suggested that offsetting would reduce the incentive to fully tackle these emissions. The ExA asked a question on this matter at ISH2 [\[EV7-001\]](#). At ISH9 [\[EV16-001\]](#), the ExA asked if the GCG Framework should include other actions to reduce surface access emissions before committing to offsetting.
- 3.12.89. The Applicant responded [\[REP1-024\]](#) and [\[REP3-049\]](#) that while it could influence Scope 3 emissions, they were not within its control. It drew attention to the SAS [\[APP-228\]](#) and FTP [\[REP11-027\]](#), which described the approach to reducing surface access emissions, including measures encouraging modal shift to more sustainable modes of transport and encouraging the use of less polluting vehicles. The Applicant also noted that the GCG Framework [\[REP11-013\]](#) set out binding limits for modal shift. In addition, the costs of offsetting would increase and this would be an incentive to reduce emissions at the source [\[REP3-049\]](#). In [\[REP6-067\]](#) the Applicant explained that the outline GHG Action Plan [\[APP-081\]](#) detailed the

measures that would be taken before the requirement for offsetting. At [\[REP7-078\]](#), the Applicant drew attention to the fact that emissions from cars were anticipated to decrease significantly because of the predicted decarbonisation of vehicles, despite an increase in the total vehicle mileage. The Applicant's predicted decrease in surface access emissions is shown in Figure 17 below.

Figure 17: Emission sources for Scope 3 surface access emissions (from Figure 2.3, [\[REP7-078\]](#))



3.12.90. Turning first to the Applicant's commitment to reducing surface access emissions through modal shift and encouraging less-polluting vehicles. It is concluded elsewhere in this Report (Section 3.20) that the Applicant's plans for increasing mode share were unambitious, but that this could be addressed through an amendment to Requirement 31, which seeks to maximise this. If this is imposed then the ExA is satisfied that emissions from the non-sustainable transport mode share would not be unnecessarily high, as required by the ANPS (paragraph 5.83). If the requirement is not imposed, then the ExA cannot confirm that, the SAS [\[APP-228\]](#) and FTP [\[REP11-027\]](#) would secure delivery of the ANPS policy.

3.12.91. Turning next to the efficacy of the outline GHG Action Plan [\[APP-081\]](#) to reduce surface access emissions. In ExQ1 [\[PD-010, CC.1.2\]](#) the ExA explored how surface access emissions would be reduced given that Table 5 of the outline GHG Action Plan [\[APP-081\]](#) frequently used imprecise phrases such as '*options to incentivise*', '*aim*', '*seek to implement*', '*investigate*' [\[APP-081, Table 5\]](#). In response [\[REP4-055\]](#), the Applicant referenced the GCG Framework [\[REP11-013\]](#) as a control mechanism, which is discussed further below. The ExA also notes that Requirement 34 [\[REP11-091\]](#) states that a detailed GHG Action Plan, substantially based on the outline GHG Action Plan [\[APP-081\]](#), must be submitted for approval to the LPA prior to serving a notice under Article 44(1). This plan would be reviewed and refreshed periodically, in line with UK Government carbon budget periods [\[APP-081, Section 4.5\]](#). The ExA acknowledges that this process would provide an opportunity to clarify actions and timescales. However, the GHG Action Plan [\[APP-081\]](#) only requires development of strategies for future delivery of surface

access mitigation measures [APP-081, Table 5], to explore options and 'seek to implement' schemes. The ExA acknowledges that these are positive suggestions but concludes that their delivery is uncertain. The only mitigation measure that the plan commits the Applicant to delivering is carpark to terminal shuttle buses being low carbon. The ExA concludes that the GHG Action Plan [APP-081] would provide only weak control over surface access emissions, and that more detail would be required to confirm that the plan met the requirements of LLP Policy LLP25 requiring carbon emissions to be reduced or ANPS (paragraph 5.83) requiring that GHG emissions are not unnecessarily high.

- 3.12.92. However, the GCG Framework [REP11-013] requires that emissions from surface access are offset when they exceed the Limits, and this provides a form of 'backstop' in the case that mitigation measures are not effective. The Applicant considers that the Limits reflect the Faster Growth Case, as a 'reasonable worst-case scenario' [REP11-011, paragraph 3.1.7] and are aligned with Luton Rising's to be carbon neutral for surface access by 2040 [REP11-011, paragraph 1.6.4].
- 3.12.93. It is appreciated that the Applicant might not have control over the elements listed as Scope 3 emissions. However, the ExA is satisfied that the Applicant would have influence over some of these through, for example, ticket pricing on the DART and investment in alternative modes of transport for staff. At no point does the GCG Framework [REP11-031] require that the Applicant investigates mitigation measures for Scope 3 emissions before moving to offsetting. The ExA considers that the scheme would have been improved by inclusion of this but concludes that this cannot be required. This is because the ES has not identified that there would be any significant effects from surface access emissions, even without mitigation, because they would be very small compared to national budgets.
- 3.12.94. The ExA is of the view that the GCG Framework [REP11-013] potentially disincentivises achievement of the requirement in the ANPS (paragraph 5.83) to ensure that the carbon footprint is not unnecessarily high, as required by paragraph 5.83 of the ANPS, because it would provide headroom for emissions to reach the Thresholds and Limit before offsetting would be required. However, the ExA notes that offsetting would be increasingly costly to the Applicant and accepts that this should act as an incentive to mitigate emissions at source.
- 3.12.95. It is concluded that the GHG emissions from surface access would not be significant, even without mitigation, given that they would be very small compared to national budgets. However, there is a policy requirement in LLP Policy LLP25, which requires carbon emissions to be reduced and ANPS (paragraph 5.83), which requires that GHG emissions are not unnecessarily high, to minimise emissions. The ExA has concluded that the controls on this offered by the GHG Action Plan, SAS [APP-228] and FTP [REP11-027] are weak. However, the requirement to meet the Limits in the GHG Framework [REP11-013] and the cost of offsetting should incentivise mitigation of surface access emissions. This is provided for via the requirement for regular revision of the management plans. For this reason, the ExA concludes that, overall, the requirements of LLP Policy LLP25 and ANPS (paragraph 5.83) would be met.
- 3.12.96. The ExA has noted that the predicted core planning case CO₂ emissions in the GHG Methodology [APP-082, Table 3.3] would be higher than the Limits during Phases 1 and 2b [REP11-013, Table 5.1]. If the GCG Framework works as planned, then this knowledge should mean that the Applicant makes plans to ensure that emissions do not reach the Limit. However, the fact that the Applicant is likely to exceed the Limits for the first four years is problematic. This is because monitoring of GHG emissions

would not commence until 1 January following the end of the calendar year in which the notice under Article 44(1) was served [REP11-091, Requirement 21]. The monitoring report would be submitted to the ESG no later than 31 July following the first year of monitoring. This means that the development could exceed the Limit without being monitored for nearly a year. The following July could potentially only be a partial year of monitoring, which would be an insufficient basis on which to make a comparison, in which case it would be July one year later before a full dataset showing an exceedance of the limits would be identified. At this point, the Proposed Development could have exceeded the Limits for over 2 years without action.

- 3.12.97. To overcome this, the ExA has recommended that emissions are monitored for a year prior to serving notice under Article 44(1). If this is included in the DCO [REP11-091, Requirement 21] then the ExA is content that this is a neutral matter.
- 3.12.98. If this Requirement was not implemented then, based on the information provided by the Applicant, the GHG emissions from surface access would likely exceed the Limits for the first few years. This would weigh against the Order. This would not be captured in the monitoring or reported in a timely manner. It is possible that additional slots could be secured during this time, which would make the situation worse (refer to Section 3.18 of this Report for further discussion of slot allocations). The ExA also notes that the Limits are, to an extent, based on the 'worst case' assessment in the ES. However, the ExA is mindful that the predicted exceedances would be likely to be a small proportion of the overall emissions from surface access and unlikely to cause materially different effects from those assessed. For this reason, if Requirement 21 is not implemented, the ExA concludes that this would be a matter of a little weight against the making of the Order.
- 3.12.99. The ExA concludes that GHG emissions from surface access are a neutral matter and weighs neither for nor against the making of the Order.
- 3.12.100. However, if the proposed amendments to Requirement 21 to secure pre-commencement monitoring of emissions are not made, then this would be a matter of a little weight against the Order.

Non-CO₂ emissions

- 3.12.101. The Applicant stated that there remains significant scientific uncertainty around the overall warming effect of non-CO₂ impacts, as recognised by the CCC [REP11-049]. Furthermore, non-CO₂ impacts are not included within the Nationally Determined Contributions declared pursuant to the 2015 Paris Agreement, the carbon budgets set pursuant to the UK CCA2008 and the Aviation emissions trajectory for the JZS High Ambition scenario that the assessment uses as a comparator for Aviation emissions. For all these reasons, the GHG assessment did not seek to quantify non-CO₂ impacts, consistent with current Government advice [REP11-049, paragraph 9.8.9].
- 3.12.102. NEF highlighted that the aviation chapter of the DfT's WebTAG was published after D5 and included new detail on the approach to non-CO₂ emissions [REP7-106] and [REP7-107]. The WebTAG guidance stated that qualitative assessment of non-CO₂ impacts using factors provided by the Department for Energy Security and Net Zero (DESNZ) was an appropriate sensitivity test. NEF rejected the Applicant's interpretation of a High Court ruling as having 'rejected' the multiplier, but rather the absence of use of this was not grounds for the court to intervene. NEF drew

attention to the fact that WebTAG was being used as part of the Gatwick Airport DCO application.

- 3.12.103. In response, the Applicant stated that the guidance was also clear that, given uncertainties, a qualitative approach to non-CO₂ emissions was acceptable, even within the context of a full WebTAG appraisal [\[REP8-038\]](#). The Applicant remained of the view that the context for the partial WebTAG appraisal presented by as part of Gatwick Airports DCO application was different because the case being made was principally based on the assumption that a third runway was not provided at Heathrow and so sought to present the case in terms of overall UK wide benefits as an alternative to Heathrow Airport.
- 3.12.104. Further explanation on the lack of inclusion of these emissions was provided in [\[REP7-076\]](#) in response to an action from ISH8 [\[EV15-013\]](#). In this, the Applicant acknowledged that it was possible to calculate non-CO₂ effects but maintained that it was not appropriate to do this because of the uncertainty involved, the exclusion of these from the Jet Zero trajectory and 'legal precedent' excluding them from other aviation planning applications. This was reiterated at the end of the Examination in [\[REP11-049\]](#).
- 3.12.105. Regarding the uncertainty in using a multiplier, the Applicant quoted [\[REP7-076\]](#) the CCC in its Sixth Carbon Budget Pathway Report, which stated that "*It remains extremely challenging to accurately aggregate the effects of these non-CO₂ impacts into a CO₂-equivalence 'multiplier' for use within climate policy mechanisms.*"
- 3.12.106. The Applicant acknowledged [\[REP11-049\]](#) that the Government's own documents refer to uplift factors for non-CO₂ effects ranging between a multiplier of 1.7 and around 3, but caveated this because there was '*clearly no consensus*' around which uplift factor would be most appropriate. It noted that addressing non-CO₂ effects is described as a core Government policy measure in the JZS, and that it is therefore to be dealt with at a national level.
- 3.12.107. The Applicant argued that it would not be possible to do a meaningful contextualisation of aviation effects against the JZS trajectory if non-CO₂ effects were included as part of this application because it would not be comparing like with like [\[REP7-076\]](#). If an uplift factor was to be applied to the aviation emissions from the Proposed Development, then the same factor would need to be applied to the aviation emissions trajectory within the JZS. The overall contribution of the Proposed Development to UK aviation emissions would remain unchanged [\[REP11-049\]](#).
- 3.12.108. The Applicant has interpreted legal precedent as saying that it would be anomalous for non-CO₂ emissions to be considered as part of an application and that these effects cannot form a proper basis for refusing consent [\[REP7-076\]](#).
- 3.12.109. The ExA concludes that a range of multipliers could have been applied to provide an indication of the potential effects from non-CO₂ emissions through the costing of these. However, the ExA accepts that a WebTAG appraisal of non-CO₂ emissions is not currently a requirement for development. The ExA also acknowledges that the current test in policy is to compare GHG emissions against current emission trajectories and that these do not include non-CO₂ emissions. It is also accepted that future controls on non-CO₂ emissions will be introduced at a national level and it would therefore be disadvantageous to require a single development to incorporate this in their assessment.

- 3.12.110. The ExA concludes that non-CO₂ emissions are a neutral matter and neither weigh for nor against the making of the Order.

Other matters

- 3.12.111. BC did not agree with scoping out the decommissioning of the development, recommending insertion of a Requirement in the DCO to secure this [\[REP11-101\]](#). The ExA is satisfied that, given the long time period over which the airport would be likely to operate and that activities would be tightly controlled, this is not required. It is also considered to be highly likely that future decommissioning would be subject to relevant planning and environmental assessment requirements at that time.
- 3.12.112. LADACAN [\[RR-0817\]](#) stated that LBC declared a climate emergency and noted that its website embraced the 2020 Climate Assembly, which concluded that growth in aviation capacity should be restricted to 25-50% by 2050. The Applicant responded that LBC were content that there was no need to restrict growth in air transport to enable the climate change targets to be met [\[REP1-023\]](#). The ExA concludes that this restriction in capacity is aspirational and does not outweigh the current requirements in national policy; this is therefore a neutral matter.
- 3.12.113. A GHG Action Plan substantially in accordance with the draft version submitted to the Examination would be secured via Requirement 34 of the draft DCO [\[REP11-091\]](#). At ISH2 [\[EV7-001\]](#) the ExA investigated whether the requirement should incorporate a regular review to ensure that it remained up to date given the rapidly changing understanding and policy in relation to climate change matters. At D3 the Applicant said that it would be regularly reviewed as part of airport operations and as new carbon budgets were published, and that this was secured via Requirement 34, [\[APP-081\]](#), Table 4]. Requirement 34 was updated at D2 to clarify that the GHG Action Plan applied to the whole airport, rather than each part of the authorised development [\[REP2-003\]](#). The ExA is satisfied with these responses.
- 3.12.114. LADACAN [\[REP9-081\]](#) questioned how much the GHG Action Plan [\[APP-081\]](#) would actually deliver and how much the Applicant would actually be responsible for. It considered the plan to be unambitious when compared to Bristol Airport, as an example. In ExQ1 [\[PD-010\]](#), CC.1.2] the ExA also questioned the wording in the outline GHG Action Plan, but accepted that, as a detailed plan would be agreed with the planning authority, this could be more satisfactorily developed at a later stage. The ExA is satisfied that the requirement for a detailed plan based on the examined outline plan is an appropriate approach.
- 3.12.115. NEF highlighted that the aviation chapter of WebTAG was published after D5 and considered the updates to wording were important to the Examination. The most important distinctions were listed in [\[REP7-106\]](#) and [\[REP6-107\]](#). These include the addition of new details on the assessment and valuation of GHGs, including clarification on the approach to traded sector emissions, that inbound flights should be appraised, more detail on the approach to non-CO₂ emissions and greater detail on the approach to distributional impacts.
- 3.12.116. The Applicant disagreed that WebTAG was applicable to the application [\[REP8-038\]](#). It highlighted inclusion of specific wording in the latest WebTAG guidance, which stated '*Decisions on planning applications for airport development will be considered in the normal way, including to take account of relevant material considerations which may include evidence relating to the strategic, commercial, financial and management case of a development proposal.*' The Applicant

considered that this made it clear that it was not a mandatory requirement in respect of an application for airport development.

- 3.12.117. The ExA inquired why the GHG impacts before and after mitigation had not been provided, as required by the ANPS [PD-010, CC.1.10]. In response [REP4-035], the Applicant acknowledged that it was not possible to disaggregate activity data to show the impact of specific mitigation measures, since embedded mitigation was included in the design data. The Applicant also provided clarifications on the split of traded and non-traded emissions, and international and domestic aviation emissions [REP4-035]. The ExA is satisfied with the information provided.
- 3.12.118. The Applicant also satisfactorily dealt with the fact that the forecasts had changed since the Preliminary Environmental Information Report (PEIR), the Airport Carbon Accreditation scheme, whether scope 3 emissions should be incorporated in the GCG Framework, application of the 'Luton Net Zero climate Policy and Action Plan' [REP3-100] and [REP6-066], future emissions from the FTG [REP4-035], whether sensitivity analysis should be applied to the timing of construction [REP4-035], whether other budgets were available to compare emissions against [EV7-001], the scope of LTO [EV7-001].

CONCLUSIONS ON GREENHOUSE GASES

- 3.12.119. The assessment of GHG emissions has incorporated the trajectories and assumptions in the JZS, including the high ambition scenario, and Decarbonising Transport (2021). Emissions would ultimately be controlled through the budgets set in the CCA2008 and the Government has a duty to ensure that these are met. There would be numerous pathways and levers available to achieve these targets, including capping carbon costs. The Government has laid out its preferred pathway in the JZS and the ExA does not consider it unreasonable that the Applicant relies on this for the purposes of the ES, accepting that if the pathway changed in the future, the same outcomes would still be required. The ExA has considered the numerous requests for sensitivity analysis of delivery of the JZS mitigation policies and has concluded that, for these reasons, this is not required.
- 3.12.120. The Applicant has demonstrated to the ExA's satisfaction that the emissions from the Proposed Development would align with the Government's Jet Zero High Ambition trajectory. The Applicant has provided evidence that the predicted CO₂ emissions would not have a material impact on the ability of Government to meet either its planning assumption for aviation or the budget for IAS in the 6th carbon budget. However, the total GHG emissions from the project would be significantly higher than the 'without proposal' scenario and, based on the Secretaries of States' recent P19 decision and the requirement in the NPPF (paragraph 159) for development to contribute to a reduction in emissions, the ExA concludes that the substantial additional GHG emissions that would be released to the atmosphere are a matter of a moderate weight against the making of the Order.
- 3.12.121. The ExA has concluded that non-CO₂ emissions are a neutral matter and neither weigh for nor against the making of the Order.
- 3.12.122. The Applicant has quantified the GHG impacts before and after mitigation to show the impacts of the proposed measures as far as reasonably possible. Emissions have been split into traded sector and non-traded sector emissions, and a distinction made between international and domestic aviation emissions as required by the ANPS (paragraph 5.76).

- 3.12.123. The Applicant has also provided evidence of appropriate mitigation measures to ensure that the carbon footprint is not ‘unnecessarily high’ from construction and operations, as required by the ANPS (paragraph 5.83). It has been demonstrated that carbon emissions would be reduced through good design, largely secured by the DP [\[REP9-030\]](#), to meet the requirements of LLP policies LLP25 and LLP37. The Proposed Development would support energy efficiency and low carbon heating improvements, as required by the NPPF (paragraph 164). The design has incorporated increased energy and water efficiency, and would achieve at least BREEAM ‘good’ status, as required by LLP Policies LLP25 and LLP37. The measures would be secured through application of the CoCP [\[REP8-013\]](#), the CWTP [\[REP8-018\]](#), the DP [\[REP9-030\]](#) and the outline GHG Action Plan [\[APP-081\]](#). The additional control on emissions from airport operations offered by the GCG Framework is a matter of a little positive weight for making the Order.
- 3.12.124. In addition, opportunities for avoiding and mitigating adverse effects through electrification of vehicles and enabling charging of vehicles have been included in the DP [\[REP9-030\]](#) and the GHG Action Plan [\[APP-081\]](#), as required by paragraph 116 of the NPPF.
- 3.12.125. The ExA has concluded that the controls on GHG emissions from surface access offered by the GHG Action Plan, SAS [\[APP-228\]](#) and FTP [\[REP11-027\]](#) are weak. However, the requirement to meet the Limits in the GHG Framework [\[REP11-013\]](#) and the cost of offsetting any additional emissions should incentivise mitigation of GHG emissions from surface access via provision for regular revision of the management plans. For this reason, the ExA concludes that, overall, LLP Policy LLP25 and the requirements of the ANPS (paragraph 5.83) would be met.
- 3.12.126. However, The ExA has noted that the predicted core planning case CO₂ emissions in the GHG Methodology [\[APP-082\]](#), Table 3.3] would potentially be higher than the Limits [\[REP11-013\]](#), Table 5.1] during the first few years of Phase 1 but could remain unmonitored or offset for at least two years. To overcome this, the ExA has recommended that emissions are monitored for a year prior to serving notice under Article 44(1). If this is included in the DCO [\[REP11-091\]](#), Requirement 21] then the ExA is content that this is a neutral matter. If Requirement 21 is not implemented, the ExA concludes that this would be a matter of a little weight against the making of the Order.
- 3.12.127. In conclusion, the emission of GHGs is considered by the ExA to be a matter of moderate negative weight against the making of the Order.

3.13. HEALTH AND COMMUNITY

INTRODUCTION

- 3.13.1. This section of the Report considers effects of the Proposed Development on health and the community. Nearly 500 RR (approximately 30% of those received) referenced effects on health, living conditions and quality of life as issues of concern. A number of RR from businesses and charitable organisations supported the principal of expansion and the health benefits arising from new employment opportunities. Health and community effects were identified as a principal issue in the ExA's IAPI [\[PD-007, Annex C\]](#).
- 3.13.2. The health and community assessment draws on assessment outcomes from other sections of this Report: Air quality (Section 3.6); Noise and vibration (Section 3.18); Land use (Section 3.16), Socio-economics (Section 3.19), TT (Section 3.20); and on the Chilterns NL (Section 3.8).

POLICY BACKGROUND

- 3.13.3. A brief overview of key policies is provided below; a list of relevant policies and legislation can be found in Appendix B.
- 3.13.4. MBU states that *“as airports look to make the best use of their existing runways, it is important that communities surrounding those airports share in the economic benefits of this, and that adverse impacts, such as noise, are mitigated where possible”*.
- 3.13.5. The APF recognises that air quality and noise can have a significant impact on health and quality of life and seeks to *“strike a fair balance between the negative impacts of noise (on health, amenity (quality of life) and productivity) and the positive economic impacts of flights”*. It emphasises the need to *“ensure that benefits are shared between the aviation industry and local communities”*. Its policy on aviation noise is *“to limit and, where possible, reduce the number of people in the UK significantly affected by aircraft noise, as part of a policy of sharing benefits of noise reduction with industry”*. It recognises the health costs associated with aircraft noise and that *“Noise from aircraft at night is therefore widely regarded as the least acceptable aspect of aircraft operations”* but that such flights are important to the economy. To ensure health protection it focuses on meeting legal obligations for air quality.
- 3.13.6. Aviation 2050 contains objectives relating to air quality and noise aimed at reducing total adverse effects on health and quality of life.
- 3.13.7. The OANPS sets out Government's current overall policy on aviation noise stating that *“The impact of aviation noise must be mitigated as much as is practicable and realistic to do so, limiting, and where possible reducing, the total adverse impacts on health and quality of life from aviation noise”* and that *“An overall reduction in total adverse effects is desirable, but in the context of sustainable growth an increase in total adverse effects may be offset by an increase in economic and consumer benefits”*. It states that ‘limit’ in this context means to *“mitigate and minimise adverse effects in line with the Noise Policy Statement for England”*. The OANPS recognises the additional health impacts of night flights and that *“the environmental impact of aviation must be mitigated as much as is practicable and realistic to do so”*.
- 3.13.8. The ANPS (paragraph 1.37) requires that a project level health impact assessment should be prepared, including health mitigation that seeks to maximise the health

benefits of the scheme and mitigate any negative health impacts. A range of direct and indirect impacts that may be relevant are highlighted in paragraphs 4.70, 4.71 and 5.239. Paragraph 4.73 requires an applicant to identify measures to avoid, reduce or compensate for adverse health impacts, and directs the ExA and SoS to consider any cumulative impacts on health. Paragraph 5.106 emphasises the importance of access to high quality open, sports and recreational spaces. Paragraph 5.112 states that existing open space should not be developed “*unless the land is no longer needed or the loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location*”. Paragraphs 5.251 to 5.253 discuss noise compensation and explain that the SoS will consider the extent to which an Applicant minimised impacts on local people, consulted on the details of works and put mitigations in place (including eligibility criteria, delivery mechanisms and speed of delivery), also whether there has been consultation on a community compensation fund. Paragraphs 5.213 and 5.216 require consideration of noise impacts on local amenity and tranquillity. Paragraph 1.35 and 4.27 highlight the requirement for Equalities Impact Assessment (EqIA) and mitigation for persons or groups with protected characteristics.

- 3.13.9. The NPSNN (paragraphs 4.79 to 4.82) includes similar provisions to the ANPS. It requires applicants to addresses health impacts, promote active travel, consider vulnerable groups and emphasises that compensation for effects should be a last resort.

- 3.13.10. The NPPF (paragraph 135) requires that planning decisions should “*create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users*”. The NPPF (paragraph 180e) seeks to avoid unacceptable impacts from air and noise pollution and “*wherever possible, help to improve local environmental conditions*”. Paragraph 191 requires new development to be “*appropriate for its locations, taking into account likely effects (including cumulative effects) of pollution on health, living conditions...*” and to “*mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life*”. It seeks to protect tranquil areas prized for their recreational and amenity value and limit the impact of light pollution on local amenity.

- 3.13.11. Chapter 2 of the NPPF sets out the Government’s three economic, social and environmental objectives for achieving sustainable development. The social objective seeks to “*to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being*”.

- 3.13.12. Chapter 8 of the NPPF ‘*Promoting healthy and safe communities*’ sets out how planning decisions can support healthy, inclusive and safe places. Paragraph 102 recognises the community health and wellbeing benefits of access to high quality open space and opportunities to play sport. Suggested measures to achieve this include enhancement of PRoW and linkages and designation of local green space. NPPF (paragraph 109) highlights the importance of sustainable transport modes to reduce congestion and emissions to improve public health. NPPF (paragraph 135) states that planning decisions should “*create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users*”. Annex 2 of the NPPF notes that GI networks provide a range of benefits, including for health and wellbeing.

- 3.13.13. Planning practice guidance for healthy and safe communities seeks to promote environments that support healthy lifestyles. It also seeks to secure facilities that support healthy and inclusive communities with reduced health inequalities. It recognises the importance of the natural environment (including GI) as a determinant of health and wellbeing. Paragraph 002 emphasises the importance of public health bodies and the need to take into account Joint Strategic Need Assessments (JSNA).
- 3.13.14. The same priorities are reflected in LLP. Policy LLP1 encourages growth and sustainable development to create healthy places. Policy LLP6(B) sets out the policy requirements in relation to airport expansion and operation, including any surface access improvements. Development will only be supported where it meets nine criteria, where applicable/ appropriate having regard to the scale and nature of the proposals. It also includes relevant policies relating to recreation and open space in WVP and DP relating to lighting, discharges and sustainable transport.
- 3.13.15. The following criteria for development proposals set out in LLP6(B) are considered particularly relevant to health and community:
- “ii. they contribute to achieving national aviation policies;...*
- iv. they fully assess the impacts of any increase in Air Transport Movements on surrounding occupiers and/or local environment (in terms of noise, disturbance, air quality and climate change impacts), and identify appropriate forms of mitigation in the event significant adverse effects are identified;*
- v. achieve further noise reduction or no material increase in day or night time noise or otherwise cause excessive noise including ground noise at any time of the day or night and in accordance with the airport's most recent Airport Noise Action Plan;*
- vi. include an effective noise control, monitoring and management scheme that ensures that current and future operations at the airport are fully in accordance with the policies of this Plan and any planning permission which has been granted; vii. include proposals that will, over time, result in a significant diminution and betterment of the effects of aircraft operations on the amenity of local residents, occupiers and users of sensitive premises in the area, through measures to be taken to secure fleet modernisation or otherwise;...*
- viii. incorporate sustainable transportation and surface access measures that, in particular, minimise use of the private car, maximise the use of sustainable transport modes and seek to meet modal shift targets, all in accordance with the London Luton Airport SAS.”*
- 3.13.16. Policy LLP25 encourages buildings and spaces to be of a high-quality design that are safe and accessible for all members of the community. It seeks to improve access to open spaces and promote sport/ physical activities for healthy communities. Policy LLP27 seeks to safeguard and enhance existing open space networks. Policy LLP38 seeks to assess and limit pollution and contamination from developments individually or cumulatively, which serves to protect human health. Similar provisions are set out in CBLP Policy CC8, H1 and in NHLP Policies SP10, D3 and D4.
- 3.13.17. Luton Local Transport Plan 4 (April 2021) Policy 2 supports walking and cycling networks with Policy 3 setting out specific PRow measures. Policy 4 seeks to improve public transport.

- 3.13.18. ES Table 13.2 [\[REP10-009\]](#) identifies additional policy, health frameworks and reviews that it considered were relevant to the assessment. These are listed in Appendix B of this Report.
- 3.13.19. Other local authority development plan and neighbourhood plan policies contain broadly similar objectives to the NPPF and LLP.

THE APPLICATION

- 3.13.20. ES Chapter 13 [\[REP10-009\]](#) reports the outcome of the Applicant's assessment of likely significant effects on health and community, with cumulative and in combination effects addressed in ES Chapter 21 [\[REP10-011\]](#). This includes health effects arising from impacts on the following environmental, social, or economic factors that influence health and wellbeing ('health determinants'):
- access to open space, recreation, and physical activity;
 - access to services;
 - employment and income;
 - housing;
 - increased population exposure to air pollutants;
 - neighbourhood quality;
 - aircraft noise;
 - perception and uncertainty; and
 - social capital.
- 3.13.21. It also includes impacts on community resources, and the resultant effects on the people ('receptors') using those resources, including:
- residential properties;
 - schools;
 - community facilities;
 - open spaces and PRow; and
 - leisure and recreation facilities.
- 3.13.22. As highlighted in the introduction, assessments and mitigation of environmental effects undertaken in other ES Sections (such as air quality, noise and socio-economics) are relevant to the health and community assessment. The health and community assessment is based, in part, on the residual effects identified for those subjects.

Construction effects

- 3.13.23. ES Chapter 13 [\[REP10-009\]](#) identified the potential for moderate adverse significant effects on mental health to arise due to perception and uncertainty during the planning and construction stages. It identified that the evidence for this was weak.
- 3.13.24. [\[REP10-009\]](#) identified that there would be impacts on residential and community receptors due to demolition of local facilities (eg Prospect House Day Nursery and Ace Sandwich Bar), loss and re-provision of public open space in WVP and effects on walking and horse-riding routes, construction activities on site and construction traffic travelling to and from the site.
- 3.13.25. [\[REP10-009\]](#) identified moderate beneficial effects due to construction employment opportunities but also suggested that an influx of construction workers could affect social cohesion. It also suggested that construction workers seeking temporary

accommodation in the area could impact property prices, availability and affordability.

- 3.13.26. Without mitigation, [\[REP10-009\]](#) considered that the health and wellbeing of the local community would potentially be impacted by environmental factors such as noise, dust, visual and lighting impacts and the presence of construction traffic including Heavy Goods Vehicles (HGV's). Accessibility to key facilities and services could also be impacted. Loss of Prospect House Day Nursery, if not mitigated, was assessed as a major adverse significant community effect.
- 3.13.27. Proposed mitigation during construction included provision of additional and upgraded accessible recreational routes in replacement open space, to mitigate for stopping up of an existing undesignated FP, two PRow (FP29 and FP29) and two bridleways (BW28 and BW37). With mitigation the Applicant concluded that effects on the open space WVP would be low magnitude and beneficial. This was identified as a negative impact on protected characteristics groups (eg young children and older people +65) during construction but as a benefit once operational.

Operational effects

- 3.13.28. ES Chapter 13 [\[REP10-009\]](#) concluded that the Proposed Development would increase employment opportunities during all phases in operation resulting in moderate beneficial significant health effects.
- 3.13.29. [\[REP10-009\]](#) predicted that during operation noise effects from aircraft, particularly at night would impact on sleep and cause annoyance. Both noise and air quality effects were predicted to impact on health outcomes. It also identified that changes in journey times due to increased airport traffic could deter people from travelling to use services. The Applicant suggested that an increased operational workforce could increase demand within the local housing market impacting property prices, availability and affordability. The Applicant identified beneficial effects on open space provision, accessibility and PRow during operation due to implementation of measures in its landscape strategy, although the potential for aviation noise to impact amenity was highlighted. No significant effects on community resources were identified during operation.
- 3.13.30. The Applicant [\[APP-086\]](#) and [\[REP10-009\]](#) used the results of the air quality dispersion modelling to determine changes in pollutant concentrations and calculate changes in health outcomes (air pollution attributable mortality; hospital respiratory admissions attributable to fine particulate matter 10 micrometres or less in diameter (PM₁₀) and cardiovascular hospital admissions attributable to PM₁₀). Based on the small percentage change in emissions from the baseline, the Applicant predicted minor adverse (not significant) effects on mortality and negligible effects on respiratory and cardiovascular admissions.
- 3.13.31. The Applicant [\[APP-086\]](#) used the results of the noise modelling to determine the effect of long-term noise exposure on health outcomes (annoyance, sleep disturbance, Acute Myocardial Infarction (heart attacks) and hypertension (strokes and dementia)). Awakening results were reported in [\[REP9-017, Section 7\]](#) and [\[REP10-009, Section 13.9\]](#) reported the change in health outcomes in terms of Disability Adjusted Life Years (DALYs) (a quantitative measure used to express the burden of disease on a population in terms of premature death and equivalent years of healthy life lost) and Quality Adjusted Life Years (QALYs) (a measure of the value of health outcomes on a population and the changes in health state from full health to very poor health or death).

- 3.13.32. Between 2027 and 2043 the Applicant predicted that without mitigation the Proposed Development would give rise to:
- loss of approximately 1,500 additional DALYs compared with the DM scenario due to sleep disturbance (equivalent to one additional day per person in the affected population);
 - loss of approximately 537 additional DALYs due to annoyance (less than one additional day per person in the affected population);
 - loss of approximately two DALYs due to acute myocardial infarction; and
 - an increase of between two to nine QALYs lost compared with the DM, reflecting a potential increased risk of stroke and dementia where air noise levels exceeded 50dBL_{Aeq,16hr}.
- 3.13.33. The Applicant suggested that these effects would be less than in 2019 due to quieter aircraft operating from Luton in future. These effects were reported as moderate adverse and significant but could be reduced inside properties due to noise insulation. ES Chapter 13 [REP10-009, ES paragraph 13.9.51] and the Applicant's response to ExQ2 [REP7-059] stated that the precise distribution of effects within the community could not be determined, suggesting that effects were likely to be greater close to the airport, in areas of higher sensitivity. It also noted that adverse effects were more likely to be experienced by vulnerable groups such as children and young people, older people and people with existing poor health. The Applicant's EqIA considered whether the Proposed Development would give rise to differential effects on protected characteristics groups, including identification of issues through consultation with local communities.
- 3.13.34. The Applicant applied the WHO 2018 exposure response functions as a sensitivity test for comparison. These resulted in more than doubling of the DALYs lost compared with the main assessment, which the Applicant attributed to differences in self-reported sleep disturbance in the WHO exposure response functions.
- 3.13.35. Mitigation measures were set out in the mitigation route map [REP10-023] and secured by Requirement in the DCO. The ES [REP10-009] stated that detailed plans would be developed to help manage impacts based on the outline plans submitted as standalone documents or as part of the CoCP [REP8-013]. These plans included:
- Community engagement plan [REP8-013];
 - PRoW proposals within the SLM [APP-172];
 - The oCTMP [REP11-005] and the FTP [REP11-027]; and
 - The ETS [REP8-020].

ISSUES CONSIDERED

- 3.13.36. The ExA explored health and health monitoring at ISH8 [EV15-006] and in the ExA's ExQ1 [PD-010, HAC1.1 to 1.15] and ExQ2 [PD-015, HAC2.1 to 2.3].
- 3.13.37. At ISH8 [EV15-006] the ExA asked what health specific mitigation measures had been included in the application. The Applicant [REP6-066] explained because the assessment had not identified any significant residual adverse effects that no additional measures were required to mitigate health effects during operation. It signposted to topic specific mitigation in other chapters and confirmed that the community engagement measures were the main health and community mitigation measure during construction.

- 3.13.38. The joint RR from the UKHSA and OHID [RR-1546] raised a number of issues with the Applicant's approach, such as calculation of concentration response functions, differential effects on vulnerable populations, community engagement, housing and effects on health care services. However all matters were identified as agreed in the UKHSA-OHID SoCG [REP10-033] and [REP10-066] apart from the need for monitoring of health effects.
- 3.13.39. BC's LIR [REP1A-001], CBC's LIR [REP1A-002] and the HHA LIR [REP1A-003] raised a number of health issues.
- 3.13.40. BC's SoCG [REP11-101] remained in disagreement regarding the approach to assessing traffic-related health effects.
- 3.13.41. CBC's SoCG [REP11-035] identified a number of unagreed matters including:
- disregard for locally produced health assessments (eg JSNA) (except for Luton) in favour of national health datasets;
 - lack of income deprivation data across the wider study area;
 - the reactive nature of the assessment, which it considered lacked influence on the design; and
 - the light touch nature of the CoCP [REP8-013] health and community section, which lacked specific measures to address mental wellbeing.
- 3.13.42. The HHAs SoCG [REP11-099], [REP11-097] and [REP11-095] considered that there would be a negative impact on the health and wellbeing of residents during operation of the Proposed Development. It did not agree that measures in the ES would fully address mental health effects and required better lines of communication (eg a community liaison officer) and ongoing engagement programmes to allow residents to raise concerns.
- 3.13.43. Existing poor air quality in Luton and reports regarding increased mortality due to PM_{2.5} emissions were the subject of a number of representations eg TfL [RR-1543], [REP1-168], Friends of the Earth [REP3-122] and [REP4-193], SLAE [REP4-208] and HarpendenSky [RR-0530] and [REP2-056]. These are addressed in Section 3.6 Air quality.
- 3.13.44. Impacts on specific receptors such as the Sue Ryder neurological care centre from noise and vibration were considered as part of the examination of noise and vibration effects and on LTFC athletes as part of the examination of air quality effects (see Sections 3.18 and 3.6 of this Report respectively for further details).
- 3.13.45. LBC's LIR [REP1A-004] raised a number of issues. However, all matters relating to the health and community assessment were identified as agreed in the final SoCG [REP11-033].
- 3.13.46. SLAE eg [REP3] raised a series of health and community related matters. The ExA is satisfied that these were addressed in the Applicant's [REP4-100].
- 3.13.47. The Bedfordshire Luton and Milton Keynes Integrated Care Board [RR-0143] supported the application recognising *"the significant benefit of the airport to local services in Luton, due to the role it plays in encouraging business in the local area, with the employment opportunities it brings, and also the support offered through the airport's community fund, which brings direct social and economic development to a part of the UK with high deprivation."*
- 3.13.48. The outstanding matters at the close of Examination are discussed below.

Baseline – Joint Strategic Needs Assessment

- 3.13.49. CBC welcomed inclusion of OHID/ Public Health England mental health JSNAs. However, in [\[EV15-006\]](#), [\[REP11-035\]](#) it considered that the Applicant should have considered local health assessments such as JSNA income deprivation data, health and wellbeing strategies and direction of public health annual reports, rather than relying on the national data sets from OHID. It argued that without this, the Applicant lacked the localised knowledge necessary to properly interpret and understand health data. It also considered that social baseline information such as indices of multiple deprivation and income deprivation data should have been provided. CBC considered that this cast doubt on whether the assessment had considered these factors.
- 3.13.50. The Applicant [\[REP11-035\]](#) argued that the study area agreed at scoping was divided into local neighbourhood areas close to the airport (identifying effects on specific receptors and community resources) and a wider area (including Central Bedfordshire), where health effects were likely to be more dispersed across the population and were not able to be linked to known receptor locations. It argued that it would not be proportionate to apply the more detailed approach (including provision of indices of multiple deprivation data) for the local study area to the wider study area, although it acknowledged variation across the wider area including pockets of deprivation.
- 3.13.51. LBC [\[REP11-033\]](#) was satisfied with the ES approach, which considered the Luton JSNA. The HHA [\[REP11-095\]](#), [\[REP11-097\]](#) and [\[REP11-099\]](#) agreed that appropriate and proportionate data was used in the ES. BC had no comment [\[REP6-087\]](#). UKHSA-OHID [\[REP10-033\]](#) agreed with the scope and methodology of the assessment. [\[REP11-097\]](#) and [\[REP11-099\]](#) agreed that appropriate and proportionate data was used in the ES. BC had no comment [\[REP6-087\]](#). UKHSA-OHID [\[REP10-033\]](#) agreed with the scope and methodology of the assessment.
- 3.13.52. The Planning Practice Guidance seeks to promote healthy and inclusive communities. It highlights that the JSNA is a key strategy to be considered. LBC confirms that the Applicant has considered the Luton JSNA as part of its assessment. The ExA notes that significant adverse effects from noise would be primarily focused on the south Luton area and that although air quality effects would be more widely distributed, there were no significant effects predicted. On this basis, the ExA considers that the Applicant's approach, taking into account the Luton JSNA and the datasets informing other local authority JSNAs is proportionate.

2019 baseline

- 3.13.53. In ES Chapter 13 [\[REP10-009\]](#), paragraph 13.9.57] the Applicant compared health outcomes with the situation in 2019 and concluded that there would be a lower number of DALYs lost/ increase in QALYs in the future (ie the baseline was the worst-case). This was assessed as a moderate adverse permanent significant health effect, although the Applicant stated that compensatory mitigation in the form of noise insulation to qualifying properties, where accepted, 'could' help reduce the effect to minor adverse and not significant. The Applicant [\[REP10-009\]](#), paragraph 13.9.76 and Table 13.17] reported that the predicted number of DALYs lost due to annoyance and self-reported sleep disturbance would be doubled if the WHO (2018) exposure response functions were applied but continued to be lower than in the 2019 baseline.
- 3.13.54. As outlined in Section 3.18 of this Report on noise and vibration, the use of the 2019 'actuals' baseline rather than the 2019 consented baseline was contested by the

JHA [REP11-033], [REP11-035], [REP11-095], [REP11-097] and [REP11-099]. LADACAN considered that neither the 2019 actuals baseline nor the consented baseline were appropriate eg [REP1-095].

- 3.13.55. The JHA [REP11-033], [REP11-035], [REP11-095], [REP11-097] and [REP11-099] argued that using a 2019 actuals baseline allowed a conclusion that noise levels would reduce in future scenarios during the day and night-time. In contrast, the DS noise levels exceeded the DM noise levels in all scenarios and using a 2019 consented baseline indicates that there could be increases in future noise levels during the night-time rather than decreases.
- 3.13.56. The Applicant [REP11-049] considered that the use of either baseline did not affect the conclusions of adverse likely significant effects. It also stated that it did not affect conclusions of residual significant adverse effects on health and quality of life in noise policy terms, as significant effects would be avoided through provision of the full cost of noise insulation. [REP11-049] considered that the use of either baseline did not affect the conclusions of adverse likely significant effects. It also stated that it did not affect conclusions of residual significant adverse effects on health and quality of life in noise policy terms, as significant effects would be avoided through provision of the full cost of noise insulation.
- 3.13.57. Although the Applicant concluded that there would be an improvement in health outcomes compared with the 2019 baseline, the ES clearly shows that there would be a predicted increase in DALYs lost/ decrease in QALYs compared with the future DM scenarios in all future years due to the proposed increase in flights. The ExA notes that using the 2019 consented baseline could allow a different conclusion to be drawn namely that health outcomes may worsen at times (including during the night) in future years compared with the 2019 baseline.
- 3.13.58. This would not affect the ES conclusions regarding significant effects, which were based on comparison of the DM and DS scenarios. However, it does have implications in policy terms since the NPPF paragraph 191 requires developments to *“mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life”*. As highlighted in Section 3.18 of this Report noise insulation is not proposed to be rolled out in advance of flight increases and would be subject to a delivery programme for eligible properties, where an offer is accepted. This means that householders and local residents could experience significant effects for up to 4 years, assuming that the delivery programme was met. Furthermore, noise insulation offers no mitigation for outdoor noise in gardens or community spaces. As a result the ExA concluded that the Proposed Development would not meet the ANPS, NPSE or NPPF objectives of avoiding significant adverse impacts on health and quality of life and that this attracted great weight against the making of the Order. The ExA notes that the OANPS suggests that an increase in total adverse effects may be offset by an increase in economic and consumer benefits, a matter considered in the Planning Balance section of this Report, Chapter 5.

The IEMA guidance 2022

- 3.13.59. BC [REP6-087] argued that the assessment of effects had not taken into account the more multilayered approach in IEMA guidance. It suggested that the Applicant's approach of considering whether a receptor experienced two or more significant residual effects was too high a threshold for an assessment of neighbourhood

quality and therefore missed important effects. It suggested that health effects might occur below the threshold of significance for topic specific assessments.

- 3.13.60. The Applicant [EV15-006] and [REP7-063] noted that the authors of ES Chapter 13 were part of the IEMA health working group that developed the guidance. It argued that the IEMA guidance did not fundamentally change its approach, which was based on consideration of the sensitivity of receptor populations and the magnitude of impacts on health determinants. It also stated that the guidance lists criteria for consideration rather than specific thresholds to apply and does not prescribe how health significance should align with other topic significance assessment. The Applicant noted that the guidance expects professional judgement to be applied in the assessment of effects. It stated that the health assessment of air quality and noise considered effects below the threshold of significance.
- 3.13.61. The CBC, LBC and HHA SoCGs accepted the health and community methodology [REP11-033], [REP11-035], [REP11-095], [REP11-097] and [REP11-099]. BC's SoCG [REP11-101] did not reference the IEMA health guidance. [REP11095], [REP11097], [REP11099]. BC's SoCG [REP11101] did not reference the IEMA health guidance.
- 3.13.62. The ANPS and the EIA Regulations require submission of a health effects assessment but neither specify that a particular methodology should be adopted. The ExA finds that the Applicant has provided an assessment of health and community effects, consistent with that agreed at scoping stage. The ExA considers that the Applicant has demonstrated that its approach is not inconsistent with the requirements of the IEMA guidance and has undertaken an appropriate scope of assessment.

Traffic impacts on the Buckinghamshire road network

- 3.13.63. BC [REP11-101] was concerned that the indirect health effects (eg manifested through sleep disturbance) of the proportional increase in early morning traffic movements on the B488/ B489 in Buckinghamshire had not been recognised. BC sought qualitative health assessment of the data, a commitment to mitigation to address community concerns and works to reprioritise the junction. This is considered further in Section 3.20 of this Report.
- 3.13.64. In ExQ2 [PD-015, NO.2.12] the ExA asked for an explanation of the likely surface access noise impacts arising from early morning traffic movements, with specific focus on Buckinghamshire.
- 3.13.65. The Applicant [REP7] and [REP11-101] acknowledged the potential for redistribution of trips on the network in its 'COVID-19 in transport modelling – environmental appraisal' [REP7-079] but although percentage changes in traffic flows were large, the absolute flows were below the thresholds for further environmental assessment. It identified no significant effects from traffic on the road network in Buckinghamshire. The Applicant considered that these effects had already been assessed in the transport, noise and air quality chapters and that the need for further assessment had been scoped out based on the agreed methodologies. It emphasised that health effects were assessed at a population level therefore traffic noise impacts would not have potential to lead to significant effects on health. It concluded that specific mitigation would not be provided for scoped out effects and that the airport operator employs a Community and Corporate Social Responsibility manager committed to community engagement able to respond to any concerns. [REP11101] acknowledged the potential for

redistribution of trips on the network in its 'COVID-19 in transport modelling – environmental appraisal' [REP7079] but although percentage changes in traffic flows were large, the absolute flows were below the thresholds for further environmental assessment and identified no significant effects from traffic on the road network in Buckinghamshire. It considered that these effects had been assessed in the transport and noise chapters and that the need for further assessment had been scoped out based on the agreed methodologies. It emphasised that health effects were assessed at a population level therefore traffic noise impacts would not have potential to lead to significant effects on health. It concluded that specific mitigation would not be provided for scoped out effects and that the airport operator employs a Community and Corporate Social Responsibility manager committed to community engagement able to respond to any concerns.

- 3.13.66. The ExA was satisfied the conclusion of the COVID-19 environmental appraisal in respect of air quality and noise, which identified no significant effects from traffic on the road network in Buckinghamshire. On this basis the ExA finds that the Applicant's approach to health assessment of early morning traffic flows is consistent with the requirements of ANPS (paragraph 1.37).

Differential effects on vulnerable populations

- 3.13.67. Alison Mitchell [REP1-032] and [REP6-152] suggested that the EqlA [AS-129] recognised the adverse impact of noise on vulnerable groups but provided no mitigation for the impact of noise. [REP1-032] also urged the Examination to consider the impact on the health of these groups in depth as well as a wider geographical view of the affected population under flight paths. [REP6-152] stated that the information did not satisfy the requirements of an assessment of human rights and equalities duties.
- 3.13.68. SLAE [REP2-074] and [REP3-137] suggested that the application had not provided sufficient information on vulnerable groups (eg older people, pregnant women and socially disadvantaged groups). It also argued that proposals for WVP would include a longer walk to reach the replacement open space, making this a barrier to vulnerable groups and those with mobility issues. HarpendenSky [REP1-064] and [REP7-101] highlighted the number of care homes within Luton that represented a disproportionately affected vulnerable community and the recent studies that suggested Luton is in the top four areas for PM_{2.5} related deaths in the UK. Clarion Housing Group [RR-0267] highlighted the impact of the Proposed Development on residents' health in the roughly 1,300 homes it owns in the area as did [RR-0214] in respect of older and vulnerable people living in Woodside Residential mobile park home site.
- 3.13.69. The Applicant [REP2-034] and [REP4-100] signposted to relevant information on noise, air quality and health effects on vulnerable groups in the ES and EqlA.
- 3.13.70. The ExA concludes that the EqlA, health and community, air quality and noise and vibration chapters consider impacts on vulnerable groups and the Applicant's EqlA and noise and vibration chapter include relevant mitigation in this respect. The ExA therefore considers that the Applicant has provided sufficient information to inform the consideration of effects on vulnerable groups [AS-129, Table 10.1], consistent with the requirements of ANPS (paragraph 1.35). Human rights and PSED issues are considered further in Sections 3.18 and 3.24 of this Report.

Community engagement and mitigation during operation

- 3.13.71. CBC [REP11-035], the JHA [REP6-093] and the HHA [REP11-095], [REP11-097] and [REP11-099] considered that the CoCP community engagement proposals would be effective in mitigating mental wellbeing effects arising from public concern and uncertainty during construction but there would be a negative impact on mental wellbeing of residents during the operation of the Proposed Development. [REP6-093] suggested that a dedicated outreach officer and engagement strategy would offer benefit to the local community and foster improved relations with the local community.
- 3.13.72. In [APP-039] the Applicant included reference to effects on mental wellbeing due to perception and uncertainty in operation but the Applicant subsequently confirmed that this was an erratum [REP5-036] and only applied to the design and construction stage, since in operation the effects would be known eg [REP11-095]. It stated that effects on mental wellbeing such as annoyance and sleep deprivation in operation were assessed in [REP10-009]. In [REP6-066] the Applicant argued that ongoing engagement such as that carried out by the current operator was an existing mechanism to mitigate effects on mental wellbeing. [REP10-009]. In [REP6066] the Applicant argued that ongoing engagement such as that carried out by the current operator was an existing mechanism to mitigate effects on mental wellbeing.
- 3.13.73. The ExA observes that there were a number of errata and revisions to ES Chapter 13, which initially caused issues with comprehension of the material. However, the ExA is satisfied with the Applicant's reasoning that perception and uncertainty effects would not apply during operation as such effects would be realised by that stage. In terms of wider mental wellbeing effects on residents during operation, the ExA considers that the Applicant has assessed factors that affect wellbeing such as noise annoyance and sleep disturbance and has provided compensatory noise mitigation in the form of insulation to address such effects. The ExA concludes that the Applicant's approach is consistent with the requirements of the ANPS (paragraphs 4.72 and 4.73).

Prospect House Day Nursery and Ace Sandwich Bar

- 3.13.74. Prospect House Day Nursery is described in [REP10-009] as catering "*for around 94 children with a maximum capacity of 114 young children aged between three months to four years and serves a catchment in the Luton and Harpenden area. The nursery caters for children from a diverse range of ethnic backgrounds with staff speaking a variety of languages.*" The nursery would need to be demolished to enable construction of the AAR. The ES predicted that loss of the nursery, without mitigation or replacement, would impact access to services and would be a major adverse significant effect on mental health and wellbeing.
- 3.13.75. Schedule 6 of the s106 [REP11-108] covenanted to commission an assessment 18 months prior to demolition of the facility to ascertain whether a replacement of the nursery in whole or in part would be required. Where the assessment identified that a replacement would be required the Applicant committed to re-providing the facility or taking alternative steps approved by LBC. LBC confirmed that it was satisfied with the Applicant's proposals for the nursery in [REP11-033].
- 3.13.76. The ES [REP10-009] identified that Ace Sandwich Bar would be demolished and that the Applicant proposed to provide an alternative location for the facility. [REP10-009, Table 13.21] reported this as a minor adverse (not significant) effect on a community asset.

- 3.13.77. In [\[PD-010, CA.1.10\]](#) the ExA asked for an update on progress towards an agreement regarding an alternative site for the sandwich bar.
- 3.13.78. The Applicant [\[REP4\]](#) explained that it was in legal proceedings with the IP and in [\[REP11-049\]](#) that it had completed an agreement with the IP, who had surrendered its lease and vacated the premises. [\[REP11-049\]](#) that it had completed an agreement with the IP, who had surrendered its lease and vacated the premises.
- 3.13.79. The ExA considers that the s106 offers a pragmatic solution for the re-provision of the Prospect House Day Nursery, since future requirements in respect of nursery places could change and it would not be proportionate to re-provide a facility if that need no longer existed. The ExA considers that the Applicant's approach is consistent with the requirements of the ANPS (paragraphs 4.72 and 4.73) and would be neutral, weighing neither for nor against the making of the Order. On the basis that Ace Sandwich Bar has been vacated, the ExA considers that this matter requires no further consideration.

Monitoring of health effects

- 3.13.80. The UKHSA-OHID [\[RR-1546\]](#) recommended that health monitoring should be undertaken in light of the scale of the adverse noise impacts, ineffectiveness of mitigation on outdoor noise exposure and uncertainty in the noise insulation strategy. It suggested that monitoring could be designed to be proportionate to the scale of negative environmental impacts and predicted economic benefits.
- 3.13.81. SLAE [\[REP3-137\]](#) suggested that over the lifespan of the Proposed Development, the profile of local communities was likely to change and asked for a report before each phase to determine how health and wellbeing had or would change.
- 3.13.82. The ExA [\[EV15-006\]](#) explored the issue of health monitoring at ISH8 and in ExQ1 and ExQ2. In ExQ1 [\[PD-010, HAC1.14\]](#), the ExA asked the UKHSA-OHID for details of the specific, proportionate monitoring that could be undertaken to enable understanding of impacts on health and quality of life and how it could be used to inform future mitigation requirements. The ExA also requested that the UKHSA-OHID provided a suggested form of drafting for such a requirement. In ExQ2 [\[PD-015, HAC.2.2.3\]](#), the ExA sought confirmation from the UKHSA-OHID of its preference for an ongoing role in any monitoring.
- 3.13.83. The UKHSA-OHID [\[REP4-219\]](#) identified ongoing Government studies and a Heathrow survey of noise insulation effectiveness. In [\[REP6-147\]](#) it identified two examples of health monitoring conditions relating to High Speed 2 (HS2) Phase 1 and phase 2. The first was a survey of health impacts experienced due to construction works at Euston Station that were attributable to noise and the second was a study of mental health and wellbeing arising from HS2 works including collection of baseline data on which to perform quantitative analysis. UKHSA-OHID provided draft wording of a possible health and wellbeing monitoring requirement for construction and operation, including investigation of the effectiveness of the noise insulation scheme. In [\[REP7-117\]](#) UKHSA-OHID confirmed that if health monitoring were secured by requirement, reporting should be to an advisory board (including public health representatives from neighbouring local authorities, community groups and independent subject matter experts) and it would consider an ongoing role as a member of the board.
- 3.13.84. The Applicant [\[REP6-066\]](#) and [\[REP7-075\]](#) acknowledged the strong link between aircraft noise, health and wellbeing and explained that it was currently taking part in

national studies on the health effects of aviation noise commissioned by the DfT. It stated that it was not aware of any precedent for undertaking monitoring through epidemiological studies or a requirement to contribute to a body of evidence to inform future projects and that the value of such an approach had not been demonstrated. It considered that the HS2 noise study was not comparable with aviation noise sources and that there are already established exposure response functions. It argued that the study parameters would be unlikely to be representative due to bias from a small sample size. The Applicant suggested that the Heathrow study would produce results that would inform approaches and did not need to be replicated. It also reinforced the proportionality principle and suggested that there was no clear scope for remedial action, since all practicable measures had been adopted to reduce noise impacts arising from the Proposed Development.

- 3.13.85. The Applicant [\[REP4-100\]](#) disagreed with SLAE's proposed reporting, stating that no further assessment or baseline data analysis would be required during the project delivery phases.
- 3.13.86. The ExA is satisfied that the ES has provided an assessment of effects on the local community and that there is no specific requirement in the EIA Regulations to collect and report additional health baseline data of the sort identified by SLAE in future years.
- 3.13.87. The ExA has considered the UKHSA-OHID arguments relating to the need for further health related monitoring. It notes that operational noise and air quality emissions were the main concern of residents and that for both topics, monitoring and remedial action is proposed to be delivered through the GCG Framework. It also notes the Applicant's statement that it is currently engaged in national aviation studies with DfT that consider the health-related effects of aviation and that aviation metrics relating to health are well established. The ExA considers that there is provision within the compensation policies, measures and community first scheme [\[REP11-025\]](#) to test the effectiveness of noise insulation on a sample basis.
- 3.13.88. The ExA observes that Regulation 21(3) of the EIA Regulations seeks proportionate monitoring, which may make provision for remedial action and avoids duplication of monitoring arrangements. The ExA considers that the monitoring proposed by UKHSA-OHID would have the potential to duplicate other studies and monitoring proposed by the Applicant under its GCG framework, would be unlikely to identify alternative remedial action to that proposed and therefore, in this instance, health related monitoring would not be appropriate.

Other matters

- 3.13.89. The ExA has taken into account a number of additional issues raised by IPs including, amongst other things, the impact of a second runway, the loss of shade in WVP, frequent fliers, assessment terminology, effects on Raynham Way recreation ground and littering. However, these matters do not alter the ExA's conclusions on the main issues.

CONCLUSIONS ON HEALTH AND COMMUNITY

- 3.13.90. The ExA examined the Applicant's health and community chapter through hearings and written questions and found that it was sufficient for the purposes of decision making.
- 3.13.91. Policy LLP6 sets out LBC's policy for the expansion and operation of Luton Airport. Policy LLP6(B)(ii) requires that expansion proposals contribute to achieving national

aviation policies. The ExA considers that the Proposed Development's ambitions to increase use of Luton Airport and the consequential economic and consumer benefits are consistent with APF, ANPS, MBU policies and LBC Policy LLP1. However MBU is clear that this is subject to *"taking careful account of all relevant considerations, particularly economic and environmental impacts and proposed mitigations"*.

- 3.13.92. The APF and the ANPS recognise the potential for construction and use of airports to affect people's health, wellbeing and quality of life. The APF suggests that proposals should aim to achieve a *"fair balance between the negative impacts of noise (on health, amenity (quality of life) and productivity) and the positive economic impacts of flights"*. The OANPS considers that a reduction in total adverse effects is desirable but they may be offset by economic and consumer benefits. The ExA considers these factors in Section 5 of this Report on the Planning Balance.

- 3.13.93. The ANPS (paragraphs 1.37 and 4.72) sets out the requirement for applicants to provide a project level health assessment, identifying health mitigation that seeks to maximise the health benefits of the scheme and mitigate any negative health impacts, including any cumulative impacts on health. Policy LLP(B)(iv) requires a full assessment and mitigation for the impacts of any increase in ATM. Policy LLP38 requires that developments assess and limit pollution and contamination. The ANPS (paragraph 1.35 and 4.27) requires that a project level EqIA is provided that considers impacts on protected characteristics groups. The ExA considers that protected characteristics groups have been considered as part of the Applicant's assessment and that relevant mitigation has been provided.

- 3.13.94. The ExA considers that relevant assessment is provided in ES Chapter 13 [\[REP10-009\]](#) and ES Chapter 21 [\[REP10-011\]](#), with mitigation measures that limit pollution set out in ES sections 13.8 and 13.10, the mitigation route map, the GCG Framework and in CoCP sections 4, 6.5 and 12. The ExA notes that the assessments for air quality, noise and vibration, land use (including for open space and PRoW), landscape and visual and TT include conclusions that relate to health outcomes. These effects are weighted separately in the relevant chapters and do not attract additional weight in this Section of the Report. Mitigation measures for these topics would also serve to mitigate health effects.

- 3.13.95. Policy LLP6(B)(vi) requires an effective noise control, monitoring and management scheme. The ExA has considered whether specific health related monitoring is required and concludes that due to the provision of monitoring and remedial action for health determinants such as air quality and noise through the GCG Framework and the potential for duplication with national studies, additional monitoring is not recommended. The ExA considers that the Proposed Development is consistent with this policy.

- 3.13.96. The ANPS and NPPF seek to avoid unacceptable levels of harm to health from new development. In combination with the NPSE, they also seek to avoid significant adverse effects on health and quality of life. Similar provisions are set out in local and neighbourhood plan policy. CBLP Policy HQ1 promotes high quality development that does not have unacceptable impacts on *"amenity, privacy, noise or air quality"*. NHLP Policy SP10 seeks to provide and maintain health, inclusive communities by supporting retention of leisure and recreation facilities and protecting, enhancing or creating new green infrastructure. ES Chapter 13 [\[REP10-009\]](#) did not identify unacceptable levels of harm to health but, in the absence of mitigation, significant adverse aviation noise effects were predicted during operation, which could result in worsening health outcomes due to increased noise

and resultant sleep disturbance and annoyance, as well as effects on amenity and tranquillity. The ExA found that this was inconsistent with the requirements of policies LLPB(v) and (vii) in Section 3.18 of this Report and does not attract additional weight here.

- 3.13.97. ES Chapter 13 [\[REP10-009\]](#) concluded that, taking into account mitigation, the residual effects on health would be beneficial and significant due to the creation of employment opportunities during construction and all phases of operation. This position was supported by the Bedfordshire, Luton and Milton Keynes Integrated Care Board. However, many IPs (particularly those living close to the airport) considered the social and environmental impacts significantly outweighed the economic benefits. The ExA considered that employment and consumer benefits attracted great weight for the making of the Order in its consideration of socio-economic effects in Section 3.19 of this Report and has not given them additional weight in this Section of the Report.
- 3.13.98. ES Chapter 13 [\[REP10-009\]](#) also identified that moderate significant adverse health effects due to perception and uncertainty during planning and construction of the Proposed Development would arise but suggested that there was weak evidence for this effect. To address this, it proposed mitigation in the form of community engagement measures in the CoCP. The ExA considers that the weak evidence base means that these effects would attract a little negative weight against the making of the Order.
- 3.13.99. ES Chapter 13 [\[REP10-009\]](#) also concluded that residual non-significant minor adverse health effects would arise from:
- displacement of businesses within Green Horizons Park and President and Percival Way following compensation;
 - impacts of the construction workforce on community cohesion and access to services, accounting for provision of occupational healthcare facilities; and
 - impacts of the operational workforce on the housing market which could arise due to the operational workforce, taking into account the ETS.
- 3.13.100. The ExA considers that each of these effects attracts a little negative weight against the making of the Order.
- 3.13.101. Community effects included the loss of community assets including Ace Sandwich Bar and Prospect House Day nursery. The ExA considers that appropriate mitigation is secured in respect of Prospect House Day Nursery and is not required in respect of Ace Sandwich Bar. Effects on these receptors would be neutral and do not weigh for nor against the making of the Order.
- 3.13.102. In summary, the ExA concludes that the Proposed Development meets the broad requirements of national and local policy but is only partially compliant with the requirements of local policy LLP6 in respect of air quality and noise related health effects. The ExA considers that the residual harm on health and community from effects, not already accounted for in other sections of this Report collectively, attract moderate negative weight against the making of the Order

3.14. HISTORIC ENVIRONMENT

INTRODUCTION

- 3.14.1. The Historic Environment and effects on heritage assets (HA) both designated (DHA) and non-designated (NDHA) were identified by the ExA in its IAPI [\[PD-007\]](#), Annex C].
- 3.14.2. This section considers the effect of the Proposed Development on HAs. In the case of designated HA (DHA), these comprise LBs, Conservation Areas, SMs and RPGs. In the case of non-designated heritage assets (NDHA), these primarily included buried archaeological remains located within the Order Limits.

POLICY BACKGROUND

- 3.14.3. A brief overview of key legislation and policies is provided below; a list of relevant policies and legislation can be found in Appendix B.
- 3.14.4. Regulation 3 of The Infrastructure Planning (Decisions) Regulations 2010 provides that when deciding an application, the decision-maker must have regard to:
- the desirability of preserving the LB or its setting or any features of special architectural or historic interest which it possesses;
 - the desirability of preserving or enhancing the character or appearance of a conservation area; and
 - the desirability of preserving an affected SM or its setting.
- 3.14.5. The requirement to preserve or enhance is reflected in the ANPS (paragraphs 5.187 to 5.212) and NPPF section 16. The ANPS (paragraph 5.187) recognises that the construction and operation of airports has the potential to result in adverse impacts on the historic environment above and below ground. In considering the impact of a proposed development on the significance of HA great weight will be given to the asset's conservation (paragraph 5.200) because they are irreplaceable, any harm or loss should require clear and convincing justification (paragraph 5.201). The ANPS (paragraph 5.202) advises that substantial harm to or loss of a Grade II LB or RPG should be exceptional and substantial harm to or loss of the designated sites of the highest significance should be wholly exceptional. Any harmful impacts on the significance of a DHA asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance, the greater the justification will need to be (paragraph 5.203). The NPPF sets out broadly similar policies.
- 3.14.6. These national policies are reflected in the relevant development plan policies of the JHA, details of which can be found in Appendix B of this Report which also includes details of relevant guidance.

THE APPLICATION

- 3.14.7. The Applicant's assessment of the effects on the historic environment was contained primarily within Chapter 10 of the ES [\[AS-077\]](#) and the accompanying figures and appendices, details of which can be found in Appendix A of this Report. The ES and appendices provided a detailed description of the significance of the HA that would be affected by the Proposed Development and the contribution of setting to that significance. They also provide details [\[REP4-017\]](#) of all the HA within the various study areas.

- 3.14.8. A core 2km study area was adopted to identify potentially affected DHA along with a 250m study area for off-site Highways Interventions and planting areas. A wider study area beyond the 2km core area identified DHA that could be impacted by the physical presence of the Proposed Development and/ or by an increase to their existing noise environment that would affect their appreciation and heritage significance. A 1km study area was adopted for NDHA.
- 3.14.9. The assessment findings in [\[AS-077\]](#) were supplemented by the assessments relating to air quality in ES Chapter 7 [\[AS-076\]](#) and noise in ES Chapter 16 [\[REP9-011\]](#). For air quality, this was most relevant for the assessment in respect of Someries Castle SM. In respect of noise, this was for assets where it had been identified that a soundscape formed an important part of setting which contributed to the understanding of that asset.
- 3.14.10. HE [\[REP9-034, 3.15\]](#) confirmed that it was not essential for the assessment on heritage in the ES to use the guidance 'Aviation Noise Metric - Research on the Potential Noise Impacts on the Historic Environment by Proposals for Airport Expansion in England' but that the assessment should include and cross-reference noise data that was used to inform the impact assessment.

Assessment Findings

- 3.14.11. The ES [\[AS-077\]](#) identified that the Proposed Development would result in significant adverse effects in respect of the following assets:
- Wandon End House and Wandon End Farmhouse Grade II LBs: Temporary moderate adverse effects through construction activities.
 - Luton Hoo Grade II* RPG: Moderate adverse effects through operation due to an increase in aviation noise which would detract from the park's rural character.
 - Archaeological remains: including an Iron Age and Roman settlement site (Historic Environment Record (HER) 108080) and cropmarks of possible late prehistoric and Roman activity (HER 17218 and HER 17219): Permanent moderate adverse effects.
 - Potential archaeological features that could be identified from the additional trial trenching: Moderate adverse effects through construction activities.
- 3.14.12. The Applicant [\[APP-198, Appendix D\]](#) considered that there would be 'Less than substantial' harm to the heritage significance of Luton Hoo RPG. No harm was assessed to arise to the LBs at Wandon End due to the temporary nature of effects, which the Applicant concluded would not affect their heritage significance.
- 3.14.13. The Applicant [\[APP-198, paragraph D1.1.4\]](#) acknowledged that there was no direct correlation between the significance of effect in EIA terms and the degree of harm referenced in the NPPF. However, [\[APP-198, paragraph D1.1.3\]](#) stated that where effects were not significant (negligible to minor adverse effects) the harm to the significance of that asset would fall within the 'less than substantial' category at the 'lower level of the spectrum'. The Applicant stated that taking a proportionate approach in accordance with planning guidance and HE advice, these effects were not discussed further within the Heritage Assessment [\[APP-198\]](#).
- 3.14.14. The Applicant updated the Cultural Heritage Gazetteer (CHG) at D4 [\[REP4-017\]](#) stating the following DHA would experience a 'less than substantial' harm at the 'lower level of the spectrum':
- Someries Castle SM;
 - Plaiters Lea Conservation Area;

- High Town Conservation Area;
- Luton Town Centre Conservation Area;
- Luton South Conservation Area;
- Parish Church of St Mary, Luton (Grade I LB);
- The Old Homestead (Grade II* LB); and
- Wigmore Hall Farmhouse (Grade II LB).
- The following individual assets which were assessed as part of the moderate adverse significant effects for Luton Hoo RPG: Luton Hoo House (Grade I LB); Garden house and retaining walls to terraced gardens (Grade I LB); Boathouse (Grade II LB); Warren Hill Lodges (Grade II LB); The Lodge (Grade II LB); Bridge West of Warren Hill Lodges (Grade II LB); and Luton Hoo (Hyde) Conservation Area.

Mitigation

- 3.14.15. The Applicant advised that embedded mitigation measures such as alternative locations of the proposed buildings, car parks and other hard standing areas, variations in height of the new buildings as well as utilising previously disturbed areas were incorporated into the design of the Proposed Development. Good practice mitigation would be undertaken through measures identified in the CoCP [\[REP8-013\]](#), Section 11] and the Cultural Heritage Management Plan (CHMP) [\[REP8-015\]](#) which included measures such as trial trenching, monitoring and archaeological excavation.

Applicant's conclusion on heritage impacts

- 3.14.16. The Applicant stated [\[REP11-009\]](#) that the impact of the Proposed Development upon heritage assets had been a key consideration in the development of its design and a number of mitigation measures had been incorporated including different options for the design. The Applicant considered [\[REP11-009\]](#) that the Proposed Development would lead to less than substantial harm to the significance of DHA. In weighing that harm against the public benefits of the proposal, the Applicant concluded that the proposal would comply with the requirements of NPPF (paragraphs 201 and 202), LLP Policy LLP30, CBLP Policies HE1, HE2 and HE3 and NHLP Policy HE4. Due to there being less than substantial harm, the Applicant afforded a limited negative weight for cultural heritage in its consideration of the planning balance.

ISSUES CONSIDERED

Introduction

- 3.14.17. Approximately 18 RR commented on the impacts on heritage. These included concerns relating to the impact of overflying aircraft to certain DHA eg [\[RR-0702\]](#), [\[RR-1052\]](#), [\[RR-1213\]](#) and [\[RR-1414\]](#); assets omitted from the CHG [\[RR-0698\]](#); impact on the functions undertaken at Breachwood Green Baptist Church LB [\[RR-0156\]](#) and St Paul's Walden Bury RPG [\[RR-1414\]](#). Concerns were also raised in relation to the suitability of noise compensation measures for listed buildings eg [\[RR-0384\]](#) and [\[RR-0698\]](#). This is considered further in Section 3.18 of the noise Section.
- 3.14.18. HE [\[RR-1086\]](#) confirmed that they broadly accepted the Applicant's conclusions in the ES. In their WR [\[REP1-070\]](#) HE was concerned about the impact of the proposal on the significance of Luton Hoo RPG and Someries Castle RPG, where they considered that harm to each of those assets would be less than substantial.

3.14.19. CBC's LIR [\[REP1A-002\]](#) concluded that the Proposed Development would not comply with Policies HE1, HE2 and HE3 of the CBLP and the impact resulting from the development was stated as negative.

3.14.20. Based on the comments raised in submissions and the ExA's consideration of the application documents, the main Examination issues related to the following matters:

- methodology;
- assessment of effects and harm to DHAs;
- assessment of effects to NDHAs; and
- approach to mitigation.

Methodology

Comments raised in LIRs

3.14.21. The HHA LIR [\[REP1A-003\]](#) raised concerns that effects on DHA and NDHA might not have been fully assessed, and effects not fully understood, due to being scoped out on the grounds that "*The setting of this asset does not extend into the Site*" (quoting comments in the initial CHG [\[APP-073\]](#)). More clarity was sought by the HHA who noted that there was no fixed distance for an asset's setting. DHA of most concern to the HHA were stated to be RPGs and individual assets located within them.

3.14.22. In response [\[REP2A-006\]](#), the Applicant stated that assets had been scoped out where components of their setting were not present within the Main Application Site and/ or would not change as a result of the Proposed Development. The Applicant also stated in initial SoCGs with both HCC and NHDC [\[REP2-022\]](#) and [\[REP2-023\]](#) that it was correct to scope out HA from the ES [\[AS-077\]](#) where they were located outside of the Main Application Site and where they would not be physically impacted. The Applicant confirmed that both DHA and NDHA with the potential for change to their setting were included in the assessment.

3.14.23. In ExQ1 [\[PD-010\]](#), PED.1.11], the ExA asked the JHA to provide details of any assets that should be included in the assessments. In response, the HHA [\[REP4-126\]](#) requested more information on why assets, such as the RPG's, had been scoped out and how the Proposed Development could further change the setting of these assets. Neither CBC [\[REP4-116\]](#) nor LBC [\[REP4-187\]](#) made any requests.

Approach to assessment of likely significant effects (LSE) and harm

3.14.24. At ISH6 [\[EV11-001\]](#) the ExA asked the Applicant to explain the rationale for considering that a finding of no LSE automatically resulted in a conclusion of less than substantial harm. The Applicant advised that it did not intend to conflate the EIA process with the assessment of harm and had agreed to update the CHG to include a summary of the impact and harm for all assets. This was submitted at D4 [\[REP4-018\]](#). It also included brief commentary for why assets had been scoped out following the comments from the HHA.

3.14.25. There were no outstanding concerns on this approach by IPs at the close of the Examination.

Assessment of impact of Increased frequency of aircraft movement

- 3.14.26. At ISH6 [\[EV11-001\]](#), the ExA queried the methodology used to assess the impacts of noise on heritage assets and in particular the extent to which the increased frequency of flights over assets had been considered. The ExA noted that this had been considered in the assessment for Luton Hoo RPG [\[APP-198\]](#) but not for other HAs. The Applicant advised that the assessment had considered impacts from increased frequency of aviation noise on HA and that the methodology used for assessing impacts from noise, through changes to setting, was in line with current guidance and best practice and was agreed with statutory consultees including HE [\[AS-077\]](#), Table 10.6]. The HHA [\[REP3-097\]](#), page 12] did not agree with the comments in [\[AS-077\]](#) that quietness did not contribute to the setting of specified HAs, noting that tranquillity was an important component of the setting of RPGs. The HHA also questioned whether the assessments had downplayed the importance of tranquillity as a component of the setting of these assets. The Applicant [\[REP7-048\]](#) maintained that the assessment had considered increased frequency of aviation noise but only where a potential noise impact had been identified was this stated in the ES.
- 3.14.27. Following further examination [\[PD-019\]](#) the Applicant acknowledged [\[REP8-040\]](#) that a specific assessment of increased frequency of flights would be useful when understanding the effect of significant increases in noise levels and where this would have a significant effect on a HA. However, the Applicant had not undertaken a specific assessment as no significant increases in noise levels had been identified.
- 3.14.28. The HHA [\[REP9-067\]](#) noted the Applicant's comments but stated that their position remained unchanged as from that set out in the PADSS [\[REP8-056\]](#).
- 3.14.29. HE advised [\[REP7-092\]](#) that increased noise had the potential to affect the wider setting of any HA, particularly development where noise was an intrinsic side-effect, such as industrial or transport related development. HE considered in that instance there was very good reason for the effects of noise to be scoped into an assessment of setting [\[REP4-158\]](#).
- 3.14.30. At the close of the Examination, disagreement remained between the Applicant and both HCC [\[REP11-095\]](#) and NHDC [\[REP11-097\]](#) as to whether there had been sufficient explanation as to why assets had been scoped out and the approach to assessing effects on quietness and setting.
- 3.14.31. No other party had any outstanding concerns with the methodology at the close of the Examination.

ExA conclusions on methodology

- 3.14.32. Whilst the ExA is aware that HE [\[REP1-070\]](#) and [\[REP9-034\]](#) was satisfied with the assessment methodology, the ExA agrees with the concerns raised by NHDC and HCC. HE's Good Practice Advice Note 3: The Setting of Heritage Assets [\[REP4-158\]](#), page 8] acknowledges that whilst the use of sensitivity matrices and scoring systems as part of the EIA process may assist analysis to some degree, "*as setting and views are matters of qualitative and expert judgement, they cannot provide a systematic answer*".
- 3.14.33. The ExA accepts that changes in noise contours are a useful means to establish LSE at DHA and NDHA. The ExA also considers that the assessments adequately set out "*what matters and why*" [\[REP4-158\]](#), page 8] in terms of the heritage

significance and setting of the assets affected, together with the effects of the development upon them.

- 3.14.34. However, the ExA considers in order to justify the Applicant's conclusions on harm to an asset's heritage significance, impacts to certain DHA would have benefited from a more detailed qualitative analysis of their noise environment and the degree to which this makes a contribution to the significance of the asset, or allow the significance to be appreciated. As a result, as set out below, the absence of this information has led the ExA to reach its own conclusion on harm for a number of DHA.

Designated heritage assets

- 3.14.35. This section considers the impacts on DHAs which consist of LBs, Conservation Areas, SMs and RPGs. The issues examined for individual assets falling within these four categories and the ExA's assessment of impacts are considered under the subheadings below.

Listed buildings

- 3.14.36. The Applicant identified 87 LBs within the 2km study area [APP-072, paragraph 4.2.6]. Four were Grade I, one was Grade II* and the remaining were Grade II. None of the listed buildings would be physically damaged, disturbed or altered by the Proposed Development; instead concerns related to potential impacts on setting based on visual and /or aural intrusion from aircraft or built structures.

Wigmore Hall Farmhouse (National Heritage List for England (NHLE) 1321368) and Hart House (NHLE 1249000)

- 3.14.37. LBC's LIR [REP1A-004] did not consider that the impacts on the Grade II listed Wigmore Hall Farmhouse (NHLE 1321368) and Hart House (NHLE 1249000) had been adequately assessed in accordance with Policy LLP30 of the LLP.
- 3.14.38. The Applicant [REP2A-007] considered that Wigmore Hall Farmhouse had been appropriately assessed in [AS-077, pages 56 and 67]. The Applicant did not consider that the surrounding parkland at WVP was contextually associated with the asset and therefore did not form part of its setting that contributed to its heritage value. However, the Applicant acknowledged that whilst there was a variety of airport buildings in the vicinity of the asset, the presence of additional buildings would further erode its setting and suggested that it would experience a minor adverse effect (not significant).
- 3.14.39. In respect of Hart House, the Applicant noted [REP2A-007] that it had been included in [APP-072] but considered that there would be no changes to its setting that would affect heritage value and therefore had scoped the asset out of further assessment.
- 3.14.40. At ISH6 [EV11-001] LBC confirmed that it accepted the Applicant's response on the comments to Wigmore Hall Farmhouse and, recognising the scale of development surrounding Hart House, accepted [REP3-106] scoping Hart House out of the assessment.

ExA conclusions

- 3.14.41. Having visited the site [EV1-004] and [EV1-012] and considered the assessment of the asset's heritage value [AS-077, paragraph 10.9.48] the ExA agrees with the Applicant that there would be a minor adverse effect on Wigmore Hall Farmhouse,

albeit due to the distance between the proposed works and the asset this would result in less than substantial harm to the significance of the DHA.

- 3.14.42. The ExA also agrees that the Proposed Development would have no significant effects on Hart House or lead to any harm to its heritage significance given the existing built development within its setting and the separation distance between the asset and Proposed Development.

Wandon End House (NHLE 1307874) and Wandon End Farmhouse (NHLE 1102448)

- 3.14.43. The Applicant [AS-077] identified temporary moderate adverse effects on these Grade II LB as construction activities would introduce a change to their rural setting. The ES [AS-077] considered this could affect the ability to appreciate their rural context and relationship with the surrounding countryside albeit that it concluded no harm would arise to their heritage significance due to the temporary nature of construction effects.
- 3.14.44. As construction operations were predicted to last around 20 years, at ISH6 [EV11-001] the ExA asked the Applicant to justify why it considered this a temporary effect. The Applicant advised that construction activities would not be constant, there would be separate episodes of activity and therefore there would be no harm to the heritage interests of those assets.

ExA conclusions

- 3.14.45. The ExA considers that the Proposed Development would not result in harm to the architectural interest of these assets and any harm would be due to changes within their setting through construction of the replacement open space (Work No. 5b(02)) and planting of hedgerows (Work No. 5e).
- 3.14.46. The ExA observed [EV1-009] that Wandon End Farmhouse is enclosed from surrounding views. Therefore, the ExA is satisfied that construction activities would not harm the setting of this asset such that it would impact on its heritage significance. The ExA noted [EV1-009] that there would be only limited views of construction activities from Darley Road to the east towards Wandon End House. Whilst construction activities could be visible in views towards the house, given their temporary and intermittent nature, the separation distance between those activities and the house and the extent of modern structures surrounding the asset, the ExA considers that there would be no harm to the setting of this asset such that it would impact on, or impact on the ability to appreciate, its heritage significance in views towards it.

The Old Homestead (Grade II* listed, NHLE 1176170)

- 3.14.47. This asset is situated under the flightpath approximately 2km from the eastern end of the runway. [RR-1052] raised concerns that features within the building, a 17th Century timber framed open-hall house, were being adversely affected through impact from noise and vibration.
- 3.14.48. [AS-077] identified potential impact to this DHA arising from both visual and aural intrusion and stated that the noise change contours [APP-150] show a predicted level of change from the future baseline of greater than 1dB above 51dBL_{Aeq,16h}. The ES predicted minor adverse effects through Phase 1 construction activities (through works to aviation platform, car parks and construction compounds) reducing to no effects in Phases 2a and 2b. [AS-077] recognised that, the sound of

landing aircraft already detracted from the ability to appreciate the asset's setting, but considered that the change in noise contours would be negligible within the asset's noise environment and would not change the asset's setting or impact its heritage values, resulting in no effects.

- 3.14.49. The CHG [REP4-017] assigns less than substantial harm to this asset as a result of temporary minor adverse effects through construction of Phase 1. No effects or harm were predicted to arise during operation.

ExA conclusions

- 3.14.50. The ExA notes that [AS-077, paragraph 10.9.104] described the house as being set back from the road resulting in an almost secluded character. It also adds that *"The asset's noise environment is relatively quiet, with very little invasive noise from the surrounding properties or from the road in from of the house [sic]. The noise environment is punctuated intermittently by the sound of aircraft landing at the airport and this intrusion into the asset's setting does detract from the ability to appreciate its semi-rural setting"*. [AS-077, paragraph 10.9.106] stated that the change in noise contours [APP-150, Figures 10.7 and 10.8] showed an increase from the future baseline which the Applicant considered would be a negligible change within the asset's noise environment and would not change the asset's setting or impact its heritage values.

- 3.14.51. Based on the information in [REP4-037, Figures 14.14-14.17] this asset could experience a significant increase in the number of overflights. After observing the asset [EV1-021] the ExA considers that, in addition to the harm identified by the Applicant during construction, the increase in planes flying overhead would lead to further intrusion into the asset's setting and how it would be appreciated such that less than substantial harm to its heritage significance would occur. The ExA considers that whilst it has insufficient evidence to conclude whether there would be harm to internal features, even taking a precautionary approach that this would occur, the ExA does not consider that it would alter the conclusion of less than substantial harm.

Breachwood Green Baptist Church (Grade II listed, NHLE 1347430)

- 3.14.52. The CHG [REP4-017] and [APP-072, paragraph 5.1.30] scoped this asset out of the assessment on the grounds that the Main Application Site would not contribute to the setting of the asset and no impacts were anticipated as a result of the Proposed Development.
- 3.14.53. Whilst NHDC did not specifically refer to this asset the ExA considers that the concerns raised by them [REP11-097] on the scoping out of assets and the assessments on quietness and setting could apply to this asset.

ExA conclusions

- 3.14.54. Whilst the ExA notes the content of [APP-072, paragraph 5.1.30], it considers that given the location of the DHA under the flightpath, its use and extent of setting, this asset would have benefited from a more detailed qualitative analysis.
- 3.14.55. During site inspections [EV1-011] and [EV1-021], the ExA observed that although the heritage significance of this asset was largely architecturally derived, the rear churchyard formed an important part of its setting. Whilst on site the ExA noted the background noise to be relatively low and that the noise of planes leaving or landing

at LLA was both noticeable and intrusive. This corroborated the concerns raised in [\[RR-0156\]](#).

- 3.14.56. As such, the ExA concludes that the increased number of overflights would lead to further intrusion to the asset's relatively tranquil setting, particularly the churchyard which contributes to its significance and how it is appreciated and used. The ExA considers that this harm would be less than substantial.

Parish Church of St Mary, Luton (Grade I listed, NHLE 1114615)

- 3.14.57. The Applicant [\[AS-077\]](#), paragraph 10.9.103] predicted an increase in the noise baseline of between 2dB to 2.9dB above 51dBL_{Aeq,16h} during Phase 2b, which would result in a minor change to the church's existing noise environment. The Applicant considered that this would result in a minor adverse effect and less than substantial harm to its heritage significance.

ExA conclusions

- 3.14.58. No comments were received by IPs disputing these findings and therefore the ExA has no reason to disagree with the Applicant's assessment that less than substantial harm would arise to the heritage significance of this asset.

Impact on remaining listed buildings within the 2km and wider study areas

- 3.14.59. The ExA has considered the findings against the remaining listed buildings within the study area not referred to in more detail above and agrees with the Applicant's conclusions that the Proposed Development would not result in harm to the significance of those assets.

Conservation areas

- 3.14.60. The ES [\[APP-072\]](#) identified six conservation areas within the 2km study area:

- 3.14.61. Within LBC:

- High Town Road Conservation Area;
- Luton Town Centre Conservation Area;
- Luton South Conservation Area; and
- Plaiter's Lea Conservation Area.

- 3.14.62. Within NHDC:

- Bendish Conservation Area.

- 3.14.63. Within CBC:

- Luton Hoo (Hyde) Conservation Area.

- 3.14.64. Beyond the 2km study area, Hitchin Conservation Area and Hitchin Hill Path Conservation Area would be located within the 250m study areas of the off-site Highways Interventions.

- 3.14.65. The Applicant's assessment [\[AS-077\]](#) did not predict any LSE during the construction stage within any of the conservation areas but noted potential operational impacts from aural intrusion at the six conservation areas located within the 2km study area as they would all fall within the noise change contours that show a predicted level of change from the future baseline of greater than 1dB above 51dBL_{Aeq,16h} daytime.

- 3.14.66. [\[AS-077\]](#), paragraph 10.9.95] advised that the heritage value of the conservation areas derived from their architectural and historic interests, recognising that some parts of these areas represented the historic core of Luton and articulate its historical development. [\[AS-077\]](#), paragraph 10.9.96] advised that all of the conservation areas were residential and/ or commercial in character and had a relatively noisy sound environment indicative of a busy residential centre, alongside intermittent aviation noise.

Conservation areas in Luton

- 3.14.67. The assessment in [\[AS-077\]](#), paragraph 10.9.97] predicted a negligible increase in noise change during assessment Phase 2a in all of the conservation areas. A minor increase in noise in assessment Phase 2b (paragraph 10.9.98) would affect the southern part of the Town Centre Conservation Area, the southern edge of Plaiters Lea Conservation Area, and the northern edge of New Town Conservation Area but the Applicant advocated that this would not affect the appreciation of their heritage interests or value. Notwithstanding, the Applicant assigned less than substantial harm to each of the Luton conservation areas [\[REP4-017\]](#). LBC's LIR [\[REP1A-004\]](#), page 44] stated that given the existing noise profiles experienced within these central Luton areas, effects on the setting of these conservation areas would not be significant.

ExA conclusions

- 3.14.68. The ExA undertook site inspections [\[EV1-001\]](#) to these conservation areas and agrees with the Applicant's description of heritage significance in [\[AS-077\]](#), paragraphs 10.7.45, 10.9.95 and 10.9.96] that their value largely derives from their architectural form and historic interest. The ExA observed that these areas were already characterised by an urban background noise environment. However, given the change in noise contours that would be experienced in Phase 2b, and in the absence of any disagreement from other parties to indicate otherwise, the ExA agrees with the Applicant's assessment that there would likely be a minor adverse effect and less than substantial harm to their heritage significance.

Conservation Areas in NHDC

- 3.14.69. Bendish Conservation Area is located under the flightpath approximately 3km to the east of LLA. A description of its character and heritage interest is contained in [\[APP-072\]](#), paragraph 5.1.31].
- 3.14.70. The ExA noted [\[PD-015\]](#), PED.2.16] that whilst Bendish Conservation Area was listed in the ES [\[AS-077\]](#), Table 10.11] it did not appear to have been considered in the assessment [\[AS-077\]](#), paragraphs 10.9.95 to 10.9.99]. The Applicant [\[REP7-052\]](#), advised that the change in noise levels was assessed to be negligible and there would be no harm to the asset's heritage significance. However, NHDC [\[REP7-087\]](#) confirmed that it considered that the impact caused by aural intrusion should be assessed as the level of impact had not been stated and it was unclear how a conclusion of 'no harm' had been reached [\[REP4-017\]](#).
- 3.14.71. The ExA requested further information from the Applicant [\[PD-019\]](#). In response the Applicant [\[REP8-040\]](#) reiterated that it considered the increase in noise would be negligible and as such, no specific assessment of aural intrusion due to frequent overflights had been undertaken. It acknowledged that the increase in overflights could be visible but did not consider that this would affect the significance of the asset and therefore no harm had been concluded on this basis.

- 3.14.72. In response, the HHAs [\[REP9-067\]](#) noted the Applicant's comments but stated that their concern in relation to methodology and approach to assessment methodology remained as set out in the PADSS [\[REP8-056\]](#).

ExA conclusions

- 3.14.73. Based on the information in [\[REP4-037\]](#), Figures 14.14-14.17] the ExA considers that this asset could experience a marked increase in the number of overflights. Whilst the ExA notes the Applicant's responses in [\[REP7-052\]](#) and [\[REP8-040\]](#), it does not consider that the answers sufficiently addressed its queries and that this asset would have benefited from more detailed qualitative analysis. In the absence of this, the ExA considers that the impact of increased aural intrusion from the increased frequency of flights, and the extent to whether this could further erode the tranquil character of the conservation area, has not been fully considered by the Applicant.
- 3.14.74. Based on consideration of the application documents and its observations during site inspections [\[EV1-009\]](#), the ExA considers that the pattern of development around a village green, architectural interest of the dwellings and the relatively tranquil character of the conservation area, notwithstanding its location under the flightpath to LLA, all make a contribution to the heritage significance of the asset. The ExA considers that the aural intrusion from increased overflights and, to a lesser extent, the visual impact of further aircraft over the conservation area would further erode its rural tranquil character and setting which would not be preserved by the Proposed Development.
- 3.14.75. The ExA therefore disagrees with the Applicant and considers that less than substantial harm would arise to the significance of this HA.

Luton Hoo Hyde Conservation Area

- 3.14.76. CBC initially raised concerns that there was no consideration of the impact on this asset [\[REP3-088\]](#) although later accepted [\[REP4-116\]](#) that it was appropriate for it to be considered holistically along with other designated heritage assets that form part of the wider RPG designation. This is considered further below.

Hitchin Conservation Area and Hitchin Hill Path Conservation Area

- 3.14.77. The Applicant scoped these assets out of the ES [\[REP4-017\]](#) concluding there would be no harm to their heritage significance.
- 3.14.78. Throughout the Examination there was uncertainty as to the extent of the proposed highways works in Hitchin (which is covered in more detail in Section 3.20 of this Report). However, the LVIA [\[AS-086\]](#) identified potential significant effects due to the permanent loss of some mature trees to accommodate these improvements. In ExQ2 [\[PD-015\]](#), PED2.10], the ExA asked what the assessment of these effects would be to this asset.
- 3.14.79. In response [\[REP7-052\]](#), the Applicant advised that the extent of tree loss was unknown, and it was not anticipated that the minor works and limited removal of trees would cause a significant effect in relation to the character and appearance of the Hitchin Conservation Areas.
- 3.14.80. The HHA [\[REP7-087\]](#), Appendix 1] provided a detailed response noting that there was good tree coverage in the vicinity of Work No. 6e(k) and there were significant trees in the vicinity of Work No. 6e(m) including a number of trees which were

subject to a Tree Preservation Order (TPO). The HHA noted that whilst trees that may make a positive contribution to the Conservation Area could be felled, any such impact would likely result in less than substantial harm to the Hitchin Conservation Areas. Consequently, they noted that there was potential conflict with NHLP Policy HE1 and the NPPF (paragraph 208).

ExA conclusions

- 3.14.81. In the absence of knowing the full extent of works and how these might affect the trees, it is not possible for the ExA to conclude what the level of harm would be. The ExA therefore suggested [\[PD-018\]](#) additions to Article 22 of the draft DCO that would restrict powers to fell trees within a conservation area or subject to a TPO unless they were identified in the landscaping schemes. Both the Applicant [\[REP8-036\]](#) and JHA [\[REP8-052\]](#) accepted the suggested changes with minor amendments and the final draft DCO [\[REP11-091\]](#), Article 22 and Requirements 9 and 10] included the suggested changes.
- 3.14.82. The ExA is therefore satisfied that the updates to the draft DCO would provide a suitable mechanism to enable the relevant authorities to assess the extent of tree felling and additional tree planting required to mitigate any harm and preserve the character or appearance of the conservation areas.
- 3.14.83. Were any harm to materialise, the ExA considers that this would result in less than substantial harm having noted the contribution the trees makes to the character and appearance of the conservation areas during site inspections [\[EV1-009\]](#).

Other Conservation Areas

- 3.14.84. [\[RR-1213\]](#) raised concern regarding overflights over Dunstable Conservation Area. The ExA [\[EV1-023\]](#) observed that the conservation area was situated in the centre of the town in an urban environment where its heritage value largely related to its architectural and historic interest. Given the separation distance between the asset and the flightpath, noting its heritage value and that CBC did not request its inclusion [\[REP4-116\]](#) the ExA is satisfied that there would be no effects or harm to the heritage significance of this asset.

Scheduled Monuments

- 3.14.85. Two SMs were scoped into the assessment, Someries Castle SM which is situated approximately 250m to the south of the airport lying within CBC and Six Hills Roman barrows situated in Stevenage. No other SMs were raised in submissions as requiring to be scoped into the assessment.

Somerries Castle SM (NHLE 1008452)

- 3.14.86. The SM comprises the ruins of a mid to late 15th Century fortified manor house, thought to be one of the earliest brick buildings in England. Partly demolished in the 18th Century, the remains of the brick gatehouse survive. The Applicant considered that the heritage significance of the SM derived from its historic, archaeological and architectural interests with its setting defined by the extent of its upstanding and buried remains [\[AS-077\]](#), paragraph 10.9.6 to 10.9.9], [\[APP-072\]](#), paragraphs 5.1.1 to 5.1.8] and [\[APP-072\]](#), Annex A]. The Applicant considered [\[APP-072\]](#), paragraph 5.1.6] that the setting of the castle had been eroded by the construction of LLA. As a result, the asset already experiences noise and visual intrusion relating to aviation traffic. CBC's LIR [\[REP1A-002\]](#), paragraphs 5.4.5 – 5.4.9] also provides details of the heritage significance of the SM.

- 3.14.87. The Applicant [AS-077] predicted a minor adverse effect (not significant) from construction activities during all three phases, minor adverse effects from construction noise during Phase 1 only and no significant effects from construction vibration during any of the three phases. During operation, minor adverse effects were predicted [AS-077, paragraph 10.9.67] through built form (FTG – Work No. 2d) and an increase in noise from the future baseline [AS-077, paragraph 10.9.70]. No LSE from air pollution that could result in damage to the historic fabric of the castle were predicted [AS-077, paragraph 10.9.68]. Due to minor adverse effects being identified, the Applicant considered there would be less than substantial harm to the asset's significance.
- 3.14.88. HE in [REP1-070] noted that the wider setting had been compromised by the presence of LLA and expansion of Luton, so much so that the contribution that the setting made to the asset's significance had been severely diminished. Notwithstanding this, HE considered it somewhat regrettable that the existing negative effect on the visual appearance would be further compounded. HE suggested [REP1-070] visual effects of buildings could be mitigated to some extent through choice of materials, colour palette and finishes. HE considered that the harm would be less than substantial and noted the policy tests to be applied in the NPPF.
- 3.14.89. CBC's LIR [REP1A-002] considered that the potential impact and harm, particularly on brick erosion as a result of the FTG, had not been adequately addressed and further detail was required on air quality monitoring on this asset in the CHMP. CBC maintained its concerns on potential brick erosion and the visual impact of the FTG to the SM throughout the Examination [EV11-001], [EV15-001] and [REP6-092].
- 3.14.90. In its D7 submission [REP7-083, page 3], CBC highlighted that the FTG would be intrusive and incongruous to the SM, particularly in its north eastern setting which retained an open, rural character with airport buildings currently set further back. CBC added [REP7-083, page 3] that it attached great importance to the significance of setting to the SM. CBC also stated [REP7-083, page 4] that the harmful visual impact would be directly counter to the key public benefit set out in the Historic Environment Planning Practice Guidance of "*sustaining or enhancing the significance of a heritage asset and the contribution of its setting*".
- 3.14.91. The Applicant disagreed with CBC [REP8-038, page 10] stating that the setting of the SM was defined by the extent of its upstanding and buried remains and that long-range views did not contribute to this experience, noting that the existing airport dominated the noise environment. The Applicant acknowledged that the Representative VPs [REP10-015] demonstrated the FTG would be visible in the mid-distance although, in the Applicant's opinion, these views did not form an important part of the asset's setting and therefore the presence of the FTG would not impact on its setting.
- 3.14.92. The ExA [PD-021, Q10] asked the Applicant to provide comments as to whether the 'minor adverse effect' identified in [AS-077, paragraphs 10.9.66 and 10.9.67] and the 'less than substantial harm' identified in the CHG [REP4-017] would preserve the setting of the SM. The Applicant responded [REP9-057] that the SM no longer contained components that were contemporary with the castle, and therefore did not contribute significantly to its heritage value and its sympathetic and positive setting did not detract from the ability to appreciate the asset. The Applicant considered that the proposed changes to the existing view would not erode the setting of the SM and its setting would therefore be preserved.

- 3.14.93. At the close of Examination, CBC [REP8-053, page 12] stated that the location and visual impact of the FTG on Someries Castle remained a principal area of disagreement. It also stated [REP8-053, page 12] that concerns remained regarding the operational effects from smoke and lighting, and it was unclear how harm arising from brick erosion from air pollutants would be mitigated. In the SoCG between the Applicant and CBC [REP11-035, CBC66, CBC149 and CBC153] the Applicant's position was that impacts from the FTG had been assessed in [AS-076] with results presented in [AS-028, table 3.1] and that impacts from airborne pollutants were not predicted to be significant.

ExA conclusions

- 3.14.94. The ExA is satisfied that [AS-077, paragraph 10.9.6–10.9.9] and [APP-072, paragraphs 5.1.1-5.1.8] represent an accurate and reasonable description of the significance of this HA and the contribution that its setting makes to that significance.
- 3.14.95. The ExA considers that the Proposed Development would further erode the visual appearance of the SM and its setting through the increased noise and presence of further built form, particularly the FTG which would be visible in views towards the asset [REP10-015, VP 25]. Following a site inspection [EV1-004], the ExA concluded that the heritage significance of the asset was strongly characterised by its remaining brick structure and whilst longer range views may have contributed to understanding that significance previously, this had been significantly eroded by more modern built form.
- 3.14.96. Whilst the ExA largely notes the Applicant's comments in [REP8-038, page 10], the ExA considers that the presence of the FTG would appear as a prominent and incongruous feature in background views when looking towards the asset from the west, as confirmed in [REP10-015, VP 25]. However, the ExA considers that this would represent a minor adverse impact to its setting given the presence of existing built form surrounding the asset and agrees with the findings in [AS-077, paragraph 10.9.67]. Given that the FTG would further erode the visual appearance of the SM and its setting, the ExA does not agree with the Applicant that its setting would be preserved by the Proposed Development.
- 3.14.97. Overall, the ExA considers that an appreciation of the heritage significance of the asset would be damaged by further built form and that, along with the increased noise levels, would result in less than substantial harm to the heritage significance of the asset.
- 3.14.98. The impact of lighting of the FTG is considered in more detail in Section 3.15 of this Report.
- 3.14.99. Regarding air pollution, the ExA notes CBC's outstanding objection but has not been provided with any substantive evidence to counter the Applicant's findings in [AS-076] or the Applicant's comments in [REP7-048] on monitoring proposals. Having observed a fire training routine during [EV1-017] and noting the distance from the SM and periods of time for operation of fire training events, the ExA is satisfied that there would be limited impact on the SM and that suitable measures for ongoing monitoring have been included within the CHMP [REP8-015].
- 3.14.100. Overall, the ExA concludes that whilst there would be harm to the SM that harm would be less than substantial.

Six Hills Roman barrows SM (NHLE 1015579)

- 3.14.101. This asset is located in Stevenage, approximately 10km to the east-north-east of LLA. The SM comprises six Roman barrows known as 'The Six Hills' which are described in more detail in [\[APP-072\]](#). The Applicant concluded [\[AS-077\]](#), paragraph 10.9.71] that the heritage value of the barrows is high. [\[AS-077\]](#) also predicted an increase in the noise baseline in this location but considered that this would be a minor change to the asset's noise environment, which would not affect its setting or impact its heritage value.

ExA conclusions

- 3.14.102. No IPs raised concerns about this asset. At a site inspection [\[EV1-009\]](#) the ExA observed that the SM was situated in an extensive urban environment comprising roads and urban buildings and that ambient background noise levels were high. The ExA observed noise from several LLA flights overhead which were considered to dominate over other noise sources. However, the ExA considers that the noise environment did not contribute to the heritage significance of the asset or affect the ability to appreciate the heritage significance of the asset as identified by the Applicant. As such, the ExA agrees with the findings in [\[AS-077\]](#) and concludes that the Proposed Development would result in no harm to the heritage significance of this asset and its setting would be preserved.

Other SMs in the study area

- 3.14.103. The Applicant identified a number of other SMs within the study area [\[APP-072\]](#), pages 57 and 58]. The Applicant scoped these assets out of the ES on the grounds that the Proposed Development did not contribute to the setting of the assets and no impacts were anticipated to arise from the Proposed Development. No disagreement was raised by IPs on this conclusion.
- 3.14.104. Noting the location of these assets and their heritage significance, the ExA has no reason to disagree with the Applicant's findings and accepts that there would be no harm to the heritage significance of these assets and that their settings would be preserved.

Registered Park and Gardens (RPGs)

- 3.14.105. Whilst there are several RPGs that would potentially be affected by the Proposed Development the Examination focused on Luton Hoo RPG and St Pauls Walden Bury RPG.

Luton Hoo RPG (Grade II* listed, NHLE 1000578)

- 3.14.106. The RPG is a large 18th Century landscaped park located approximately 200m southwest of the Main Application Site. A description of the RPG's heritage significance was contained in [\[AS-077\]](#), paragraphs 10.9.32 to 10.9.36] and [\[APP-072\]](#), paragraph 5.1.9 to 5.1.19]. HE also provided details in [\[REP1-070\]](#), paragraphs 2.2 to 2.8].
- 3.14.107. The Applicant [\[AS-077\]](#) anticipated minor adverse (not significant) effects through construction. In Phases 2a and 2b these would be associated with the construction of Car Park P1 (Work No. 4g), hangers A and B (Work No. 4b), and construction equipment that would be visible in outward views from the RPG.
- 3.14.108. During operation the Applicant anticipated [\[AS-077\]](#) a minor adverse effect in Phase 2a increasing to moderate adverse (significant) in Phase 2b due to a predicted

increase in noise from the future baseline for the majority of the park. The Applicant considered [AS-077, paragraph 10.9.82] that the increased frequency of aviation noise would slightly affect the ability to appreciate the aesthetic appreciation of the park and the ability to appreciate its rural setting and designed views. As a result, the Applicant concluded [APP-198] that there would be a less than substantial harm to the heritage significance of the RPG as a consequence of the increase in noise.

- 3.14.109. HE [REP1-070] noted that the Proposed Development would introduce additional bulky and tall structures within the wider setting of the RPG, noting Representative VPs 18 and 19 [REP10-015] which illustrated buildings visible above the skyline. HE considered that the presence of new structures would negatively affect the way the parkland would be experienced and enjoyed. HE noted that the RPG had already been substantially compromised by LLA and considered it regrettable that the existing negative effect on the visual experience would be further compounded. HE concluded that there would be harm to the RPG but agreed this would be less than substantial.
- 3.14.110. CBC's LIR [REP1A-002, paragraph 5.4.31] noted the findings in [AS-077] but considered that the level of harm had been downplayed and the increase in air traffic would erode the tranquillity in and around the RPG. CBC considered that the Proposed Development would erode the visual quality and contribution of outward views within the parkland. It noted the assessment of 'less than substantial' harm although considered it was unclear from the Planning Statement [REP11-009] and Heritage Statement [APP-198] how the necessary test in national and local policy has been undertaken.
- 3.14.111. CBC maintained concerns throughout the Examination regarding the visual impact of proposed built structures and lighting on the landscape, particularly from the FTG (Work No. 2d) and Car Park P1 (Work No. 4g). The matter was examined at ISH6 [EV11-001] and ISH8 [EV15-001] where CBC explained the characteristics of Capability Brown's landscape and that, in their opinion, the historic landscape went beyond the RPG boundary. CBC considered that the landscape had a historic openness which any screen planning, such as to the FTG, would compromise. CBC's final PADSS [REP8-053] maintained concerns regarding the location and large scale of the FTG including from lighting and the visibility of Car Park P1 from vantage points within the RPG.
- 3.14.112. The Applicant recognised [REP9-057] that the presence of the car park would introduce new components into the visual setting of the RPG, but advocated that it would not be prominent in views from it. In respect of the FTG, the Applicant explained [EV15-001] that alternative locations had been explored and that its design was yet to be finalised. The Applicant also considered [REP9-057] that lighting from the FTG would face away from Luton Hoo RPG into the Main Application Site and would not give rise to the same light intensity as LLAs existing South Apron floodlighting. At the close of Examination, the visual impact of the FTG to Luton Hoo RPG remained an area of disagreement [REP11-035, ID Ref CBC150 and CBC155],
- 3.14.113. Noting the Applicant's comments in [REP5-018, page 218] the ExA asked the Applicant [PD-015, PED.2.13] to clarify how the proposal was policy compliant and the clear and convincing justification that existed (NPPF, paragraph 206). In response [REP7-052], the Applicant accepted that there would be less than substantial harm although considered that the clear and convincing justification for the harm would be outweighed by the benefits of the Proposed Development as stated in the Need Case [AS-125].

ExA conclusions on Luton Hoo RPG

- 3.14.114. The ExA observed [\[EV1-019\]](#) and [\[EV1-022\]](#) that from Luton Hoo RPG, the visibility of existing buildings and structures within LLA was limited. The ExA therefore agrees with the concerns raised by CBC and HE that the construction of further built form visible from the RPG would result in a negative effect on the visual experience from the park. There was no disagreement between IPs that this would result in harm to the heritage significance of the RPG albeit that the harm would be less than substantial. Based on the information the ExA has read and heard and during its observations during the site inspections, the ExA agrees with this conclusion.

St. Pauls Walden Bury RPG (Grade I listed NHLE 1000150)

- 3.14.115. [\[AS-077\]](#), paragraph 10.4.41] states the RPG is located approximately 4km to the east of the Main Application Site and comprises largely unaltered formal gardens and wooded pleasure grounds surrounding an early 18th Century Grade II* listed country house with associated landscape parkland. Further description of the character and setting of the RPG is contained in [\[AS-077\]](#), paragraph 10.9.86] and [\[APP-072\]](#), paragraph 5.1.50], which noted the rural setting of the park and that designed views extending from the park contributed to its setting.
- 3.14.116. [\[AS-077\]](#), paragraph 10.9.86] described the noise environment of the RPG as follows:
- 3.14.117. *“The noise environment is different in different parts of the park. The majority of the park, and particularly those areas occupied by woodland, are relatively quiet with very little noise intrusion from activities external to the park. The noise environment changes in the southern part of the park where the farm buildings are part of a working farm. Aviation noise from overhead aircraft approaching the airport is part of the asset’s noise environment but the noise does not intrude to such an extent as to detract from the asset’s rural character”.*
- 3.14.118. [\[AS-077\]](#) predicted an increase in noise during operation in Phases 2a and 2b but it considered this would result in a negligible change to the park’s noise environment and would not affect its setting or impact its heritage value. This was assessed by the Applicant as having no significant impact or effect.
- 3.14.119. The issue of potential impacts on St Paul’s Walden Bury RPG was raised in [\[RR-1414\]](#) and [\[REP1-142\]](#), which considered that the Proposed Development would have a damaging effect on the RPG. Oral submissions were also made during OFH1 [\[EV2-001\]](#) and OFH2 [\[EV3-001\]](#). The ExA then examined the matter at ISH6 [\[EV11-001\]](#).
- 3.14.120. In [\[REP3-089\]](#), the HHA commented that HE’s Good Practice Advice in Planning Note 3 stated that consideration needed to be given to whether additional change would further detract from, or could enhance, the significance of a HA. In their final PADSS at D8 [\[REP8-056\]](#), the HHA questioned the overall assessment that St Paul’s Walden Bury would experience a negligible change to the park’s noise environment and the Applicant’s assessment of an imperceptible change to the park’s setting resulting in no harm to its heritage significance. The HHA considered that the issue of quietness and overall assessment of effect in relation to the setting of the RPG from aircraft noise needed to be re-assessed.
- 3.14.121. In ExQ1 [\[PD-010\]](#), PED.1.12], the ExA noted a change to noise contours during Phase 2b at this asset [\[APP-150\]](#), Figure 10.8]. The Applicant [\[REP4-062\]](#) acknowledged that the change in noise varied across the park. However, it

considered that the existing noise environment within the park was not a quiet experience and did not rely solely on quietness for an appreciation of its heritage interests. Even accounting for an increase of between 2dB and 2.99dB [APP-150, Figure 10.8], the Applicant considered this would result in a negligible change to the RPG's noise environment and would not affect its setting or impact its heritage value. The assessment of effects therefore remained the same as reported in the ES despite the increase in noise levels.

3.14.122. In [PD-019], the ExA asked the Applicant how the increased frequency of flights had informed the assessment of LSEs from both aural and visual intrusion at this asset. In response [REP8-040], the Applicant stated that the change in noise levels was assessed as negligible and focussed on an area of the park already subject to noise from a working farm. The Applicant confirmed that no specific analysis of aural intrusion from the frequency of flights had been undertaken. The Applicant acknowledged that there would be an increase in overflights which might be visible from the asset. This had been considered in the assessment of operational effects but was not considered to affect the significance of the asset. A conclusion of no harm had been reached on that basis.

3.14.123. At the close of Examination, disagreement remained between HCC, NHDC and the Applicant [REP11-095, HCC129] and [REP11-097, NHDC126]. The HHA maintained their position as set out in their final PADSS [REP8-056]. The Applicant's position in the SoCGs was that the methodology that it had used was in line with current guidance, best practice and agreed with statutory consultees and it had considered the increased frequency of aviation noise to all heritage assets where a potential impact as a result of noise had been identified. No objections were raised by HE in respect of the assessment findings on this asset.

ExA conclusions

3.14.124. The ExA visited the site [EV1-016] and observed the character, appearance and setting of the park and the extent of noise audible from overflying aircraft. The ExA largely agrees with the Applicant's description of the character and setting of the RPG. However, the ExA considers that the rural tranquil setting of the RPG is an important component in appreciating the heritage significance of the asset, the individual DHA located within it and contributes to its heritage significance.

3.14.125. The ExA notes the Applicant's comments in [REP8-040] that no specific analysis of aural intrusion from the frequency of flights had been undertaken. Given this is a Grade I listed RPG and the importance given to this in national legislation, the ExA considers that this asset would have benefited from more detailed qualitative analysis as explained in the methodology section above and also promoted by the HHA. In the absence of this, the ExA considers that the impact of increased aural intrusion over the northern part of the RPG from the increased frequency of flights, and the extent to whether this could further erode its tranquil character, has not been fully considered or recognised in the Applicant's assessment.

3.14.126. [AS-077, Paragraph 10.9.86] stated "*Aviation noise from overhead aircraft approaching the airport is part of the asset's noise environment but the noise does not intrude to such an extent as to detract from the asset's rural character*". During the site inspection of this asset [EV1-016] the ExA observed the sound of overflying aircraft and considered the noise in the northern part of the RPG to be intrusive in what is a relatively quiet and tranquil rural setting.

- 3.14.127. Based on the information in [\[REP4-037\]](#), Figures 14.14-14.17] this asset could experience a significant increase in the number of overflights. The ExA considers the extent of increase as shown in [\[REP4-037\]](#), Figures 14.14-14.17] would further erode the rural character and tranquil setting that the RPG experiences and would further disrupt the appreciation of the asset.
- 3.14.128. Overall, the ExA disagrees with the Applicant's assessment that there would be negligible change to the RPG's noise environment. The ExA considers that the increased frequency of overflights would further detract from the tranquil and peaceful character of the park and the ability to appreciate the heritage assets located within it which all contribute towards its heritage significance. The ExA considers therefore that the proposed development would result in harm to the heritage significance of this asset, albeit that harm would be less than substantial.

Other RPGs

- 3.14.129. The HHA [\[REP3-089\]](#) initially considered that effects to the Knebworth Grade II* RPG (NHLE 1000255) should have been further considered in the assessment. This matter was not progressed throughout the Examination and did not explicitly feature in the outstanding areas of disagreement. The ExA visited the site [\[EV1-007\]](#) and observed intermittent aircraft noise originating from LLA and distant traffic noise was audible. Noting the distance of the Knebworth Grade II* RPG from the flightpath and based on its observations on site, the ExA considers [\[APP-072\]](#), paragraph 5.1.52] that it was appropriate to scope this asset out of the assessment and is satisfied that there would be no harm to its heritage significance.
- 3.14.130. No concerns were raised by IPs in respect of the other RPGs listed in [\[APP-072\]](#). Noting the location of these assets in relation to the airport and the flightpaths, the ExA has no reason to disagree with scoping the assets out of the assessment or the findings of no effect to Putteridge Bury Grade II RPG (NHLE 1000917).

Non-Designated Assets

- 3.14.131. [\[APP-072\]](#), paragraph 4.2.23] advised that there are 108 NDHA located within the 1km study area and 25 NDHA located within the Order Limits. Further detail on those assets was contained in [\[APP-072\]](#), Section 5.2] including other NDHA which were scoped out of the assessment. No disagreement was raised by IPs in respect of this.
- 3.14.132. There were two NDHA which were considered in more detail throughout the Examination, a Late Iron Age Roman Settlement (HER 10808) on land to the east of Wigmore Park falling within LBCs area and the site of a possible Roman building (HER 7358) located within NHDC.
- 3.14.133. In respect of HER 10808, [\[AS-077\]](#) considered that there would be a moderate adverse (significant) effect on this asset during construction in Phase 1. The Applicant initially proposed to retain the asset in situ. However, LBC [\[REP2-020\]](#), LBC149] advised that excavation would be the preferred method due to the limited survival of archaeological remains and the limited reality of them being preserved successfully during construction.
- 3.14.134. The ExA was satisfied with LBC's response [\[REP7-090\]](#) to its questions [\[PD-015\]](#), PED.2.8] regarding the findings of the assessment, justification for the loss against relevant planning policies and whether the asset was demonstrably of equivalent significance to a SM. As a result, the ExA is satisfied that the loss of this asset would not need to be assessed against policies in the NPPF which apply for DHA.

3.14.135. In respect of the site of a possible Roman building (HER 7358), HCC initially considered that it had not been sufficiently assessed whether the building was present within the Main Application Site or not and the potential adverse environmental effect was unreported [REP2-022, HCC123]. [AS-077, paragraph 10.9.56] stated that [REP4-022] found no evidence of activity relating to the possible site of the asset and consequently no LSEs. Following updates to the CHMP [REP8-015] which inserted paragraph 10.1.4, the HHA confirmed in their SoCG with the Applicant [REP11-095, SOCG ID HCC123] and [REP11-097, SoCG ID NHDC120] that they were satisfied their initial concerns had been resolved.

3.14.136. There were no outstanding concerns regarding the assessment on NDHA at the close of the Examination.

ExAs conclusion on NDHA

3.14.137. The Proposed Development would result in the loss of HER 10808. LLP Policy LLP30B has a presumption in favour of the retention of heritage assets and supports development proposals that conserve HAs. LLP Policy LLP30C requires clear and convincing justification for any harm or loss to a HA.

3.14.138. In response to [PD-015, PED.2.8], LBC set out a detailed justification for seeking the removal of the asset [REP7-090] in addition to confirming that it was not demonstrably the equivalent of a SM (and therefore subject to policies relating to DHA). LBC explained that field evaluation [REP4-019] had revealed the asset had already suffered a high degree of truncation. LBC also explained [REP7-090] that the remains lie at a depth of approximately 0.22m below the ground and would be vulnerable to any increased activity (such as metal detecting) if they were retained in situ.

3.14.139. Based on LBC's response [REP7-090], the ExA is satisfied that clear and convincing justification has been provided for the loss of HER 10808. The CHMP [REP8-015] contains a detailed scope of works for archaeological excavation and a programme of recording, which would be in accordance with LLP Policy LLP30 parts E and F. Overall, the ExA attributes a little weight against the making of the Order in respect of the loss of HER 10808.

Approach to Mitigation

CHMP

3.14.140. The CHMP [REP8-015] sets out a number of mitigation measures such as additional trial trench evaluation, detailed archaeological excavation for the Roman Building (HER 10808), archaeological monitoring during construction and protocols for dealing with unexpected archaeological discoveries. A methodology for preparing Site Specific Written Schemes of Investigation is set out in Section 4.

3.14.141. With the exception of air quality monitoring at Someries Castle, the JHA [REP4-116], [REP4-126] and [REP4-187] were satisfied with the measures in the CHMP. LBC [REP4-187] suggested alternative wording to paragraph 10.1.3 and to clarify the role of the local authority in monitoring the work of the Archaeological Clerk of Works. The Applicant agreed to these changes in D5 [REP5-052].

3.14.142. Air quality monitoring at Someries Castle was a concern raised by CBC [REP1A-002]. The ExA asked questions at ISH6 [EV11-001] on the monitoring proposed in the CHMP. CBC welcomed this in principle but considered that the Applicant's submissions did not cover what mitigation could be used if future

monitoring results showed airborne pollutants causing further brick fabric decay. It acknowledged that positive steps had been taken forward by the Applicant but felt that further work was required.

- 3.14.143. In [\[EV15-003\]](#), question 18] the ExA asked about mitigation measures. The Applicant [\[REP7-048\]](#) referred to the findings of no significant effects in [\[AS-076\]](#) and highlighted that the CHMP had been updated at D4 [\[REP4-020\]](#) to include a methodology for air quality monitoring at Someries Castle. The Applicant further advised that any measures would be dependent on the results of air quality monitoring, whether effects could be attributed to the Proposed Development and subject to further discussions to ensure no further damage or loss of historic fabric. The signed SoCG between CBC and the Applicant confirmed that the updated CHMP had included the requested information sought by CBC [\[REP11-035\]](#), SoCG ID CBC143].
- 3.14.144. At the close of the Examination, there were no outstanding matters in respect of the measures contained in the CHMP. The measures in the CHMP [\[REP8-015\]](#) would be secured by the draft DCO [\[REP11-091\]](#), Requirement 16].

Financial Contribution at Luton Hoo RPG

- 3.14.145. HE [\[REP1-070\]](#), paragraph 2.19] sought mitigation in the form of financial contributions towards the conservation management of Luton Hoo Estate to be secured through a s106 agreement. However, the Applicant did not consider there was sufficient justification to enter into an agreement [\[REP2-035\]](#), page 36].
- 3.14.146. In ExQ1 [\[PD-010\]](#), PED.1.13], the ExA asked HE to explain what conservation management measures any contribution would be put towards; an indicative costing for the suggested measures; the extent that they would mitigate the harm caused and the policy justification for requesting them. HE [\[REP4-173\]](#) noted the harm to the significance of the house, park and garden identified by the Applicant and considered, in the absence of any mitigation measures being proposed, that it would be appropriate to seek to address this in accordance with established mitigation hierarchy practice. HE also recommended that the residual impact might instead be offset by way of some other mechanism, such as compensation through a financial contribution towards the costs of conservation management of Luton Hoo Estate, such as through general conservation management and reinstatement of missing features. HE considered it was for the Applicant to identify this with any costing agreed with the LPA.
- 3.14.147. The Applicant [\[REP5-052\]](#) maintained that there was insufficient justification for a contribution. In response to the ExA's request [\[EV15-003\]](#), question 14 to expand on their reasons in [\[REP7-048\]](#), the Applicant explained that there was no feasible solution which could mitigate noise impacts within a park setting and it considered that a financial contribution would not mitigate the identified impact and the identified harm would remain.
- 3.14.148. The ExA [\[EV15-003\]](#), question 15] asked CBC whether any negotiations had taken place with the Applicant on seeking a financial contribution towards Luton Hoo RPG and whether this would be a suitable form of mitigation. CBC advised in [\[REP6-090\]](#) that it had noted HE's suggestion but had not held discussions. It was unclear to CBC how financial contributions would be administered and, given the private ownership of Luton Hoo, it was unclear how any benefits that might be derived from financial contributions would be practically secured and delivered. CBC further advised that mitigation measures should address specific issues where impact and

harm could be actively reduced and financial contributions to offset measures would not constitute mitigation.

- 3.14.149. The ExA asked HE [\[PD-015, PED.2.15\]](#) for a response to CBC's comments that financial contributions would not constitute mitigation. HE [\[REP7-092\]](#) maintained their previous position that financial contributions might instead be an appropriate means of offsetting the impact. At the close of Examination, this matter remained an area of disagreement between the Applicant and HE [\[REP9-034, SoCG ID 3.1.14\]](#).

Mitigation of buildings

- 3.14.150. HE [\[REP1-070, paragraph 2.17\]](#) suggested that visual effects of the proposed new buildings and structures and the impact that they have in terms of setting to Luton Hoo RPG and Someries Castle SM might be mitigated to some extent through the choice of materials, colour palette and finishes used on the elevations and roofs.
- 3.14.151. The DP [\[REP9-030\]](#) were updated throughout the Examination. In [\[REP6-091\]](#), CBC welcomed that the revised DP at D5 [\[REP5-034\]](#) had incorporated comments made by them at D4 and included reference to Luton Hoo RPG and Someries Castle SM and the recognition for careful consideration of material finishes.
- 3.14.152. There were no areas of disagreement on this matter in the final SoCG between the Applicant and HE [\[REP9-034\]](#). However, there was disagreement in the SoCG between the CBC and the Applicant [\[REP11-035, ID ref CBC150\]](#) as to how an appropriate palette of materials and finishes could adequately be secured to fully address its concerns regarding visual impact.
- 3.14.153. Except for HE seeking a contribution for Luton Hoo RPG and CBCs concerns regarding securing design mitigation on buildings which have been addressed above, there were no outstanding issues at the close of Examination in respect of mitigation.

ExA conclusions on mitigation

- 3.14.154. The ExA concludes that in the absence of more information explaining the level of contribution required, how any contribution would be used to mitigate harm from the Proposed Development and a policy for justifying a contribution it has not been sufficiently demonstrated how a financial contribution towards Luton Hoo RPG would fairly and reasonably be related in scale and kind to the development and would meet the tests for attaching planning obligations as set out in the NPPF (paragraph 57).
- 3.14.155. The ExA is satisfied that the DP [\[REP9-030, principles DQ.08, ASF.24 and ASF.25\]](#) adequately incorporated the measures requested by HE. In response to CBCs concerns, design in accordance with the DP would be secured by the draft DCO [\[REP11-091, Requirement 6\]](#). Furthermore, CBC would have the opportunity to provide comments as part of that process [\[REP11-091, Requirement 37\]](#).

CONCLUSIONS ON HERITAGE

- 3.14.156. As required by Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, the ExA has had regard to the desirability of preserving DHA, including listed buildings and their settings, the character or appearance of Conservation Areas and SM or their settings.

- 3.14.157. The ExA considers that the Applicant has largely provided a detailed assessment of the LSEs on DHA arising during both the construction and operational phases of the Proposed Development. The ExA has largely agreed with the findings of LSEs and that less than substantial harm would occur to the following assets:
- Someries Castle SM;
 - Plaiters Lea Conservation Area;
 - High Town Conservation Area;
 - Luton Town Centre Conservation Area;
 - Luton South Conservation Area;
 - Parish Church of St Mary, Luton (Grade I LB);
 - The Old Homestead (Grade II* LB);
 - Wigmore Hall Farmhouse (Grade II LB); and
 - The following individual assets predicted to experience moderate adverse significant effects - Luton Hoo RPG: Luton Hoo House (Grade I LB); Garden house and retaining walls to terraced gardens (Grade I LB); Boathouse (Grade II LB); Warren Hill Lodges (Grade II LB); The Lodge (Grade II LB); Bridge West of Warren Hill Lodges (Grade II LB); and Luton Hoo (Hyde) Conservation Area.
- 3.14.158. In addition to the above, the ExA also considers that the following assets would also experience less than substantial harm to their heritage significance:
- St Paul's Walden Bury RPG (Grade I listed);
 - Bendish Conservation Area; and
 - Breachwood Green Baptist Church (Grade II listed).
- 3.14.159. In accordance with the ANPS paragraph 5.200 and NPPF paragraph 205, great weight should be given to any HA's conservation when considering the impact of a proposed development on the significance of a DHA 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.
- 3.14.160. Paragraph 5.205 of the ANPS and NPPF paragraph 208 both state where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Paragraph 5.203 of the ANPS requires any harmful impact on the significance of a designated heritage asset to be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset, the greater the justification that will be needed for any loss.
- 3.14.161. The development plans for LBC (LLP Policy LLP30), CBC (CBLP policies HE1, HE2 and HE3) and NHDC (NHLP Policy HE1) also reflect this.
- 3.14.162. In accordance with the ANPS, NPPF and the relevant development plan policies, where there is harm the SoS must give that harm considerable importance and weight and any harm should require clear and convincing justification. The ExA considers that the less than substantial harm identified to heritage assets, due to a number of the assets being assets of the highest significance, attracts great weight against the making of the Order.
- 3.14.163. However, the harm must be weighed against any public benefits that the Proposed Development would deliver, which is undertaken which is undertaken in Chapter 5 of this Report.

3.15. LANDSCAPE AND VISUAL

INTRODUCTION

3.15.1. This section considers the landscape and visual effects that would arise from the Proposed Development. Landscape and visual impacts were identified by the ExA in its IAPI [[PD-007](#), Annex C].

3.15.2. Although impacts on the Chilterns NL was considered in the Applicant's LVIA, impacts on the NL and its special qualities are considered in Section 3.8 of this Report. The approach to primary design mitigation measures is considered in Section 3.10 of this Report.

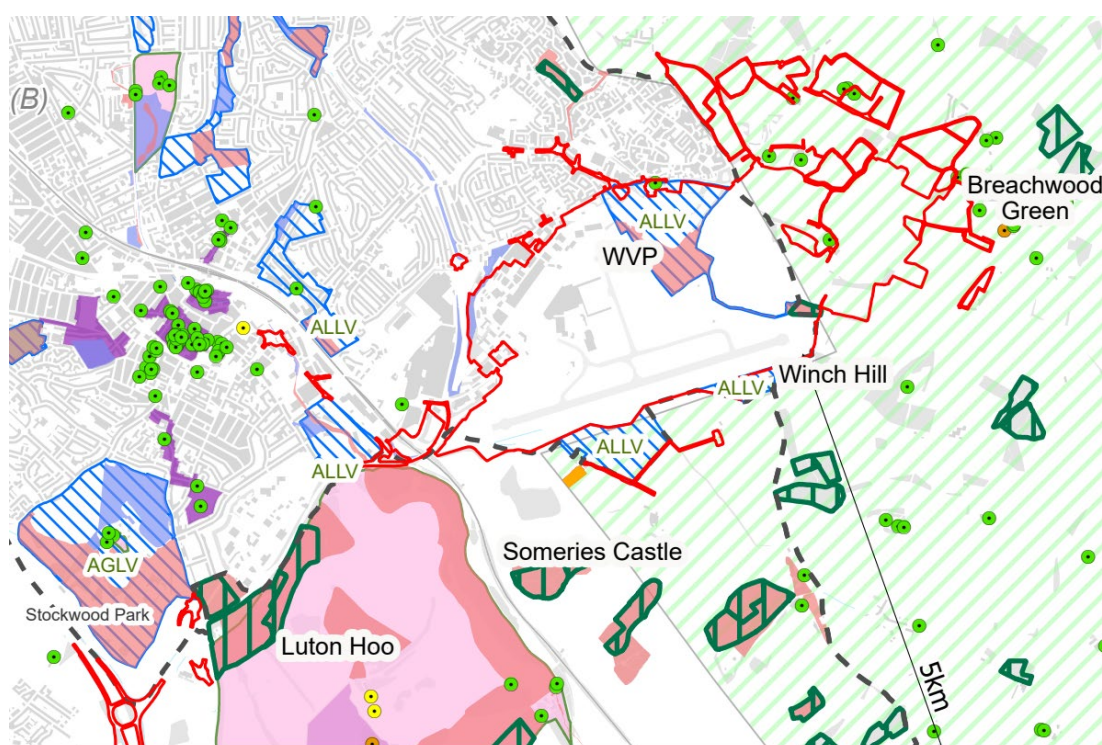
Landscape Designations

3.15.3. The Main Application Site is not situated within a NL designation. However, the Chilterns NL is situated approximately 5 km to the west of LLA and 3km to the north at its closest points.

3.15.4. Three Areas of Local Landscape Value (ALLV) are situated within and adjacent to the Order Limits:

- Wigmore Rural ALLV located within the northern part of the Order Limits;
- Someries Farm & Dane Street Farm ALLV adjoining the southern boundary of the Order Limits; and
- Lower Lea Valley ALLV located to the west of the Order Limits north of Luton Hoo.

Figure 18: Map showing location of local landscape designations (from Figure 14.7, [[REP4-037](#)])



- 3.15.5. Stockwood Park is an Area of Great Landscape Value (AGLV) located approximately 2km to the west of LLA, where the central part is situated under the flight path for easterly arrivals.
- 3.15.6. The location of these designations and other landscape designations are illustrated in Figure 18 above.

POLICY BACKGROUND

- 3.15.7. A brief overview of key policies is provided below; a list of relevant policies and legislation can be found in Appendix B.
- 3.15.8. The ANPS (paragraph 5.213) states that landscape and visual effects also include tranquillity effects, which would affect people's enjoyment of the natural environment and recreational facilities. Paragraph 5.218 states that having regard to siting, operational and other relevant constraints, development should aim to avoid or minimise harm to the landscape, providing reasonable mitigation where possible and appropriate. Paragraph 5.223 recognises that there are local landscapes and townscapes that are highly valued locally and may be protected by local designation although these should not be used in themselves as reasons to refuse consent.
- 3.15.9. The ANPS (paragraph 5.224) states that the SoS will consider whether the scheme has been designed carefully, taking account of environmental effects on the landscape and siting, operational and other relevant constraints, to avoid adverse effects on landscape or to minimise harm to the landscape, including by reasonable mitigation.
- 3.15.10. In respect of visual effects, the ANPS (paragraph 5.225) states the SoS will judge whether the visual effects on sensitive receptors, such as local residents, and other receptors, such as visitors to the local area, outweigh the benefits of the development.
- 3.15.11. The NPPF (paragraph 180) states that decisions should contribute and enhance the natural and local environment by protecting and enhancing valued landscapes, recognising the intrinsic character and beauty of the countryside. Paragraph 191 states that decisions should also ensure that new development is appropriate for its location, taking into account the likely effects of pollution on the natural environment. Decisions should identify and protect tranquil areas and limit the impact of light pollution from artificial light on local amenity and intrinsically dark landscapes.
- 3.15.12. The NPPF (paragraph 135) requires that decisions should ensure that developments, amongst other things, add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate landscaping; and are sympathetic to the surrounding built environment and landscape setting.
- 3.15.13. The LLP Policy LLP29 (part A) supports development proposals where they protect, conserve, or enhance the character, setting, and natural beauty of national and local landscape areas. Part B requires planning applications to protect or enhance and add to the designated PRoW network. Policy LLP25 seeks to achieve high quality design where, amongst other matters, development proposals should provide GI and measures to protect, conserve, or enhance natural assets.

- 3.15.14. LLP Policy LLP6F criterion (i) requires development proposals for the LLA Strategic Allocation to provide appropriate strategic landscaping on and off-site having regard to the potential for significant visual prominence of built development at Century Park. Criterion (ii) requires the height and design of buildings to reflect the site's rural fringe setting, its high visibility from surrounding countryside and its proximity to LLA.
- 3.15.15. The CBLP, NHLP and DBCS are also relevant due to proposed works either being situated within or affecting them. These policies generally require development to have regard to key characteristics and sensitivities of the site and its setting, not to cause unacceptable harm to the character and appearance of the surrounding area or landscape character and incorporate any mitigation.
- 3.15.16. Supporting the development plan policies are local landscape character assessments including:
- East of England Landscape Typology;
 - CBC Landscape Character Assessment (2015);
 - Luton Borough Landscape Character Assessment (2014); and
 - North Hertfordshire Landscape Study (2011).

THE APPLICATION

- 3.15.17. The Applicant's LVIA was presented in ES Chapter 14 [\[AS-079\]](#) which was supported by appendices including the LVIA Methodology [\[AS-036\]](#); Detailed Landscape Impact Assessment [\[AS-086\]](#) and Detailed Visual Impact Assessment [\[AS-139\]](#). Figures were presented in [\[REP4-037\]](#). A Residential Visual Amenity Assessment was contained in ES Appendix 14.8 [\[APP-106\]](#).
- 3.15.18. Visualisations from a total of 61 VPs were contained in [\[AS-088\]](#) to [\[AS-094\]](#) and [\[AS-140\]](#) referred to as Assessment VPs (AVPs). Several of the VPs were taken forward as AVRs [\[REP10-013\]](#) to [\[REP10-018\]](#) which contained a combination of block forms and wirelines illustrating the maximum parameters of proposed works. The VP locations were illustrated in [\[REP4-037\]](#), Figure 14.8].

Methodology

- 3.15.19. Details of the LVIA methodology were set out in [\[AS-079\]](#), section 14.5] and [\[AS-036\]](#) which follows the principles and approaches set out in GLVIA3 and comments received from an LVIA Working Group [\[AS-079\]](#), section 14.4].
- 3.15.20. The LVIA adopted a Rochdale Envelope approach, representing a worst case based on the largest possible dimensions for the Proposed Development. The maximum dimensions were listed in the draft DCO [\[REP11-091\]](#), Requirement 7]. Further information on the Rochdale Envelope approach was contained in [\[AS-075\]](#), Section 5.4].

Baseline

- 3.15.21. Details of the landscape baseline conditions were set out in [\[AS-079\]](#), Sections 14.5 and 14.7] and [\[AS-036\]](#), Section 5.2], which also included consideration of tranquillity. Part of this process included reviewed the LCAs situated within and surrounding the Order Limits. These were illustrated in [\[REP4-037\]](#), Figure 14.3] and supplemented with descriptions of the existing landscape elements which contributed to landscape character, land use and other characteristic elements of the existing local landscape.

Landscape Effects

- 3.15.22. A detailed assessment of landscape effects on 24 receptors during the construction and operational phases, as well as residual effects following additional mitigation measures, was contained in [\[AS-086\]](#).
- 3.15.23. In summary, the Applicant considered that the removal of elements of the existing landscape and proposed alterations to landform would be likely to result in significant adverse effects on several landscape receptors during construction. The Planning Statement [\[REP11-009\]](#), paragraph 8.9.11], provided a summary of the findings in [\[AS-079\]](#) and [\[AS-086\]](#) stating that there would be a residual significant adverse effect on the following landscape receptors:
- the landform east of LLA;
 - on the townscape of Hitchin (largely due to loss of trees for highway interventions);
 - on several landscape character areas, including:
 - Luton Borough LCA 13 – Wigmore Rural; and
 - Hertfordshire LCA 200 – Peters Green Plateau; and
 - the aesthetic and perceptual characteristics of the landscape within the Chilterns NL due to the increase in aircraft movements, which is considered further within the Chilterns NL section of this Report (Section 3.8).
- 3.15.24. The Planning Statement [\[REP11-009\]](#), paragraph 8.9.12] considered that the mitigation measures delivered by the Proposed Development would result in a significant beneficial effect on the network of PROWs east of Luton.

Visual Effects

- 3.15.25. A total of 48 visual receptors were considered potentially sensitive to change from the Proposed Development during construction and/ or operation [\[AS-079\]](#), paragraph 14.9.25]. Further detail showing the location of these receptors was produced in [\[REP4-091\]](#). A detailed assessment of the visual effects at each of those receptors and a summary table was contained in [\[AS-139\]](#) which included an assessment of effects at each of the same stages as assessed for landscape effects.
- 3.15.26. [\[REP4-037\]](#), Figures 14.2 and 14.8] set out a Zone of Theoretical Visibility for the Proposed Development within a study area of 5km.
- 3.15.27. The Planning Statement [\[REP11-009\]](#), paragraph 8.9.14] provided a summary of the findings in [\[AS-079\]](#) and [\[AS-139\]](#) and concluded that the Proposed Development would result in people experiencing a significant adverse effect to their visual amenity during both the construction and operational periods when visiting:
- WVP;
 - Wigmore Hall;
 - Raynham Way Recreation Ground and Community Centre;
 - the car park east of Vauxhall Way;
 - the area of greenspace next to Polzeath Close;
 - South Wigmore;
 - Darleyhall;
 - Breachwood Green, The Heath and Lye Hill;
 - Tea Green;
 - using the Chiltern Way Cycle Route;
 - the Lea Valley Cycle Route near Park Street;

- when moving along Darley Road;
- Eaton Green Road;
- Winch Hill Road;
- Kimpton Road and Airport Way;
- New Airport Way;
- Half Moon Lane; and
- several nearby PRoW, including to the east of LLA, to the west of M1 J10 and users of the Chiltern Way long distance FP.

3.15.28. Following construction and additional mitigation, [\[REP11-009\]](#), paragraphs 8.9.15 and 8.9.16] stated that significant residual adverse visual effects would remain at the following receptors:

- WVP;
- Raynham Way Recreation Ground and Community Centre;
- Breachwood Green;
- The Heath and Lye Hill;
- Darleyhall;
- Users of the Chiltern Way Cycle Route;
- Users of the Lea Valley Cycle Route near Park Street;
- Commuters moving along Darley Road; and
- PRoW users moving along several nearby PRoW, including to the east of LLA and users of the Chiltern Way long distance FP.

CUMULATIVE EFFECTS

3.15.29. ES Chapter 21 [\[REP10-011\]](#) provided an assessment of in-combination and cumulative effects with other consented and proposed developments at each of the receptors included in the LVIA [\[AS-079\]](#), Table 21.10]. This identified no changes to the LVIA conclusions on significant effects.

Lighting

3.15.30. The application was accompanied by a light obtrusion assessment (LOA) [\[APP-052\]](#) and [\[APP-053\]](#), undertaken in accordance with guidance from the Institute of Lighting Professionals (ILP). The LOA considered that all recognised high sensitivity receptors [\[APP-052\]](#) Table 8.3] would meet ILP guidance in respect of source intensity, sky glow and light intrusion. Four VPs (VP13, VP15, VP16 and VP36) would not meet ILP Guidance for reasons explained in [\[APP-052\]](#), paragraph 8.2.4a]. Due to the very low magnitude of effect assessed at these VPs, when combined with a medium sensitivity the predicted effects in the Applicant's LOA were considered negligible. The predicted effects for all the VPs were assessed to be negligible and not significant.

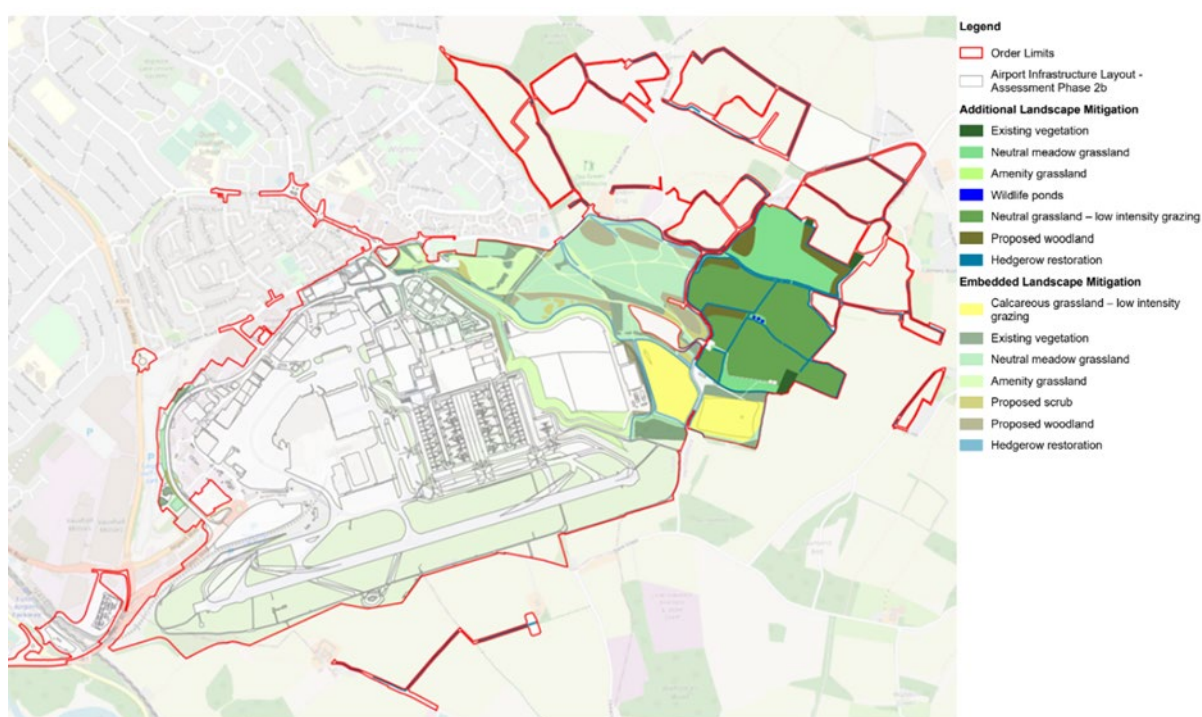
Mitigation Measures

3.15.31. The proposed embedded and good practice mitigation measures were described in [\[AS-079\]](#), Section 14.8]. These included measures within the final design to avoid impacting on features such as ancient woodland at Winch Hill Wood and to retain woodland plantation, hedgerows and archaeological assets. It also included the provision of replacement open space (Work No. 5b) for WVP. The embedded mitigation was illustrated in [\[REP4-037\]](#), Figure 14.9].

3.15.32. Other mitigation and good practice measures were described in [\[AS-079\]](#), paragraphs 14.8.8 to 14.8.19].

- 3.15.33. Following the assessment of significant effects, additional mitigation measures were identified to reduce or mitigate LSE [AS-079, paragraph 14.10.2] and [AS-079, Figures 14.10 to 14.13]. These primarily consisted of new hedgerow planting or restoration of existing hedgerows along PRowWs, the creation of a new wildlife pond, broadleaved woodland, new meadow and pastoral grassland and upgrading bridleway Kings Walden 052 to a multi-user track. The proposed measures are shown in Figure 19 below.

Figure 19: Additional landscape mitigation [AS-049, Figure 14.10]



Summary of Applicant's case

- 3.15.34. The Applicant acknowledged [REP11-009] that the Proposed Development was expected to have a range of both adverse and beneficial landscape and visual impacts. The Applicant considered [REP11-009, paragraph 8.9.27] that the Proposed Development had been designed carefully, aimed to avoid or minimise harm to the landscape and provided reasonable mitigation where possible and appropriate, in accordance with policy.
- 3.15.35. The Applicant recognised [REP11-009, paragraph 8.9.30] that residual adverse impacts required to be weighed in the planning balance against beneficial effects and considered that landscape and visual impacts should be accorded limited negative weight in the planning balance.

ISSUES CONSIDERED

Issues raised in RR, WR and LIR

- 3.15.36. Approximately 100 RRs referred to the potential negative effects on landscape and visual impacts. In addition to impacts on the Chilterns NL, the main concerns raised in RRs and WRs included:

- Loss of and harm to open landscape/ countryside as a result of built development and earthworks eg [\[RR-0226\]](#), [\[RR-0289\]](#), [\[RR-0290\]](#), [\[RR-0523\]](#), [\[RR-0524\]](#), [\[RR-0670\]](#), [\[RR-0932\]](#) and [\[RR-1566\]](#).
- Visual impacts from built development and increase in visual intrusion including vapour trails from aircraft eg [\[RR-0210\]](#), [\[RR-0687\]](#), [\[RR-0871\]](#), [\[RR-1119\]](#), [\[RR-1355\]](#) and [\[RR-1469\]](#).
- Increase in light pollution eg [\[RR-0076\]](#), [\[RR-0157\]](#), [\[RR-0289\]](#), [\[RR-0636\]](#) and [\[RR-1153\]](#).
- Whether proposed hedgerow restoration was required eg [\[RR-0002\]](#), [\[RR-0153\]](#) and [\[RR-0717\]](#).
- Loss of open space in WVP which is a highly valued landscape eg [\[RR-0289\]](#).
- The Applicant responded to these comments in [\[REP1-020\]](#), pages 93 to 98], [\[REP1-023\]](#), [\[REP1-025\]](#) and [\[REP1-026\]](#) generally referring to the findings in the ES [\[AS-079\]](#).

- 3.15.37. RRs received in support considered that the proposals had included sufficient measures to minimise impacts through landscaping proposals eg [\[RR-1187\]](#).
- 3.15.38. The primary concern in LBC's LIR [\[REP1A-004\]](#) was that visual impacts should be contained within the existing area surrounding LLA. It considered that this would be achieved through the embedded and good practice mitigation. LBC drew attention to the three ALLV's and in respect of Wigmore Rural ALLV, considered that the impacts had, in part, previously been considered under GHP planning permission (which approved built development within this ALLV – see [\[REP1-006\]](#)). LBC considered that the proposed replacement open space (Work No. 5b(02)) would alleviate significant adverse impacts. In respect of the ALLV's to the south, LBC considered that they would not be significantly adversely affected in the long-term. Parts of the Proposed Development that would be visible from the ALLV's to the west would be read against the existing and emerging built environment surrounding Luton Airport Parkway, Dairyborn Escarpment and LLA. LBC considered that the Proposed Development would respect the ALLV's.
- 3.15.39. CBC's LIR [\[REP1A-002\]](#) raised concerns regarding the visual intrusion of built development from Luton Hoo RPG, Someries Castle and users of public FP Hyde FP4 (west of Someries Castle). It also raised concern that the Proposed Development would have a significant impact on the sensitive landscape areas during construction phases but most notably during operation through built form, lighting, vapour trails and tranquillity. Overall, CBC considered [\[REP1A-002\]](#) that the large scale buildings and intensity of operations associated with the Proposed Development, would have a negative landscape and visual impact and did not fully satisfy the requirements of CBLP Policy EE5.
- 3.15.40. The HHA LIR [\[REP1A-003\]](#) considered that the impacts on landscape within North Hertfordshire would comply with NHLP policies SP12 and NE2, noting that the biggest impacts would fall within LBC's area. In particular, the HHA (paragraph 7.10.19) noted that the proposed replacement open space (Work No. 5b(02)) in North Hertfordshire would result in a fundamental change in land use from arable fields to neutral meadow grassland with woodland and scrub. However, they considered the change in character from farmland to parkland was acceptable. The HHA raised substantial concerns on the visual impact of the WTP (Work No. 4d) and FSF (Work No. 4c(01)) situated on the boundary with North Hertfordshire, and the effectiveness of the proposed mitigation. They did not consider that this would comply with NHLP Policy SP12.

- 3.15.41. The Applicant responded to the comments made by CBC and the HHA in [\[REP2A-005\]](#) and [\[REP2A-006\]](#) and referred to the ES findings [\[AS-079\]](#). It considered that all reasonable options for mitigation had been included and that the approach to the visualisations in the VPs had been undertaken in accordance with Rochdale Envelope Principles.
- 3.15.42. Based on the comments raised by IPs in RRs, WRs, LIRs and submissions made throughout the Examination, the main examination issues related to the following matters:
- methodology;
 - VPs;
 - ES assessment findings;
 - earthworks/ earth Bund (Work No. 1a) and (Work No. 5c(02));
 - visual impact of elevated built development;
 - WTP (Work No. 4d) and FSF (Work No. 4c(01));
 - FTG (Work No. 2d);
 - Car Park P1 (Work No.4g);
 - light pollution;
 - appropriateness of embedded and additional landscape mitigation measures;
 - appropriateness of hedgerow works (Work No. 5e); and
 - trees.

Methodology

- 3.15.43. During the Examination, the HHA raised concerns [\[REP3-097\]](#) that further information was required to explain how sensitivity for both landscape and visual receptors had been determined and that the assessment on perceptual qualities and key characteristics of landscape character areas lacked detail.
- 3.15.44. The ExA asked the Applicant questions about the LVIA methodology in ExQ1 [\[PD-010\]](#), PED.1.16, PED.1.17 and PED.1.18]. These mainly queried use of the terminology ‘magnitude of impact’, the omission of a ‘very high’ magnitude of change criteria and how the judgements for sensitivity of receptor had been arrived at.
- 3.15.45. The Applicant [\[REP4-063\]](#) considered that the methodology conformed with guidance in GLVIA3, adding that using a further category of ‘very high’ to judge magnitude of change would not change the assessment findings. This view was shared by the JHA [\[REP4-116\]](#), [\[REP4-126\]](#) and [\[REP4-187\]](#) albeit the HHA considered that conflating the terms ‘impact’ and ‘effect’ was confusing. The Applicant emphasised that professional judgement was used to determine significance of effect based on several factors contributing to sensitivity and magnitude. The ExA considers that the responses satisfied its queries.
- 3.15.46. At the close of the Examination, the HHA [\[REP11-095\]](#), HCC64], [\[REP11-097\]](#), NHDC66] and [\[REP11-099\]](#), DBC63] agreed with the LVIA methodology, apart from the assessment of relative tranquillity within the Chilterns NL (addressed separately in Section 3.8 of this Report).
- 3.15.47. Whilst originally agreed, CBC did not agree with the LVIA methodology at the close of the Examination [\[REP11-035\]](#), CBC69]. CBC’s concerns included the need for a night-time assessment, consideration of ash dieback, and operational effects of the FTG (Work No.2d). Matters relating to the FTG are considered in more detail below.

- 3.15.48. The ExA's ExQ2 [PD-015, PED.2.21] asked what consideration had been given to the implications of ash dieback in the LVIA. The Applicant [REP7-052] noted that approximately 437 of the identified 619 ash trees in the Arboricultural Impact Assessment [REP9-015] would be retained but did not consider it reasonable to estimate the potential future loss of other trees. In response [REP8-051], CBC stated that their concerns related to Bush Pasture and George Wood outside of the Main Application Site that have been identified as helping to reduce the visual harm to Luton Hoo.

ExA conclusions on LVIA methodology

- 3.15.49. Except for the comments by CBC and the approach to tranquillity in the Chilterns NL, the ExA notes that there was generally agreement at the close of the Examination on the methodology.
- 3.15.50. The ExA considers that it would not be proportionate for the assessment to consider and predict the potential for ash dieback in areas of woodland not located within the Order Limits. The ExA notes the concerns of CBC but considers that the potential for ash dieback would not result in a significant change to the assessment findings for residual effects or materially affect the visibility of proposed built structures.
- 3.15.51. Overall, the ExA is satisfied that the LVIA methodology follows guidance in GLVIA3 and is sufficient to identify the LSE on landscape and visual impact matters.

Viewpoints

- 3.15.52. At ISH6 [EV11-001], the ExA asked the Applicant to explain the consideration given to tree cover in wintertime. The Applicant responded that the photomontages showed illustrative planting to describe the likely changes at each of the VPs during winter months but further written commentary would be provided [EV11-008, Action Point 19]. This was submitted in [REP4-070] which confirmed that the AVRs illustrated summer vegetation for the native hedgerows to allow identification and recognition of the proposed mitigation measures with tree planting illustrating winter vegetation or more 'sparsely covered' tree graphics.
- 3.15.53. The HHA [REP4-163] considered that the AVRs based on winter views should be updated to illustrate proposed vegetation in a predominantly defoliated state. The Applicant [REP5-048] did not consider this to be necessary and considered the effects of introducing planting into these views could be understood.
- 3.15.54. At ISH8 [EV15-001] the ExA asked the Applicant to explain how its approach would allow the reader to understand the effectiveness of the mitigation proposals in different seasons, using VP10B [REP10-014] as an example, and whether this would represent a worse case situation. The Applicant stated that visualisations were purely illustrative and did not represent a worst-case scenario.
- 3.15.55. In [REP3-087, Appendix 1], CBC requested two additional VPs within Luton Hoo RPG. Noting that the request was within private grounds, the ExA asked CBC in [EV15-013, Q17] to describe the receptors likely to be affected and how accessible the locations were. In response [REP6-090] CBC acknowledged the grounds were privately owned but the parkland was accessible to staff and guests at the hotel. In response to ExQ2 [PD-015, PED2.24], the Applicant [REP7-052] considered there were sufficient VPs (5, 17, 18, 19 and 44) taken from the grounds of Luton Hoo RPG and further VPs would not be proportionate.

- 3.15.56. Following a request for a final review of all visualisations in [\[PD-023\]](#), the Applicant submitted revised AVRs at D10 to rectify discrepancies in the annotation of work numbers.

ExA Conclusions on VPs

- 3.15.57. Following site inspections [\[EV1-019\]](#) and [\[EV1-022\]](#), the ExA considered that the LVIA VPs were sufficient to understand the visual impacts of the Proposed Development from the grounds of Luton Hoo RPG and did not consider that additional VPs would be necessary.
- 3.15.58. At the close of Examination, there were no further outstanding matters in respect of the content of the information illustrated on the VPs. Whilst the ExA considers that incorporating a combination of winter tree planting and summer hedgerow planting on the AVRs was not particularly helpful, the AVRs nevertheless allow for a reasonable understanding of the visual impact of the Proposed Development and how this would be experienced with the proposed embedded and additional mitigation measures. The ExA is satisfied that the AVRs generally follow the guidance contained in GLVIA3 and Landscape Institute Technical Guidance Note TGN 06/19 - Visual representations of development proposals, September 2019.

ES Assessment Findings

- 3.15.59. In ExQ1, [\[PD-010\]](#), PED.1.19] the ExA asked the JHA whether they were in agreement with the findings of significant effects for the landscape and visual receptors assessed in the ES [\[AS-086\]](#) and [\[AS-139\]](#). In responses [\[REP4-116\]](#), [\[REP4-126\]](#) and [\[REP4-187\]](#), the JHA confirmed that they were generally in agreement with the findings. Based on the ExA's observations during site inspections and its review of the assessment findings, the ExA has no reason to disagree with the assessment findings on significant effects [\[AS-139\]](#).

Earthworks (Work No. 1a) and Earth Bund (Work No. 5c(02))

- 3.15.60. The ExA asked the Applicant a number of questions [\[PD-010\]](#), PED.1.6] and [\[EV15-013\]](#), Questions 4 to 6] about the proposed earthworks and earth bund (that would be part of the landscape restoration works (Work No. 5c(02)) forming the eastern edge of the apron platform for the Proposed Development. The questions sought to understand how the landscape character assessments [\[REP11-052\]](#) (primarily for LBLCA 13 – Wigmore Rural and HLCA 200 – Peters Green Plateau) had been considered in the design of the platform. It also sought to understand how the approach would avoid or minimise harm to the landscape and whether other options would be available if an earthworks solution could not be implemented. Separate consideration on the overall design approach to these works is contained in the Design section of this report (Section 3.10).
- 3.15.61. In [\[REP4-061\]](#), the Applicant advised that the illustrative proposals had been informed by the guidelines in the landscape character assessments. Future landscaping proposals would take account of the landscape character. It was stated that the preferred solution of the landform solution would be earthworks-based using achievable gradients. If this was not possible other options, such as reinforced soil, soil nailing and potentially retaining walls would be considered.
- 3.15.62. In [\[REP7-048\]](#) the Applicant further advised that the landscape character assessment for HLCA 200 stated, amongst other things, that the LCA is *"truncated by the man-made landscape features associated with Luton Airport..."* and the

proposed earth bund would form part of the man-made landscape features within this LCA.

3.15.63. In response to [\[EV15-013, Q5\]](#), the Applicant [\[REP7-048\]](#) explained that the earth bund would use excavated fill rather than imported material, which would minimise harm to the wider landscape, and the use of 'amenity grassland' [\[REP4-037\]](#), Figure 14.9] would also assist in providing a gradual transition to proposed built development. The Applicant considered this would accord with the ANPS (paragraph 5.218). In response to [\[EV15-013, Q6\]](#), the Applicant confirmed the earthwork solution had been assessed and was confident that the detailed design process would ensure that there would be no materially new or worse environmental effects if engineered solutions were required.

3.15.64. The HHA [\[REP8-055\]](#) did not agree that the earth bund would minimise impacts on the landscape. They commented that the landscape character assessment noted that the existing Airport infrastructure was described as 'truncating' the LCA, which was not a positive character that should be amplified. It was unclear to the HHA how the proposed landform responded to the existing character.

ExA conclusions on earth works / earth bund

3.15.65. Notwithstanding the lack of objection from LBC on this proposed feature, the ExA considers that the earthworks and particularly the proposed earth bund would adversely affect the physical character of the landscape and lead to further erosion of LCA's LBLCA 13 and HLCA 200. The ExA agrees that these works would give rise to the significant effects identified in [\[AS-086\]](#), pages 47 and 48 and pages 57 to 59].

3.15.66. Whilst the ExA accepts the need for a level aviation platform (as noted in the Design section of this Report), the ExA considers the extensive scale and form of the earthworks would be at odds with the predominantly flat landform of LBLCA13 and the gently rolling landscape character of HLCA 200. It would also appear as a prominent and intrusive feature in short range views to users of WVP and FP KW043 which are both judged [\[AS-139\]](#) to have medium to high sensitivity. The ExA also has concerns regarding the uncertainty of the potential for retaining walls in the event that an earthworks solution could not be implemented which could exacerbate both landscape and visual effects.

3.15.67. Given that LBLCA 13 is an ALLV, the ExA considers that the proposed scale of the earth bund would not protect or enhance a valued landscape (NPPF, paragraph 180). It would also not conserve or enhance the character and setting of LBLCA 13 or HLCA 200 contrary to LLP Policy LLP29. Adverse visual impacts would occur to the receptors of WVP and FP KW043. The ExA considers these works would attract moderate negative weight against the making of the Order.

Visual impact of elevated built development

3.15.68. The HHA raised concerns throughout the Examination about the impact of the proposed elevated built development [\[REP3-091\]](#), [\[REP4-126\]](#), [\[REP5-067\]](#), [\[REP6-093\]](#), [\[REP6-099\]](#), [\[REP7-085\]](#) and [\[REP8-055\]](#) suggesting that the presence of large-scale buildings and structures would result in adverse visual effects on visual receptors in rural areas to the east of LLA. The HHA sought to understand [\[REP6-093\]](#) how the Main Application Site design and embedded landscape mitigation had responded to its surroundings and would reduce visual impacts.

- 3.15.69. The HHA were also concerned [\[REP7-085\]](#) that approaches to mitigating visual effects had primarily focused on soft planting proposals.
- 3.15.70. The Applicant stated in [\[REP6-053\]](#) and [\[REP7-070\]](#) that the embedded and additional landscape mitigation [\[APP-172\]](#) had been designed to screen views of the Proposed Development and that the design evolution had considered landscape and visual impacts [\[APP-210\]](#), Table 5.14] and [\[APP-211\]](#), Table A.14]. The Applicant acknowledged [\[REP6-066\]](#) that not all of the Proposed Development could be screened but where it would be visible it would be mainly seen in the context of the existing airport development.
- 3.15.71. The Applicant [\[REP5-043\]](#) commented how the height and design of Terminal (T) 2 (Work No. 3b), the Hotel (Work No. 4a) and the Airport operations and maintenance building (Work No. 3i) would reflect the Main Application Site's rural fringe setting and its high visibility from surrounding airport (LLP Policy LLP6Fii). It was explained that a planning model was created to develop the spatial parameters for T2. The proposed height and design of T2 were a function of the internal space requirements. The hotel, at five storeys, was required to accommodate anticipated growth and the airport operations and maintenance building required a high bay for a workshop. The Applicant [\[REP7-070\]](#) and [\[REP9-030\]](#) provided illustrations showing how these works could fit into the context of the existing airport site and also included measures for materials and colour palette to reduce landscape and visual impacts.
- 3.15.72. At the close of Examination, the HHA [\[REP8-056\]](#) and [\[REP11-063\]](#) maintained their concerns and considered that more explanation was required on how the design intent had responded to the site context and surroundings and other mitigation that had been considered as opposed to implementing soft landscaping to mitigate visual impacts.
- 3.15.73. The Applicant maintained [\[REP9-051\]](#) that landscape and visual impacts had been considered during the design evolution, highlighting the requirement for the proposed building layouts to be at similar levels to the existing runway and also constraints surrounding the location of the Eaton Green Landfill which T2 would be constructed over. The Applicant considered [\[REP11-049\]](#) that the additional landscape mitigation measures [\[AS-079\]](#), Section 14.10] would result, in the majority of instances, in non-significant effects on visual receptors to the east of LLA

ExA conclusions

- 3.15.74. The visual impact of built development situated on the airfield platform, most notably Proposed T2 (Work No. 3b), Hotel (Work No. 4a), Car Park P12 (Work No. 4r), Hangers A and B (Work No. 4b) and surface movement radar (work No. 2a(02)), would be prominent in short range views as represented in VPs 10, 13 and 56 [\[REP10-014\]](#) and [\[REP10-018\]](#) and in longer range views as represented in VPs 29, 30, 31, 34 and 61 [\[REP10-016\]](#) and [\[REP10-018\]](#). The ExA considers that proposed built form of the development, as illustrated in the AVRs, would appear prominent and give rise to adverse visual effects on visual receptors in rural areas to the east of LLA. Whilst the ExA notes that mitigation planting would help to reduce the visual impact of these structures in certain locations over time, it would not fully mitigate due to the proposed height and massing of the proposed works.
- 3.15.75. The ExA recognises that the proposed parameters have been driven by the need to ensure required space requirements are met. Based its own observations from site inspections, LLA already forms a noticeable feature in views from surrounding rural

areas although the Proposed Development would significantly exacerbate this. However, the ExA considers that this would be an unavoidable consequence of any airport expansion and requires weighing against the benefits of the development, in accordance with the ANPS (paragraph 5.225).

- 3.15.76. The ExA considers that the visual prominence of the built development would attract an overall moderate negative weight against the making of the Order. The success of mitigation measures in reducing those effects in accordance with local planning policy requirements are considered further below.

Water Treatment Plant (Work no. 4d) and Fuel Storage Facility (Work No. 4c(01))

- 3.15.77. In response to the HHA concerns [\[REP1A-003\]](#), the Applicant commented [\[REP2A-006\]](#) that the visual impacts of the WTP and FSF would be reduced due to being constructed at lower land levels and through proposed landscape planting mitigation to screen views from Kings Walden FP 043. The HHA noted this response [\[REP3-090\]](#), page 23].
- 3.15.78. The ExA asked questions on the visual impact of these works and the effectiveness of screen planting illustrated at VP28 during ISH6 [\[EV11-001\]](#). The HHA clarified that the planting referred to in [\[REP1A-003\]](#), paragraph 7.10.23] was that proposed on the eastern boundary of the works in Phase 2b, rather than the hedge planting in the foreground at VP28 which would result in a gap between construction of those structures and the mitigation planting. They considered that more substantial planting would be beneficial.
- 3.15.79. In response [\[REP4-103\]](#) the Applicant considered that sufficient information had been provided and that further information would be submitted through the landscaping requirements in the draft DCO where the HHA would have the opportunity to request any additional information.

ExA conclusions

- 3.15.80. The ExA considers that the proposed works would constitute prominent features within the Main Application Site and in short range views for receptors using PROWs within neighbouring North Hertfordshire. The ExA acknowledges that the Applicant has sought to reduce visual effects through proposed landscaping and siting the works at the lowest land levels but considers this would not fully screen the works, particularly the FSF due to its height (24.2m). Based on observations during site inspections eg [\[EV1-003\]](#) [\[EV1-005\]](#) and [\[EV1-021\]](#), the ExA considers that longer range views would largely be limited due to local topography and existing tree planting.
- 3.15.81. Overall, the ExA accepts that the works are a necessary requirement of the functioning of the Proposed Development, particularly noting the proposed location of the FSF and proximity to the existing fuel pipeline. The ExA considers that sufficient consideration has been given to the proposed siting and mitigation in the form of planting to reduce visual effects, whereby the exact details would be subject to final design through the draft DCO [\[REP11-091\]](#), Requirement 9].
- 3.15.82. The ExA considers that the works have sought to avoid or minimise harm to the landscape, providing reasonable mitigation where possible ANPS (paragraph 5.218). However, the ExA does not consider that the works would be sympathetic to local character or landscape setting (NPPF, paragraph 135c). The ExA considers that there would be some tension with the requirements of LLP Policy LLP25(i) in

that these works would not enhance the distinctiveness and character of the area. Due to the close proximity with North Hertfordshire, the NHLP would be a relevant consideration. Whilst the works would not necessarily comply with NHLP Policy SP12 in relation to respecting the existing landscape character, the ExA does not consider that there would be unacceptable harm to the character and appearance of the surrounding area or the landscape character area in which the works would be located (NHLP Policy NE2(b)).

- 3.15.83. Overall, the ExA considers that these works would result in some tension with the relevant local and national policies noting that the works would remain prominent features where they would be visible. However, given that measures have been incorporated to minimise harm to the landscape which would reduce visual effects over time, the ExA considers that the works would attract a little negative weight against making of the order.

FTG (Work No.2d)

- 3.15.84. CBC's LIR [\[REP1A-002\]](#) raised concerns on the impact of the proposed FTG on Someries Castle and Luton Hoo RPG. Whilst the main concern related to impacts on their heritage designation, which is considered in Section 3.14 of this Report, landscape and visual impacts within their area was also a considerable concern [\[REP6-090\]](#)
- 3.15.85. At ISH8 [\[EV15-001\]](#), the ExA asked the Applicant to explain the reasons for the site selection of the FTG. In addition to the information contained in [\[AS-124\]](#), Section 5.20] the Applicant explained [\[REP6-066\]](#) that alternative locations had been considered but the FTG must be located airside, away from the runway and from other buildings. The ExA asked for further written details of the alternative locations of the FTG in [\[PD-021\]](#), as well as further details on the proposed lighting and visual effects from Luton Hoo RPG. In response [\[REP9-057\]](#), pages 7 and 8], it was explained that following the sift options, there were no viable locations to site the FTG on the north side of the runway which was required for taxiways and the proposed apron. Two locations for the FTG were considered south of the runway but the chosen site was selected to avoid a location within the GB and to ensure it was closer to the existing fire station and further away from a domestic property.
- 3.15.86. The ExA asked the Applicant at ISH8 [\[EV15-001\]](#) how effective the proposed hedgerow planting mitigation would be at reducing significant effects along the FPs and bridleways (BW) to the south of LLA (Hyde FP4, Hyde FP5 and Hyde BW3) noting that [\[AS-139\]](#) acknowledged that visual effects would remain discernible from some locations. The Applicant advised that with the establishment of mitigation it could not guarantee there would not be any discernible effect but considered it highly likely that the mitigation would provide the screening that was intended. Further information was provided in [\[REP7-067\]](#) advising that [\[AS-029\]](#) set out the proposed planting strategy.
- 3.15.87. CBC explained at ISH8 [\[EV15-001\]](#) that it required further details of visual impacts from smoke plumes from the FTG in operation, particularly noting the Applicant's comments in the hearing that the FTG in operation could be quite dramatic. The Applicant advised that it would supply CBC with a video to aid their understanding, which it confirmed in [\[REP7-072\]](#).
- 3.15.88. In its PADSS [\[REP8-053\]](#), page 12] CBC maintained that the FTG would be an intrusive and incongruous feature and did not consider that the proposed mitigation

would minimise the adverse visual effects. The FTG remained an area of disagreement in the SoCG between CBC and the Applicant [REP11-035, CBC149].

ExA Conclusions on FTG

- 3.15.89. The visual receptors that would be affected by the FTG would primarily be users of the PRoW south of LLA [AS-139, pages 128 to 132], Someries castle [AS-139, pages 45 and 46] and some locations within the grounds of Luton Hoo RPG. However, longer range views of the FTG would also be possible eg VP10 [REP10-014].
- 3.15.90. The Historic Environment section of this Report (Section 3.14) concluded that the FTG would appear as a prominent and incongruous feature in background views when looking towards Someries Castle, as illustrated in AVR VP 25 [REP10-015]. The ExA observed views towards the airport from the PRoW located to the south of LLA during site inspections [EV1-004] and noted that views were limited along Hyde BW3 due to existing tree planting although was more open along Hyde FP5 due to sporadic hedgerow provision. The existing hanger buildings and control tower within the airport were visible although largely appeared as setback features.
- 3.15.91. The FTG would appear as a prominent and incongruous addition to the landscape and in views towards the airport bringing airport built development closer to the south, as represented in AVR VP [REP10-015]. The ExA acknowledges proposed hedgerow planting along Hyde FP5 that would be planted prior to constructing the FTG could help to screen effects along this route. Due to the maximum height of the FTG (15.4 m), it is not considered that hedgerow planting would fully mitigate views to the extent considered by the Applicant noting that the hedgerows would be maintained at a maximum height of 2.1m [APP-108] when reaching maturity at the start of Phase 2a. As noted by CBC, screening would not be possible in views from Someries Castle and Luton Hoo RPG.
- 3.15.92. The ExA is satisfied that the Applicant considered alternative locations for the FTG but the identified need to locate the new terminal to the east of the present terminal and the operational constraints limited options for the FTG relocation.
- 3.15.93. The ExA does not consider that the FTG would be sympathetic to local character and landscape setting (NPPF, paragraph 135). Due to the area of land to the south of the FTG being a designated ALLV in the LLP (Someries Farm), the ExA does not consider that it would protect and enhance a valued landscape (NPPF, paragraph 180) nor conserve or enhance the character, setting, and natural beauty of the local landscape area of Someries Farm (LLP Policy LLP29) noting the sensitivities of this landscape identified in the LCA [REP11-052, pages 10 to 12]. Due to the proximity to the boundary with CBC, the FTG would not be complementary to the existing natural environment, taking account of the landscape setting and landscape character (CBLP Policy HQ1(6)) nor respect, retain and enhance the character and distinctiveness of the local landscape (CBLP Policy EE5).
- 3.15.94. The ExA considers that even accounting for proposed hedgerow planting, due to the adverse landscape and visual effects on sensitive receptors the FTG would attract great negative weight against making of the Order.

Car Park P1 (Work No. 4g)

- 3.15.95. CBC raised concerns about Car Park P1 during ISH6 [EV11-001]. It suggested that the car park would break the skyline and be visible from within the grounds of Luton

Hoo RPG. CBC also expressed concerns in [REP3-085] and ISH8 [EV15-001] about the intrusive effect of lighting from the car park on Luton Hoo RPG.

- 3.15.96. In response, the Applicant [REP4-097] considered that the car park would be situated at a low point in the valley. The LOA [APP-052] had included High Dynamic Range images from the Luton Hoo Estate (VPs 5, 18 & 19). It was further commented that mitigation proposed within the lighting design [APP-053, Appendix F] included shielding for structures including car parks. The Applicant advised that Table 8.3 of [APP-052] concluded the effects of light spill would be negligible.
- 3.15.97. In [REP8-053], CBC maintained significant concerns of the visibility from vantage points within Luton Hoo RPG, including Capability Brown's landscape, which could be exacerbated by the provision of solar panels, lighting and materials where no mitigation was proposed to offset this harm. It considered the car park should be removed from the Proposed Development.
- 3.15.98. The Applicant [REP9-057] commented that the car park was required to accommodate a proportion of airport-related staff parking and enable usage of the DART. Removal of the car park would, in the Applicant's opinion, result in a parking shortfall. The Applicant referred to proposed design mitigation in the DP [REP9-030, ASF.23, ASF.24 and ASF.25] and significant existing tree planting alongside the River Lea and in Georges Wood and Bush Pasture. The Applicant acknowledged that the presence of the car park would introduce new components into the visual setting of the RPG but considered that it would not be prominent in views from it.
- 3.15.99. CBC's SoCG [REP11-035, CBC 176] confirmed that it welcomed the insertion of ASF.24 and ASF.25 to the DP [REP9-030] which set objectives for the building façade and solar panels to be sensitive to Luton Hoo RPG.

ExA conclusions on Car Park P1

- 3.15.100. During site inspections [EV1-019] and [EV1-022] the ExA observed the location of the proposed car park from various vantage points within Luton Hoo, including the VP locations in the LVIA [REP10-013, VP5], [REP10-014, VP 17], [REP10-015, VPs 18 and 19] and [AS-094, VP44]. This included visits during dusk [EV1-022]. The ExA observed that views of the built form of Luton and LLA from Luton Hoo drive and the house were limited, although possible from more elevated locations.
- 3.15.101. AVR VP18 [REP10-015] illustrated that the top of Car Park P1 would be visible above existing trees. The ExA is satisfied that existing vegetation would reduce the visual dominance of the car park, although not fully mitigate it, and that the incorporation of the measures in the DP [REP9-030] would allow for the impacts on Luton Hoo to be factored into the final design.
- 3.15.102. The ExA considers that the car park would intrude on the park setting at Luton Hoo RPG from certain locations but the visual impact would be limited. As such, the visual impact of Car Park P1 attracts a little negative weight against making of the Order.

Light Pollution

- 3.15.103. Approximately 60 RRs raised concerns regarding light pollution from the Proposed Development. These were also raised during OFH eg [EV12-001]. The main concerns raised by IPs related to light emitted from existing multi-storey car parks situated in the airport eg [RR-0076] and the impacts of lighting on surrounding areas, primarily Breachwood Green.

- 3.15.104. [\[AS-079\]](#), paragraph 14.7.50] noted that LLA was a significant source of light obtrusion when viewed from all directions and skyglow from Luton was also clearly visible from the surrounding rural areas.
- 3.15.105. The ExA observed airport lighting emissions to surrounding rural areas during an evening site inspection [\[EV1-005\]](#), including observations of LLA from the local road network (LRN) between Luton and Breachwood Green and from VP34. The ExA observed the visual prominence of lighting from the airport, particularly from the car parks which it considered to be obtrusive.
- 3.15.106. A key concern of the HHA during Examination [\[REP1-069\]](#), [\[REP3-097\]](#) [\[REP4-126\]](#), [\[REP6-093\]](#), [\[REP6-101\]](#) and [\[REP7-085\]](#) was that a night-time assessment should be submitted that was compliant with GLVIA3 methodology as opposed to relying on a LOA [\[APP-052\]](#) and [\[APP-053\]](#). CBC also raised the lack of a requirement for a full lighting strategy as a concern in their LIR [\[REP1A-001\]](#) and raised further concerns in [\[REP8-053\]](#) of lighting effects from the FTG (Work No. 2d) and Car Park P1 (4g).
- 3.15.107. The ExA asked a number of questions on lighting during ISH6 [\[EV11-001\]](#) and ISH8 [\[EV15-013\]](#), Qs 1 to 3]. The ExA sought to understand why an assessment based on GLVIA3 had not been done and whether the conclusions in the LOA would have been different with such an assessment. It also considered the extent to which the LOA assessed the effect of lighting emitted from proposed buildings. In [\[PD-010\]](#), PED.1.30] the ExA asked the HHA whether they disagreed with the findings of the LOA.
- 3.15.108. The HHA [\[REP4-126\]](#) disagreed with the findings of the LOA on the basis that a night-time assessment using GLVIA3 sensitivity criteria would likely result in different levels of receptor sensitivity from those identified in the LOA. They highlighted that LVIA night-time assessment methodologies would typically assign 'High' sensitivity to residential receptors as opposed to 'Medium'. They referred to VP34 at Breachwood Green noting that existing lighting emitted from the airport was prominent and the proposed lighting would add to this introducing an effect which would be higher than 'Negligible'. The HHA considered that the magnitude of change would be unlikely to be higher than 'Low' and the level of effect would be dependent on the detailed design of the proposed built environment and the mitigation measures proposed.
- 3.15.109. The Applicant [\[REP3-053\]](#) advised that medium sensitivity was attributed to dwellings because of their capacity to absorb change and the ability to mitigate eg using blinds or curtains to rooms. The very low magnitude was because the Applicant considered there would be very little change in baseline conditions.
- 3.15.110. The Applicant [\[REP4-063\]](#) did not consider that applying an LVIA methodology rather than ILP guidance would necessarily result in an increase in receptor sensitivity. It was explained that all exterior area lighting had been included in the modelling and lighting within decked car parks in the LOA. Internal lighting to Proposed Development buildings was not included in the LOA as it had not been developed. The Applicant further explained that lighting effects were found to satisfy the ILP guidance for obtrusive light for a rural location in terms of light intrusion and source intensity.
- 3.15.111. In [\[REP6-066\]](#), the Applicant considered that the assessment undertaken was the most authoritative, widely recognised and adopted best practice for the minimisation of light obtrusion. It could then be used by other relevant environmental aspects to

inform their assessment where lighting levels were relevant, including landscape and visual, which was agreed through EIA scoping [APP-047]. The Applicant explained that the LVIA [AS-079, paragraph 14.6.6] had considered the conclusions in the LOA. The Applicant also referred to paragraph 4.27 of GLVIA3 which refers to obtrusive light, stating that *“reference should be made to appropriate guidance, such as that provided by the Institution of Lighting Professionals”*.

- 3.15.112. The HHA view remained unchanged in their PADSS [REP8-056].

ExA Conclusion on light pollution

- 3.15.113. The ExA notes [AS-079, paragraph 14.6.6] states *“In accordance with the findings set out in the Light Obtrusion Assessment...it is assumed that the predicted impact of sitewide construction and operational lighting to be delivered by the Proposed Development on views from the surrounding area would be negligible”*. The ExA does not necessarily agree that this sentence demonstrates the LOA has been used to ‘inform’ its assessment, noting the Applicant’s comments in [REP6-066] summarised above. Rather, that the LVIA has accepted the LOA’s findings without any further consideration. Overall, notwithstanding paragraph 4.27 of GLVIA3, the ExA considers that a night-time assessment based on the same methodology as the LVIA would have provided a more consistent assessment of effects from an LVIA aspect.
- 3.15.114. Nevertheless, the ExA considers that if there were to be any differences in assessment findings, they would likely be minimal. The ExA notes the HHA comments in [REP4-126] that the magnitude of change would be unlikely to be higher than ‘Low’ and the level of effect would be dependent on the detailed design of the proposed built environment and the mitigation measures proposed.
- 3.15.115. No disagreement was raised by parties with the measures contained in [APP-052] to mitigate the effects of lighting sources or with the exterior lighting strategy in [APP-052] which the ExA considers set detailed principles for the future lighting schemes. The ExA shares the concerns raised in RRs regarding light pollution from onsite car parks, and as a result the ExA recommended changes to the draft DCO in [PD-018] to introduce a lighting plan covering both construction and operational lighting. This was accepted by the Applicant [REP8-036, pages 96 and 97] albeit merged into existing Requirements 6 and 8 as opposed to a standalone Requirement which the ExA has no objections to.
- 3.15.116. The ExA was satisfied with the Applicant’s response [REP9-057] providing details of lighting from the FTG and that the limited duration where lighting would require to be in operation would give rise to little impact. The ExA was also satisfied with the Applicant’s proposal [REP9-057] to introduce measures to the DP (ASF.23) to avoid a direct view of light sources from the car park.
- 3.15.117. The ExA considers that securing the detailed design of operational lighting would allow for greater consideration of lighting at the detailed design stage. Whilst the Proposed Development would likely give rise to further light pollution than at present, the ExA considers that the measures that have been introduced to the draft DCO [REP11-091] would secure a mechanism to limit the impact of light pollution on local amenity, in accordance with NPPF (paragraph 191).
- 3.15.118. The ExA has not been made aware of or can see any conflict with policies in either the LLP or the NHLP in respect of lighting (except for NHLP Policy NE3 criterion (b) which is considered in the Chilterns NL chapter). The ExA has considered

paragraphs 111-113 of the NHDC Design Supplementary Planning document [REP4-159] referred to by the HHA in their response to ExQ1 [REP4-126]. It notes that paragraph 112 has a presumption against the “*use of lighting that shines directly into neighbouring buildings and into the sky*”. The ExA is satisfied that the mitigation measures set out in [APP-053] seek to avoid such impacts.

- 3.15.119. Overall, given that the Proposed Development would give rise to increased lighting to the surrounding rural areas even with mitigation, the ExA considers that this would attract a little negative weight against making of the Order.

Appropriateness of embedded and additional landscape mitigation measures

- 3.15.120. Throughout the Examination, the JHA were largely in agreement with the mitigation measures proposed for the replacement open space and considered that they would result in appropriate and positive mitigation eg [REP1A-003] and [REP1A-004].
- 3.15.121. In ExQ1 [PD-010, PED.1.25 and PED.1.28] the ExA asked how the landscape proposals supported sustainability aspirations and sought further details about how the SLM had taken into account GI principles. The Applicant [REP4-063] considered that the landscape proposals would create increased biodiversity value (through the creation of new planting and wildlife ponds) and referred to more information in [APP-067]. The Applicant also considered that the DP [REP9-030] included a number of sustainability principles for the future design.
- 3.15.122. The Applicant [REP4-063] explained how the proposed enhancements to WVP (Work No. 5b(01)) and provision of replacement open space (Work No. 5b(02)) took into account GI principles. In summary, enhancements to the existing park included improved connectivity, screening and biodiversity value, creation of additional surfaced paths linking to the replacement open space provision, and planting of additional scrub, woodland vegetation and hedgerows. The Applicant considered that planting and restoration of hedgerows off-site would improve the hedgerow network within the wider landscape and provide enhanced habitat and connectivity. Reference was also made to the upgrading of existing PRoWs (eg KW052).
- 3.15.123. At the close of the Examination, the JHA [REP11-033], [REP11-035] and [REP11-095] were in agreement that the SLM would result in a positive impact on the local environment. There were no outstanding matters with NE [REP9-040] in respect of the landscaping mitigation and GI principles.

ExA conclusions on landscape mitigation

- 3.15.124. Overall, the ExA considers that the SLM contains a number of positive landscape mitigation measures, including the enhancements to WVP (Work No. 5b(01)), replacement open space and additional mitigation planting. The ExA is satisfied that the measures contained within the SLM have sought to avoid or minimise harm to the landscape, providing reasonable mitigation where possible and appropriate (ANPS, paragraph 5.218). The SLM would be a certified document in the draft DCO [REP11-091, Schedule 9] which the detailed landscaping design under Requirement 9 is required to be in accordance with. The suitability of the off-site hedgerow restoration is considered further below.
- 3.15.125. However, as noted in the Land Use section of this Report (Section 3.16), landscape elements in the replacement open space would take a significant length of time to mature and construction works would persist for a period of years, which should be

factored into the overall weighting. The ExA is also mindful that the replacement open space is also a requirement under s132 of the PA2008.

- 3.15.126. Overall, the approach to landscaping mitigation has sought to mitigate effects in accordance with the ANPS (paragraph 5.218) and incorporated mitigation in accordance with the NPPF (paragraph 135), LLP Policy LLP6F(i), CBLP Policy EE5 and NHLP Policy NE2. When balancing the positive benefits of the landscape mitigation measures against the policy requirements for the works and the significant time period for the landscape mitigation to fully mature, the ExA considers that the landscape mitigation would attract a little positive weight in favour of making of the order.

Appropriateness of Hedgerows

- 3.15.127. Work No. 5e proposes the planting of off-site hedgerows as part of the proposed additional mitigation measures in a number of locations to the north, east and south of LLA.
- 3.15.128. Following ISH8 [\[EV15-001\]](#), Action Point 50] the HHA were asked to set out what additional information they needed regarding the reporting of winter screening. The HHA [\[REP6-093\]](#), page 13] explained the receptors and VPs requiring clarification. The Applicant advised [\[REP7-069\]](#), page 6] that hedgerow planting would provide maximum screening in summer months and during winter months filtered views of the Proposed Development might be possible, albeit limited, due to planting thickness. The Applicant considered that hedgerow planting would provide sufficient mitigation at the locations sought by the HHA. The HHA [\[REP8-055\]](#) welcomed the clarification but considered that there remained a lack of clarity on the effectiveness of mitigation and its location in relation to receptors.
- 3.15.129. The ExA undertook site inspections along FPs where additional hedgerow planting was proposed [\[EV1-021\]](#). The ExA observed that a number of the FPs contained open views of the surrounding landscape, including towards LLA which could be considered to form part of the enjoyment and recreational value of these receptors.
- 3.15.130. In ExQ2 [\[PD-015\]](#), PED.2.18], the ExA asked the Applicant to explain the extent to which wider views of the landscape from FPs had been considered when determining whether locations were suitable for mitigation hedgerow planting. The JHA were asked to identify any areas of proposed hedgerow that they were concerned about.
- 3.15.131. The Applicant [\[REP7-052\]](#) advised that the planting of hedgerows provided an opportunity for interconnected landscape and biodiversity enhancements and landscape character restoration. The Applicant also noted that the LVIA provided an objective and not a subjective approach to the landscape and wider views.
- 3.15.132. The HHA [\[REP7-087\]](#) noted a number of FPs of concern and considered the purpose of the hedgerows was not clear, commenting that in some instances, paths could become 'enclosed' with planting on both sides changing the character of views where currently open. In [\[REP7-085\]](#), the HHA stated that they did not agree that planting, as the sole form of mitigation, was appropriate, particularly where planting had the consequent effect of screening existing open views.
- 3.15.133. CBC [\[REP7-084\]](#) suggested that users of the FPs Hyde FP4, FP5 and BW3 to the south of LLA might enjoy views of the wider landscape towards the airport and queried the necessity for planting at BW3 and the potential effectiveness of the

mitigation measures at FP5 although on the whole, it considered that there were other vantage points available for views to be enjoyed.

- 3.15.134. In ExQ2 [PD-015, PED.2.19], the ExA sought justification from the Applicant for the hedgerow proposed along FP KW 005 and also asked NHDC whether it considered this was required. In response [REP7-052], the Applicant advised that mitigation had been proposed in this location to reduce a significant moderate adverse effect to a non-significant minor adverse effect.
- 3.15.135. In further comments [REP8-038], the Applicant maintained that the proposed hedgerow planting was to strengthen landscape character and structure, and to mitigate potentially significant effects on people's visual amenity.
- 3.15.136. At the close of the Examination, CBC [REP11-035, CBC80] maintained concerns in respect of the off-site landscaping mitigation proposed along the northern edge of Hyde FP4 (to the east of Someries Castle), Hyde FP5 and Hyde BW3 and did not agree that the off-site landscape mitigation would be appropriate in certain areas.
- 3.15.137. The HHA's [REP11-063, paragraph 4.4.3] maintained that wider hedgerow planting and restoration would block views and did not consider that such mitigation was fully justified or demonstrated in relation to mitigating the visual intrusion of large buildings into the wider countryside.
- 3.15.138. CBC [REP11-035-CBC71] did not consider that the proposed mitigation measures were acceptable as none were proposed for the FTG.

ExA conclusions on hedgerow planting

- 3.15.139. The ExA considers that the proposed hedgerow planting would help to strengthen landscape character and screen elements of the Proposed Development in certain short range views, for example at VP10B [REP10-014] and VP28 [REP10-016].
- 3.15.140. The ExA is not persuaded that the hedgerow restoration is necessary in all proposed areas to screen longer range views. This is particularly the case along FPs KW005, KW008 and KW009 AVR VP31 [REP10-016] and AVP 35a [AS-093] and the ExA did not consider that the Applicant's response to [PD-015, PED.2.18] demonstrated that proper consideration had been given to this issue. Also, no detail was provided by the Applicant in their response to ExQ2 PED.2.19 [REP7-052] explaining the visibility of the Proposed Development along FP KW005 or the extent to which views of the surrounding landscape would be affected at this point. The ExA noted during site inspections [EV1-021] in views from KW005 towards LLA that existing areas of tree planting and undulating topography largely screened views of LLA, as represented in AVP 35a [AS-093]. These would be retained as part of the proposed development [REP4-037, Figures 14.11 to 14.13] and in the ExA's opinion, would likely screen views of the Proposed Development. Proposed planting as part of the replacement open space would also eventually (when matured) likely screen views of the Proposed Development from the north and northeast.
- 3.15.141. Overall, whilst the ExA considers that the proposed hedgerow planting would result in some beneficial mitigation it does not consider that this would be beneficial in all areas. The ExA has noted that the guidelines for managing change in HLCAs 201 and 202 [REP11-052] both seek to "*Promote hedgerow restoration along the lines of historic field boundaries...*". Whilst [AS-079] acknowledges that a high proportion of field boundaries have been removed in these landscape character areas, no further information is before the ExA to demonstrate that the proposed hedgerows would

contribute to this guideline in the locations proposed. As such, the ExA considers that this mitigation neither weighs for nor against the making of the Order.

Trees

- 3.15.142. There were a number of RRs eg [\[RR-0314\]](#), [\[RR-0385\]](#), [\[RR-0636\]](#) and [\[RR-0964\]](#) and [\[RR-1539\]](#) that raised concerns on tree removal. [\[REP9-015\]](#), states that out of a total of 865 trees and 445 tree groups, a total of 353 trees and 21 tree groups and two hedges were identified for removal.
- 3.15.143. The extent of tree removal would, in the opinion of the ExA, have an adverse effect on the landscape character of those areas that would experience tree removal and also diminish visual amenity. However, policy NPPF (paragraph 136) seeks to ensure that opportunities are taken to incorporate trees elsewhere in developments, that long-term maintenance measures are in place and to retain trees wherever possible.
- 3.15.144. The ExA is satisfied that tree loss has been restricted to those areas where development is proposed. Both the embedded and additional landscape mitigation would include proposals for several new areas of woodland, individual tree planting and hedgerow restoration ([\[AS-079\]](#), Sections 14.8 and 14.10] and illustrated in [\[APP-108\]](#), [\[APP-172\]](#) and [\[REP4-037\]](#), Figures 14.9 to 1.14]) which would result in sufficient mitigation notwithstanding that it would take a significant length of time for landscaping to mature.
- 3.15.145. No submissions raising objections against tree removal were received by the JHA. Given the extent of landscape mitigation proposed, which would be secured in the draft DCO [\[REP11-091\]](#), from a landscape and visual perspective the ExA considers that this matter does not weigh for nor against the making of the Order.
- 3.15.146. This assessment does not include the removal of veteran tree T343 however, which is separately considered and weighted in the Biodiversity Section (Section 3.7) of this Report.

CONCLUSIONS ON LANDSCAPE AND VISUAL

Summary of Landscape effects

- 3.15.147. There would be direct moderate and major adverse effects (varying through different phases) to the landscape character areas of LBLCA 13 and HLCA 200 during the construction and operational phases to accommodate the physical footprint of the proposed development which would result in a permanent deterioration of their character. Parts of HLCA 201 – Kimpton and Whiteway Bottom would also experience moderate adverse effects during Phases 2a and 2b due to accommodating built development (WTP, FSF and Infiltration Tanks) which would be reduced to a minor adverse effect during operation when mitigation measures would be established. The ExA considers that the effects to HLCA 200 and HLCA 201 would attract moderate negative weight against the order being made.
- 3.15.148. LBLCA 13 is also covered by a local landscape designation (Wigmore Rural ALLV) which the ExA considers would be adversely affected, notwithstanding the proposed enhancements to WVP (Work No. 5b(01)). Someries Farm ALLV is located to the south of the airport boundary and its sensitive landscape, as identified in [\[REP11-052\]](#), pages 10 to 12], would be adversely affected by the FTG. The ExA considers that these impacts would not protect and enhance these valued landscapes, contrary to NPPF paragraph 180. In respect of LLP Policy LLP29, the

ALLV's would not be protected or conserved with only a small part of Wigmore Rural ALLV potentially enhanced by Work No. 5b(01). The ExA considers that the significant impacts on these designations would attract great negative weight against the order being made.

- 3.15.149. Stockwood Park AGLV would be affected by increased aircraft movements throughout the construction phases, which [\[AS-086, pages 55 and 56\]](#) considers would be minor adverse. The LCA [\[REP11-052, pages 15 to 17\]](#) notes that tranquillity is higher towards the centre of the area albeit with occasional noise from aircraft punctuating the relative calm, which the ExA observed during [\[EV1-001\]](#). As noted in [\[AS-086, pages 55 and 56\]](#) the Proposed Development would reduce the relative tranquillity experienced and the ExA considers that the AGLV would not be preserved or enhanced. Given that effects have been predicted to be minor adverse, which has not been subject to any disagreement from IPs, the ExA considers that this would attract a little weight against the order being made.
- 3.15.150. The landscape receptor of 'The parkland of WVP' [\[AS-086, pages 35 to 37\]](#) would experience major adverse significant effects during Phase 1 and moderate adverse significant effects during Phases 2a and 2b as a result of Work No. 5b(01) and 5b(02). These effects weigh against the Order being made in the short and medium term. Given the significant length of time before beneficial effects would be experienced, when balancing the overall negative and positive effects on this landscape receptor the ExA considers that the impact would attract a little negative weight against the order being made.
- 3.15.151. The moderate adverse significant effects on the aesthetic or perceptual characteristics of the landscape within the Chilterns AONB are considered and weighted separately in the Chilterns NL section of this report (Section 3.8).
- 3.15.152. Overall, given that harm would be experienced to valued landscapes and local landscape designations which would not be preserved or enhanced, the ExA considers that the landscape effects would attract great negative weight against the order being made.

Summary of Visual Effects

- 3.15.153. Significant visual effects would be experienced from a number of receptors throughout the phases of the Proposed Development, with those that would experience significant residual effects listed above. The most significant effects would be during the construction phase but would remain for a lengthy time period until the embedded landscape and additional landscape mitigation fully matured.
- 3.15.154. Visual effects would be experienced from the built form of the proposed development and the following elements that would give rise to adverse effects, which would weigh negatively against the making of the order:
- 3.15.155. Built development in elevated locations situated when viewed from surrounding rural areas, mainly including work numbers Proposed T2 (Work No. 3b), Hotel (Work No. 4a), Car Park P12 (Work No. 4r), and surface movement radar (work No. 2a(02)) - moderate negative weight;
- FTG - great negative weight;
 - Car Park P1 – a little negative weight;
 - WTP – little negative weight;
 - Earthworks – moderate negative weight; and

- Lighting – a little negative weight.

3.15.156. The ExA considers that overall, the visual impacts of the Proposed Development would result in conflict with the NPPF (paragraph 135c), LLP Policies LLP25(i) and LLP29, CBLP Policies HQ1(6) and EE5 and NHLP SP12. Taking into account the significant effects as identified above, when taken as a whole the ExA considers that the visual effects would attract moderate negative weight against the order being made. In accordance with the ANPS (paragraph 5.225) the visual effects require weighing against the benefits of the development.

Mitigation

3.15.157. The ExA considers that that the proposed embedded and additional landscaping mitigation measures would on the whole result in beneficial effects over time. Measures including new areas of grassland, wildlife ponds, new areas of woodland and tree planting, reinstatement of vegetation to Dairyborn Escarpment and improvements to the PRow would be positive mitigation that are considered to attract a little positive weight for the making of the Order.

3.15.158. The replacement open space could when fully mature be positive. However, it would be a significant length of time before the beneficial effects would be fully experienced. The ExA is also mindful that the Applicant would be obliged to provide this under s132 of the PA2008 and as a consequence, considers this to neither weigh for nor against the making of the Order.

3.15.159. The planting of hedgerows would, in the ExA's opinion give rise to both positive (in areas comprising hedgerow restation) and negative effects (in areas that would involve planting hedgerow that would affect views from PRow). The ExA is also not persuaded that the planting of hedgerows as a mitigation measure to reduce the visual effects of built development is an entirely positive approach and the ExA considers this to neither weigh for nor against the making of the Order.

3.15.160. Overall, the ExA recognises that the Applicant has sought to mitigate effects in accordance with the ANPS (paragraph 5.218) and would provide appropriate strategic landscaping on- and off- site (LLP Policy LLP6F(i)). The ExA considers that it would be sufficient to ensure that there would not be unacceptable harm to the character and appearance of areas within North Hertfordshire (NHLP Policy NE2) from the Proposed Development. The ExA considers that the SLM [\[APP-172\]](#) would largely provide a positive set of measures to mitigate adverse landscape and visual effects. On the whole, noting that the replacement open space is a necessary requirement and the overall significant length of time before the beneficial effects of landscaping mitigation would be fully experienced, the ExA considers that this would attract a little positive weight for the making of the Order.

Overall conclusion

3.15.161. The ExA considers that adverse landscape and visual effects would attract great (landscape) and moderate (visual) negative weight against the making of the Order in the short to medium term, prior to the landscape mitigation maturing. Following this the ExA is of the opinion that beneficial effects of landscaping mitigation would be experienced, which it considers would attract a little positive weight in favour of making the Order.

3.15.162. Overall, following the maturing of landscape mitigation the landscape and visual impacts would attract a little negative weight in the longer term against the order being made.

3.16. LAND USE

INTRODUCTION

- 3.16.1. This section considers land use including agriculture and soils, GB, open space and PRoW. However, due to the overlap of this topic these matters are also considered in the health and community, Chilterns NL, noise and vibration and CA sections of this report.
- 3.16.2. The ExA identified WVP, effects on agricultural land and land use effects in its IAPI [\[PD-007\]](#), Annex C].

POLICY BACKGROUND

A list of relevant policies and legislation can be found in Appendix B.

THE APPLICATION

- 3.16.3. The Applicant's assessment of land use is contained within the following sections of the ES:
- Chapter 6 – Agriculture Land Quality and Farm Holdings [\[REP9-009\]](#);
 - Chapter 13 – Health and Community [\[REP10-009\]](#); and
 - Chapter 14 – Landscape and Visual [\[AS-079\]](#).
- 3.16.4. This assessed the likely significant effects of the construction and operation of the Proposed Development.
- 3.16.5. In addition, the Planning Statement [\[REP11-009\]](#) considered the effect of the Proposed Development on the GB and open space.

Agriculture land and holdings

Land

- 3.16.6. The Order Limits include approximately 120ha, or 28%, of agricultural land in the east of the Main Application Site and approximately 6.1ha to the west of M1 J10 [\[REP9-009\]](#), paragraph 6.1.5].
- 3.16.7. Approximately half of this land is classified as Subgrade 3a, which qualifies as BMV land, the remainder being Subgrade 3b [\[REP9-009\]](#), Section 6.7]. This is based on an existing Agricultural Land Classification (ALC) survey [\[APP-055\]](#) and [\[APP-146\]](#) supplemented by recent surveying [\[APP-056\]](#) and literature-based evidence [\[REP9-009\]](#), Sections 6.5 and 6.7].
- 3.16.8. The Applicant calculated that in total over 25ha of BMV land would be permanently lost, mainly through conversion to woodland and scrub. 0.6ha would be temporarily removed, albeit over a prolonged period, at land to the west of M1 J10. Overall, the Applicant concluded that this would be a significant, major adverse effect. Nearly 30ha of land in Subgrade 3b would also be permanently lost or converted to woodland, but the Applicant considered this would not be a significant effect [\[REP9-009\]](#), Section 6.9].
- 3.16.9. In addition, a large area of agricultural land would be converted to grassland, of which about 29ha would be BMV land. However, the ALC system relies on the physical properties of the soil, and as these wouldn't significantly change under grassland, the area could revert to agriculture in the future. Consequently, the

Applicant concluded that the effect in this regard would not be significant [REP9-009, paragraph 6.9.9].

Holdings

- 3.16.10. The agricultural holding at Winch Hill in the eastern part of the Main Application Site is owned by the Applicant [REP4-037, Figure 14.11]. Some 42ha would continue in arable production for about 2 years under a temporary agricultural tenancy, after which use of the holding for agriculture would cease as the land would be required for landscape restoration and habitat creation areas. The Applicant concluded that there would be no effects on this holding.
- 3.16.11. The agricultural holding to the west of J10 of the M1 is described as 'flexible' in the normal course of its operations [REP9-009, paragraph 6.7.29]. Approximately 0.6 ha would be temporarily affected over two phases. Three other holdings adjacent to the Main Application Site would be indirectly affected through hedgerow landscape mitigation planting [REP4-037, Figure 14.10] and [REP9-009, paragraph 6.9.28]. The Applicant concluded that the effects would not be significant because there would be no significant reduction in size of the holdings, no severance, no infrastructure changes, and no likely significant effects would arise from dust or noise.
- 3.16.12. The Applicant considered that agricultural holdings might experience some additional noise and dust because of indirect operational activities [REP9-009, paragraph 6.9.47]. However, the Applicant did not anticipate that it would affect the enterprise of these holdings and it therefore considered that there would be no significant effect.

Soils

- 3.16.13. Three soil surveys were carried out between 2016 and 2018 [APP-057] to [APP-059, Appendices 6.3 to 6.5].
- 3.16.14. Approximately 101ha of soils would be stripped, including from agricultural land, WVP, the landfill and land to the west of M1 J10. Some of the higher quality soils would be retained for landscaping, the majority of which are of high sensitivity due to their low resilience to structural damage. Some additional suitable soils would then need to be imported for soft landscaping [REP9-009, paragraph 6.9.41]. Soils to be retained would be managed in accordance with a Soil Management Plan (SMP) based on the Outline SMP [APP-060]. The Applicant concluded this would result in an insignificant effect.
- 3.16.15. However, approximately 146,500 cubic meters (m³) of topsoil and 119,200m³ of subsoil from areas previously used for agriculture and from previously developed areas outside the landfill would not be retained because they would be surplus to requirements [REP9-009, paragraph 6.9.54]. The Applicant concluded that removal of such a large volume of soil with low resilience to structural damage would result in a significant major adverse effect overall, even taking into consideration that the remaining soils could benefit from a period of zero tillage grassland [REP9-009, sections 6.8 to 6.9].

Green Belt

- 3.16.16. The Applicant designed the layout of the Proposed Development to avoid encroachment on the GB except where absolutely necessary [APP-196, paragraph

B1.1.2]. However, the elements shown in Table 6 below for operational or practical reasons would need to be located in the GB.

Table 6: Elements of the Proposed Development that would be located in the Green Belt

Work No.	Proposed works	Local Authority
Work No. 2a (02)	An SMR positioned on a steel lattice support tower (approximately 13m high), access road and turning area (approximately 4m wide and 80m long) and new perimeter fencing.	LBC
Work No. 4c (02)	Approximately 700m fuel pipeline with an AGI to connect into existing fuel pipeline comprising 460m ² of hardstanding with various connecting pipes and valves approximately 1.1m high with some equipment reaching 4.2m high. 2.8m high security fence and access track approximately 420m long.	NHDC
Work No. 4v	Infiltration basin consisting of a 75,000m ³ underground tank.	NHDC
Work No. 6e (b)	Improvements to the junction of A1081 New Airport Way/ B653/ Gipsy Lane including minor widening and realignment.	CBC

- 3.16.32. In addition, the Proposed Development would necessitate the change of use of agricultural land which falls within the GB to Country Park with associated landscaping (Work No. 5b(02)). The Applicant advised [APP-196, paragraph B1.1.6] that as there would be no physical works associated with this change, this element of the scheme was not considered in the GB assessment.
- 3.16.33. The GB Assessment [APP-196] considered whether any of these works would constitute inappropriate development and if so, whether a case of very special circumstances (VSC) existed. It concluded that the infiltration basin and junction works would be not inappropriate development but that the SMR and AGI would constitute inappropriate development.
- 3.16.34. In the case of the SMR the Applicant advised that it was essential for airport safety and that due to ICAO regulations and the need for an unobstructed 'sightline' there would only be three possible locations for the SMR. The two non-GB options were assessed as not functionally viable [APP-196, paragraphs B3.1.5 to B3.1.7]. As a result, the Applicant advocated that the proposed location would be the only feasible option. To minimise any harm to the openness of the GB the Applicant proposed to select its precise location as close to the GB boundary as would be operationally

feasible. Furthermore, the SMR and associated fencing would be open structures and would be viewed in the context of and as part of the existing airport and would attract low levels of activity. Consequently, the Applicant advocated that VSC existed and that these would outweigh any harm to the GB [APP-196, paragraph B.3.1.9].

3.16.35. The AGI would need to be sited at the point of connection to the existing fuel pipeline which is in the GB. The Applicant considered various locations for the AGI along the route of the existing pipeline. The proposed location was selected [APP-196, paragraph B4.1.7] due to:

- its proximity to the airport (thus minimising the length of the new pipeline);
- it would sit outside of the public safety zone (PSZ) and on land owned by the Applicant;
- it would not intersect the extended runway centreline; and
- it would be in a discreet location in the corner of a field, screened by existing woodland to the south and east with limited visibility from the local highway and FPs.

3.16.36. The AGI and associated fencing would be open structures and generate low levels of activity. Therefore, the Applicant considered that the harm to the visual openness of the GB and its essential characteristics would be limited [APP-196, paragraph B4.1.8].

3.16.37. The Applicant advised that the AGI would replace the need for fuel to be tankered and as a result would reduce the number of vehicle movements and related environmental impacts which would provide the VSC that would outweigh the harm to the GB [APP-196, paragraph B4.1.9].

Open Space

3.16.38. The Proposed Development would result in the loss of open space at WVP [REP4-037, Figure 14.11] a designated district park which is recognised to form part of the Luton GI Network. The total existing area of WVP is 41.6ha and consists of land defined as 'District Urban Park and Garden' (35.5ha) and 'Natural and Semi-Natural Greenspace' [APP-197, paragraph C.6.1.5]. It includes mown open grassland, scrub grassland, woodland, allotments, a playpark, skate park, car park and pavilion building. It is crossed by a number of PRow including the Chilterns Way long distance FP [APP-197, paragraph C4.1.1].

3.16.39. The existing open space at WVP would be required to deliver amongst other things new car parking facilities (Works No. 4l(01) and (02), 4m(01) and (02), 4n and 4r), access roads (Works No. 6a(02), 6b(01), (02) and (03), 6c (02)), new terminal (Works No. 3b(01), 3b (02) and 3c(02)), drop off zone (Work No. 3e(01) and (02)), plaza (Work No. 3f), coach station (Work No. 3d), DART station and tunnel extension (Work No. 3g), airside security and access (Work No. 4f), hotel (Work No. 4a), new apron for stands and taxiway (Works No. 2b(03) and 2c(01)) and airport operations and maintenance buildings (Work No. 3i).

3.16.40. Replacement open space (Work No. 5b(02)) is proposed on land further to the east of WVP and to the south of Darley Road. The Applicant advised that this land was currently in agricultural use. Following completion of enhancements to open space and the provision of replacement open space, the resulting WVP would be at least 47.5ha, comprising a 14.4% increase in size [APP-197, paragraph C6.1.5]. The Applicant envisaged that at least 11.2ha of the existing open space would remain as open space.

Figure 20: Proposed replacement open space from [APP-197, Figure C5.1]



- 3.16.41. The replacement open space (see Figure 20) would be provided in assessment Phase 1, prior to the main excavation works commencing to provide an opportunity for the landscape mitigation proposed within the replacement open space to establish, improve habitat connectivity, frame people's views and help screen change beyond its limits [APP-197, paragraph C6.1.4]. Areas would be made available for use by the public before the end of 2025.
- 3.16.42. Once the replacement park was open, part of the existing park would be taken for construction of the main works of the Proposed Development. The Applicant accepted [APP-197, paragraph C6.1.10] that until the landscape matures the new WVP might not be attractive to users and users may be subject to visual impacts associated with the construction of the Proposed Development although the Applicant concluded that no significant in-combination effects had been identified. Future management and maintenance of the replacement park would be through a community trust which is secured through the s106 [REP11-108]. This would include an annual payment of £250,000.
- 3.16.43. The Applicant concluded that the impact of the closure and re-provision of WVP would represent a minor beneficial permanent effect for users of the park. It acknowledged that it anticipated that there would be a change to the character of WVP but that its accessibility and function would not change [APP-197, paragraph C.7.1.3]. As the park would continue to provide access to green space, recreation and physical activity for the local population the ES [REP10-009] concluded that there would be no impact on the health determinant of 'access to open space, recreation and physical activity'. Furthermore, the Applicant considered that the replacement open space would be of equivalent or better provision in terms of size, usefulness, attractiveness, quality and accessibility and FPs and bridleways would be provided. As a result, the Applicant concluded that, regarding replacement open land proposals, the proposed development would be acceptable and accord with national and local planning policy [APP-197, paragraph C.7.1.6].

Public Rights of Way

- 3.16.44. There are several PRoW and permissive paths located in WVP and on the proposed replacement open space which would be directly affected because of the Application. The Applicant's proposed changes included the stopping up of existing FPs 29 and 38 and Bridleways 28 and 37 to accommodate the proposed excavated area to the east of the proposed T2 [AS-123, paragraphs 8.4.2 and 8.4.3 and Figures 8.13 to 8.15] and the provision of new and improved routes within the planned replacement open space and WVP.
- 3.16.45. The Applicant also identified that the Proposed Development would impact on users of other PRoW [REP10-009, paragraph 13.1.3] by virtue of noise and visual impacts. These would include not only those PRoW in the field networks around the airport but those within the wider area and the Chiltern's NL. These are considered in more detail in the relevant sections of this Report.

ISSUES CONSIDERED

Agriculture land, holdings and soils

- 3.16.46. A small number of representations raised general concerns regarding the effects on farming land, farm animals and loss of farmland in the context of food security. The Applicant made general responses to these submissions [REP1-020] and [REP3-043].

Land

- 3.16.47. The ExA asked the Applicant to clarify if BMV land had been a factor in the options appraisal at ISH6 [EV11-001], if inclusion of BMV in the optioneering would have resulted in a different outcome and to explain how retention of WVP would have resulted in a greater loss of BMV land [ISH8, EV15-001].
- 3.16.48. At [REP4-070] the Applicant directed the ExA towards ES Chapter 3 [AS-026], the DAS [AS-049] and the Sift Reports [APP-209] to [APP-212]. It confirmed that BMV land was not a factor in the initial options appraisal, in line with the accepted criteria for aviation development, but was considered as a sub-criterion to LVIA and land use during later sifts as more details of soil classification became available. It was argued that although it was not a key factor, it did contribute to the outcome of the appraisal [REP3-053] and [REP6-066].
- 3.16.49. The Applicant explained that loss of BMV land could not be avoided "*due to proximity and necessary engineering requirements*" and because the preferred option was to expand to the north-east, making some loss of BMV land inevitable [REP3-053]. Details of an option to retain WVP were provided, which suggested that the apron would have to be moved further east which would have resulted in significant loss of BMV land to permanent development. In addition, due to the irregular pattern of Subgrade 3a and 3b land, there was no difference between the options in the appraisal of LVIA impacts and Environmental Land Use; all would result in similar or worse impacts [REP6-066].
- 3.16.50. NE raised concerns regarding the assumption that all provisionally mapped Grade 3 land was BMV land because this would lead to an inaccurate, albeit precautionary, assessment of loss [RR-1079] and [REP1-112]. NE also requested land-take breakdowns for each phase and component, a detailed soil balance and identification of opportunities for sustainable re-use of soils on the Main Application

Site [\[AS-061\]](#). NE subsequently confirmed that it was satisfied with the additional information provided [\[EV15-002\]](#).

Holdings

- 3.16.51. A.T.O. Holdings Ltd raised concerns regarding severance of a field on their holding and impediment of operations [\[RR-0002\]](#), [\[REP1-051\]](#), [\[REP3-109\]](#) and [\[REP5-061\]](#). However, at the close of the Examination it confirmed that it had come to an agreement with the Applicant during the Examination and no longer had any objections in this regard [\[REP9-075\]](#).

Soils

- 3.16.52. NE provided advice on the SMP [\[REP1-112\]](#) and [\[EV15-002\]](#). It advised that it should be clear the aim is for BMV land subject to temporary development or a change in use, to return to, or retain, its original land quality. NE was satisfied that this was a matter that could be addressed in the detailed SMP post consent.

Green Belt

- 3.16.53. The ExA received over 25 RR which referred to the GB. Many of these were general concerns about encroachment and pressure on the GB from housing or the effect from noise, traffic and other effects arising from the Proposed Development on the GB eg [\[RR-0289\]](#), [\[RR-0290\]](#) and [\[RR-1006\]](#).
- 3.16.54. The HHA LIR [\[REP1A-003\]](#), paragraph 7.11.5] identified that the Proposed Development would have a minor negative impact on the openness of the GB and they considered that insufficient justification had been provided to confirm that the Proposed Development would be not inappropriate development. As a result, the HHA considered that the application would not meet the criteria of national and local policies.
- 3.16.55. Conversely LBC LIR [\[REP1A-004\]](#), paragraph 4.4.13] considered that the Applicant had sufficiently demonstrated that there would be a need for the SMR and associated infrastructure and therefore the SMR would be inherently tethered to the VSC associated with the Proposed Development.
- 3.16.56. CBC LIR [\[REP1A-002\]](#), paragraph 2.10] identified that the Main Application Site within Central Bedfordshire is washed over by the GB but did not provide an assessment/ comment on the effect on the openness of the GB. BC did not have any land directly affected by the Proposed Development and therefore their LIR [\[REP1A-001\]](#) did not consider the effect of the Proposed Development on the GB.
- 3.16.57. The ExA explored whether the Proposed Development would be inappropriate development in the GB through several written questions [\[PD-010\]](#), PED.1.34 to PED.1.38]. The matter was also explored orally at ISH8 [\[EV15-001\]](#).
- 3.16.58. The Applicant responded to the LIR's [\[REP2A-006\]](#), 7.11] and [\[REP2A-007\]](#), 4.6] and the ExA's ExQ1 [\[REP4-064\]](#) providing further detail on how it had reached its conclusions that either the Proposed Development would not affect openness or where it did, that VSC existed so that the harm to the GB would be outweighed.
- 3.16.59. At ISH8 [\[EV15-001\]](#) the VSC in relation to the AGI were discussed. The Applicant confirmed that by tapping into the existing pipeline it would remove the need for up to 134 daily fuel tanker movements and their associated environmental impacts.

- 3.16.60. At the close of the Examination the SoCG with NHDC [REP11-097, NHDC3] recorded that it agreed that the Applicant had provided a substantive case in relation to VSC. LBC's SoCG [REP11-033, LBC3] records that LBC was satisfied that the SMR needed to be located within the GB and that it would be essential for the operation of LLA. CBC's SoCG [REP11-035, CBC3] confirmed that CBC was satisfied with the Applicant's case in regard to the work in the GB.

Open Space

- 3.16.61. Over 260 RR raised concerns about the loss of WVP. These concerns were also raised orally at the OFH [EV2-001] and [EV12-001]. Concerns ranged from general concerns about the loss of WVP eg [REP-0076, RR-1104, RR-0290, RR-0878] to very specific concerns regarding the quality of the proposed replacement open space eg [RR-0721, RR-0839], accessibility eg [RR-0226], and whether it was acceptable for the replacement open space to be provided in North Hertfordshire [eg RR-0825].
- 3.16.62. The FoWP, a local community group with a membership of over 3,000, made several detailed submissions throughout the Examination including [REP1-060], [REP3-116], [REP5-069], [REP7-099], [REP8-071], [REP10-072] and [REP10-073]. In addition, it attended and made representations at CAH2 [REP6-125], ISH7 [REP6-128] and ISH8 [REP6-129]. Concerns focused on the loss of WVP, the quality of the replacement open space, that the proposed replacement land was in fact already open space, access arrangements, and future management and maintenance.
- 3.16.63. LBC's LIR [REP1A-004, paragraph 4.7.10] identified the loss of WVP as significant but advised that the impact of its loss had partly been considered as part of the New Century Park planning permission but that the further replacement open space would significantly alleviate significant adverse impacts of the Proposed Development.
- 3.16.64. The HHA LIR [REP1A-003] identified that WVP would be lost but that a greater area would be provided to the east of the existing WVP. Its loss and replacement were identified as a community impact [REP1A-002, paragraph 7.8.8] until the replacement open space was completed and accessible to the public. In addition (paragraph 7.10.19) the HHA identified that the proposal would result in a fundamental change in land use from arable fields to neutral meadow grassland with woodland and scrub. However, that change from farmland to parkland would not be unacceptable within the wider context of Hertfordshire that is host to numerous parkland estates.
- 3.16.65. Neither of the LIRs for CBC [REP1A-001] or BC [REP1A-002] considered open space.
- 3.16.66. The ExA identified WVP in its IAPI [PD-007, Annex C]. The loss of WVP and its replacement were examined orally at both CAH1 [EV5-001] and CAH2 [EV13-001]. The ExA also asked several written questions [PD-010, CA.1.11 and CA.1.12] and [PD-015, CA.2.1 to CA.2.5 and BCG.2.10]. The focus of the Examination was to ascertain the current status of the replacement open space; the amount of replacement land that was needed and the quality, availability and usability of the proposed replacement open space.
- 3.16.67. At the close of the Examination the SoCG with LBC [REP11-033, LBC109, LBC110, LBC132, LBC133], HCC [REP11-097, HCC75, HCC76, HC77] and NHDC

[[REP11-097](#), NHDC77, NHDC78, NHDC79] showed that matters in relation to WVP were agreed or agreed in principle.

Public Rights of Way

- 3.16.68. A small number of RR [[RR-0002](#)], [RR-0139] and [[RR-0153](#)] were received, raising concerns about the proposals to plant hedgerows along existing FPs and the effect that this could have on the ability to develop land or farm the resultant land parcels. At D6 SLAE [REP6-144] sought clarification on several points in relation to PRow which the Applicant responded to at D7 [[REP7-063](#)] confirming details about the existing PRow and the design and layout of the proposed PRow.
- 3.16.69. CBC LIR [[REP1A-002](#), paragraph 5.7.10] identified that there is a network of PRow in close proximity to the southern boundary of the Main Application Site where the operational effects on local FP receptors were considered to be significant. FPs to the west of the site at Slip End and Caddington were also considered to be sensitive to change particularly during the construction phase when site compounds would be visible. CBC considered (paragraph 5.7.13) that there was insufficient information to assess the impact of the Proposed Development on the function of the PRow network. It also highlighted that there were no requirements that secured this information and that this, and potential mitigation for FP Hyde FP4 (to the west of Someries Castle) should be included in the DCO.
- 3.16.70. HHA LIR [[REP1A-003](#)] identified that Work Nos. 5b(04) to 5b(07) would impact upon the Hertfordshire PRow network (paragraph 7.9.7) and that users of the PRow network in the area would be impacted by any increased traffic on the key and supplementary roads network (paragraph 7.9.9). They found (paragraph 7.9.13) that in principle the proposals would be positive but wanted further engagement as to whether the proposed diversions and stopping up would be acceptable.
- 3.16.71. Neither BC's LIR [[REP1A-001](#)] or LBC's LIR [[REP1A-004](#)] raised any concerns regarding the effect of the Proposed Development on PRow.
- 3.16.72. The ExA examined the matter at CAH1 [[EV5-001](#)] and CAH2 [[EV13-001](#)] and asked several written questions [[PD-015](#), PED2.18 and PED2.19].
- 3.16.73. At the close of the Examination the SoCG with CBC [[REP11-035](#), CBC80] reported that CBC still considered that there was insufficient information to assess the impact of the off-site landscaping mitigation on the PRow network. CBC acknowledged that the detail could be secured through Requirement 9 but was concerned that the proposed work would be inappropriate in these locations which may cause harm to the character of the area. The SoCG with NHDC [[REP11-097](#)] and HCC [[REP11-095](#)], did not include a position on PRow.

CONCLUSIONS ON LAND USE

- 3.16.74. Land use is an overarching subject. Consequently, many of the concerns raised under land use are also covered in other sections of this Report.

Agriculture and soils

- 3.16.75. The LLP does not have specific policies for the protection of soils or agricultural land. In their LIR the HHA confirmed that, in relation to agricultural land and farm holdings, the Proposed Development is considered to be compliant with the NHLP [[REP1A-003](#)] policy NE2 which protects soil types in the context of landscape.

- 3.16.76. In relation to agricultural land, the ANPS (paragraph 5.115) and the NPPF (paragraph 180) require that the Applicant should take into account the economic and other benefits of BMV land. The ANPS also states that where significant development of agricultural land is necessary, poorer quality land should be preferred. The Applicant has taken the effects on BMV land into account in the ES, as required by national policies.
- 3.16.77. BMV land was not initially a factor in consideration of alternative layouts, and when incorporated in later 'sifts' this was in the context of landscape and visual impacts. It is not clear to the ExA that alternatives to loss of BMV land, both overall and at a detailed scale were thoroughly accounted for.
- 3.16.78. However, the ExA acknowledge that the development must necessarily be adjacent to the existing airport and accepts that there would not be sufficient alternative brownfield land available at this location or deliverable alternative layouts that would render significant loss of BMV avoidable. The surrounding agricultural areas have been demonstrated to be a mosaic of Subgrade 3a and 3b land, making preference for development on poorer quality land impractical. Consequently, it is clear to the ExA that wherever the development was placed, given these constraints, significant loss of BMV land would be inevitable.
- 3.16.79. The ExA is satisfied that the assessment set out in the ES meets the requirements of the ANPS, national and local policies. The ExA sees no reason to disagree that there would be a major adverse effect on BMV land. Given the quantum of loss, this is a matter of moderate weight against making the DCO.
- 3.16.80. Where excavated soils would be used on the Main Application Site, the effects would be minimised through accordance with the SMP, secured in the draft DCO [[REP11-091](#), Requirement 7]. However, there would be large scale removal of soils, including topsoil, from the site because they would be either surplus or unsuitable. The ExA is satisfied that this is largely unavoidable and concludes that this results in a major adverse effect, which is a matter of moderate negative weight in making the Order.

Green Belt

- 3.16.81. The LLP, NHLP and CBLP contain policies which seek to prevent inappropriate development in the GB unless VSC exist. This is reflected by the NPPF (paragraphs 152 and 153) and the ANPS (paragraphs 5.114 and 5.127).
- 3.16.82. Of the four works that would be located in the GB the ExA is satisfied that the proposed infiltration tank (Work No. 4v), fuel pipeline (part of Work No. 4c(02)) and junction improvements (Work No. 6e (b)) would, for the purposes of paragraph 155 of the NPPF, be not inappropriate development in the GB as they would comprise engineering operations or local transport infrastructure.
- 3.16.83. The infiltration tank and fuel pipeline would, once installed, both be underground and as a result would not affect the openness of the GB. The junction improvements would comprise minor widening and realignment within the existing highway boundary and are minor in nature. The ExA is therefore satisfied that these works would not affect the openness of the GB or conflict with the purposes of including this land in the GB.
- 3.16.84. However, the SMR (Work No. 2a(02)) and the AGI (part of Work No. 4c (02)) would not fall within any of the forms of development listed in paragraph 155 and as such

the ExA agrees with the Applicant that these elements of the scheme would be inappropriate development. The ExA is satisfied that the proposed location of the SMR would be necessary for airport safety and that the harm to the openness of the GB caused by the AGI would be outweighed by the environmental benefits of removing a significant number of tanker movements from the LRN. As a result, the ExA considers that the VSC required by the NPPF exist for these two elements.

- 3.16.85. The change of use of agricultural land to Country Park was not assessed by the Applicant because it considered it unnecessary as there would be no physical works associated with this which would constitute development. The ExA disagree with this approach as the proposal would result in a material change in use of the land. However, the ExA is satisfied that such works would be not inappropriate development by virtue of NPPF paragraph (155e) subject to those works preserving the openness and not conflicting with the purposes of including land within the GB.
- 3.16.86. The ExA notes that the SLM [\[APP-172\]](#) shows a mix of proposed landscape treatments for the replacement open space including hedgerow restoration, neutral meadow grassland, amenity grassland and scrub. However, the plans also indicate the resurfacing and, in some instances upgrading of existing PRoW and creation of new surfaced paths. Whilst this would introduce built elements into an open area the ExA is satisfied that in principle this should not affect the openness or the permanence of the GB.
- 3.16.87. During assessment Phase 2a [\[AS-072\]](#) the Applicant proposes to temporarily stockpile soil on land within the GB. The GB Assessment [\[APP-196\]](#) does not assess this. The only reference is contained within Table B6.1 where the Applicant has assessed it as not inappropriate development. The HHA [\[REP1A-003\]](#), paragraph 7.11.4] also raised this as an issue. Chapter 4 of the ES [\[AS-042\]](#), Figure 4.6] and the Construction Method Statement [\[REP8-011\]](#), Inset 6.2] show two proposed stockpiles created during Phase 2a to be used for the bulk earthworks in assessment Phase 2b. In addition, Figure 4.13 [\[AS-042\]](#) shows that soil would be excavated and stockpiled before being reused as part of the works to create the infiltration basin [\[REP4-064\]](#), PED.1.38].
- 3.16.88. The ExA considers that the stockpiles would affect the openness of the GB and therefore disagrees with the Applicant that it would be not inappropriate development. However, the ExA accepts that it would be a temporary impact. Furthermore, the ExA acknowledges that the retention and reuse of soil on site would minimise the need for the import or export of soil and the associated traffic movements. The ExA considers that the temporary nature of the works and the ability to retain and reuse soil on site would provide the VSC exist that would outweigh the harm to the GB.
- 3.16.89. Finally, the ExA notes that the ES [\[AS-042\]](#), Figure 4.9] shows, at the end of the project, that significant reprofiling works are proposed for the area where the two stockpiles would be located. This would be achieved by the importation of material for landscaping and would result in an increase in levels in this location. The ExA is satisfied that such works would be an engineering operation and therefore subject to them not affecting openness or conflicting with the purposes of including land in the GB would be not inappropriate development. As openness has a spatial aspect as well as a visual aspect the ExA is concerned that the increase in levels could potentially adversely affect openness. However, Requirement 9 (2) (f) of the draft DCO [\[REP11-091\]](#) would require the details of any changes to existing levels be submitted to and approved by the RPA. As a result, the ExA is satisfied that a more

detailed evaluation on the effect on the openness of the GB would form part of the assessment to discharge this Requirement.

- 3.16.90. The ExA is therefore satisfied that the Proposed Development would either:
- be not inappropriate development and would not affect the openness or purposes of including land within the GB; or
 - where the Proposed Development would constitute inappropriate development that the proposed works would not affect the openness or purposes of including land within the GB and/ or VSC have been demonstrated for the proposed locations of the SMR, AGI and stockpiles that, should the SoS be satisfied that there is a need for the Proposed Development, would outweigh the harm to the GB that would result from these elements of the Proposed Development.
- 3.16.91. The ExA therefore considers that the Proposed Development would comply with the requirements of LLP Policy LLP4, NHLP Policy SP5, CBCLP policies SP4 and SP5, the NPPF and the ANPF. As a result, the ExA considers that the effect of the proposal on the GB neither weigh for nor against the making of the DCO.

Open Space

- 3.16.92. The Proposed Development would result in the loss of the existing open space at WVP for which the Applicant is offering compensatory land and facilities. The ExA is satisfied that access to the replacement open space would be provided before the existing open space was lost thereby ensuring continuity of provision. It is not in dispute that the replacement space would be a betterment in terms of quantity and, whilst it would not be re-provided within Luton, it would be within the immediate vicinity of the existing open space that would be lost.
- 3.16.93. However, it would take a significant length of time for landscaping to mature and for construction works to cease. The ExA accepts the Applicant's argument that this is necessarily the case in any compensation scheme for a project such as that proposed. Furthermore, Article 35 of the draft DCO [\[REP11-091\]](#) would require the production and approval of a timetable for the implementation of the replacement land. Nevertheless, during this significant period, the ExA considers that users of the open space would have a poorer experience to that which they currently enjoy.
- 3.16.94. After this period, the ExA is satisfied that the proposed replacement open space would provide a slightly enhanced experience for users to that which they currently enjoy, taking into account the commitments to long-term management of the landscaping and facilities on offer. In reaching this conclusion the ExA has had regard to the concerns raised regarding increased distance to the main area of the new park but have not found this to be notably disadvantageous. Consideration has also been given to the quality of the experience in respect of openness and the wide-ranging views valued by the current users. The main access from the car park would be enclosed by a new, high earth bund to the south and the prospect to the south would encompass, among other things, car parking, the WTP and the fuel storage area. The ExA considers that these are not improvements on the current, largely uninterrupted aspect experienced by users. Taking all of this into account, the ExA concludes that the offering would whilst being a different offer, on balance, result in an experience of broadly similar quality for users of the existing park.
- 3.16.95. At the close of the Examination, there remained a significant degree of uncertainty as to whether the proposed replacement open space was already being informally used for recreation. The ExA notes that the Applicant considers these claims to be

speculative, without reasonable basis and therefore feels that any current use was unlawful [[REP11-049](#), paragraph 7.5.10].

- 3.16.96. Given the importance policy places on retaining open space, the ExA considers that it is appropriate to take a precautionary approach when concluding on this issue. Consequently, it finds that there is sufficient evidence to indicate that the public have been using the replacement open space on an informal basis for a substantial amount of time. However, the ExA considers that usage was generally confined to the informal network of paths around and across the agricultural fields. Even if the informal paths were removed from the quantum of replacement land, the ExA is satisfied that the offering remains of overall greater quantity and, in time, will be of better quality. Furthermore, the proposals would offer significantly enhanced accessibility of the open space through the new network of better-quality FPs.
- 3.16.97. This being the case, the ExA considers that the Proposed Development would not result in the loss of open space as replacement space of a similar amount would be provided. The Proposed Development would therefore meet the requirements of the LLP (policies LLP27 and LLP6 (e)(iii) and (iv)) and NHLP (policies SP12 and NE6) which support the provision of new and improved open space; the NPPF (paragraph 103) and the ANPS (paragraph 5.1240). In terms of weighting, the ExA considers that in the short to medium term the experience for users of the replacement open space would be less than they currently experience and as such this would attract moderate to little negative weight against the making of the Order. However, in the long-term after the landscaping had matured and construction ceased the ExA considers that it would attract a little positive weight for the making of the Order due to the enhanced accessibility and improved management. In coming to this conclusion, the ExA has been mindful of its duties under the EA2010 and is satisfied that by ensuring continuity of provision and enhancements to accessibility and improved management there would be no differential or disproportionate effects to users with protected characteristics.

Public Rights of Way

- 3.16.98. The ExA is satisfied that, based on what it has read and heard, that the works required for the stopping up of the PRoWs would be necessary to enable the construction and operation of the Proposed Development. In coming to this conclusion, the ExA recognises that in the short term this may differentially affect a number of groups with protected characteristics such as the young, the elderly and those with disabilities as they are more dependent on accessible pedestrian modes of transport. However, the ExA considers that the provision of new and improved routes within the planned replacement open space and retained elements of WVP would in the medium to long-term enhance accessibility and encourage use. Therefore, the ExA considers that the Proposed Development would comply with the LLP (policy LLP29), NHLP (policy SP9), the NPPF (paragraph 104) and ANPS (paragraph 5.119) which both seek to protect and enhance PRoW and the ExA and SoS would have fulfilled their duty under the EA2010. The ExA considers that this should be given moderate positive weight for the making of the Order.
- 3.16.99. The effect of noise from the Proposed Development on PRoW in WVP is considered in more detail in the Health and Community and Chilterns NL sections of this Report.

Overall Conclusion

- 3.16.100. Due to the multiple elements examined in this section and the different conclusions that have been reached, the ExA considers that it is challenging to provide one

overall conclusion on land use for the purposes of the Planning Balance. In summary, the ExA concludes that:

- the loss of BMV land and the removal of a substantial volume of soil would both attract moderate negative weight;
- some works in the GB would be not inappropriate development, and would not affect the openness and purposes of including land in the GB and therefore would neither weigh for nor against the Proposed Development;
- where works would be inappropriate development, if the ExA concludes that there is an overall need for the Proposed Development then the ExA is satisfied that VSCs exist that would outweigh the harm to the GB that would result and would neither weigh for nor against the Proposed Development;
- however if the ExA considers that there is not the need for the Proposed Development then the SMR, AGI, stockpiles and reprofiling would harm the openness of the GB and would be a very great negative weight;
- in the short to medium term the experience for users of the replacement open space would be poorer than they currently experience and would attract little to moderate negative weight;
- in the long-term the ExA is satisfied that the replacement open space through enhanced accessibility would attract a little positive weight; and
- The improvements to the existing PRoW, provision of new PRoW and enhanced accessibility and encourage use would attract moderate positive weight.

3.17. MAJOR ACCIDENTS AND DISASTERS

INTRODUCTION AND POLICY BACKGROUND

3.17.1. This section considers the assessment of Major Accidents and Disasters (MAD) for the Proposed Development.

3.17.2. A list of relevant policies and legislation related to the assessment of MAD can be found in Appendix B.

THE APPLICATION

3.17.3. The Applicant's assessment of MAD is primarily contained within Chapter 15 of the ES [\[APP-041\]](#) and [\[APP-153\]](#). This assessed the likely significant effects of the construction and operation of the Project regarding MAD. In addition, the Applicant submitted an Environmental Risk Record [\[APP-109\]](#).

3.17.4. The ES assessed the risk of serious damage occurring as a result of the vulnerability of the Proposed Development to a natural disaster or to a major accident from an existing hazard source and also the Proposed Development creating a new source of a major accident.

3.17.5. The Applicant provided an assessment of major accident and/or natural disaster risks during construction and operation in [\[APP-041\]](#), Table 15.12] and [\[APP-041\]](#), Table 15.13]. These tables assessed the risks and detailed the mitigation proposed.

3.17.6. In [\[APP-041\]](#), Table 15.14] the Applicant provided a MAD assessment summary which included details of embedded and good practice mitigation for each potential MAD impact (as described in [\[APP-041\]](#), section 15.8]). Table 15.14 also provided details of any additional mitigation which was identified as being required for specific major accident hazards which could occur as a result of the operation of the proposed development. The only additional mitigation identified in Table 15.14 was the completion of a glint and glare assessment prior to the installation of façade treatment and photovoltaic panels.

3.17.7. The Applicant's assessment concluded that:

- No significant effects for MAD during the construction phase were likely as set out in ES Chapter 15 [\[APP-041\]](#), Table 15.14]; and
- No significant effects for MAD during the operation phase were likely following the implementation of the additional mitigation described above and set out in ES Chapter 15 [\[APP-041\]](#), Table 15.14].

ISSUES CONSIDERED

3.17.8. General concerns were raised by IPs that the proposed increase in passengers, and subsequent increase in flights and people driving to the airport, would result in more air and traffic incidents, and an increased risk of terrorism related incidents eg [\[RR-0006\]](#), [\[RR0421\]](#), [\[RR-0660\]](#), [\[RR0731\]](#), [\[RR-1574\]](#) and [\[RR-1565\]](#). The Applicant responded to these general concerns in [\[REP1-020\]](#), Table 2.7], [\[REP1-020\]](#), Table 2.17] and [\[REP1-022\]](#), page 61].

3.17.9. In the ExA's ExQ2 [\[PD015\]](#), MAD.2.1] the ExA asked the Applicant if the PSZ would need to be revised if the airport increased its passenger numbers. The Applicant

confirmed [\[REP7-060\]](#) that because there was no proposal to increase the runway length or change the position of the landing thresholds, the PSZ would not need to be revised. The Applicant confirmed that the existing PSZ [\[APP-153\]](#), Figure 15.3] was in compliance with regulations defined in the DfT Policy paper 'Control of development in airport public safety zones - Updated 8 October 2021'.

- 3.17.10. BFRS [\[RR-0142\]](#) were concerned that there would be an increased demand for emergency services due to the proposed increase in air traffic, passenger numbers and infrastructure. BFRS were also concerned that the proposed expansion might necessitate further specialised training and equipment and that the airport would require increased support from BFRS in relation to fire safety inspections and reviews. BFRS also raised concerns that any traffic management, related to the proposed expansion, could impact emergency response times to the airport and the surrounding areas of Luton.
- 3.17.11. The Applicant responded to BFRS concerns in [\[REP1-027\]](#) explaining that the existing airport fire station and training ground were being retained (albeit the training ground would be relocated) and neither would need to be upgraded to meet the requirements of the proposed fleet of aircraft. The Applicant acknowledged the traffic management concerns and confirmed that it intended to produce monitoring programmes, assess any impacts and then intervene accordingly if any issues persisted [\[REP1-027\]](#). Throughout the Examination, the Applicant engaged with BFRS through in-person meetings and correspondence. This resulted in a final signed SoCG between the Applicant and BFRS [\[REP9-039\]](#) which confirmed that BFRS agreed that the Applicant had adequately considered and addressed their MAD concerns.
- 3.17.12. EEAS [\[RR-0401\]](#) were concerned that the incidence and impact of MAD, due to the proposed increase in air passengers, on EEAS operational capacity, resources and efficiency had not been properly presented, assessed and mitigated.
- 3.17.13. The Applicant responded to EEAS concerns in [\[REP1-027\]](#). Throughout the Examination the Applicant engaged with EEAS through in-person meetings and correspondence resulting in a final SoCG which confirmed that EEAS agreed that the Applicant had adequately considered and addressed their specific MAD concerns [\[REP11-037\]](#), section 3.5].

CONCLUSIONS ON MAJOR ACCIDENTS AND DISASTERS

- 3.17.14. The ExA is satisfied that the Proposed Development accords with all legislation, policy and guidance requirements including DfT Policy paper 'Control of development in airport public safety zones' and LLP Policy LLP34. The implications in relation to TT are covered in Section 3.20 of this report and not concluded on here. The ExA is satisfied that MAD additional mitigation required for the operational phase is adequately provided for and secured in the draft DCO [\[REP11-091\]](#).
- 3.17.15. The ExA concludes that effects relating to MAD are neutral and therefore do not weigh for nor against the making of the order.

3.18. NOISE AND VIBRATION

INTRODUCTION

- 3.18.1. This Section of the Report considers the effects of noise and vibration arising from the Proposed Development. Over 1000 RR referenced, including from construction, traffic and aviation and its effects on health and quality of life, as an issue of concern. Noise and vibration effects were a principal issue in the ExA IAPI [\[PD-007, Annex C\]](#).
- 3.18.2. The effects of noise and vibration on biodiversity are considered under Section 3.6 of this Report: on tranquillity and the Chilterns NL under Section 3.14; and on cultural heritage assets under Section 3.13. The health effects of noise and vibration are considered in Section 3.12.

POLICY BACKGROUND

- 3.18.3. A brief overview of key policies is provided below; a list of relevant policies and legislation can be found in Appendix B.
- 3.18.4. Aviation noise policy is informed by international standards set by the ICAO, which introduced the concept of the '*balanced approach*' to aircraft noise management based on four principals:
- reduction of noise at source;
 - land-use planning and management;
 - noise abatement operational procedures; and
 - operating restrictions.
- 3.18.5. MBU states that "*as airports look to make the best use of their existing runways, it is important that communities surrounding those airports share in the economic benefits of this, and that adverse impacts, such as noise, are mitigated where possible*".
- 3.18.6. The APF recognises that the negative impact of airport noise is a key issue for local communities and emphasises that need for a "*a fair balance between the negative impacts of noise (on health, amenity (quality of life) and productivity) and the positive economic impacts of flights*" and that future growth in aviation should ensure that benefits are "*shared between the aviation industry and local communities*". It states that "*industry must continue to reduce and mitigate noise as airport capacity grows*." It states that Government's overall objective on noise is to "*limit and where possible reduce the number of people in the UK significantly affected by aircraft noise*" whilst acknowledging that there are positive economic impacts from aviation. The APF emphasises that industry must continue to reduce and mitigate noise as capacity grows to ensure that benefits are shared between industry and local communities. As a minimum, it states that airport operators should "*offer financial assistance towards acoustic insulation to residential properties which experience an increase in noise of 3dB or more which leaves them exposed to levels of noise of 63 dB $L_{Aeq,16h}$ or more*".
- 3.18.7. The DfT 'Consultation Response on UK Airspace Policy: A framework for balanced decisions on the design and use of airspace (2017)' sets out proposed changes to aviation noise compensation policy. These include compensation to be available regardless of type of change (infrastructure or airspace), full insulation for homes within the 69dB L_{Aeq} contour, financial assistance towards insulation in the 63dB L_{Aeq}

level regardless of level of change and encouraging compensation for significant increases in overflights.

- 3.18.8. The Air Navigation Guidance (2017) includes guidance on aviation metrics and the assessment of aviation noise levels for airspace change applications. It establishes a LOAEL of 51dBL_{Aeq16hr} for daytime noise and 45dBL_{Aeq8hr} for night-time noise.
- 3.18.9. Aviation 2050 highlights the increasing sensitivity of communities to aviation noise recommending changes to the noise insulation policy thresholds. It referenced the APF noise insulation policy 63dBL_{Aeq16hr} contour threshold and proposed new eligibility for significantly increased overflight, setting a new minimum threshold of an increase of 3dB L_{Aeq}, which leaves a household in the 54dB L_{Aeq16hr} contour or above as a new eligibility criterion for assistance with noise insulation. In July 2022 the DfT confirmed that due to the unprecedented challenges that the aviation sector has faced as a result of the COVID-19 pandemic, a limited number of recommendations relating to the CAA powers and its sanctions and penalties regime would be taken forward and that a further formal consultation response would not be published.
- 3.18.10. The ANPS recognises that high exposure to noise can cause annoyance, sleep disturbance and affect people's health. Night noise is recognised to be the least acceptable aspect of aviation noise and that predictable periods of relief from aircraft noise are important for affected communities. The ANPS sets out assessment and mitigation requirements including reference to the balanced approach. ANPS (paragraph 5.53) explains that Applicant's should have regard to the *"noise assessment principles, including noise metrics, set out in the national policy on airspace"*. Paragraphs 5.54 to 5.66 discuss mitigation requirements and how they are secured (including enforcement mechanisms), which should be developed in consultation with local communities and stakeholders. Paragraph 5.58 states that the SoS will consider *"whether the mitigation measures put forward by the applicant following consultation are acceptable"*. Paragraph 5.58 references limiting and where possible reducing aircraft noise compared with a 2013 baseline but this is a Heathrow specific commitment. Paragraph 5.60 highlights that noise envelopes should be tailored to local priorities and include clear noise performance targets and suitable review periods to ensure they remain relevant. Decisions must have due regard to statutory obligations for noise, national aviation policy, the NPSE and the NPPF. Paragraph 5.68 explains that development consent should not be granted unless the SoS is satisfied that the proposals will meet similar aims to the NPSE, within the context of Government policy on sustainable development. ANPS (paragraph 4.27) requires a project level EqIA to examine potential effects on groups of people with protected characteristics.
- 3.18.11. FttF explained that Government will work with the aviation sector to reduce the localised impacts of aviation noise, through a clearer noise policy framework and measures to incentivise best operational practice to reduce noise and improve airport insulation schemes.
- 3.18.12. The OANPS sets out the Government's revised overarching policy on aviation noise overall *"to balance the economic and consumer benefits of aviation against their social and health implications in line with the ICAO's Balanced Approach. This should take into account the local and national context of both passenger and freight operations, and recognise the additional health impacts of night flights. The impact of aviation noise must be mitigated as much as is practicable and realistic to do so, limiting, and where possible reducing, the total adverse impacts on health and quality of life from aviation noise."* The paper explains that *"An overall reduction*

in total adverse effects is desirable, but in the context of sustainable growth an increase in total adverse effects may be offset by an increase in economic and consumer benefits. In circumstances where there is an increase in total adverse effects, “limit” would mean to mitigate and minimise adverse effects, in line with the NPSE.”

- 3.18.13. The NPSNN (paragraphs 5.186 to 5.200) sets out the policy considerations with respect to noise and vibration, which include the requirement to assess transport noise effects and demonstrate measures taken to minimise noise emissions including noise insulation where relevant under the Noise Insulation Regulations 1975. The policy references the NPSE aims. The NPSNN is considered to have relevance to proposed work adjacent to the M1 J10 only.

- 3.18.14. The NPSE sets out the long-term vision of the Government’s noise policy which is to: *“promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development”*. The NPSE Explanatory Note states that the aims of development should be to avoid noise levels above the SOAEL, to take all reasonable steps to mitigate and minimise noise effects where development noise levels are between the LOAEL and SOAEL and where possible, contribute to the improvement of health and quality of life.

- 3.18.15. The NPPF (paragraph 180e) seeks to prevent *“new and existing development from contributing to, or being adversely affected by, unacceptable levels of... noise pollution...”*. Development should also *“wherever possible, help to improve local environmental conditions”*. Paragraph 191 states that planning decisions should ensure that new development is *“appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development*. Paragraph 191a suggests that development should also *“mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life”*. Paragraph 191b suggests that planning decisions should *“identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason”*. Paragraph 182 states that development within the setting of an AONB *“should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas”*.

- 3.18.16. The Planning Practice Guidance for Noise (PPGN) defines an Unacceptable Adverse Effect Level (UAEL) as a level of noise that should be prevented. Noise is identified as having potential to affect amenity, tranquillity in relatively undisturbed areas, wildlife and ecosystems. Where noise could have a significant adverse effect on residents, the *‘agent of change’* causing the noise will need to mitigate effects of these activities now and in future either at source, through design layouts, planning restrictions and/ or noise insulation. Noise impacts may be offset by access to quiet external amenity spaces.

- 3.18.17. LLP Policy LLP6 sets out requirements in relation to airport expansion and operation. Proposals for development will be supported only where they meet nine criteria which include:

“ii. they contribute to achieving national aviation policies;...

iv. they fully assess the impacts of any increase in Air Transport Movements on surrounding occupiers and/or local environment (in terms of noise, disturbance... and identify appropriate forms of mitigation in the event significant adverse effects are identified;

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

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

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

3.18.18. LLP Policy LLP38 requires that developments demonstrate whether they will give rise to significant noise effects, individually or cumulatively and that such impacts are suitably mitigated.

3.18.19. Luton Local Transport Plan 4 (April 2021) Policy 13 and Luton Local Transport Plan 3 (2011-2026) (March 2011) Policy 19 aim to reduce *"noise and vibration from traffic, with priority being given to those areas where these impacts are excessive and adversely impact on the greatest number of people"*.

3.18.20. Other development plan, transport plan and neighbourhood plan policies contain broadly similar objectives to the LLP (including NHLP Policies SP1 and D3, DBCS Policy CS32, CBLP Policies HQ1 and CC8, VALP Policies S1, NE5 and BE3). In addition, a number of development plans set out policies that seek to conserve and enhance the Chilterns NL, and its SQs (including tranquillity). These are discussed in Section 3.8 of this Report.

3.18.21. St Albans District LP Review (1994) Policy Intention 9 opposes proposals to expand LLA if they would result in the district being affected by aircraft noise above 1984 levels, particularly at night.

Human Rights

3.18.22. The European Court of Human Rights (ECHR) applies certain protocols in relation to noise disturbance. Article 8 – the right to respect for private and family life in *Hatton and others vs. UK (2003) 37 ECHR 28*, paragraph 96 of the judgment stated: *"There is no explicit right in the convention to a [...] quiet environment, but where an individual is directly and seriously affected by noise [...] an issue may arise under Article 8..."*

3.18.23. Article 1 of Protocol 1 – the protection of property has also been the subject of a judgment in *Thomas and others v Bridgend County BC (2011) EWCA Civ 862*, where the claimant argued that noise from a road was a breach of Article 1 by interfering with the peaceful enjoyment of possessions (ie the claimant's house) and they should be entitled to compensation, the Court concluded that as there was no compensation offered, that was a breach of Article 1.

Public Sector Equality Duty

- 3.18.24. The purpose of the PSED is to ensure that public authorities consider how they can improve society and promote equality in every aspect of their public functions. Decision making must take into account how it would affect groups with protected characteristics including consideration of noise effects.

THE APPLICATION

- 3.18.25. The noise and vibration assessment is primarily contained within the ES Chapter 16 [\[REP9-011\]](#), which assessed the likely significant effects arising from noise and vibration during construction and operation. Additional noise assessment was provided in 'Accounting for COVID-19 in transport modelling - environmental appraisal' [\[REP7-079\]](#). The Applicant summarised its noise case in [\[REP11-049\]](#). Key supporting appendices and additional submissions that comprise the assessment are summarised in Appendix A of this Report.
- 3.18.26. Noise mitigation measures were summarised in the mitigation route map [\[REP10-023\]](#). Proposed construction related noise and vibration controls were set out in the CoCP [\[REP8-013\]](#) and the oCTMP [\[REP11-005\]](#).
- 3.18.27. The Applicant's main operational noise controls were set out in the Applicant's GCG Framework [\[REP11-013\]](#), the GCG explanatory note [\[REP11-011\]](#), the GCG appendix C aircraft noise monitoring plan [\[REP11-019\]](#), the operational noise management (explanatory note) [\[REP10-019\]](#), the fixed plant noise management plan [\[REP4-025\]](#), the air noise management plan (ANMP) [\[REP9-047\]](#) and the outline ground noise management plan (oGNMP) [\[REP11-043\]](#).
- 3.18.28. The Applicant's approach to noise insulation and community funds was explained in the 'Compensation Policies, Measures and Community First' document [\[REP11-025\]](#) ('the Compensation Policies').
- 3.18.29. The construction stage assessment of [\[REP9-011\]](#) considered the noise and vibration effects arising from works at the airport, off-site highway works and from construction and operational traffic. The operational stage assessment considered the effect of operational traffic noise, operational fixed plant noise, aviation noise and airport ground operations and a qualitative assessment of operational vibration. The operational assessment was used to define a noise envelope, informing the selection of noise contours for GCG. The assessments considered both day and night-time impacts and effects on residential and non-residential receptors (eg schools and care homes).
- 3.18.30. The assessment methodologies were set out in ES Section 16.5 [\[REP9-011\]](#) which described the baseline data gathering, survey and assessment methodologies, aviation and traffic noise modelling approach and the Applicant's approach to defining LOAEL, SOAEL and UAEL thresholds for the assessment of significant effects. The assessment was based on industry standard methodologies including relevant British Standards.
- 3.18.31. ES Section 16.5 [\[REP9-011\]](#) explained that the Applicant compared the future DM scenario against the future DS scenario to draw conclusions regarding significant effects. Assessment years and assessment phases were defined (assessment Phase 1, 2027 Terminal 1 with 21.5mppa throughput; Phase 2a, 2039 T2 reaches 27mppa throughput; Phase 2b, 2043 completed airport at full capacity 32mppa). Separate assessment criteria were set out for residential and non-residential receptors. The Applicant provided two 2019 baseline positions to inform the

assessment of effects and to demonstrate whether the Proposed Development resulted in a reduction noise and noise-related health effects over time as required in policy (eg the ANPS, OANPS and LLP6). The 2019 baselines are considered in detail below.

- 3.18.32. ES Section 16.5 [\[REP9-011, Table 16.15\]](#) set out supplementary metrics (number above contours, overflights and awakenings) that were provided consistent with the recommendations in the ANG. ES Section 16.5 also set out the Applicant's approach to consideration of impacts on tranquillity, relative tranquillity and heritage receptors, although the detail of the assessments was largely provided in the relevant chapters [\[AS-079\]](#) and [\[AS-077\]](#).
- 3.18.33. ES Section 16.6 [\[REP9-011\]](#) explained the assumptions and limitations that informed the assessment and modelling approach.
- 3.18.34. ES Appendix 16.1 [\[REP9-017\]](#) provided more detailed information on methodological approaches. Section 6 of the appendix included details of the aviation noise modelling approach based on the Federal Aviation Authority's Aviation Environmental Design Tool (AEDT). It set out the model validation approach, fleet mix and flight profile assumptions. Section 8 explained the ground noise modelling approach, which was based on Computer Aided Noise Abatement (CadnaA) noise modelling software. Section 9 included details of the surface access noise modelling approach, which was based on Calculation of Road Traffic Noise method and the strategic traffic model in the Transport Assessment (TA) [\[APP-203\]](#), [\[AS-123\]](#), [\[APP-205\]](#), [\[APP-206\]](#) and [\[AS-159\]](#). Section 12 also set out the Applicant's sensitivity tests for different future scenarios (2019 Consented baseline, Slower Growth and Faster Growth, Assessment Phase 1 2027 Faster Growth Assessment, Assessment Phase 1 2030 Slower Growth Assessment, Next Generation Aircraft in Future Years M1 Junction (J) 10 and Potential Changes to Air Space). Updated faster growth scenarios (UFGS) were provided in [\[REP9-055\]](#).
- 3.18.35. The likely significant effects assessed by the Applicant during the construction and operation phases were set out in ES Section 16.9 [\[REP9-011\]](#) and summarised in ES Section 16.14 [\[REP9-011\]](#). The ES concluded that there were no significant construction effects but in the absence of mitigation, the following significant operational effects would occur (See Table 7 below):

Table 7: Reported significant effects from noise sources broken down by phase (extracted from [\[REP9-011, Sections 16.9 and 16.14\]](#))

Phase	Noise source	Reported effects
1	Aviation	Minor adverse effects above SOAEL for 3,800 people (night)
	Ground noise	Minor adverse effects above SOAEL for 6 properties (night)
	Surface access	Temporary significant adverse effects at 17 properties close to Eaton Green Road, between Vauxhall Way and Frank Lester Way

Phase	Noise source	Reported effects
2a	Aviation	Minor adverse effects above SOAEL for 200 people (day) and minor adverse effects above SOAEL for 2,600 people (night)
	Ground noise	Minor adverse effects above SOAEL for 4 properties (night)
	Surface access	Day and night indirect significant adverse noise effects on 55 properties on Crawley Green Road
2b	Aviation	Minor adverse effects above SOAEL for 500 people (day) and minor to moderate adverse effects above SOAEL for 3,250 people (night)
	Ground noise	Moderate adverse effects above SOAEL for 2 properties (day), minor adverse effects above SOAEL for 2 properties (day) and minor adverse effects above SOAEL for 6 properties from (night)
	Surface access	Day and night indirect significant adverse noise effects on 55 properties on Crawley Green Road and 20 properties on Stony Lane

3.18.60. The ES [REP9-011, Tables 16.38, 16.43, 16.50] summarises the change in population within the LOAEL, SOAEL and UAEL contours. These highlight that the population exposed to noise levels exceeding LOAEL would be increased in the DS scenario compared with the DM scenario as follows: 38, 16.43, 16.50] summarises the change in population within the LOAEL, SOAEL and UAEL contours. These highlight that the population exposed to noise levels exceeding LOAEL would be increased in the DS scenario compared with the DM scenario as follows:

- Phase 1 6,600 (day), 13,700 (night);
- Phase 2a 10,700 (day), 19,500 (night);
- Phase 2b 18,300 (day), 27,150 (night).

3.18.61. Population exposure above SOAEL compared with the previous consented position was also usefully summarised in the LBC LIR [REP1A-004, Tables 4.35 and 4.36].

3.18.62. In addition to the significant effects identified above, the ES [REP9-011, Tables 16.70 to 16.74] identified a range of traffic noise increases and decreases that would be noticeable (eg exceeding 3dB) in the Phases 1, 2a and 2b but were not assessed as significant as they would not exceed SOAEL.

3.18.63. The Applicant concluded that when the noise insulation measures in the Compensation Policies [REP11-025] were taken into account there would be no residual significant effects, except for the 17 properties close to Eaton Green Road

for which no mitigation was proposed as the properties were predicted to be very close to SOAEL and the effect would be temporary. Significant effects were also predicted at 20 properties on Stony Lane, where no mitigation would be offered based on the low absolute traffic noise levels, which would remain below SOAEL.

- 3.18.64. In [\[REP9-011\]](#), ES Tables 16.39, 16.46 and 16.53] community areas (including outdoor spaces such as gardens) were identified as likely to experience significant adverse effects due to air noise increases for which no mitigation was proposed or possible. In Phase 1 this would be during the night period only but in Phase 2a and 2b effects were identified for properties during the daytime as well, when outdoor spaces would be likely to be in use.
- 3.18.65. The Applicant's EqIA [\[AS-129\]](#) identified the potential for differential and disproportionate adverse effects eg for children under 16, pregnant individuals, black and minority ethnic groups and older people (aged 65 and over) due to traffic and air noise effects. It signposted to mitigation in the noise and health and community chapters of the ES.
- 3.18.66. Health effects arising from noise and vibration eg related to sleep disturbance were considered separately in ES Chapter 13 [\[REP10-009\]](#).

GCG Framework

- 3.18.67. The GCG Framework [\[REP11-013\]](#) contained the Applicant's provisions to control aviation noise, including noise contour 'Limits' based on the Applicant's faster growth scenario. Level 1 and Level 2 noise contour 'Thresholds' were set at 85% and 95% of the Limit value respectively. Exceeding a particular threshold would require the Applicant to take certain actions to avoid a breach of the Limit, whilst exceeding the Limit would require the Applicant to put in place a mitigation plan and prevent the Applicant from releasing further capacity (ie preventing further growth). To assist the operator in achieving noise contour Limits, the Threshold and Limit contours would be converted to QC budgets [\[REP7-077\]](#), [\[REP9-055\]](#), [\[REP9-057\]](#) and [\[REP11-051\]](#). Annual noise monitoring and reporting requirements in respect of the GCG Framework were set out in [\[REP11-019\]](#).

ISSUES CONSIDERED

Construction noise and vibration

- 3.18.68. Over 100 RRs eg [\[RR-1113\]](#), [\[RR-0966\]](#), [\[RR-1592\]](#), [\[RR-1129\]](#) and [\[RR-1510\]](#) identified construction or construction vehicle impacts as a concern, with noise and vibration being a key consideration. The HHA LIR [\[REP1A-003\]](#) stated that there were not considered to be significant construction noise impacts in Hertfordshire but highlighted the broad policy drivers to avoid unacceptable noise impacts from development and to mitigate and minimise construction and traffic noise. It suggested that *"inasmuch as the development plan seeks to restrict adverse environmental impacts, the proposal is considered not to be policy compliant"*. LBC LIR [\[REP1A-004\]](#) and CBC LIR [\[REP1A-002\]](#) highlighted noise as a potential issue for developments in general and the requirement in policy to mitigate adverse effects.
- 3.18.69. At ISH3 [\[EV8-001\]](#), ISH8 [\[EV15-001\]](#) and in the ExA's ExQ1 [\[PD-010\]](#) and ExQ2 [\[PD-015\]](#) the ExA explored the Applicant's approach to construction noise and vibration assessments. The ExA considered the robustness of baseline noise monitoring, implications of possible 24 hour working for the conclusions of the assessment, controls on certain types of noisy construction activity (piling and

conveyors), construction traffic noise modelling assumptions and validation, and controls on construction traffic routing. Construction traffic issues are dealt with in the following Section on surface access noise and vibration.

- 3.18.70. The Applicant justified and updated its baseline noise assessments [AS-120], [REP3-050], [REP4-080] and [REP6-066, Table 1.1]. It also updated noise mitigation measures in the CoCP [REP8-013], including additional piling provisions and demarcation of night-time working exclusion areas.
- 3.18.71. Following agreement of the oCTMP and CoCP measures, construction noise and vibration effects were agreed in the signed JHA SoCG [REP11-033], [REP11-035], [REP11-095], [REP11-097] and [REP11-099] or BC SoCG [REP11-101].

Construction noise and vibration – overall conclusions

- 3.18.72. The ExA considers that taken together with recommended DCO Requirement 2(5) [REP11-091], these measures should ensure that any construction controls approved under the CoCP would not give rise to any materially new or materially different environmental effects and are sufficient to secure the assessment outcomes.
- 3.18.73. Construction activities would, however, occur over a prolonged duration and give rise to increased noise and vibration levels for residents. Such effects were not predicted to give rise to significant adverse effects with mitigation but would not contribute to the NPPF (paragraph 180e) ambition to “*wherever possible, help to improve local environmental conditions*”, on this basis the ExA attributes a little negative weight to these effects.

Surface access noise and vibration – construction and operation

- 3.18.74. A number of representations eg [RR-1129], [RR-0825], [RR-1113], [RR-0966], [RR-1592], [REP1-095] and [REP1-106] raised concerns regarding the potential for increased construction and/ or operational traffic noise and with the Applicant’s approach to baseline noise monitoring and surface access noise model validation.
- 3.18.75. BC’s LIR [REP1A-001] highlighted issues with existing construction traffic impacts arising from East West Rail (EWR) and HS2 in Buckinghamshire. It considered there was potential for effects due to lack of detail on ‘last mile’ freight routing in the Applicant’s construction traffic noise assessment and in ‘Accounting for COVID-19 in transport modelling - environmental appraisal’ [REP7-079] for locations in Buckinghamshire and that this was compounded by weak oCTMP provisions.
- 3.18.76. The JHA signed SoCG ([REP11-033], [REP11-035], [REP11-095], [REP11-097] and [REP11-099]) expressed concern with the setting of UAEL threshold for daytime traffic noise.
- 3.18.77. At the close of Examination, CBC [REP11-035], BC [REP11-101] and the HHA [REP11-095], [REP11-097], [REP11-099] signed SoCGs had some outstanding concerns with the transport modelling. BC [REP6-087] and [REP11-101] also maintained that the impacts of early morning traffic noise in Buckinghamshire could be significant.
- 3.18.78. The ExA explored these matters in written questions [PD-010] and [PD-015] at ISH3 [EV8-001] and ISH8 [EV15-001] as set out below.

Surface access – baseline noise monitoring, modelling assumptions and validation

- 3.18.79. The ExA [PD-005] requested noise survey datasheets, as the noise assessment included summarised information. The Applicant [AS-120] provided this information and clarified that the ambient noise monitoring data was being used to spot check and verify the baseline road traffic noise. The ExA [EV8-001] considered issues with the quality of the raw datasets and the Applicant [REP3-050] provided additional information on surveys that addressed the ExA's questions.
- 3.18.80. At ISH3 [EV8-001], the ExA examined the variance between modelled and monitored construction traffic noise results, which was noted to be up to 8dB in certain locations [REP9-017]. The LADACAN [REP1-095] questioned the Applicant's baseline traffic noise monitoring suggesting that *"some indication of confidence level and usable sample size over the period of monitoring would normally be expected"*.
- 3.18.81. The Applicant's post ISH3 submission [REP3-050] provided additional explanation of the methodology, stating that in all but four locations spot checks of the model showed good agreement with monitoring data (within 3db). [REP3-045] provided additional surface access noise modelling information and further justification for the Applicant's approach to calibration and additional analysis of the four locations. The discrepancies were found to be due to errors in measurement positions in the model. The Applicant [REP2-037] noted that monitoring data were subject to industry standard methods and that it is uncommon to provide confidence intervals.
- 3.18.82. Suono (the JHA acoustic consultant) confirmed that the surface access noise model, methodology and assessment were generally acceptable [REP3-094]. CBC [REP11-035] and HHA signed SoCG ([REP11-095], [REP11-097], [REP11-099]) agreed that the methodology and validation for the surface access noise modelling was satisfactory.
- 3.18.83. The ExA considers that when the additional surface access noise modelling information is taken into account, the construction and operational traffic noise model shows reasonable agreement with monitored data and can be relied on. The ExA therefore concludes that baseline noise monitoring and surface access assessment is sufficiently robust for the purposes of decision making.

Surface access - construction traffic routing

- 3.18.84. The oCTMP [REP11-005] assumed that the majority of construction traffic would access the Main Application Site via the M1, A1081 and President Way or the proposed AAR but some traffic would use the A602/ A505 corridor. In ExQ1, [PD-010, NO.1.4] the ExA asked the Applicant to explain how traffic noise impacts on the A602/ A505 had been assessed.
- 3.18.85. The Applicant [REP4-060] stated that other access routes would be heavily trafficked main roads unaffected by the limited additional construction traffic and were not considered further and that these movements would be subject to controls in the oCTMP. [REP4-093] highlighted that the P19 permission accepted use of M1 J10 as a reasonable traffic assumption.
- 3.18.86. BC [REP11-101] remained concerned regarding the potential for adverse effects from construction traffic on the Buckinghamshire road network but was satisfied that involvement in the oCTMP and Traffic Management Working Group could resolve this, as secured by Requirement. At the close of Examination, no matters remained

outstanding for the JHA when the final mitigation measures in the CoCP [\[REP8-013\]](#) and [\[REP11-005\]](#) were taken into account.

- 3.18.87. The ExA considers acknowledges that the absence of an appointed contractor, details of suppliers, and the long build out period, together limit the Applicant's ability to provide this. The ExA concludes that the proposed traffic measures, approved by the JHA and BC are sufficient to secure the traffic noise outcomes assessed in the ES.
- 3.18.88. The ExA notes the outstanding position of the HHA and CBC with respect to the transport modelling. The ExA has considered the transport assessment and modelling in Section 3.20 of this Report and concludes that the transport modelling was undertaken in accordance with relevant policy and guidance. The ExA therefore considers that the surface access noise model, which is informed by the strategic traffic model, can be relied on.

Surface access - COVID-19 traffic modelling and environmental appraisal

- 3.18.89. The Applicant's COVID-19 traffic modelling environmental appraisal [\[REP7-079\]](#) identified additional exposure above SOAEL in Phase 1 due to temporary road noise effects at 17 properties adjacent to Eaton Green Road, between Vauxhall Way and Frank Lester Way, for which no mitigation was proposed as the properties were predicted to already be very close to SOAEL, the magnitude of change was small and the effect would be temporary. The conclusions relied on delivery of LBC proposed highway improvements for Vauxhall Way.
- 3.18.90. The JHA were satisfied with the surface access noise assessment and proposed mitigation at the close of Examination [\[REP11-033\]](#), [\[REP11-035\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#) and [\[REP11-099\]](#).
- 3.18.91. BC raised issues with noise from early morning traffic movements in Buckinghamshire [\[REP6-087\]](#). It considered that the large percentage increases in traffic identified in the updated COVID-19 modelling could result in noise impacts on sensitive receptors.
- 3.18.92. In ExQ2 [\[PD-015\]](#), NO2.12], the ExA asked for an explanation of likely surface access noise impacts in Buckinghamshire in the early morning period. The Applicant [\[REP7-056\]](#) explained that although the percentage increase was large, this was in the context of low absolute traffic numbers and would not trigger the need for additional noise assessment. BC maintained its position at the close of Examination [\[REP11-101\]](#).
- 3.18.93. The ExA considers that for properties adjacent to Eaton Green Road, the temporary timescales for exposure above SOAEL could amount to a period of years (subject to LBC budgets and delivery timescales). Whilst the ExA notes that the magnitude of change is small and properties are already close to SOAEL, the ExA considers that the Applicant's approach is inconsistent with the ANPS and NPSE requirement to avoid significant adverse effects on health and quality of life. It is also inconsistent with the NPPF aim to mitigate and reduce to a minimum potential adverse impacts, the requirements of Policy LLP6(B)(iv) to "*identify appropriate forms of mitigation in the event significant adverse effects are identified*" or LLP6(B)(v) to "*achieve further noise reduction or no material increase in day or night time noise or otherwise cause excessive noise including ground noise at any time of the day or night*". On the basis that these effects would not fully accord with National and local policy, the

ExA but would be of a small magnitude, the ExA considers that this would attract moderate weight against the making of the Order.

- 3.18.94. The ExA has considered the impact of early morning traffic in Buckinghamshire and concludes that because the absolute traffic flows would remain low and below the thresholds of assessment, noise impacts would not be significant. This matter is considered to weigh neither for nor against the making of the Order.

Surface access - daytime UAEL

- 3.18.95. The ExA questioned use of the 74dB $L_{Aeq16hr}$ daytime UAEL at ISH3 [EV8-003], a matter raised by the UKHSA and OHID [RR-1546] and the JHA [REP3-094], who preferred the 71dB $L_{Aeq16hr}$ used in the Heathrow PEIR.
- 3.18.96. [REP3-050] and [REP9-017] explained that the night-time UAEL derived from recommended internal noise levels in the Association of Noise Consultant's and Institute of Acoustics' 'Professional Practice Guidance on Planning and Noise (2017)' and LBC's 'Planning and Noise Guidance (2012)'. The daytime UAEL had been used and accepted in the A14 Cambridge to Huntingdon Bypass decision and was considered equally applicable to local conditions in Luton. The JHA [REP3-094] suggested that irrespective of whether 71 or 74 dB $L_{Aeq16hr}$ was adopted, it made little difference as the assessment outcomes and mitigation offer would remain unchanged. This matter was not agreed at the close of Examination [REP11-033, LBC81], [REP11-035, CBC126], [REP11-095, HCC85], [REP11-097, NHDC87] and [REP11-099, DBC97].
- 3.18.97. The ExA notes that the use of 74dB $L_{Aeq16hr}$ as the daytime UAEL is a moot point since the assessment outcomes are predicted to be the same with a 71dB $L_{Aeq16hr}$ UAEL. The ExA considers that this has no bearing on the assessment outcomes and does not require further consideration.

Surface access noise and vibration – overall conclusions

- 3.18.98. The ExA examined additional surface access assessment and modelling information and concluded that the assessments were sufficient for the purposes of decision making.
- 3.18.99. The ES [REP9-011] identified the potential for likely significant effects on 55 receptors on Crawley Green Road, in excess of SOAEL in Phases 2a and 2b, during the day and night, for which compensatory mitigation in the form of noise insulation was proposed, if demonstrated to be necessary based on traffic monitoring as part of the oTRIMMA. The ExA concludes that mitigation could reduce these effects below SOAEL and considers that the Applicant has proposed appropriate mitigation in respect of traffic noise effects for these receptors.
- 3.18.100. The COVID-19 assessment identified effects in excess of SOAEL at 17 receptors on Eaton Green Road in Phase 1 but did not propose compensatory noise mitigation on the basis that receptors were close to SOAEL, the magnitude of change was small and effects would be temporary, until Luton delivered certain off-site highway improvements. On the basis that the timescale for these works is not certain and that effects would not avoid exceeding SOAEL, the ExA concludes that these effects attracted moderate weight against the making of the Order.
- 3.18.101. [REP9-011] identified the potential for significant adverse effects on 20 properties on Stony Lane for which no mitigation was identified. The Applicant explained that mitigation would not be proportionate as absolute traffic levels were close to the limit

of validation for the Calculation of Road Traffic Noise methodology, would be below the SOAEL and the absolute increase in this instance would roughly equate to an increase of one additional vehicle per minute. The ExA concludes that in light of the absolute numbers of predicted traffic movements, there would be little harm and affords a very little weight against the making of the Order.

- 3.18.102. The ES [\[REP9-011\]](#) also identified the potential for both increases and decreases in surface access noise to arise in future years. Effects were assessed as below SOAEL and therefore not significant. On the basis that such effects were not predicted to give rise to significant adverse effects but would not contribute to the NPPF (paragraph 180e) ambition to “*wherever possible, help to improve local environmental conditions*”, the ExA attributes a little negative weight to these effects.

Operational noise and vibration

- 3.18.103. The majority of noise issues raised in RR and WR related to the impact of aircraft noise and vibration and associated effects on health, wellbeing and quality of life eg [\[RR-0155\]](#), [\[RR-0587\]](#), [\[RR-1406\]](#), [\[RR-0839\]](#), [\[RR-1408\]](#), [\[RR-0170\]](#), [\[REP1-095\]](#), [\[REP1-106\]](#), [\[REP1-125\]](#), [\[REP2-053\]](#)). IPs raised issues with most aspects of the Applicant’s aviation noise assessment, monitoring and modelling approach and questioned the effectiveness of proposed mitigation measures such as operational noise management controls, the noise insulation Compensation Policies and the GCG Framework. The ExA’s consideration of these matters is set out below, along with consideration of operational fixed plant noise.

- 3.18.104. Operational vibration from aircraft was raised in RR eg [\[RR-0090\]](#), [\[RR-0698\]](#), [\[RR-0725\]](#), [\[RR-1347\]](#) and [\[REP1-081\]](#). The ExA is satisfied that these matters were addressed by the Applicant’s response to RR [\[REP1-020\]](#) and WR [\[REP2-034\]](#). The JHA signed SoCG, LBC final position statement [\[REP11-069\]](#) and HHA closing position statement [\[REP11-063\]](#) made no comment on operational vibration.

Fixed plant noise

- 3.18.105. The original ES Appendix 16.3 Fixed Plant Noise Management Plan [\[APP-112\]](#) outlined the Applicant’s approach to the management of noise from fixed plant. During Examination the ExA [\[EV8-001\]](#) considered whether the threshold levels to be achieved by fixed plant were less challenging than those for previous developments such as New Century Park. The Applicant amended its approach consistent with previous consents in [\[REP4-025\]](#).

- 3.18.106. The JHA were satisfied with the revised noise provisions [\[REP3-094\]](#) and the HHA LIR [\[REP1A\]](#) stated that noise from fixed plant was not expected to have a significant impact in Hertfordshire in any operational phase.

Fixed plant noise - conclusions

- 3.18.107. The ExA is satisfied that the amended fixed plant noise management plan [\[REP4-025\]](#), would avoid significant adverse effects and can be relied on for the purposes of decision making.

Aviation noise

- 3.18.108. A number of IPs raised issues with the Applicant’s noise modelling, highlighting issues with:

- The 2019 baseline;

- the baseline noise monitoring data;
- modelling assumptions;
- model validation (including comparisons between the Integrated Noise Model (INM) and AEDT and issues with the Airbus A321 new engine option (neo));
- future fleet forecasts;
- load factors; and
- next generation aircraft assumptions.

3.18.109. At the close of Examination the JHA were satisfied with the noise modelling approach, validation, noise monitoring terminal (NMT) measurements and approach to use of ambient noise data but continued to disagree with assessment based on the 2019 baseline ([[REP11-033](#)], [[REP11-035](#)], [[REP11-095](#)], [[REP11-097](#)] and [[REP11-099](#)]). The CAA [[REP9-037](#)] agreed that its modelling concerns had been addressed and that the validation process was appropriate. However, many IPs eg LADACAN [[REP11-083](#)], Michael Reddington [[REP10-084](#)] the Harpenden Society [[REP10-093](#)] and St Albans Quieter Skies (STAQS) [[REP11-086](#)] remained in disagreement with the Applicant's approach at the close of Examination. The ExA addresses the main outstanding matters at the close of Examination below.

Aviation noise modelling - the 2019 baseline

3.18.110. One of the most contentious points of the aviation noise assessment was the Applicant's use of a 2019 baseline for certain assessment comparisons. The ES [[REP9-011](#)] included a 2019 'actuals' baseline using actual flight data for the modelling of noise contours and a 2019 'consented' baseline as a sensitivity study. The 2019 consented baseline substituted older noisier aircraft in the noise model with quieter new generation aircraft to create a noise contour compliant baseline.

3.18.111. This was identified in the JHA LIR [[REP1A-002](#)], [[REP1A-003](#)], [[REP1A-004](#)], PADSS [[REP8-053](#)], [[REP8-056](#)] and [[REP8-060](#)], LADACAN PADSS [[AS-058](#)] and WRs including from the Harpenden Society [[REP1-165](#)], LADACAN [[REP1-095](#)], [[REP8-075](#)] and STAQS [[REP1-149](#)].

3.18.112. The JHA [[REP3-094](#)] and IPs argued that because the airport was operating in breach of its daytime and night-time contours in 2019, baseline noise levels would be artificially inflated compared with compliant operations. LBC LIR [[REP1A-004](#)] suggested that an earlier compliant year or a 2019 planning condition compliant baseline should be used to assess policy compliance. It also highlighted concerns that the Proposed Development would not be in accordance with the national policy objective to limit and where possible reduce the number of people significantly affected by aircraft noise. [[REP1A-004](#), Section 4.3] included useful tables summarising the changes between consented and future noise contour areas and population exposure exceeding SOAEL.

3.18.113. The JHA [[REP3-094](#)] noted that the use of the 2019 actuals baseline had not been agreed with the NEDG (a group set up by the Applicant with representation from key stakeholders to provide recommendations on noise control measures to ensure sharing of benefits between industry and communities). The JHA [[REP6-093](#)] noted that the baseline year used in the P19 permission was a compliant 2019 baseline and that the 2019 consented baseline should not have been relegated to a sensitivity study. They accepted that the future year baselines were compliant with the P19 permission. The HHA [[AS-057](#)] suggested that either the 2019 compliant baseline or a 2022 baseline should be used for comparison purposes. LADACAN [[REP1-095](#)] considered that the 2019 consented baseline was not representative as the substitution process would increase the numbers of available seats per plane resulting in heavier flights which would distort other metrics.

- 3.18.114. The ES [\[REP9-011\]](#) suggested that noise exposure would decrease in all future year scenarios if the development were to proceed based on comparison of future years with 2019 actuals data. Comparing the 2019 consented baseline data [\[REP9-017\]](#), Table 12.19] with data for 2027 (Table 7.45), 2027 faster growth (Table 12.19) and 2043 scenarios (Table 7.57) showed a trend of increasing numbers of receptors exposed above SOAEL in the more sensitive night-time period.
- 3.18.115. In ExQ1 [\[PD-010\]](#), NO.1.9], the ExA asked the Applicant to provide assessment information for 2016 for comparison (on the basis that 2016 comprised the last year of compliant operations prior to COVID-19). The 2016 assessment data tables indicated an increase in numbers of receptors exposed above SOAEL in the more sensitive night-time period in 2027, 2027 faster growth and 2043 scenarios relative to the baseline [\[REP4-060\]](#).
- 3.18.116. On 13 October 2023 the SoS published their decision to allow the P19 permission, with extended noise contours. In response, ExQ1 [\[PD-010\]](#), NO.2.1] asked the local authorities whether the effect of the P19 permission was to create a fallback position removing the need for an alternative baseline to be adopted.
- 3.18.117. The HHA [\[REP7-087\]](#), CBC [\[REP7-084\]](#) and LBC [\[REP7-090\]](#) considered that the decision only affected future rather than past year limits, such that in 2019 any baseline could only be compared against the previous 18mppa decision. The HHA explained that any other year since 2019 had not exceeded the contour limits and would therefore be compliant and acceptable and requested that the Applicant propose *“future summer period noise limits in both the day and the night that fall below the historic baseline, showing noise reduction over time. These noise limits can be greater than the future baseline years (the do-minimum), as this increase in total adverse effects is permitted by UK aviation policy, so long as a trend of noise reduction continues.”*
- 3.18.118. LADACAN [\[REP1-095\]](#) argued that the proposed reduction in noise contour limits over time did not demonstrate ‘sharing of the benefits’ with the local community. The JHA [\[REP3-094\]](#) made the case that although there was a marginal reduction below the 2019 actual and 2019 consented baselines during the daytime this did not meet the APF requirement for ‘equal sharing’. They noted that in Phase 2b, the noise envelope limits and the total population exposed to SOAEL during the night period were above the 2019 consented baseline and suggested that the Applicant’s summer period noise limits should demonstrate a fairer balance of benefit sharing with the local community. Finally, the JHA suggested that accepting a non-compliant baseline could set a precedent of regularising a breach making it easier to demonstrate noise reduction in a new application.
- 3.18.119. The Applicant [\[REP3-050\]](#), [\[REP7-056\]](#), [\[REP7-066\]](#) and [\[REP9-051\]](#) maintained that because the assessment of significant effects was based on comparison of the future DS scenario (with development) against the future DM scenario (with airport operations at 18 or 19mppa) rather than a comparison with the 2019 baseline, it did not affect the assessment of likely significant effects or conclusions regarding noise related health effects. It acknowledged that when comparisons were made with the 2019 consented baseline the number of receptors deemed to be ‘newly exposed’ above SOAEL would increase. The Applicant argued that whether new or not, the effects would occur over the same population and would be avoided through the provision of full cost of noise insulation for exposure above SOAEL.
- 3.18.120. This matter remained unagreed with IPs at the end of the Examination eg [\[REP11-033\]](#), [\[REP11-035\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#) and [\[REP11-099\]](#).

- 3.18.121. The ExA is satisfied that the 2019 baseline used does not affect the future noise assessment conclusions, since these are based on a comparison of the DM-DS scenarios. However, the ExA agrees with the JHA that the selected baseline affects conclusions relating to policy compliance.
- 3.18.122. The Applicant has offered comparisons with the 2019 actuals, 2019 consented baseline and 2016 baseline. Comparisons with the 2019 actuals baseline suggested a reduction in noise levels over time but were based on a non-compliant operation. The 2016 and 2019 consented baselines suggest some decreases during the daytime compared with the 2019 actuals but noticeable increases in noise levels during the night period in Phase 1 and Phase 2b, with new exposure above SOAEL. In all cases the DS noise levels are increased over the DM for receptors.
- 3.18.123. The ExA concludes that in light of the P19 permission it is appropriate to use a 2019 baseline for the purposes of decision making. The ExA is of the view that the 2019 consented baseline provides a more appropriate basis for comparisons as it is based on compliant contours.
- 3.18.124. The ExA does not support the JHA request for use of a more recent baseline. Whilst it is good practice for baselines to be as up to date as possible, the ExA considers that the impact of COVID-19 on the aviation industry means that even the most recent data for LLA might not be fully representative of the anticipated or maximum operations at Luton because it is based on lower flight numbers than in previous years due to COVID-19 recovery.
- 3.18.125. The ExA notes LADACAN's concerns regarding the method for developing the 2019 consented baseline and its implications for secondary metrics and other assessments but considers that these matters do not affect policy compliance considerations, which are informed by the change in L_{Aeq} contours, rather than the contextual supplementary metrics.
- 3.18.126. LLP Policy LLP6 B(ii) requires that airport expansion proposals "*contribute to achieving national aviation policies*". The APF discusses the need "*to limit and where possible reduce the number of people significantly affected by aircraft noise*" and to ensure that benefits are shared between industry and communities. The OANPS suggests "*An overall reduction in total adverse effects is desirable*". The APF, ANPS and OANPS recognise that night noise is the least acceptable aspect of aircraft noise and has additional health implications. The ExA considers that the increases in noise at night relative to the 2019 consented baseline would not limit and where possible reduce the number of people significantly affected by aircraft noise or demonstrate an overall reduction in total adverse effects.
- 3.18.127. LLP Policy LLP6 B(v) requires proposals to "*achieve further noise reduction or no material increase in day or night time noise or otherwise cause excessive noise at any time of the day or night and in accordance with the airport's most recent Airport Noise Action Plan*". LLP Policy LLP6B (vii) requires that proposals "*result in a significant diminution and betterment of the effects of aircraft operations on the amenity of local residents, occupiers and users of sensitive premises in the area, through measures to be taken to secure fleet modernisation or otherwise*". On the basis that the Proposed Development would increase noise levels in future over the 2019 baseline at night, albeit that effects may be capable of compensatory mitigation (ie noise insulation) the ExA considers that the Proposed Development does not comply with the national or local policy requirements. The ExA considers that this attracts great weight against the making of the Order.

Aviation noise modelling - baseline noise monitoring data

- 3.18.128. IPs eg LADACAN [REP1-095], [REP5-072], [REP6-135], [REP9-081] and [REP10-079], Michael Reddington [REP1-106] and [REP8-078], [REP11-112], People Against Intrusive Noise (PAIN) [REP2-067], Slip End PC [RR-1408] and [REP1-144] and Flamstead PC [REP2-053] questioned the purpose, placement and accuracy of baseline noise surveys and LLAOL monitors. The JHA were satisfied with the approach to monitoring in their signed SoCG ([REP11-033], [REP11-035], [REP11-095], [REP11-097] and [REP11-099]).
- 3.18.129. LADACAN made numerous submissions questioning the quality of baseline noise monitoring and its implications for operational noise models, drawing on data from community noise monitoring exercises undertaken by non-acoustic staff from LLA. In [REP1-095] and [REP5-072] LADACAN highlighted 'significant errors' in the calibration of LLAOL's noise monitors that it had also presented to the 2021 Inquiry for the P19 permission. It argued that there was a lack of correlation across monitoring locations for all aircraft and no consistent offset, suggesting that calibration was flawed due to overprediction of the A321neo and underprediction of Boeing aircraft. A data review of mobile monitoring was submitted by LADACAN [REP9-081], which identified variance of up to 0.6dB between 50th percentile and annual average data for Sound Exposure Level (SEL) and L_{ASmax} data (the maximum A-weighted root mean squared sound pressure level with a slow time weighting) and that only a 92-day subset of annual fixed noise monitoring was used for model calibration. It also suggested that errors in mobile noise monitoring, including during 2019, suggested that data might not be reliable, or that monitoring periods were too short due to weather effects. [REP9-081] suggested that these matters needed to be resolved and the model revalidated to adequately resolve matters such as the assumed benefit of the A321neo.
- 3.18.130. In [REP5-072] and [REP10-079] LADACAN explained why in its view there were issues with data excluded from a monitoring position in south Luton (the LTN_SLTN monitor) and advocated that exclusion of LTN-SLTN data from the validation may mean that the model was over-conservative giving rise to over-lenient noise limits or that it might not be conservative because monitoring could be faulty due to the low elevation of the aircraft and lack of direct line of sight. PAIN [REP2-067] also questioned the justification for removal of noise monitoring data.
- 3.18.131. LADACAN [REP10-079] and [REP11-082] questioned why the Applicant was only using 92-day data from fixed monitors to validate the AEDT contour model, when the previous INM had been validated using annual data and presented its further concerns about the noise monitoring approach. [REP10-079] requested that additional 2022 data be used to validate the model from community noise monitoring exercises, although it also stated that informal noise monitoring produced by LLAOL staff who are non-acousticians could be "*worthless for noise model validation*". [REP10-079] suggested that sample size data was low and that this should have been highlighted by standard deviation or confidence interval data.
- 3.18.132. LADACAN [REP11-112] suggested that, if the ExA accepted the noise model as sufficiently representative, a provision should be included to reduce the contours in future in the event that more accurate validation of the model was conducted and that there should be independent oversight of the validation process. LADACAN [REP11-082] argued that analysis of more recent mobile monitoring data suggested the noise levels were higher than those presented by the Applicant but that if the ExA was minded to accept the noise model as sufficiently representative then a provision to secure more accurate validation of the noise model should be

conducted. [REP11-112] also referenced CAA guidance CAP1498 'Definition of overflight', questioning the reliability of noise measurements due to the elevation angle between noise monitors and overflying aircraft.

- 3.18.133. The ExA queried aspects of the baseline monitoring in PD [PD-005], in ExQ1 [PD-010], ExQ2 [PD-015] and at hearings [EV8-001].
- 3.18.134. The Applicant [AS-120] provided additional noise survey data and commentary that confirmed data from LLAOL permanent and temporary noise monitoring terminals was used to validate aircraft noise models, whilst the Applicant's ambient noise monitoring data was used to provide qualitative information about the character of the existing noise environment for context in the noise assessment.
- 3.18.135. At ISH3 [EV8-005] the Applicant explained that it had originally thought it might be necessary to rely on ambient noise monitoring data but fixed NMT data became available. The Applicant [REP2-037] stated that the LLAOL noise monitors were calibrated every six months with no significant drift observed and that the large number of aircraft movements in the model accounted for any changes in aircraft profiles. It also explained the reasons for removing LTN_SLTN data and why there were differences in measured noise levels between certain monitoring locations. At ISH3 [REP3-050] the Applicant explained that *"it is not possible to apply specific corrections to different location sources as adjustments can only be made to the underlying source data"*. The Applicant summarised the noise model validation process in [REP3-050], which is based around use of data from NMT and radar track data specific to Luton, which took account of horizontal and vertical variation in flight paths. The Applicant considered that statistical analysis of the kind identified by LADACAN was not considered to be necessary for the industry standard approach that it had followed. Removal of data collected under adverse weather conditions was noted to be agreed with the CAA [REP10-045].
- 3.18.136. The Applicant [REP10-045] explained that the use of 92-day data to validate the aircraft noise contours was standard practice and it was unnecessary to use data from outside this period due to the full data coverage. However, some supplementary data from additional validation locations had been used. In [REP11-049] the Applicant reported that it had met with LADACAN and Suono (on behalf of the host authorities) to discuss the input data and noise model validation. It was agreed that newer data from temporary noise monitoring terminals might help to explain differences in measured and modelled data in certain locations but would not change the noise model validation and that global adjustments to the model would mean that further localised adjustments could not be made without compromising the model where there was good agreement. [REP11-049] also noted that the validation process was agreed in JHA SoCG [REP11-033], [REP11-035], [REP11-095], [REP11-097] and [REP11-099] and CAA SoCG [REP9-037].
- 3.18.137. The ExA considers that it is unfortunate that LTN_SLTN data was removed from the model, since it was representative of one of the areas most affected by noise. However, the Applicant has justified the exclusion of this data in [REP9-017], has demonstrated that it operates a regular calibration process, and that a robust validation process has been agreed with the JHA acoustic consultants and the CAA. The ExA is therefore satisfied with the Applicant's calibration and validation process. Furthermore, the ExA is satisfied that removing adverse weather from the dataset is standard practice and finds no issues with removal of data reflecting inclement weather. The ExA notes that if the model was overpredicting noise levels, this would mean that it represented a robust worst case for assessment.

- 3.18.138. The ExA is satisfied that Appendix C of the GCG Framework [\[REP11-019\]](#), Section C4.2] includes a mechanism to review and revalidate the model on an annual basis in accordance with relevant standards and in consultation with the Noise Insulation Sub-committee (NISC) of LLA Co-ordination Committee (LLACC) and would be subject to independent scrutiny through the GCG Noise Technical Panel. Requirement 25 of the draft DCO [\[REP11-091\]](#) included a review mechanism that would allow noise limits to be reduced.
- 3.18.139. The ExA considers that CAP1498 guidance is intended to assist definition of overflights and is not relevant to the monitored results which necessarily reflect factors such as propagation distance and attenuation. The ExA is not persuaded that CAP1498 has a bearing on the reliability of the monitoring data.
- 3.18.140. The ExA concludes that the baseline noise monitoring is sufficient for the purposes of noise modelling and that the proposed annual validation process, with scrutiny by the ESG, provides certainty that the model would be updated to be reflective of new datasets in future.
- 3.18.141. The ExA notes that the P19 permission concluded that *“Concerns about the NMTs and other aspects of modelling were subject to detailed examination at the inquiry: following that process we do not find that doubt cast on the reliability of the modelling was sustained”* and that *“no other comprehensive modelling exercise was before the inquiry”*. The ExA does not consider that the evidence presented to the Examination suggests a substantive change in data gathering approaches for LLAOL fixed monitors that would lead to a different conclusion.

Aviation noise modelling - validation and the A321neo

- 3.18.142. LADACAN PADSS [\[AS-058\]](#) and a number of IPs eg [\[RR-0839\]](#), [\[RR-1416\]](#), [\[RR-0725\]](#), [\[REP1-106\]](#), [\[REP1-117\]](#), [\[REP1-149\]](#), [\[REP2-075\]](#) and [\[REP8-072\]](#) commented on the Airbus A321neo aircraft and the fact that the predicted reduction in noise levels associated with the use of this new generation aircraft had not materialised due to issues with noise from certain engine variants. LADACAN suggested that LLAOL’s own quarterly reporting showed that the A321neo was typically only 1dB quieter than the A321 current engine option (ceo) rather than the 2dB claimed by the Applicant.
- 3.18.143. LADACAN [\[REP1-095\]](#) disagreed with the A321neo -3.7dB departure noise correction applied in Phases 2a and 2b and the assumption that fleet transition would resolve engine performance issues by 2039. It concluded that there would be an underprediction of future noise levels. LADACAN [\[REP5-073\]](#) noted that higher flap settings were required to slow the A321neo on arrival due to the short runway length, increasing noise. LADACAN [\[REP6-134\]](#) noted that there was a recall for some Wizz A321 aircraft with Pratt and Whitney engine variants and that this required re-evaluation in the noise model.
- 3.18.144. LADACAN [\[REP6-135\]](#) provided noise monitoring data that in its view demonstrated that the A321 performed less well than the Applicant’s 2dB correction for Phase 1 would suggest and that there were consistently higher noise levels on easterly than westerly operations that should be taken into account. LADACAN [\[REP8-075\]](#) commented that it had analysed the 2019 noise measurement data disclosed to the 2022 Planning Inquiry and compared the results identifying anomalies and differences of over 0.5dB in some cases, suggesting that the data should be cleaned and revalidated with 2023 data. A data review of mobile monitoring was submitted by LADACAN [\[REP9-081\]](#), which identified up to 0.4dB variation between

50th percentile and annual average SEL or the maximum A-weighted root mean squared sound pressure level with a slow time weighting (L_{ASmax}) data. It also argued that an inappropriate cut off for SEL monitoring had been applied.

- 3.18.145. The Applicant [\[REP1-020\]](#) acknowledged that some variants of the A321neo were slightly noisier than expected but not more than older generation aircraft and that other variants perform as would be expected from noise certification testing. [\[REP9-011\]](#) stated that performance of the A321neo was based on actual noise measurements in assessment Phase 1 and was assumed to be resolved or replaced in Phases 2a and 2b. [\[REP2-037\]](#) explained that the applied -3.7dB departure noise correction was reasonable as it was based on the Air Noise Performance database. [\[REP1-020\]](#) and [\[REP3-050\]](#) maintained that resolution of the engine issue by 2039 was a reasonable assumption based on fleet replacement cycles of 10-15 years. [\[REP2-037\]](#) highlighted the Applicant's extensive noise model validation using radar track data and noise measures, noting that these exceeded the requirements for validation set out by the CAA. It also observed that the majority of predictions were within +/- 2dB, which it claimed was a reasonable margin of error for aircraft noise predictions.
- 3.18.146. In [\[REP6-063\]](#) the Applicant stated that the effects of larger aircraft and runway length had been taken into account in [\[REP9-011\]](#) through the model validation process, which adjusted modelled flight profiles and took into account noise radar data and noise measurements of flight operations at the airport. In [\[REP7-066\]](#) the Applicant acknowledged that the 2dB benefit on departure stated in [\[AS-096\]](#) was a legacy from the PEIR and that corrections had not in fact been applied in the ES, which was amended at D9 [\[REP9-017\]](#). The Applicant [\[REP7-066\]](#) stated that there were no material differences between variants on easterly or westerly operations.
- 3.18.147. In [\[REP8-038\]](#) and [\[REP9-051\]](#) the Applicant reported that LADACAN's data was within 0.1 to 0.3dB of its own analysis and that this level of variance was immaterial in terms of noise validation. The Applicant [\[REP10-045\]](#) noted that the air noise validation process had been subject to extensive technical scrutiny and agreement with the JHA and CAA. It explained that no cut off level had been applied to monitoring data, although it acknowledged that high ambient noise levels at noise monitoring position NMT03 might affect measurement of SEL.
- 3.18.148. The Applicant [\[REP3-060\]](#), [\[REP6-063\]](#) and [\[REP10-045\]](#) argued that regardless of whether or not A321neo issues were resolved, the GCG Framework required the Applicant to comply with the noise limits and take into account noise levels in setting QC budgets, capacity declarations and slot allocations. It stated that this would ensure the outcome of the assessment and that future noise models would account for any variation in noise performance. The validation would be based on actual aircraft movements, taking into account fleet transitions and aircraft variant changes due to maintenance. The Applicant [\[REP11-049\]](#) reported that it had met with LADACAN and Suono on (behalf of the JHA) to discuss noise model validation and input data. It was agreed that newer monitoring data were available for LTN_SLTN but it would only resolve disparities at individual locations rather than change the validation, which was a global adjustment. At the same meeting LADACAN expressed concern that the model was overpredicting, which might allow more aircraft to be flown within the contour limits. In response the Applicant stated that the model did not overpredict and that validation was robust (as agreed with the JHA and CAA).
- 3.18.149. The JHA [\[REP11-033\]](#), [\[REP11-035\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#) and [\[REP11-099\]](#) and the CAA [\[REP9-037\]](#) confirmed that it agreed with the methodologies, modelling

approach, assessment criteria and assessment periods used in the AEDT noise contour model (including its validation), although the JHA noted that ambient noise monitoring data would have allowed for a greater level of explanation and context to inform the assessment of effects.

- 3.18.150. The ExA notes the extensive submissions from LADACAN and other IPs on the subject of the A321neo and concerns raised regarding the implication of uncertainties in A321neo noise levels for the prediction of future noise impacts. The Applicant acknowledged some engine variants were louder than anticipated but that other A321neo aircraft performed as certified. Given evidence regarding low-cost airlines' approach to fleet modernisation, the ExA considers it reasonable to assume that the issues identified with certain A321neo engine variants would be resolved from 2039 (Phase 2a and Phase 2b) and do not undermine the modelling results.
- 3.18.151. In the short term, the ExA finds that the Applicant has evidenced that the model validation process includes adjusted modelled flight profiles, radar data, reasonable margins of error and uses noise measurements of actual flight operations at the airport. Throughout operation the GCG Framework would secure the review and revalidation of the model on an annual basis. The ExA therefore considers that the Applicant's modelling assumptions relating to the A321neo can be relied on.

Aviation noise modelling - INM and AEDT consistency

- 3.18.152. LLA currently uses INM to model noise contours at Luton Airport. INM is a legacy environmental modelling tool and has now been replaced by the AEDT noise model. The ExA considered variations between INM and AEDT outputs.
- 3.18.153. In ExQ1 [\[PD-010, NO.1.16\]](#), the ExA asked whether additional radar data was available for years other than 2019 to support the Applicant's assertion that INM and AEDT showed a relatively good fit with AEDT contour area limits.
- 3.18.154. LADACAN [\[REP5-072\]](#) suggested that the current INM model validation by Bickerdike Allen for LLAOL was based on thousands of results and a resolution of 0.1dB and that the Applicant failed to provide similar confidence in its approach to the margins of error associated with the majority of predictions.
- 3.18.155. The Applicant [\[REP1-023\]](#) argued that the model had been validated using radar track data and noise measurements exceeding the CAA validation requirements. In [\[REP4-060, Appendix A\]](#) it signposted to INM comparisons in ES Appendix 16.1 [\[REP9-017\]](#) and provided analysis of departure profiles from 2022 to demonstrate a good correlation between departure profiles for another year.
- 3.18.156. The JHA agreed with the modelling approach and validation [\[REP11-033\]](#), [\[REP11-035\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#) and [\[REP11-099\]](#).
- 3.18.157. The Applicant provided evidence to demonstrate that the noise model has been validated using radar track data and noise measurements, exceeding the CAA validation requirements. The ExA considers that the additional departure profile data shows reasonable correlation in 2022 and the annual validation process would address future changes in departure profiles to ensure that the model remained accurate. The ExA therefore does not consider that the issues raised give rise to any lack of confidence in the modelling process. The ExA considers that the noise model can be relied on for the purposes of decision making.

Aviation noise modelling – future fleet forecast

- 3.18.158. IPs eg [\[RR-0289\]](#), [\[RR-0290\]](#), [\[REP1-035\]](#), [\[REP1-050\]](#), [\[REP1-110\]](#), and [\[REP1-149\]](#) expressed concerns regarding the Applicant's fleet mix and fleet modernisation assumptions, noting that the Applicant did not control fleet modernisation and that although new generation aircraft can be quieter, issues such as problems with the A321neo engine variants can arise. They also noted that although aircraft are predicted to be quieter in future, the fleet mix with a second terminal and bigger stands allows larger, heavier and potentially noisier aircraft to use Luton. IPs eg STAQS [\[REP1-149\]](#) highlighted that the Applicant had taken the benefits of incentivised growth under the previous consent achieving passenger numbers nearly 10 years in advance of predictions but in consequence had failed to deliver the promised fleet modernisation that would have reduced noise levels.
- 3.18.159. The Harpenden Society [\[REP1-165\]](#) suggested that the fleet mix used in noise modelling was not representative of the likely fleet mix in 2027 when airline modernisation plans were factored in, suggesting in [\[REP7-116\]](#) and [\[REP9-093\]](#) that older, noisier aircraft were overrepresented meaning that forecast noise contours were over generous. [\[REP7-116\]](#) concluded that no reliance could be placed on the Applicant's fleet mix, suggesting that the Applicant had given themselves a buffer by overstating the harms of excess movements. In [\[REP8-087\]](#) the Harpenden Society asked what reduction in private flights would be required to achieve the noise contours presented at the P19 inquiry. The Harpenden Society [\[REP9-093\]](#) continued to question the Applicant's assumptions, suggesting that the Proposed Development didn't meet the policy objective of reducing noise, although it acknowledged that the 2030's and 2040's fleet mix looked reasonable. It considered that the lack of a changing passenger load factor over time was unrepresentative as achieving improved load factors was economically attractive to airlines. It suggested that the forecasts include more aircraft movements than necessary.
- 3.18.160. Michael Reddington [\[REP6-153\]](#) stated that ATM numbers were constant in the DM scenario and that this was misleading since fleet modernisation would lead to fewer larger planes, requiring fewer flights, even in the DM scenario. In [\[REP6-154\]](#) Michael Reddington suggested that Luton could not support long haul flights due to runway length.
- 3.18.161. At ISH8 [\[EV15-001\]](#) the ExA highlighted to the Applicant that there were potential differences between the LLAOL P19 permission future fleet mix assumptions and the Applicant's 2027 fleet mix forecast. In ExQ2 [\[PD-015, NO.2.2\]](#), the ExA also raised questions regarding differences in the forecasts (relating to Embraer, Boeing and A320ceo aircraft).
- 3.18.162. In its closing submissions [\[REP11-049\]](#) the Applicant emphasised that any uncertainties in relation to the rate of fleet transition to new generation aircraft would be controlled by the GCG Framework [\[REP11-013\]](#), which would provide a powerful incentive on the airlines to modernise their fleets in order to be able to grow, since modernisation would enable more, quieter aircraft to be flown within the same contours. It emphasised that forecasts required a degree of professional judgement. In [\[REP2-037\]](#) and [\[REP6-066\]](#) the Applicant argued that the forecasts were not airline specific but were informed by aircraft orders and fleet replacement plans and that it was appropriate to include for the operation of some A321ceo aircraft as a worst-case. [\[REP9-011\]](#) acknowledged that larger aircraft were included in the forecasts and these were modelled accordingly. In relation to Michael Reddington's comments on the DM scenario, the Applicant suggested that airlines would largely

want to maintain the same frequencies of service as in the DM scenario, meaning that load factors rather than flights might change. The Applicant's Need Case [AS-125, footnote 193] stated that long haul flights used to operate between LLA and Orlando or Cancun, therefore larger aircraft were able to operate from LLA.

- 3.18.163. The Applicant [REP6-066] stated that the percentage trends in transition of commercial aircraft were consistent with those used for the P19 permission. In [REP7-056] it argued that the forecasts were based on a broad proportional split between current generation and new generation aircraft and that the exact split could not be known. It explained that as the P19 permission forecast was developed independently it might not match at the detailed level and in some cases (eg the Boeing aircraft assumptions) reflected known delays with delivery of some aircraft.
- 3.18.164. In relation to the A320ceo/ neo proportions, the Applicant [REP7-056] highlighted that this reflected assumptions regarding the speed of transition from current to new generation aircraft. The Applicant argued that exclusion of the Embraer was consistent with the reasonable worst-case scenario in the ES. In terms of private flights, the Applicant [REP9-051] suggested that removing business aviation would provide a proportionally greater reduction in noise contour area in 2027 compared with later years as the number of business flights would be fixed, whilst commercial flights would continue to increase. It argued that restricting business flights would be detrimental to the Applicant's business case and contrary to policy.
- 3.18.165. The Applicant [REP9-055] responded to comments regarding the fleet mix modernisation in 2027 by providing smaller, UFGS GCG noise contours based on updated fleet mix information [REP6-066] acknowledging that fleet modernisation was happening at a faster rate than had previously been predicted. It stated that the faster growth case had a greater degree of uncertainty as it placed greater reliance on inbound operations from non-based airlines [REP11-049].
- 3.18.166. The JHA agreed that the conversion of passenger demand forecasts to projections of aircraft movement and fleet mix was appropriate and that the outputs were reasonable for the core planning case eg [REP11-033], [REP11-035], [REP11-095], [REP11-097] and [REP11-099].
- 3.18.167. The ExA scrutinised the DM and DS forecasts and identified some variations between the predicted fleet modernisation forecasts for the P19 permission and the Proposed Development's DM 2027 fleet forecast. The ExA considers that the Applicant has provided reasonable justification for these differences and outlined that the GCG Framework would drive improvements in fleet performance in future, thereby securing the outcomes of the assessment. In addition annual validation of the noise model should capture differences in fleet over time.
- 3.18.168. The ExA has considered whether certain types of movement eg business aviation should be restricted as suggested by the Harpenden Society but is of the view that this would be detrimental to airport commercial operations and is therefore not appropriate and not supported in policy.
- 3.18.169. The ExA accepts the Applicant's arguments regarding frequency of service in the DM case and long-haul flights. If noise levels were overestimated in the DM case, the ExA considers that this could increase the magnitude of change in noise levels experienced by some receptors but would not change the absolute levels experienced or the eligibility for noise insulation.

- 3.18.170. The ExA considers that there will always be a degree of uncertainty in any forecasting exercise but is satisfied that the forecasts provide a reasonable worst-case basis for assessment and can be relied on for the purposes of decision making. If flight numbers were overestimated this means that the overall noise impacts and magnitude of noise change would be less than assessed, although it could also enable an increased number of flights to be flown within the assessed contours. The implications for noise contour controls secured by the DCO are discussed in the GCG section below.

Aviation noise modelling – load factors

- 3.18.171. IPs questioned the load factor assumptions applied by the Applicant eg [\[RR-0404\]](#) and [\[REP5-073\]](#). In ExQ1 [PD-010, NO.1.15], the ExA asked how increased passenger numbers would affect load factors in future years. The Applicant [\[REP4-060\]](#) stated that AEDT assumed a load factor of 65% for each stage length. In response, LADACAN [\[REP5-073\]](#) suggested that default load factors were likely to be inaccurate and under-represent the noise, noting that LLAOL had quoted load factors of 80% or more. The Harpenden Society [\[REP7-116\]](#) questioned the load factors, stating that EasyJet was reporting load factors of over 90%.
- 3.18.172. The ExA [\[EV15-001\]](#) noted that a 91.5% load factor had been adopted in the Applicant's slot allocation paper [\[REP4-072\]](#) and asked how this affected the model. The Applicant stated that 91.5% was used to create a maximum number of passengers that could be on an aircraft to ensure terminal capacity limits were not breached, however the achieved load factor was around 87% and this was used in the need case [\[AS-125\]](#). The Applicant [\[REP4-060\]](#) also explained that aircraft weight was taken into account in the noise model validation and would continue to be considered in the annual noise model validation exercises.
- 3.18.173. Edlesborough PC [\[RR-0404\]](#) questioned whether load factor assumptions were overly optimistic and whether this could ultimately result in more ATMs in future. The Applicant [\[REP1-025\]](#) stated that the forecasts accounted for known up-gauging of seating and an allowance for some long-haul activity with larger aircraft in the longer term and that this informed the need case.
- 3.18.174. The JHA SoCG [\[REP11-033\]](#), [\[REP11-035\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#) and [\[REP11-099\]](#) agreed with the Applicant's modelling approach and methods.
- 3.18.175. Load factors have potential to impact on the modelling of aviation noise emissions, as weight increases aircraft noise. The ExA notes that there is a tension in the representations between suggestions that aircraft load factors are too low (meaning that modelling might over-represent noise by requiring additional aircraft movements) or too high (meaning that insufficient aircraft movements might have been allowed for in the model). The ExA considers that although there is some inherent uncertainty in load factors for aircraft, the Applicant has provided comfort that actual load factors have informed the noise model and is satisfied that if load factors were to change in future, this would be accounted for in the annual validation exercise. If load factors were found to be incorrect, the ExA considers it more likely that load factors were underestimated based on the airline load factor data provided, which would tend to overestimate noise levels due to additional aircraft movements. The ExA considers that the noise model in this situation would represent a worst case and is robust for the purposes of decision making.

Aviation noise modelling – next generation aircraft

- 3.18.176. The Applicant [REP9-011] assumed that next generation aircraft would be no noisier than new generation aircraft and this formed the basis for the assessment of likely significant effects. [REP9-011] also included a sensitivity test assuming that next generation aircraft were quieter. LADACAN eg [REP1-095] and [REP5-072] and Michael Reddington [REP1-106] argued that the Applicant provided no evidence to support the proposition that next generation aircraft would be less noisy and contended that next generation aircraft could be noisier. The Applicant [REP2-037] and [REP6-054] responded that the assumptions have not informed the setting of the noise envelope, Thresholds or Limits and that the Applicant would be required to comply with those limits ie if noise from next generation aircraft were to increase, the airport operator would need to identify a way to reduce noise levels to comply with the GCG Limits.
- 3.18.177. In ExQ1 [PD-010, NO.1.13], the ExA asked the Applicant to justify the assumption that aircraft would be the same or quieter than at present, referencing CAP1766 'Emerging aircraft technologies and their potential noise impact', which suggests that some next generation aircraft could be noisier. The Applicant [REP4-060] explained that CAP1766 made no definitive statements regarding next generation aircraft and noted that the CAA assumes a continuing reduction in noise emissions from future aircraft in CAP1731 'Aviation strategy: noise forecast and analyses'.
- 3.18.178. The ExA considers that the evidence presented by IPs demonstrates that the noise characteristics of next generation aircraft are uncertain and could be quieter or noisier. Given the uncertainties in future aircraft characteristics, the ExA attributes a little weight to the Applicant's sensitivity test that considers next generation aircraft to be quieter than at present. The ExA is satisfied that the EIA assumption of next generation aircraft being no noisier, paired with noise limits in the GCG Framework to control noise levels provides sufficient comfort that the assessment presents a reasonable worst-case that can be relied on for the purposes of decision making.

Operational ground noise and vibration

- 3.18.179. The ES modelled and assessed operational ground noise and included a qualitative vibration assessment [REP9-011, Section 16.9].
- 3.18.180. Michael Reddington [REP8-078] and [REP10-084] questioned the Applicant's conclusion that ground noise would be less in the DS than the DM scenario in some cases and why it was not possible to check the outputs of the ground noise model. He suggested that ground noise contour drawings seemed to contradict themselves in terms of LOAEL and SOAEL levels. He also queried why ground noise was only modelled and could not be measured or monitored, suggesting that it must be possible to generate an algorithm to extract air noise from the ground noise model. LADACAN [REP10-078] questioned the existence of the ground noise model, its calibration and testing.
- 3.18.181. The Applicant [REP9-051] explained that construction of raised platforms, T2 buildings, acoustic barriers and the engine run up bay would create a substantial noise barrier for some properties to the north of LLA compared with the DM scenario which was predicted to lead to a reduction in operational noise levels for some receptors. [REP9-011] explained that ground noise modelling was limited to predictions and included details of the ground noise modelling assumptions. Graphical outputs were provided eg [AS-111], [AS-115] and [AS-119]. The Applicant [REP5-054] rebutted comments that the contour maps were contradictory.

- 3.18.182. In relation to monitoring of ground noise the Applicant [REP9-051] reiterated that it was unable to separate ground noise from other noise sources, meaning that modelled data had to be relied on. It signposted to WHO and WebTag guidance that advocates the separate modelling and mapping of noise sources [REP4-060]. The approach to ground noise modelling was subject to discussions with the JHA and was agreed in SoCG [REP11-033], [REP11-035], [REP11-095], [REP11-097] and [REP11-099].
- 3.18.183. The ExA is satisfied that the WHO and WebTag guidance support separate modelling of different noise sources and has not seen specific evidence to suggest that the ground noise contour drawings contradict themselves. The ES [REP9-011] includes details of the ground noise modelling approach, assumptions and limitations and provides model outputs, the ExA has reviewed this and is satisfied that the Applicant has provided appropriate ground noise modelling outputs. The ExA is also satisfied that new building works might give rise to lower ground noise levels in the DS scenario for certain receptors due to additional screening.
- 3.18.184. The ExA is satisfied that the qualitative operational vibration assessment [REP9-011, paragraph 16.9.250 to 16.9.252] addresses relevant vibration sources provides justification for its conclusions, although it is noted to be a very high level assessment.
- 3.18.185. The ExA notes that the JHA [REP11-033], [REP11-035], [REP11-095], [REP11-097] and [REP11-099] agree with the approach to ground noise modelling, assessment and compensation. The ExA considers that the modelled ground noise outputs provided in [REP9-011] are sufficient for the purposes of decision making.

Operational noise and vibration – overall conclusions

- 3.18.186. The ExA concludes that the Applicant's revised operational fixed plant noise management plan offers a suitable mitigation approach that would avoid significant noise and vibration impacts. The ExA concludes that the impact of fixed plant noise and vibration would be neutral and weighs neither for nor against the making of the Order.
- 3.18.187. The ExA examined the Applicant's operational aviation and ground noise and vibration assessments and modelling and is satisfied that they provide a reasonable basis for assessing aviation noise levels and for decision making.
- 3.18.188. The ExA considered the performance of the Proposed Development against the 2019 consented baseline and is of the view that noise levels would not be reduced in a number of future scenarios. The ExA concludes that this would not fully accord with the policy aims of the ANPS, NPPF (paragraph 180e), the ANPS, the OANPS to achieve reductions in noise levels in future and Policy LLP6(v) aims to "*achieve further noise reduction or no material increase in day or night time noise*" or Policy LLP6B (vii) to "*result in a significant diminution and betterment of the effects of aircraft operations*". The ExA considers that this attracts great weight against the making of the Order.
- 3.18.189. However, the ExA also notes that the OANPS allows that "in the context of sustainable growth an increase in total adverse effects may be offset by an increase in economic and consumer benefits". The ExA considers whether such effects would be offset in Section 5 of this Report on the Planning Balance.

- 3.18.190. The ExA examined some areas of uncertainty in the model (eg relating to load factors and future fleet forecasts) and identified that there was some uncertainty in the forecasts and the potential for overestimation of noise levels. The Applicant responded to this by providing UFGS contours.
- 3.18.191. The ExA concludes that the GCG Framework with an annual validation process has the ability to adapt to changes in flight operations, load factors and other variables in future. To achieve further reductions in future noise levels, consistent with the ExA has proposed that noise contour limits should be based on core growth contours, rather than UFGS contours. The ExA considers the relevant contour to be secured in more detail in the GCG discussion.

GCG Framework - noise

- 3.18.192. Around 40 RR referenced GCG with just under half raising concerns with its operation eg [\[RR-0165\]](#), [\[RR-1506\]](#), [\[RR-0817\]](#) and [\[RR-1199\]](#) whilst the remaining representations primarily from local charities and businesses expressed positive support for GCG eg [\[RR-0378\]](#), [\[RR-0010\]](#), [\[RR-0399\]](#) and [\[RR-0141\]](#). The RRs expressed concern about whether GCG would really be effective, given its novel nature and highlighted issues of trust relating to the airport's history of non-compliance with consented noise contour limits leading up to 2019.
- 3.18.193. The primary operational aviation noise control proposed in the GCG Framework [\[APP-218\]](#) was the use of 92-day, faster growth, summer noise contour Thresholds and Limits for Phase 1, 2a and 2b. The Applicant proposed that on serving Article 44(1) notice, noise monitoring would be undertaken in subsequent years to assess the performance of the Proposed Development against noise contour Thresholds and Limits. Exceedance of Thresholds would trigger the need to submit plans to reduce noise, whereas exceeding a Limit would require submission of a mitigation plan and ultimately prevent further growth (allocation of new slots) at the airport until noise levels returned to below the Limits. The final version of the GCG Framework [\[REP11-013\]](#) was accompanied by a number of appendices including Appendix C – aircraft noise monitoring plan [\[REP11-019\]](#).
- 3.18.194. At the close of the Examination, although the principle of the GCG Framework had been agreed, the JHA SoCG [\[REP11-033\]](#), [\[REP11-035\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#) and [\[REP11-099\]](#) continued to have concerns with the UFGS contours, whether the noise controls were policy compliant and the lack of sanctions in the event that mitigation plans required under GCG were unsuccessful. BC [\[REP11-101\]](#) also questioned the contour limit values.
- 3.18.195. IPs raised a series of issues relating to the securing of the GCG controls: Capacity declarations, slot allocation and the use of local rules to control noise emissions, setting of limits and use of additional metrics, the degree to which GCG incentivises improvements in noise levels in future, use of QC budgets, scope of mitigation and monitoring measures and the extent to which the community had been engaged in the development of the noise envelope were also raised.
- 3.18.196. The ExA explored these matters and the GCG Framework more generally at ISH1 [\[EV6-001\]](#), ISH3 [\[EV8-001\]](#), ISH9 [\[EV16-001\]](#), ExQ1 [\[PD-010\]](#), ExQ2 [\[PD-015\]](#), the ExA's schedule of changes to the draft DCO [\[PD-018\]](#) and through additional questions in [\[PD-005\]](#), [\[PD-019\]](#), [\[PD-021\]](#) and [\[PD-024\]](#). The main issues are discussed below.

GCG – noise envelope as a standalone provision

- 3.18.197. LADACAN [REP1-095] and STAQs [RR-1416] argued that noise controls should be separate from the GCG Framework since there was greater policy certainty around the noise envelope concept than for other effects. LADACAN highlighted that separate noise controls were an NEDG recommendation.
- 3.18.198. The JHA [REP6-094] considered that as long as controls could be enforced, it did not matter if they were on the face of the Order or not. BC considered that the noise controls should be separate from the GCG Framework for clarity [EV16-006]. CBC [REP7-083] argued that including noise controls in the GCG Framework would make enforcement more difficult, since *“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 PA2008 would not apply.”*
- 3.18.199. The ExA [EV16-001] and [PD-018] explored whether and how additional Requirements could secure GCG measures, such as noise contour Limits on the face of the Order.
- 3.18.200. The JHA were supportive of some noise controls on the face of the Order but noted that they were content for QC restrictions to remain in the ANMP [REP8-052]. Some IPs eg [REP8-084] disagreed with the details of the controls. The Harpenden Society [REP10-093] stated that the level of growth proposed at LLA merited noise limits secured in the DCO, suggesting that enforcement controls should not be left to a conflicted planning authority.
- 3.18.201. The Applicant [REP8-036] and [REP9-055] disagreed with securing controls on the face of the Order, arguing that the circumstances where contour areas could increase would be limited. [REP9-055] argued that this would not improve security or enforceability of the measures but would incur the risk of inhibiting or disincentivising progressive improvement in the noise contour controls. It also suggested that the SoS had not been consulted on whether it would accept a discharge function in relation to amending noise contour Limits and might not accept such a function. The Applicant considered that changes to the contours might be subject to formal DCO amendment processes, leading to uncertainty in timescales for contour changes and disincentivising pursuit of positive changes. In addition, an approved revision of the noise contours by the SoS could create confusion by creating overlapping controls in the DCO and GCG Framework, which would not meet the tests of precision, certainty and enforceability. The Applicant [REP11-049] also suggested that there could be an inadvertent omission of controls or ambiguity in enforcement.
- 3.18.202. The ExA does not wish to obstruct innovation in aviation noise controls or restrict flexibility but considers that such innovation should not be at the expense of the necessary certainty required by local communities of the likely totality of effects that could be experienced if development consent were granted.
- 3.18.203. Whilst the Applicant argues that the circumstances under which contour areas could increase are limited, the ExA considers that increasing the contour area has the potential to create significant, unassessed effects for receptors that may not have been consulted on the Proposed Development. A sufficiently robust mechanism is required to avoid this and as such the ExA considers that noise contours should be placed on the face of the Order.

- 3.18.204. If the SoS accepted this proposed change, the GCG Framework and appendices would continue to provide the details of noise controls (eg monitoring, mitigation plans and annual model validation requirements) but it would need to be amended to cross reference the DCO contour limits.
- 3.18.205. The ExA considers that having this control would avoid the need for a financial sanction mechanism to be imposed, as requested by the JHA in respect of a continued exceedance of a limit, since this would be non-compliant with the DCO Requirements and capable of enforcement. The ExA's recommended Order includes a Requirement to secure this control (see Section 7 of this Report). If the SoS were to come to a different conclusion, the ExA considers that the omission of noise contour Limits from the DCO would attract great weight against making the Order.
- 3.18.206. To account for this change, the SoS would need to request updated management plan documents (eg ANMP and GCG Framework documents to ensure that the DCO and any dependent documents were consistent).

GCG – faster growth noise contours

- 3.18.207. The GCG Framework [\[REP11-013\]](#) noise controls were based on day and night noise contour Limits derived from the Applicant's 'faster growth scenario' sensitivity test [\[REP9-011\]](#). The Applicant argued that this would ensure effects did not exceed the assessed reasonable worst case [\[REP11-049\]](#).
- 3.18.208. The JHA [\[REP3-094\]](#) and BC [\[REP11-101\]](#) considered that noise controls should be based on the core growth scenario that formed the main basis for assessment rather than a faster growth sensitivity test. They also argued that using a faster growth scenario did not comply with the OANPS requirement to mitigate aviation noise as much as is practicable and where realistic to do so.
- 3.18.209. The Harpenden Society [\[REP8-087\]](#), [\[REP9-093\]](#), [\[REP10-093\]](#) presented comparisons with fleet transition data for Gatwick, noting that its noise envelope was based on its slower fleet transition case. The Society supported use of core growth Limits rather than faster growth Limits on the basis that 2027 fleet forecasts were overstated in terms of numbers and noisy aircraft. It compared LLA with Gatwick and Stansted, highlighting the significantly larger population around Luton affected by aircraft noise at certain noise contours.
- 3.18.210. IPs eg [\[RR-1416\]](#), [\[RR-1202\]](#), [\[REP1-106\]](#), [\[REP1-095\]](#) and [\[REP10-085\]](#) highlighted rapid growth incentives that meant the airport had achieved its growth ambitions under the previous consent in 2019 rather than in 2028 as forecast. This meant that fleet modernisation had not kept up with growth, in turn leading to breaches of the noise contour limits. [\[REP1-106\]](#) and [\[REP1-095\]](#) also highlighted that the noise contour increases increased markedly during the night period compared with the current consent.
- 3.18.211. At ISH9 [\[EV16-001\]](#) the ExA questioned whether the use of a faster growth assumption would be policy compliant, since it would increase the number of receptors exposed to noise levels in excess of SOAEL compared with the core growth scenario, requiring additional properties to be insulated to avoid effects in the period up to 2027. In ExQ2 [\[PD-015\]](#), NO.2.2], the ExA questioned the Applicant's fleet forecast and fleet modernisation assumptions that underpinned the 2027 core and faster growth cases.

- 3.18.212. In response, the Applicant [REP9-055] provided updated fleet mix information reflecting greater confidence in the more rapid transition towards new generation aircraft happening at LLA. It used this to derive an UFGS with reduced noise contour Limits at D9 (although higher than the core growth scenario Limits). The UFGS was accompanied by an assessment of the total adverse effects on health and quality of life. The Applicant argued that covering the full cost of noise insulation for eligible properties that accepted an offer would avoid significant effects arising in Phase 1, thereby limiting and reducing noise effects and that there would be no difference in residual effects. The Applicant's delivery programme for noise insulation is set out in [REP4-079]. With respect to Gatwick, the Applicant [REP9-051] argued that comparisons between LLA and Gatwick weren't directly comparable in terms of fleet mix or noise contours.
- 3.18.213. This matter remained unagreed with the JHA and BC at the close of Examination eg SoCGs [REP11-033], [REP11-035], [REP11-095], [REP11-097], [REP11-099] and [REP11-101], the HHA closing position statement [REP11-063] or LBC's final position statement [REP11-069].
- 3.18.214. The ExA notes that use of a reasonable worst-case assessment is standard practice in EIA, so the use of a faster growth scenario is acceptable if considered purely in EIA terms. However, the increase in numbers of receptors affected by noise levels above SOAEL and the increase in the night-time noise contour areas compared with the DM scenario is not consistent with LLP6B(v) which looks to achieve "*further noise reduction or no material increase in day or night time noise*" or LLP Policy LLP6B(vii) which requires "*significant diminution and betterment of the effects of aircraft operations on the amenity of local residents*".
- 3.18.215. The ANPS (paragraph 5.57) requires applicants to "*make particular efforts to avoid significant adverse noise impacts and mitigate other adverse noise impacts...*", albeit that the paragraph specifically references Heathrow. The OANPS requires applicants to "*limit and where possible reduce the number of people in the UK significantly affected by aircraft noise*" or "*to mitigate as much as is practicable and realistic to do so*" and that "*In circumstances where there is an increase in total adverse effects, 'limit' would mean to mitigate and minimise adverse effects, in line with the NPSE.*" The ExA considers that the Applicant is only able to meet this requirement in part, since the Compensation Policies mitigate noise effects above SOAEL but the lag time between increasing aviation noise levels and installing noise insulation to avoid effects above SOAEL could be up to four years (assuming that the Applicant's delivery programme was met).
- 3.18.216. The NPSE requires avoidance of effects above SOAEL and mitigation and minimisation of effects between LOAEL and SOAEL. Whilst the Compensation Policies are intended to meet these objectives, the noise insulation lag time means that these objectives would not be met for a temporary period.
- 3.18.217. The ExA considers that the increase in noise levels over the DM scenario, particularly at night, weigh against the making of the Order, even if core growth noise contours are used. Luton residents have highlighted that previous incentivised growth at the airport has resulted in breaches of consented Limits as fleet modernisation has not kept up with growth. The potential for modelled noise levels to be over-estimated has been discussed in the operational noise discussion above. Taking these matters into account, the ExA considers that use of core growth noise contours, Limits and Thresholds would be more consistent with the policy drivers. The ExA's recommended Order includes a Requirement to secure noise contours on the face of the Order, assumes that contours are based on core growth

assessments. This is discussed further in Section 7 of this Report. If the SoS were to come to a different conclusion, the ExA considers that this would attract moderate weight against making the Order.

GCG - noise contour area flexibility

- 3.18.218. The ExA [\[EV16-001\]](#) questioned whether the GCG Framework review process could allow a noise contour increase as well as a decrease. The Applicant [\[REP6-067\]](#) confirmed that this was possible but the circumstances in which an increase would be sought would be limited, for example due to an airspace change.
- 3.18.219. The JHA [\[REP6-094\]](#) accepted this approach but clarified that no increases would be acceptable where there were no attributable noise benefits (eg an increase in contour would require a reduction in the total number of people affected by significant noise levels). LADACAN [\[REP8-075\]](#) considered that such a change was unacceptable and argued that a 'protection' would be required to ensure that fewer people were within the contour.
- 3.18.220. In [\[PD-018\]](#) the ExA included a Requirement for the operator to obtain written approval from the SoS for an increase in the Limits. The Applicant [\[REP9-055\]](#) opposed this on the basis that it was not a discharge function that DfT had been consulted on. It would also require a lengthier formal amendment processes, and it would not be subject to the detailed and time bound review processes by ESG contained in the GCG Framework, leading to uncertainty, which could *"disincentivise the pursuit of positive changes to the noise contour limits"*. Requirement for the operator to obtain written approval from the SoS for an increase in the Limits. The Applicant [\[REP9055\]](#) opposed this on the basis that it was not a discharge function that DfT had been consulted on. It would also require a lengthier formal amendment processes, and it would not be subject to the detailed and time bound review processes by ESG contained in the GCG Framework, leading to uncertainty, which could *"disincentivise the pursuit of positive changes to the noise contour limits"*.
- 3.18.221. The ExA considers that GCG noise contour increases would only be acceptable in the limited circumstances indicated by the JHA [\[REP6-094\]](#), subject to any associated EIA and/ or public consultation processes that might apply. To provide certainty to local communities that an increase in contour areas would be warranted, in the public interest and consistent with the outcomes of the Applicant's EIA the ExA concludes that a SoS sign off process for any increases in contour area is required and has included a Requirement in the recommended DCO to secure noise contours on the face of the Order. This is discussed further in Section 7 of this Report. If the SoS were to come to a different conclusion, the ExA considers that this would attract great weight against making the Order.

GCG - incentivisation of future noise performance and reduction in noise over time

- 3.18.222. The CBC [\[REP1A-002\]](#), HHA [\[REP1A-003\]](#) and LBC [\[REP1A-004\]](#) LIRs argued that the Applicant was incorrectly claiming that the Proposed Development would give rise to a noise reduction over time, whereas in fact air noise levels rise above the DM levels currently permitted in future years and do not reduce back below these levels. The LBC LIR [\[REP1A-004\]](#) argued that the proposals did not strike a fair balance between noise and sharing the benefits of growth. The LIRs concluded that there would be a negative impact from aircraft noise on local communities.
- 3.18.223. LADACAN [\[REP1-095\]](#) questioned the Applicant's interpretation of sharing benefits and whether the Limit values simply reflected modelling of demand forecasts rather

than seeking to restrict noise exposure or impacts. PAIN [\[REP2-067\]](#) argued that sharing of benefits had been interpreted by the operator as a mechanism to enable additional aircraft movements and that a threefold growth of flights would not be effective mitigation of noise and was not consistent with a policy objective to reduce noise.

- 3.18.224. The Applicant [\[REP2A-006\]](#) maintained that noise in the future would be reduced compared to a 2019 baseline. It also suggested that the inclusion of Quota Counts (QCs) in GCG would incentivise operators to use the quietest aircraft available.
- 3.18.225. The GCG Explanatory Note [\[REP11-011\]](#), Figures 3.1 to 3.6] and ES Appendix 16.2 Operational Noise Management (Explanatory Note) [\[REP10-019\]](#) included graphical representations of the noise envelope performance to demonstrate that Limits would step down over time, apart from in Phase 2b, where the Applicant argued that uncertainty relating to next generation aircraft noise levels required an increase in Limits. The Applicant [\[REP10-019\]](#), Tables 3.2 and Table 3.3] quantified its predicted sharing of benefits by setting out a percentage contribution that would accrue to the community.
- 3.18.226. The ExA [\[EV16-001\]](#) questioned whether the noise contours Limits were based on the worst-case assessment for faster growth or an UFGS and therefore simply reflected the anticipated noise levels that would arise based on fleet forecasts. It asked whether the limits should be more challenging and drive improvements in future ie to achieve a demonstrable sharing of benefits. The ExA reviewed the percentage contributions in [\[REP10-019\]](#) and finds that whilst some benefits accrue during the day and could accrue at night, the benefit could be zero in all future year scenarios at night-time.
- 3.18.227. The Applicant [\[REP6-067\]](#) argued that it expected there to be a benefit from next generation aircraft but this could not be quantified at this stage, which is why the noise envelope steps up in 2039 but that there is a review mechanism in the GCG Framework to allow for noise levels to be reduced if next generation aircraft continue the expected trend of noise reduction. It also argued that the OANPS allowed for mitigation and minimising of impacts rather than necessarily reducing over time where there are strong economic and consumer benefits, so the proposals would be consistent with the concept of sharing the benefits.
- 3.18.228. As highlighted in the 2019 baseline discussion above, the ExA considers that comparisons with the 2019 consented baseline show worsening in night noise levels over time and ES Chapter 16 [\[REP9-011\]](#) demonstrates that noise levels would increase in all future year scenarios compared against the DM scenario. Even with the 2019 actuals baseline, the Applicant's Operational Noise Management (Explanatory Note) [\[REP10-019\]](#) suggested some sharing of benefits in the daytime but in the worst case, no benefits may accrue in the night-time for local communities.
- 3.18.229. The ExA finds that the Applicant has not demonstrated that its noise envelope approach mitigates to a minimum potential adverse impacts rather than simply reflecting the worst-case noise levels over time and that it does not drive noise performance. This is not consistent with the ANPS requirement to limit and where possible reduce the impact of aircraft noise or with the OANPS requirement to limit and where possible reduce the total adverse impacts on health and quality of life from aviation noise, which would attract moderate weight against the making of the Order.

- 3.18.230. The ExA considers that use of the core case noise contours as argued for by the JHA would set more challenging noise Limits for the Applicant and incentivise use of quieter technology and operating methods. The ExA considers that this would also contribute to meeting the objective of NPPF (paragraph 191a) to “*mitigate and reduce to a minimum potential adverse impacts resulting from new development*”. To address this, the ExA included a new Requirement securing core growth noise contours, as discussed in the faster growth section above.

GCG – additional noise controls - annual movement cap

- 3.18.231. Michael Reddington [REP6-153] highlighted that total ATMs have doubled between 2014 (75,616) and 2019 (141,858), which had a consequential impact on the ability of residents to enjoy outside spaces and that an increase to over 209,000 movements represented around 200% increase that could only be defined as significant. The JHA [REP1A-002], [REP1A-003], [REP1A-004] and LADACAN [REP2-061] considered that additional metrics should be included in the GCG Framework, including movement Limits.
- 3.18.232. In ExQ2 [PD-015, NO.2.5], the ExA asked the Applicant and local authorities what numeric value of movement cap would be appropriate for the Proposed Development, if one was to be imposed.
- 3.18.233. The Applicant [REP7-056] and [REP9-055] proposed that a limit should be no less than 225,000 annual aircraft movements, taking account of the inherent uncertainty in forecasting precise aircraft mixes, whilst arguing that such limits were unnecessary as “*movement limits are poorly correlated with noise impact metrics and provide no incentive for the adoption of quieter aircraft*”. [REP7-056] considered that CAP1731 ‘Aviation Strategy – Noise Forecast and Analyses’ supported approaches that were not based on movement limits as they were not effective in controlling noise. [REP9-055] suggested that a cap could have the perverse effect of preventing the airport from reaching 32mppa if next-generation aircraft were smaller and had fewer seats, reducing the project’s benefits and that airlines might be disincentivised from refueling as the movement limit approaches because they would not gain benefit from switching to newer aircraft.
- 3.18.234. The JHA [REP7-084], [REP7-087] and [REP7-090] considered that the Applicant had provided no justification for the movement limits cited and recommended an annual movement limit of 209,410 on the basis that this had been assessed as the worst-case in the ES.
- 3.18.235. LADACAN [REP10-079] suggested that refueling was not really relevant as this would be done at the airline’s discretion to suit their own commercial objectives.
- 3.18.236. The Harpenden Society [REP10-093] supported an annual movement limit to provide control over the frequency of movements and to provide confidence in controls outside the 92-day summer period in the event that climate change altered travel patterns outside of this period.
- 3.18.237. The Applicant [REP11-050] considered that there was insufficient evidence of future variations in travel patterns to support the Harpenden Society’s case for annual movement limits. It argued that a movement limit needed to be seen in the context of the overall economic benefits and sharing of benefits, including from increased cargo activity.

- 3.18.238. The ExA has reviewed CAA guidance on noise envelopes and metrics and representations from IPs that highlight that number of flights rather than the average noise level is a primary concern. The APF and the Applicant's [\[REP3-050\]](#) acknowledged that people do not experience noise in an averaged manner.
- 3.18.239. CAA guidance CAP1129 'Noise Envelopes' states that *"there is a rationale for using the number of events as a proxy for the amount of noise created. Additionally, as aircraft technology is improving and the demand for air travel increases, reports suggest that people are becoming increasingly sensitive to the frequency of aircraft noise events."* This position is caveated by statements that *"If newer and quieter aircraft are brought into service at an airport whose activity is limited by a movement cap, the local communities' share of the benefits would be greater than that of the industry who brought about the changes in the first place"*. CAP1731 states that a movement limit does not take account of noisiness of aircraft and therefore does not incentivise use of quieter aircraft. The ExA considers that the application of a cap is not inconsistent with the CAA guidance if other measures incentivise use of quieter aircraft.
- 3.18.240. Given local community concerns regarding the increased frequency of flights and the numbers of representations that outline the impact of LLA on outdoor spaces, the ExA considers that the noise contour limits should be paired with a movement limit to provide certainty to those communities regarding the total number of movements to be consented. In respect of incentivisation of quieter aircraft, the ExA considers that the Applicant's proposed use of QC limits in combination with a movement cap would serve to incentivise use of quieter aircraft.
- 3.18.241. The ExA has considered representations on the level of a movement cap and does not accept the Applicant's arguments that flexibility should be allowed in the annual movement limit above the numbers assessed in the ES. The Applicant has had the opportunity to provide its worst-case assessment of likely significant effects and mitigation, including any uncertainty and the ExA considers that it would be inappropriate to allow movements in excess of the assessed parameters. The ExA therefore considers that 209,410 movements is an appropriate cap.
- 3.18.242. Taking all of this into account the ExA concludes that the Proposed Development is not fully tailored to local priorities and would not meet the requirements of ANPS (paragraph 5.60). To address this, the ExA included a new Requirement that secures an annual movement limit of 209,410 movements. This is discussed further in Section 7. With the imposition of a new Requirement, the ExA is satisfied that the Proposed Development would meet the requirements of ANPS (paragraph 5.60). Even so, the increase in flights, which could result in increases in noise above the baseline would remain non-compliant with the LLP6(v) requirement to *"achieve further noise reduction or no material increase in day or night time noise"*. Therefore, even with the control, the ExA considers that capped increases in flights would attract great weight against the making of the Order. The ExA notes that this would require an update to the GCG Framework to be submitted to account for the revised control. If the SoS considers that the new Requirement is not necessary then the ExA takes the view that, for the reasons set out above, the noise effects of the Proposed Development would have great negative weight against the making of the Order.

GCG – additional noise controls - shoulder period movement cap

- 3.18.243. LLA currently operates with an early morning shoulder period (06:00 to 07:00) limit of 7,000 total annual movements. The HHA LIR [\[REP1A-003\]](#) and LBC LIR

[REP1A-004] proposed that early morning shoulder period controls should be retained. LADACAN [REP1-095] suggested that increasing night flights did not meet the policy objective of mitigating where realistic and practical to limit and reduce adverse impacts on health and quality of life.

- 3.18.244. In ExQ2 [PD-015, NO.2.6], the ExA asked the Applicant and local authorities what numeric value of shoulder movement cap would be appropriate for the Proposed Development, if one was to be imposed.
- 3.18.245. The Applicant [REP7-077] and [REP9-055] proposed a minimum of 13,000 annual shoulder period movements (based on a proportional split of 5.8% of daily aircraft movements at Luton), whilst arguing that such limits were unnecessary as *“movement limits are poorly correlated with noise impact metrics and provide no incentive for the adoption of quieter aircraft”*. [REP7-077] also provided benchmarking of QC limits and movement limits for other major airports. Of the other airports listed, only Bristol had a morning shoulder period limit, other airports had night quota period (NQP) limits and/or annual movement limits. [REP9-055] ruled out a morning shoulder period movement limit because effects on noise, health and quality of life were already limited and controlled through the L_{Aeq8hr} noise contour area and a movement limit would reduce airline flexibility without any corresponding impact on noise and health over and above that expressed by the noise contour area limit. It also suggested that because aircraft movements were dominated by aircraft based at the airport, the morning slot is critical for increasing growth.
- 3.18.246. LADACAN [REP10-079] stated that NEDG did not support use of a simple contour limit in isolation, which gives no information about aircraft noise events or loudness. It supported an annual limit based on the core growth forecasts. In response to comments [REP9-055] regarding the potential for next-generation aircraft to be smaller, LADACAN suggested that increasing aircraft numbers could result in further encroachment into the night period, underlining the need for additional controls in the shoulder period.
- 3.18.247. The JHA [REP10-051] provided a technical note by CSACL, which proposed a shoulder period movement limit of 8,720 based on a 5% proportional split in movements to the morning shoulder period based on Stansted operations. They also argued that only strictly necessary passenger aircraft movements should be allowed in the morning shoulder period with cargo and business movements operating at other times.
- 3.18.248. St Albans Aircraft Noise Defence (STAND) [REP8-083], STAQs [REP8-084] and other IPs eg [REP8-085] and [REP8-089] argued for no increase, or a decrease, from the current 7,000 aircraft movement shoulder limit. HarpendenSky [REP8-072] stated that quality of life would be reduced for local communities with an increase to 13,000 movements. LADACAN [REP8-076] suggested a limit of 10,000 movements based on a poll of its members, without prejudice to its rejection of the proposed change. Many IPs argued that increasing movements during the early morning shoulder (part of the night period) was inconsistent with policy which emphasises that extra efforts should be made to reduce and mitigate night noise because it is the least acceptable aspect of aviation noise for communities and has a higher cost due to the additional health impacts from sleep disturbance.
- 3.18.249. The Applicant [REP9-055] considered that the proposed LADACAN 10,000 movement shoulder period limit was arbitrary and not based on analysis of evidence. The Applicant [REP11-051] did not provide a core growth shoulder period

limit, arguing that the updated faster growth was necessary to ensure that beneficial growth could be delivered earlier. [REP9-055] asserted that the HHAs' proposed shoulder period limit included miscalculations because the HHA relied on Stansted information for the busiest day of the year, which was not representative for the year as a whole and LLA exhibits higher dependence on departures in the morning period in summer than Stansted. The Applicant [REP11-050] argued that it would be inappropriate to apply the same ratios to the Proposed Development as for Stansted because of the different airline mix. The Applicant also argued that CSACL applied its own assumptions regarding load factors and long-haul growth, which it argued were not robust or appropriate to LLA.

- 3.18.250. The JHA [REP10-051] responded that their comparisons were valid as they were based on summer and winter season information. They challenged the Applicant's assertions about based airlines operating at LLA suggesting that Whizz Air and easyJet were large airlines with operations through Europe and able to schedule their fleets around network constraints. The Applicant [REP9-055] suggested that the JHA analysis did not allow for business aviation activity, although LADACAN [REP10-079] suggested that this wasn't a strong argument since the Applicant suggests that business slots may transfer to commercial airlines in future. The Applicant [REP11-050] also suggested that it would be more relevant to adopt the shoulder period ratio relevant to commercial movements (as set out in [REP9-055]) or to extrapolate from the needs case indicative busy day timetable in [APP-214] which derived a figure of 12,460 movements assessed in the ES.
- 3.18.251. The Harpenden Society [REP8-087] argued for resisting growth in the night period noting that recent Government consultations expressed no appetite for increasing night flights and expected the aviation industry to make extra efforts to reduce and mitigate noise from night flights and to minimise demand for night flights where alternatives exist (eg daytime flights). [REP8-087] suggested that the Applicant should push movements out of the night period and increases should only be considered in the shoulder period once the Government had responded to the consultation and determined the national night policy. In [REP10-093] it suggested that the proportion of morning shoulder period limits at Luton had remained at a constant 4%, therefore the Applicant's 5.8% split was 'fallacious' and that the shoulder period limit had never been close to breach, was underutilised, and there had been no constraint to passenger demand. On this basis it supported the JHA recommendations. [REP10-093] also suggested that a maximum of 11,900 aircraft would be required if different load factors were assumed and long-haul figures excluded. [REP8-087] and [REP10-093] also argued that there was evidence that where operating restrictions apply (eg night period noise limits), low-cost airlines were willing to increase daytime flights to meet passenger demand and would adapt their business models. The Harpenden Society also argued for a reduction in private jets to allow more commercial flights, suggesting this would have limited commercial implications.
- 3.18.252. The Applicant [REP9-051] considered that it had accurately assessed the balance of day and night periods and that the Harpenden Society's analysis of aircraft movements did not demonstrate either a fundamental change in the pattern of flights or that low-cost airlines do not need to fly at night. [REP9-051] stated that removing business aviation would reduce noise contour areas during the day and night but this effect would be reduced in future years as the proportion of commercial aircraft movements increased. It would otherwise be detrimental to the Applicant's business case and inconsistent with aviation policy that is supportive of business aviation activity. In [REP11-050] the Applicant suggested that the further

working and calculations remained 'mechanistic', maintaining that a movement limit was not required or effective.

- 3.18.253. The ExA is fully aware that increases in flights during the night period are a particular concern and are the least desirable option for local communities, particularly in the last hours prior to waking. The Applicant set out relevant arguments as to why flights in the shoulder period would be necessary and presented its assessment of environmental impacts, mitigation and a substantially enhanced noise compensation offer.
- 3.18.254. Proposals for expansion, even at night, are not inconsistent with national policy such as MBU, ANPS and OANPS, subject to taking careful account of all relevant considerations, particularly economic and environmental impacts and proposed mitigations and demonstrating that the increases are balanced by the economic and consumer benefits.
- 3.18.255. The ExA considers that movement increases during the night period and in the DS scenario over the DM scenario are however inconsistent with Policy LLP6B(v) which looks to achieve "*further noise reduction or no material increase in day or night time noise*" and Policy LLP6B(vii) which requires "*significant diminution and betterment of the effects of aircraft operations on the amenity of local residents*".
- 3.18.256. The ExA notes that increases in aircraft movements in the shoulder period are likely to increase activity on Main Application Site and noise effects for receptors in the NQP (before the shoulder period) as planes prepare for take-off. Such effects would be mitigated through the proposed noise insulation scheme embedded measures such as operating procedures, building layouts and acoustic barriers. The ExA considers that the increased harm would ultimately be offset by noise insulation following rollout, which would satisfy the requirements of the NPSE, NPPF, PPGN and Policy LLP38 in the longer term to avoid effects above SOAEL and mitigate or minimise effects between LOAEL and SOAEL.
- 3.18.257. In terms of the JHA proposals for a shoulder period limit of 8,720 movements and restrictions on cargo and business aviation in the morning period, the ExA notes that the Applicant's [\[REP7-077\]](#) benchmarking exercise indicated that London Stansted Airport is not subject to any shoulder period movement limit, with Bristol being the only other listed airport to have a morning shoulder period cap. However, the principle and need for shoulder period caps to control noise during the morning shoulder period has been established through previous planning decisions for Luton [\[REP5-014\]](#).
- 3.18.258. The ExA is wary of applying limits from other airports with different operating models to the Proposed Development and of the potential for such restrictions and the proposed restrictions on flight types to impact on potential economic and consumer benefits.
- 3.18.259. The ExA considers that the same principles apply to the definition of the shoulder period limit as for the annual movement limit. On this basis 12,460 movements, which the Applicant states is the figure assessed in the ES would be more appropriate than the Applicant's initial, precautionary figure of 13,000 movements. 12,460 movements would be broadly consistent with a proportional increase from 18 to 32mppa.
- 3.18.260. The ExA considers that the Harpenden Society's 11,900 movement limit, is based on a 'mechanistic' calculation but notes that there has been some debate over the

load factors applied to the Applicant's forecasts and this may create some additional headroom in the proposed figures, supporting the use of a lower limit. However, the ExA does not consider that removing long haul flights from the calculation is reasonable, since these flights form part of the Applicant's future demand ambitions as set out in the Need Case [\[AS-125\]](#).

- 3.18.261. The ExA is satisfied that LADACAN's [\[REP8-076\]](#) proposed limit of 10,000 movements, whilst informed by community opinion, should not apply as it does not have a technical evidence base. The ExA notes LADACAN's suggestion that the figure should be based on core growth rather than faster growth limits. The ExA is of the view that because the proposed limits are based on the long-term forecast growth, the faster growth forecasts are not relevant to the setting of the limit.
- 3.18.262. The ExA has considered alternative shoulder movement limits and does not consider that a strong case has been presented for departing from the figures suggested by the Applicant.
- 3.18.263. Taking all of this into account the ExA concludes that the Proposed Development is not tailored to local priorities and does not include a clear noise performance target and would not meet the requirements of ANPS (paragraph 5.60). To address this, the ExA included a new Requirement that secures a shoulder period limit of 12,460 movements. With the new Requirement, the ExA is satisfied that the Proposed Development would meet the requirements of ANPS (paragraph 5.60). With the new cap in place noise levels would still give rise to significant adverse effects in the absence of mitigation. If the SoS considers that the new Requirement is not necessary then the ExA takes the view that, for the reasons set out above, the uncapped noise increases in the shoulder period would have great negative weight against the making of the Order.

GCG – additional noise controls - other metrics or controls and measures under the ICAO balanced approach

- 3.18.264. LADACAN [\[REP2-061\]](#) and [\[REP3-121\]](#), HarpendenSky [\[RR-0530\]](#) and the JHA [\[REP1A-002\]](#); [\[REP1A-003\]](#); [\[REP1A-004\]](#) and [\[REP6-094\]](#) recommended that the noise envelope design included other metrics and controls, for example existing controls within the current airport planning permission (eg a reduction in the future night-time QC limit to 2,800, track and noise violation limits (NVL) and continuation of the complaints scheme). LADACAN [\[REP1-095\]](#) argued that the Applicant had not clearly documented its approach to mitigating operational noise or applied operational restrictions at night in line with ICAO's balanced approach.
- 3.18.265. The Applicant's ANMP [\[REP9-047\]](#) included QC controls and track and noise violation limits. The s106 [\[REP11-108\]](#), Schedule 8] secured payment of fines for track and noise violations into the community fund. The ANMP also included a night-time restriction on aircraft with a QC of two or more. The Applicant [\[REP5-014\]](#) committed to maintaining a complaints scheme in Appendix C of the GCG, which is secured by Requirement [\[REP11-019\]](#).
- 3.18.266. In ExQ2 [\[PD-015\]](#), NO.2.4], the ExA asked whether additional NVL reductions should be imposed in future given the long-term nature of the proposals. The Applicant [\[REP7-056\]](#) stated that reductions in NVL were included up to 2028 but that due to uncertainty in next-generation aircraft noise levels, further reductions beyond this date could not be included. The Applicant [\[REP6-052\]](#) did not consider that the reduced future night-time QC limit taken from the P19 permission aligned with the growth sought by the Applicant, although it highlighted that the GCG

Framework included a 5-year review mechanism to recalculate QC budgets if quieter next generation aircraft become available.

- 3.18.267. In [\[REP9-011\]](#), s16.8 and 16.10] the Applicant considered mitigation at source (eg through fleet modernisation), through land-use planning and management (eg through design layouts and acoustic barriers) and as part of noise abatement operational procedures (eg continuous descent approach and noise abatement departure procedures) and operational restrictions such as restricting QC2 and above flights at night. [\[REP9-011\]](#) emphasised that operating restrictions were only imposed when other measures have first been considered and when those measures are insufficient to attain the specific noise abatement objectives.
- 3.18.268. The ExA [\[EV8-001\]](#) asked what other operational noise controls were available to the airport operator and explored whether respite or night flight bans would be an option. Peter White [\[REP3-133\]](#) supported a night flight ban. LADACAN [\[REP1-095\]](#) highlighted that noise abatement departure procedures had been trialled but not implemented at LLA. The Applicant [\[REP2-037\]](#) stated that the principal noise control set out in the application was the GCG Framework and noise envelope, which defined the noise outcomes to be achieved rather than predefining specific mitigation measures such as noise abatement departure procedures and that the balanced approach would not require a reduction in existing night flights.
- 3.18.269. In [\[REP3-050\]](#) the Applicant added that there was no requirement or expectation in policy for a ban on scheduled night flights (other than in the context of Heathrow). The Applicant [\[REP11-049\]](#) highlighted that the OANPS required a balance between economic and consumer benefits and that night flight bans could affect the LLA economics. The Applicant [\[REP3-050\]](#) and [\[REP11-049\]](#) also highlighted that there were no residual significant effects from night-time aircraft noise due to the combination of noise insulation measures, the NQP movement limit and the GCG Framework Thresholds and Limits. The Applicant [\[REP3-050\]](#) referred the ExA to operational mitigation measures in the airport's noise action plan (NAP) eg [\[REP1-106\]](#), Reference 2] and future NAP [\[REP5-090\]](#), Appendix A] stating that it would not be appropriate to secure these measures within the DCO because they would partly be at the discretion of the airlines. In response to ExQ2 [\[PD-015\]](#), NO.2.10] the Applicant [\[REP7-056\]](#) confirmed that noise abatement operational procedures available to the operator have been implemented where they are viable but further changes may be possible following the completion of the Future Airspace Strategy Implementation – South airspace change process.
- 3.18.270. The HHA [\[REP4-163\]](#) and LADACAN [\[REP6-134\]](#) and [\[REP6-135\]](#) highlighted that a number of operational mitigation measures were either already in operation (eg continuous descent approach, deployed landing gear, noise preferential routes, and NVLs) or had been trialled but were not being progressed (eg steeper descent operations and full-length runway departure trials).
- 3.18.271. The ExA notes that a number of controls included in the ANMP [\[REP9-047\]](#) and GCG Appendix C [\[REP11-019\]](#) were agreed with the JHA during the Examination [\[REP11-033\]](#), [\[REP11-035\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#) and [\[REP11-099\]](#). The ExA has considered whether further reductions in NVL would be appropriate after 2028. In light of uncertainty regarding next generation aircraft and given the mechanisms within the GCG Framework and ANMP to review these limits in the future, it does not consider that it would be appropriate to secure an additional reduction at this time. On the basis that the signed SoCG agree with the inclusion of noise and track violation controls in the ANMP and payment of fines is secured by the s106 [\[REP11-108\]](#), the ExA does not consider that a separate Requirement is necessary.

- 3.18.272. The ExA has reviewed the JHA proposals for a future night-time 2,800 QC night-time limit and considers that applying this control from a 19mppa consent to a 32mppa consent would not be appropriate as it could restrict the growth sought (although it would be consistent with a trend of a reduction in aircraft noise levels over time). As with NVL, the GCG Framework includes a mechanism to review contour limits and associated QC budgets in future, which allows for further reductions where appropriate and agreed with ESG.
- 3.18.273. The ExA considers that the measures set out in [\[REP9-011\]](#) demonstrate that the Applicant has adopted a balanced approach to mitigation. The ExA agrees that, although such a measure could be an operating restriction, the ICAO balanced approach does not require a reduction in night flights. The Applicant has highlighted that additional operating measures in the NAP may serve to mitigate noise at source, however the ExA has given a little weight to these measures in light of LADACAN and the HHAs' comments regarding the status of some measures.
- 3.18.274. LLP Policy LLP6 B(iv) requires the identification of "*appropriate forms of mitigation in the event significant adverse effects are identified*". Policy LLP38 requires that impacts are suitably mitigated. The ANPS (paragraphs 5.54 to 5.66) set out mitigation criteria, including the concept of the 'balanced approach'. The ExA considers that the ES [\[REP9-011\]](#) and mitigation plans including the fixed plant noise management plan [\[REP4-025\]](#), GCG Framework [\[REP11-013\]](#), ANMP [\[REP9-047\]](#), oGNMP [\[REP11-043\]](#), CoCP [\[REP8-013\]](#) and oCTMP [\[REP11-005\]](#) provide this and that this material encompasses the four principal requirements of the 'balanced approach'.
- 3.18.275. The ExA considers that the proposed mitigation approach is consistent with the requirements of national and local policy (eg ICAO, OANPS, ANPS, NPPF, NPSE) in that it provides an effective noise control, monitoring and management scheme.
- GCG – whether the framework is a proactive control
- 3.18.276. IPs eg [\[REP3-121\]](#) and [\[REP3-133\]](#) highlighted that the initial GCG Framework noise proposals [APP-218] were reactive due to a 'transition period', which created a lag between serving notice under Article 44(1) [\[REP11-091\]](#) and commencing the monitoring and control processes [\[REP11-019\]](#). Monitoring was not proposed to until the July following the end of the transition period (potentially 2.5 years from the point of serving notice [\[APP-217\]](#), Figure 2.9)).
- 3.18.277. LADACAN [\[REP3-121\]](#) and Mr White [\[REP3-133\]](#) expressed concern that rapid growth might occur immediately on serving the notice, for which slots would be allocated in airport capacity declarations and that GCG provided no clear mechanism for reduction of issued slots if there was an exceedance of Limits prior to release of capacity. PAIN [\[REP2-067\]](#) considered that there was no mechanism to 'redact a permitted growth' that caused a breach.
- 3.18.278. ISH1 [\[EV6-001\]](#), ISH3 [\[EV8-001\]](#), ISH9 [\[EV16-001\]](#), [\[PD-010\]](#) and [\[PD-015\]](#) explored the implications of airport capacity declarations, slot allocations and local rules. [\[PD-009\]](#) raised questions regarding the slot allocation process and whether the transitional arrangements could result in a period of potentially three years where the Proposed Development could operate without relevant controls.
- 3.18.279. The Applicant [\[REP4-072\]](#) suggested that rapid growth at the airport would be constrained by the current infrastructure capacity. [\[REP4-072\]](#) considered that local rules were only one of a number of possible measures to control noise in the

'toolbox of interventions' and that the GCG with its escalating actions at Thresholds below the Limits would already be sufficiently proactive. In [\[REP6-067\]](#) it noted that there was a significant economic incentive for the airport operator to remain within the GCG Limits to avoid growth being restricted.

- 3.18.280. The HHA [\[REP4-163\]](#) and [\[REP8-036\]](#) questioned the measures in the 'toolbox' and what effective interventions could be introduced where a planned capacity reduction or local rule could not be achieved or could not be achieved in an appropriate timeframe.
- 3.18.281. The Applicant [\[REP3-050\]](#) explained that the toolbox largely focussed on forward planning of capacity declarations and slot management measures, including use of local rules (if this was felt by the operator to be the most appropriate way of controlling environmental impacts within reasonable timescales in the event that a limit was breached). The Applicant [\[REP4-072\]](#) produced a technical note in response to ISH3 Action Point 28 on the transition period and the slot allocation process, which suggested that 'local rules' could control aircraft numbers. It highlighted that LLA currently had two relevant local rules. Local rule one controlling number and QC value of slots in the NQP and local rule three, controlling the number of slots allocated based on total seat numbers to ensure adherence to the 18mppa capacity limit. It explained that local rules were agreed and implemented by the LLACC.
- 3.18.282. The ExA [\[EV8-007\]](#) and [\[EV16-006\]](#) confirmed through questions at hearings that there were very few circumstances where allocated slots could be removed once allocated. This was due to the grandparenting rights in the slot allocation regulations. As a result the Applicant advised that it would not be possible to reduce the number of slots, even if the allocation resulted in an exceedance of the consented noise contour limits. The HHA PADSS [\[REP8-056\]](#) considered that the difficulty of rolling back slot allocations required a sanctions regime to be implemented, which is considered below.
- 3.18.283. At ISH9 [\[EV16-006\]](#) the ExA asked whether local rules could be implemented from the outset of implementing a development consent in a proactive fashion to provide assurance that growth remained within the relevant noise contour limits. The Applicant [\[EV16-006\]](#), [\[REP7-077\]](#) and ANMP [\[REP9-047\]](#) made provision for QC budgets derived from noise contour Thresholds and Limits to serve as a forward-looking proactive control. The Applicant emphasised that it was in its own interest to remain compliant with the Limits in order to enable it to continue to grow.
- 3.18.284. The Applicant removed the transition period from its draft DCO [\[REP11-091\]](#) for noise monitoring to ensure continuity of noise controls from the current consented operation. The JHA supported the proposals for timings of monitoring for GCG topic areas and welcomed the removal of the transition period for noise [\[REP11-033\]](#), [\[REP11-035\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#) and [\[REP11-099\]](#).
- 3.18.285. The ExA [\[PD-018\]](#) explored whether noise monitoring processes should be implemented 12 months in advance of implementing Article 44(1) to provide a baseline for future monitoring and to ensure that monitoring processes were effective from the outset, reducing the lag time for monitoring controls.
- 3.18.286. The Applicant [\[REP8-036\]](#) expressed significant concern that the pre-commencement monitoring could delay implementation of the Proposed Development due to the time required to implement monitoring and argued that there was no requirement for baseline data capture in the GCG process as the

airport's environmental impacts would be measured directly against GCG Thresholds and Limits. The Applicant also explained that it would be possible for the monitoring in the year prior to serving Article 44(1) notice to trigger GCG controls on growth. The Applicant also noted that CBC [REP7-083] and the HHA [REP7-085] only had concerns with the timelines for implementing air quality monitoring. The HHA PADSS [REP8-056] and the JHA SoCG [REP11-033], [REP11-035], [REP11-095], [REP11-097] and [REP11-099] did not raise any concerns with noise monitoring.

- 3.18.287. The ExA remains concerned that the GCG Framework is a reactive tool for noise control because the assessment of whether Thresholds or Limits were exceeded would be retrospective, meaning that there would be a lag between an issue arising and any required mitigation. The difficulty in removing slots once allocated also means that if a limit was exceeded, it could be challenging to return to a compliant operation in the short to medium term.
- 3.18.288. The Applicant's removal of the transition period for noise monitoring has partially addressed this issue by creating continuity with the controls in the previous operational consent. The ExA considers that the proposed conversion of noise contour Thresholds and Limits into QC budgets (assuming they were set at the correct level) provides comfort that the controls would proactively serve to avoid exceedances of the Limits. Mitigation would be triggered as Thresholds were progressively exceeded, including controls through capacity declarations and slot allocations. The ExA has reservations that without baseline monitoring it would be difficult for the Applicant to understand whether it was already close to exceeding a limit. The ExA has therefore included a Requirement for a year of monitoring to ensure that slot allocations can be made appropriately in during the year following serving of Article 44(1) notice.
- 3.18.289. The ExA considers that the final controls are partially consistent with the requirements of Policy LLP6(B)(vi) in that they would provide an effective noise control, monitoring and management scheme.

GCG – whether increases in capacity should be phased or linked to noise performance

- 3.18.290. ISH9 [EV16-001] considered whether increases in capacity should be phased eg linked with noise insulation deployment to avoid effects exceeding SOAEL for receptors. The Applicant [REP3-061] suggested that this could impact the implementation of the DCO, as residents could not be compelled to accept an insulation offer. In their post-hearing summary, the JHA [REP6-094] commented that implementation of local rules, alongside advanced planning might be able to manage noise.
- 3.18.291. The ExA concludes that phasing of growth linked to noise insulation (ie insulation prior to growth) would avoid effects above SOAEL, however the ExA is not aware that there is any precedent for such a control measure and notes the Applicant's position that a property owner could not be compelled to take up an offer, which could mean that the Applicant would be unable to fulfil its obligations under the DCO and therefore unable to commence development. On this basis, the ExA does not consider that capacity increases can be linked with noise insulation rollout. The ExA considers the delivery programme for noise insulation as part of the discussion on Compensation Policies below.

GCG – sanctions

- 3.18.292. Requirement 24 of the draft DCO [REP11-091] required the Applicant to produce a mitigation plan, if a noise contour Limit were exceeded, that sets out measures to reduce noise levels back below the Limit. A new mitigation plan would be prepared after two years if the initial plan had failed to achieve this.
- 3.18.293. PAIN [REP2-067] expressed concern regarding the potential for an ongoing breach of the noise contour limit. The JHA SoCG [REP11-033], [REP11-035], [REP11-095], [REP11-097] and [REP11-099] considered that the only consequence in GCG for continued breach was the requirement to produce a new mitigation plan and supported the use of a sanction regime to prevent this. The ExA [PD-018] included a Requirement with a financial penalty mechanism after 12 months to address continued breaches of a Limit.
- 3.18.294. The Applicant [REP9-054] and [REP9-058] argued that the imposition of financial penalties was neither appropriate, necessary nor proportionate, would fail to meet tests for Requirements and lacked precedent. The Applicant suggested that the GCG was legally binding and self-enforcing, requiring the operator to take early action to avoid exceeding a limit. It also argued that it was not aware of any other airport noise envelope that had financial penalties and that such a mechanism would place the Applicant at a commercial disadvantage. Furthermore, it stated that the PA2008 included an enforcement regime already, mitigation plans would be signed off by the ESG and that the PPGN did not support “*Conditions which place unjustifiable and disproportionate financial burdens on an applicant will fail the test of reasonableness.*” and in general that “*No payment of money or other consideration can be positively required when granting planning permission.*”
- 3.18.295. In relation to the specific wording of the penalty mechanism [REP9-054] suggested that it would be inappropriate to impose a fine after a 12-month period, since 12 months was the minimum monitoring period required to demonstrate whether a mitigation plan had been successful.
- 3.18.296. The JHA [REP10-052] considered that since GCG was unprecedented, it was reasonable to have residual doubt as to its effectiveness. They argued that the fact that the ESG had signed off a plan was irrelevant and that a financial compensation payment mechanism would act as an incentive to ensure that the mitigation plan put forward was genuinely the best and most likely means of addressing the breach of a limit in a timely fashion. [REP10-052] suggested that the financial penalty should be of a sufficient quantum to act as a real incentive to resolve issues and that if, as the Applicant claimed, a penalty was unnecessary because GCG was robust then the risk of a compensation payment being triggered would be minimal. [REP10-052] noted that provided efforts were made to mitigate a breach, no technical breach of the DCO would occur, therefore the enforcement regime under PA2008 would not apply.
- 3.18.297. The JHA [REP10-052] rebutted the Applicant's argument regarding the ANPS tests suggesting that a penalty mechanism was necessary to provide a clear disincentive to address a breach, that a penalty regime was a backstop and relevant to planning to ensure that the operator could not benefit from growth without complying with its proposed Limits. They also argued that wording could be put in place to ensure the mechanism is enforceable and precise and that their proposals were reasonable in all other respects. The JHA also referred to CAA guidance in CAP1129 that suggested financial compensation to a community fund might be one form of appropriate action in the event that planning controls for noise envelopes were

breached. The HHA [\[REP8-054\]](#) suggested that the SoS should be responsible for setting the scale of penalty and provided an example of a financial penalty mechanism applied to Brussels airport. In [\[REP11-061\]](#) the JHA proposed wording for a financial penalty mechanism, noting that this would give the ESG discretion to request that the SoS requires the undertaker to make payments to the community fund where there was a risk of persistent exceedance of Limits. [\[REP11-061\]](#) argued that this wording provided two important procedural safeguards to the imposition of a compensation payment – the ESG must be satisfied that a payment was warranted and the SoS must be satisfied that it was appropriate.

- 3.18.298. The Applicant [\[REP11-050\]](#) suggested that the JHA comment that the risk of triggering a payment was minimal underscored that a penalty mechanism was unnecessary and that the argument contradicts clear precedents that where there is a robust regime a penalty should not be imposed. It argued that it took no account of the acute commercial position this would place the airport in, in terms of investment decisions that would need to account for a penalty. The Applicant considered that CAP1129 required agreement of such measures during the design of the envelope and that since CAP1129 was specifically about noise it was inappropriate to justify imposition of financial penalties relating to surface access, air quality or GHGs.
- 3.18.299. The Applicant [\[REP11-050\]](#) also argued that there was no positive support for penalties in national policy or the LLP and that the JHA had failed to acknowledge that the ANPS rejected the use of financial penalties during designation or to address its comments about the PPGN precedents. It claimed that suggestions of quarterly or annual payment mechanisms were imprecise. [\[REP11-050\]](#) claimed that no work had been done to contextualise any future breaches and allow for proportionate sanctions or to determine whether all reasonable steps had been taken prior to a fine being imposed, meaning that the sanction could not be considered relevant to the development to be consented. It also argued that no attempt had been made to deal with arguments that a penalties regime could hamper attempts to remove exceedances, that the SoS had rejected use of penalties in the P19 permission and that there was relevant case law that argued against use of community benefits in a broad, undefined and unparticularised manner.
- 3.18.300. It is not contested that the GCG Framework is a novel and untested process for the control of aviation noise. The ExA considers that the formulation of Requirement 24 in the Applicant's draft DCO provides little assurance that a continuing breach of Limits would be avoided. Regardless of the arguments for and against a new penalty requirement, the ExA is of the view that an additional control is necessary to ensure that the Applicant could not benefit from excess growth under a prolonged breach of a limit at the expense of increased noise impacts on local communities.
- 3.18.301. The ExA has considered the JHA and Applicant's arguments and considers that there are two options to address this issue - the use of a financial penalty mechanism, or the inclusion of certain Limits on the face of the Order (such that a breach of Limits would be enforceable). Whilst the ExA does not agree with a number of the Applicant's arguments regarding the PPGN tests, the ExA is persuaded that a financial penalty mechanism would be novel in the UK and could place the airport at a commercial disadvantage. The ExA considers that this reinforces its position that contour Limits should be secured on the face of the Order to provide certainty regarding enforcement mechanisms as discussed under 'the noise envelope as a standalone position above'.

GCG - QC budgets and dispensation

- 3.18.302. The HHA LIR [\[REP1A-003\]](#) considered that dispensations should not be allowed from QC budgets. In ExQ1 [\[PD-010\]](#), GCG.1.3 and NO.2.3], the ExA examined the approach to dispensations. The Applicant updated its approach in the ANMP [\[REP9-047\]](#) to align with DfT guidance. The JHA SoCG [\[REP11-033\]](#), [\[REP11-035\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#) and [\[REP11-099\]](#) did not raise any issues with dispensations.
- 3.18.303. The ExA is satisfied that the updated wording in the ANMP [\[REP9-047\]](#) addresses concerns regarding dispensations. On 22 February 2024, following the close of the Examination, DfT issued new guidance on night flight dispensations, the ExA notes that this guidance whilst specific to the designated airports has relevance to the ANMP provisions. The ExA did not identify the need for any further amendments to the ANMP based on the revised guidance.

GCG – noise envelope community engagement

- 3.18.304. A number of representations suggested that insufficient consultation had been undertaken in respect of the Applicant's noise envelope and that NEDG's work had effectively been curtailed eg LBC LIR [\[REP1A-004\]](#), HarpendenSky [\[RR-0530\]](#), STAQS [\[RR-1416\]](#), [\[REP1-149\]](#) and [\[REP5-086\]](#), Stop Low Flights From Luton [\[RR-1447\]](#), Hitchin Forum [\[RR-0564\]](#), PAIN [\[RR-1133\]](#) and LADACAN [\[AS-058\]](#). LADACAN [\[REP7-104\]](#) and [\[REP6-139\]](#) summarised the key arguments suggesting that the final noise envelope submitted had not been consulted on or agreed, was not that recommended by NEDG and had not followed CAA guidance in CAP1129.
- 3.18.305. At ISH9 [\[EV16-006\]](#) the ExA explored the extent to which community engagement had, or needed to, inform the development of the noise envelope and the status of CAP1129. LADACAN [\[EV16-006\]](#) questioned whether the Examination was a form of consultation.
- 3.18.306. ES Appendix 16.2 [\[REP10-019\]](#) set out why the Applicant considered the noise envelope to be policy compliant, detailing statutory consultation and consultations with the NEDG (and interim and final reports) and the wider community through groups such as LADACAN. The Applicant [\[REP6-067\]](#) argued that the final proposals were a refinement and reduction of the Limits discussed at the statutory consultation stage and that compliance with CAP1129 was not legally binding. The Applicant [\[REP7-054\]](#) confirmed that the independent chair of NEDG considered that there was no need to reconvene since the noise envelope now aligned with its initial recommendations and NEDG members were actively engaged in the DCO process. This matter was not identified as an area of disagreement in the JHA SoCG at the close of Examination [SoCG [\[REP11-033\]](#), [\[REP11-035\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#) and [\[REP11-099\]](#)].
- 3.18.307. The ExA considers that [\[REP10-019\]](#) demonstrates the noise envelope was developed in consultation with the community consistent with the requirements of CAP1129. Although the Applicant did not consult on the specific details of the final noise envelope prior to submission, the ExA is of the view that the Examination process has provided further opportunity for exploration of the final noise envelope design in public. In light of this and taking into account comment from the NEDG chair that the noise envelope now aligns with NEDG proposals, the ExA is satisfied that the final noise envelope design is consistent with the requirements of Policy LLP6(B)(iv) and LLP38 to develop appropriate forms of mitigation and the requirements of the MBU and ANPS that mitigation is subject to consultation with local communities.

GCG – overall conclusions

- 3.18.308. The ExA has considered the GCG noise controls and identified issues with the level of control that would be provided by the GCG Framework over aviation noise emissions. The ExA has made a number of recommendations to secure controls on the face of the Order including noise contours, aircraft movement limits and monitoring. The ExA is of the view that having controls on the face of the Order would avoid the need to apply a sanctions regime in the event of continued breaches of a limit. The GCG Framework would need to be amended to ensure that it was consistent with the Order but would remain a key tool for managing aviation noise.

Compensation Policies, Measures and Community First

- 3.18.309. Over 80 RRs referenced compensation measures eg [\[RR-1000\]](#), [\[RR-1566\]](#), [\[RR-1437\]](#), [\[RR-1151\]](#). The ExA considered the Applicant's Compensation Policies at CAH1 [\[EV5-001\]](#), ISH3 [\[EV8-001\]](#) and ISH9 [\[EV16-001\]](#) and through questions [\[PD-010\]](#) and [\[PD-015\]](#).
- 3.18.310. The initial Compensation Policies [\[APP-226\]](#) addressed compensation for air noise effects only. These were substantially updated during Examination and secured by the s106 agreement [\[REP11-108\]](#), Schedule 7]. Table 1.1 of the final Compensation Policies [\[REP11-025\]](#) summarised the ten categories of eligibility that addressed air, ground and surface access noise effects, and applied to both residential and community buildings (including schools and hospitals). The air noise provisions were based on location of receptors relative to specific day and night aviation noise L_{Aeq} contours and included five tiers of eligibility.
- 3.18.311. Current policy grants at LLA are capped at £3,800 per property (£4,500 proposed under the P19 permission), whereas contributions would be uncapped under Compensation Policy Scheme 1 and the Highway Noise Insulation scheme, Scheme 2 would include fixed sum grants up to £20,000 per property and Scheme 3 would provide full noise insulation for bedrooms. In response to comments regarding the need for ventilation, the Compensation Policies [\[REP11-025\]](#) made specific reference to the provision of ventilation as part of Schemes 1 and 3. The Applicant proposed an eligibility cut-off date for insulation of properties built and occupied prior to 16 October 2019. At the close of Examination, the JHA and UKHSA-OHID SoCG were satisfied with the provisions [\[REP11-033\]](#), [\[REP11-035\]](#), [\[REP11-095\]](#), [\[REP11-097\]](#) and [\[REP11-099\]](#).
- 3.18.312. The following key issues were not agreed at the close of Examination:
- Eligibility criteria;
 - Noise insulation delivery programme;
 - Outdoor noise compensation;
 - Compensation for Park Homes; and
 - Compensation for Listed Buildings.

Compensation Policies - eligibility

- 3.18.313. IPs raised a number of questions relating to eligibility that covered the scope of the policies, how claims would be made, how IPs could identify which scheme applied and general comments on the quality of information used to identify eligibility eg [\[RR-0006\]](#), [\[RR-1000\]](#), [\[RR-1566\]](#), [\[RR-1437\]](#), [\[RR-1151\]](#) and [\[REP8-078\]](#). Several IPs questioned why they were not eligible for noise insulation, full insulation or other forms of compensation, even though they would be subject to increased flights and

aircraft noise eg [\[RR-0185\]](#), [\[RR-1035\]](#), [\[RR-1525\]](#), [\[RR-1395\]](#), [\[RR-0735\]](#), [\[RR-1513\]](#) and [\[RR-0839\]](#).

- 3.18.314. LADACAN [\[REP10-078\]](#) and Michael Reddington [\[REP6-154\]](#) and [\[REP10-083\]](#) argued for flexibility in the noise insulation eligibility criteria cut-off date, suggesting that properties in construction at this date, could not have been expected to take account of the mitigation requirements for the Proposed Development. The Applicant [\[REP11-025\]](#), s6.1.16] allowed that *“this date may be lifted for those able to demonstrate that they could not reasonably have known about the Proposed Development”*.
- 3.18.315. The ExA [\[EV5-001\]](#), [\[EV8-001\]](#), [\[PD-010\]](#) and [\[PD-015\]](#) asked the Applicant to clarify aspects of the eligibility criteria. The Applicant [\[REP11-025\]](#) stated that eligibility was defined based on L_{Aeq} noise contours identified through noise modelling, which in turn were based on the requirements of aviation noise policy. The Applicant [\[REP1-020\]](#) explained that the noise insulation provisions were set out in [\[REP11-025\]](#) and were fully in line with the requirements of the compensation code and in some cases offered voluntary policies that went beyond the statutory standards. It confirmed that the Compensation Policies applied to both residential and community buildings.
- 3.18.316. In ExQ2 [\[PD-015\]](#), NO.2.11], the ExA asked whether residential outbuildings would be eligible. The Applicant [\[REP11-025\]](#) Residential outbuildings were confirmed to be eligible.
- 3.18.317. In ExQ1 [\[PD-010\]](#), NO.1.24], the ExA asked whether the Applicant should use single mode contours to determine eligibility for noise insulation as referenced in ANPS paragraph 5.245. The Applicant [\[REP4-060\]](#) ruled out use of single mode contours on the basis that this was a Heathrow-specific voluntary offer rather than a specific policy requirement and that policy was based on the 92-day summer average L_{Aeq} contour.
- 3.18.318. The Applicant [\[REP1-020\]](#) explained that compensation would be offered to the most noise affected properties first and that based on benchmarking exercises the noise insulation would be one of the most generous UK airport noise schemes.
- 3.18.319. In ExQ2 [\[PD-015\]](#), NO.2.14], it requested confirmation regarding eligibility for two care facilities (Sue Ryder Centre Stagenhoe and Woodside Nursing and Residential Home). The Applicant [\[REP7-056\]](#) provided updated assessment information confirming that Sue Ryder Centre would meet night-time eligibility criteria in Phase 2a and 2b.
- 3.18.320. The Applicant [\[REP6-067\]](#) confirmed that an online eligibility look-up tool would be made available to local residents once Article 44(1) notice had been served and at CAH1 [\[EV5-006\]](#) the Applicant stated that individuals could contact the Applicant directly to confirm their eligibility before this. This was secured by s106 agreement in the Compensation Policies [\[REP11-025\]](#), paragraph 6.1.50]. Despite requests at hearings, the Applicant [\[REP3-054\]](#) declined to share the proposed look-up tool prior to that date, as they considered that this could potentially lead to confusion regarding eligibility between the two schemes.
- 3.18.321. The matter of eligibility and cut off dates was not resolved at the close of Examination, particularly for receptor groups located close to but outside the eligibility contours and under flightpaths at distance from LLA.

- 3.18.322. The ANPS (paragraphs 5.239 and 5.240) recognises that airport expansion will have negative impacts on local communities and that an appropriate community compensation package, relevant to planning is expected. The Applicant applied an eligibility criterion of 63dB_{L_{Aeq16hr}} or above but has also adopted criteria of 60 dB_{L_{Aeq16hr}} in scheme 2 and 54dB_{L_{Aeq16hr}} in Scheme 5 consistent with the recommendations of Aviation 2050. The ExA concludes that the Compensation Policies [\[REP11-025\]](#) are substantially enhanced compared with the current LLA policy.
- 3.18.323. The ExA notes that noise insulation works may give rise to some disruption and noise in their own right, however these are considered to be of a temporary nature and unlikely to be significant.
- 3.18.324. The ExA considers that a cut off date is reasonable to avoid an open-ended commitment by the Applicant to continue to provide noise insulation to properties designed and built after the Proposed Development was publicly known but welcomes the date flexibility suggested in [\[REP11-025\]](#), s6.1.16].
- 3.18.325. The ExA welcomes the future provision of an online eligibility look-up tool to provide certainty to local residents regarding their compensation offer.
- 3.18.326. The ExA concludes that the Applicant has provided an appropriate package of measures, relevant to planning consistent with the Requirements of the ANPS (paragraph 5.240).

Compensation Policies – delivery programme

- 3.18.327. LADACAN [\[REP1-095\]](#) and Michael Reddington eg [\[REP5-054\]](#), [\[REP6-155\]](#) and [\[REP8-078\]](#) questioned the likelihood of noise insulation being rolled out in a timely fashion based on the slow roll out of insulation under Project Curium works, the absence of a deadline for delivery of insulation and a lack of noise insulation contractors.
- 3.18.328. The Applicant's delivery programme paper [\[REP4-079\]](#) and [\[REP7-056\]](#) confirmed that Schemes 1-3 could be delivered in four years, a commitment set out in the Compensation Policies [\[REP11-025\]](#), paragraph 6.1.37], which are secured by s106 agreement [\[REP11-108\]](#).
- 3.18.329. Section 6 of the Compensation Policies [\[REP11-025\]](#) also set out proactive measures that would be taken to ensure that eligible properties (including rental properties) would be able to take advantage of the Compensation Policies and explained that eligible parties would be given advice on compensation where they were eligible in more than one category. The Compensation Policies also explained that the rollout would prioritise the worst affected properties first (ie in the 63dB_{L_{Aeq16hr}} and 55dB_{L_{Aeq8hr}} contours). The Applicant argued that growth should not be linked to roll out of mitigation, since this could prevent implementation of the DCO.
- 3.18.330. LADACAN [\[REP10-078\]](#) raised a series of further questions and points of detail regarding the wording of the Compensation Policies, their financing and administration, requesting that the Applicant's proposed four-year delivery timescale was secured in the DCO.
- 3.18.331. The ExA [\[EV5-006\]](#), ExQ2 [\[PD-015\]](#), NO.2.15] and [\[PD-024\]](#) questioned the rollout programme for noise insulation due to the number of receptors that could experience effects above SOAEL in the absence of noise insulation. The ExA's

commentary on the DCO [PD-018] proposed a new Requirement relating to the noise insulation plan and programme, seeking to secure the timelines and provide a means of measuring progress on delivery of noise insulation through reporting to the LBC.

- 3.18.332. The HHA [REP10-055] and LBC [REP10-058] confirmed they were satisfied that with the proposed rollout programme. In contrast, LADACAN [REP10-078] raised a series of further questions and points of detail regarding the wording of the Compensation Policies, their financing and administration, requesting that the four-year timescale was secured in the DCO.
- 3.18.333. The Applicant included aspects of Requirement in its Compensation Policies [REP11-025] but did not consider that a specific Requirement was necessary [REP8-036]. The ExA notes that the Compensation Policies include the caveat that *“At any time, the Applicant will be able to apply to LBC to update or vary the roll out plan, following consultation with the Noise Insulation Sub-Committee of LLACC.”*
- 3.18.334. The ExA considers that given the potential complexity of rollout of mitigation, some flexibility is reasonable. However, it also considers that the delivery timescale for noise insulation directly affects conclusions regarding the significant effects of the Proposed Development and whether it is compliant with the requirements of the NPSE, OANPS and ANPS (paragraph 5.251). The ExA remains of the view that a Requirement is necessary on the basis that the current wording could allow a change in the programme to result in a longer duration of significant noise effects. This would be inconsistent with ANPS (paragraph 5.251) to *“put the works in place quickly”*.
- 3.18.335. With the inclusion of a new Requirement (see Section 7) securing the delivery programme, the ExA is satisfied that the Proposed Development would meet the requirements of ANPS (paragraph 5.60 and paragraph 5.251). If the SoS considers that the new Requirement is not necessary then the ExA takes the view that, for the reasons set out above, the potential for unmitigated significant effects on health and quality of life to occur for a longer period would have great negative weight against the making of the Order.

Compensation Policies – outdoor noise

- 3.18.336. Representations eg [REP1-106] questioned what benefit noise insulation would provide in respect of outdoor noise effects (eg for people gardening or outdoor entertaining) or in summer when windows were open with a number of representations highlighting effects on sleep [RR-1148], [RR-0331], [RR-1566], [RR-0442], [RR-1434] or the ability to watch TV or listen to the radio eg [RR-0725] and [RR-1147] and [RR-0624]. [RR-0156] highlighted the impact of overflights on funeral services.
- 3.18.337. The Applicant [REP1-020] and [REP2-034] argued that the Compensation Policies were the final step in the mitigation hierarchy having mitigated noise at source (the noise envelope) and by embedded mitigation (eg boundary screening), which would both provide benefits whether windows were open or closed. It stated that suitable ventilation would be provided if required [REP3-061]. ES Chapter 16 [REP9-011] assessed effects on outdoor spaces as part of its community noise assessment. No significant effects on community spaces (including private gardens) were reported in [REP9-011, Table 16.76], however community areas that would experience an adverse likely significant effect due to air noise increases were identified in [REP9-011 - Table 16.39, Table 16.46 and Table 16.53] and due to ground noise increases

[REP9-011, Table 16.56, ES Table 16.63, ES Table 16.68). No additional measures were identified in the Compensation Policies for impacts on outdoor spaces.

- 3.18.338. The Applicant has demonstrated the application of a mitigation hierarchy approach to reduce and minimise noise at source, in line with the balanced approach. The ExA considers that this is consistent with the OANPS requirement “*to mitigate as much as is practicable and realistic to do so*”. The Compensation Policies include provision for ventilation to be delivered as part of the noise insulation offer, which the ExA considers would address concerns for residents indoors, living closer to the airport but would not address noise on flight paths at greater distance from the airport.
- 3.18.339. No additional measures were included in the Compensation Policies to address the impact of outdoor noise on amenity (including for community areas). Although there are no specific statutory legal protections for outdoor noise the ExA considers that the permanent outdoor noise effects would impact on quality of life for residents and are inconsistent with the aims of NPPF (paragraph 180e) to improve local environmental conditions or LLP6(vii) to result in “*significant diminution and betterment of the effects on airport operations on amenity of local residents*”. This attracts great weight against making the Order.

Compensation Policies - testing

- 3.18.340. Michael Reddington [AS-157] and LADACAN [REP1-095] suggested that post-installation testing should be carried out to ensure that noise insulation achieved appropriate internal noise levels, referencing recommendations for testing from the former Independent Commission on Civil Aviation Noise. Michael Reddington [REP8-078] suggested that noise insulation might not be sufficient and that key parameters for testing had yet to be defined eg sampling strategy, reporting mechanisms and remedial action and the role of the NISC.
- 3.18.341. The Applicant [REP11-025] included a commitment to implement a sample-based, proportionate approach to post-installation testing in accordance with BS EN ISO 16283-3 ‘Acoustics – field measurement of sound insulation in buildings and of building elements’. Although [REP7-056] highlighted that there were no standards or guidance for sampling size and suggested that the strategy would need to be developed in consultation with the NISC. It stated that suitable ventilation would be provided if required [REP3-061].
- 3.18.342. LADACAN [REP10-078] suggested that an independent body should perform pre/post installation testing and that operation of a complaints procedure in relation to contractor’s own work would in effect be ‘marking their own homework’. LADACAN also emphasised the need for setting an indoor noise reduction target similar to that used at London City Airport. The Applicant [REP11-050] argued that it was unnecessary to have an independent testing body rather than an appointed contractor. [REP11-050] also noted that the London City example was not standard practice, that no other airport sets indoor noise reduction targets and that the noise insulation scheme goes further than London City’s. The Applicant argued that the lack of an indoor noise reduction target did not mean that insulation would be less effective.
- 3.18.343. The Compensation Policies [REP11-025] make provision for noise insulation testing. The ExA considers that although the details of the testing were high level and remain to be finalised through consultation with the NISC, the [REP11-025] commitment to develop a rolling testing policy in accordance with the BS EN ISO

16283-3 is an appropriate basis for implementing a testing regime. The ExA acknowledges LADACAN's request for an independent body to perform noise insulation tests but does not consider that there is a specific policy requirement for this. The ExA concludes that the approach to testing set out in the Compensation Policies is consistent with the requirements in ANPS (paragraphs 2.251 to 2.253) to demonstrate how measures would be delivered and administered.

Compensation Policies – Park Homes

- 3.18.344. LADACAN [REP7-104] questioned whether mitigation was possible for all building types present within the contours for eligibility, such as Park Homes in Pepperstock and that the noise assessment only considered internal not external levels, meaning that the less substantial park homes might experience higher noise levels, which should be verified through internal surveys to ensure that levels above SOAEL would be avoided [REP7-105].
- 3.18.345. The Applicant [REP8-038] stated that no adverse likely significant effects on health and quality of life due to exposure above SOAEL had been identified (as no Park Homes were within the SOAEL contour) and that assessment criteria were based on external levels and therefore not affected by the construction of individual properties. In [REP6-066] the Applicant highlighted that the Compensation Policies required surveys for each property to determine what would be practicable in terms of noise insulation. [REP11-049] suggested that the majority of homes were understood to be capable of being insulated and if this was not possible then it would comply with policy to mitigate and minimise effects as far as reasonably practicable.
- 3.18.346. The ExA acknowledges the importance of ensuring that mitigation measures are available for eligible properties. However, the Applicant has identified that these properties would not be exposed to noise levels above SOAEL and would be eligible for insulation under the Compensation Policies. The ExA concludes that this is consistent with the requirement to mitigate and minimise effects in accordance with the requirements of the ANPS, NPPF, NPSE and LLP6 and LLP38.

Compensation Policies – Listed Buildings

- 3.18.347. The ExA [EV5-006] and [EV16-007] explored the Applicant's approach to insulation of listed buildings, including more complex buildings such as Breachwood Green Baptist Church. The ExA also questioned whether the financial burden of applying for Listed Building Consent should be carried by property owners given that the airport was responsible for noise emissions.
- 3.18.348. John Gass [RR-0698], [REP4-180] and [REP7-103] highlighted issues with the level of payment for the current scheme, the lack of suitable timber double glazing products and the lack of a time limit to provide noise insulation for their listed property. Sarah Ann o'Sullivan [RR-1347] and Elspeth Gass [RR-0434] and [REP4-165] noted that listed building owners were custodians of unique properties, that the current scheme made no additional funds available to insulate the properties as a special case or to protect them from vibration by planes. [REP4-165] noted that cheaper (plastic) alternatives are unlikely to receive consent and that their inability to insulate the windows would impact on the ability to sell the property.
- 3.18.349. The Applicant [REP1-020] stated that eligible properties would be visited by an assessor to agree what works could and should be undertaken. The Compensation Policies [REP11-025] included an enhanced contribution of £2,500 to support applications for listed building consent and a range of products suitable for listed

buildings would be provided. The Applicant [REP8-038] would not comment on representations that related to the existing scheme, which was not part of the Proposed Development and highlighted that the new compensation measures seek to address the issues raised including speed of rollout.

- 3.18.350. The ExA notes that the Compensation Policies [REP11-025], which have been enhanced through the Examination in public, offer an enhanced contribution towards noise insulation and consenting costs for Listed Buildings and an improved offer in terms of suitable products. The HHA and LBC [REP11-033], [REP11-095], [REP11-097] and [REP11-099] agreed with the appropriateness of the noise insulation scheme in principle but did not provide specific comments regarding the proposed approach to listed buildings, the ExA concludes that the Compensation Policies include appropriate criteria in respect of Listed Buildings consistent with the requirements of the ANPS (paragraph 5.251). The ExA cannot comment on existing insulation arrangements.

Compensation Policies – administration and other matters

- 3.18.351. Michael Reddington [REP8-078], [REP10-083], [AS-156] and LADACAN [REP10-078] raised questions regarding administration and enforcement of the Compensation Policies. They also made comments on the functions and terms of reference of the NISC. LADACAN [REP10-078] suggested that the role of the NISC might better sit with the ESG as the independent NISC members would have no executive authority over other participants in the group, which would comprise representatives for the Applicant, airport operator, LBC, host local authorities and other LLACC member organisations.
- 3.18.352. The JHA were identified as members of the NISC draft terms of reference [REP11-025, Appendix C]. The JHA signed SoCG [REP11-033], [REP11-035], [REP11-095], [REP11-097] and [REP11-099] did not argue for a role for the ESG in the management of the noise insulation scheme.
- 3.18.353. The Applicant [REP11-050] explained that NISC would have a broader remit than previously, therefore comparisons with the current NISC activities were not relevant. It stated that the Compensation Policies would provide the framework for NISC members to fully engage and fulfil their role but disagreed that responsibility would sit better with the ESG. The Compensation [REP11-025, Appendix C] included updated NISC draft terms of reference and mechanisms for review, monitoring and improvement of the policies. [REP11-050] argued that the complaints process would hold the contractor to account and that the requirement for approval of the rollout plan by LBC and agreement by s106 meant that the proposals were robust.
- 3.18.354. The Applicant's funding statement [REP5-009] identified noise insulation as a capital cost. The ExA sought clarification on the cost of the Compensation Policies at ISH9 [EV16-011]. The Applicant provided a breakdown of the aviation noise insulation scheme costs at ISH9 Action Point 37 [REP7-072]. The Applicant [REP8-040] explained that for category three land referencing, the 57dBL_{Aeq,16hr} and 51dBL_{Aeq8hr} contours from the PEIR were used to identify properties able to make a relevant claim and that the noise insulation scheme included properties inside the 54dBL_{Aeq16hr} and therefore included more properties than are within category three.
- 3.18.355. Michael Reddington [REP10-083] highlighted that the Applicant's response was not based on the full noise insulation costs (as set out in [REP11-025, Table 1.1]), excluded ground noise insulation and was unclear whether non-residential receptors were accounted for, all of which could increase the required funds. The Applicant

[REP11-050] explained that the noise insulation cost breakdown did not assume full uptake of the noise insulation scheme and that non-residential receptors, whilst expensive to insulate, were expected to make up a small number of cases, therefore contingency sums in the funding statement would be sufficient to cover the eventual cost of the non-residential scheme.

- 3.18.356. Michael Reddington [REP11-085] asked the ExA to query whether the change in eligibility criteria for Scheme 3 would change the number of eligible properties and have any implications for funding. Due to the late stage of the submission, the ExA was unable to ask the Applicant any further questions on this matter.
- 3.18.357. In ExQ2 [PD-015, NO.2.18], the ExA queried the effect of recent inflation on the noise insulation policy. The Applicant simply stated that the noise insulation scheme would be *“industry leading in terms of its eligibility and levels of compensation contribution”* and that the levels were set generously to enable the amounts to be fixed for the duration of the anticipated roll out of the policy. Due to the extended duration of the Proposed Development a five yearly review to assess the need for changes to the contributions was included in [REP11-025]. Paragraph h of the NISC terms of reference included provision *“To engage in the periodic review of the policy to ensure levels of contribution are maintained over time.”*.
- 3.18.358. ANPS (paragraph 5.253) requires applicants to demonstrate how the compensation provisions are secured, administered and enforced, as well as the mechanism for enforcement. The ExA considers that [REP11-025] set out the Applicant’s proposals for administering compensation, which are secured by a legally binding s106 [REP11-108].
- 3.18.359. ANPS paragraph (5.252) requires applicants to demonstrate whether they have consulted on details of the fund including source of revenue, size and duration of fund. The Applicant provided information on funding during the Examination and referred to public consultation on proposals and some matters developed during Examination [REP11-025, paragraph 1.1.7].
- 3.18.360. The ExA has considered the terms of reference for NISC and considers that these
- 3.18.361. Discussion regarding the administration of the Compensation Policies was ongoing with IPs at the close of Examination. However, the JHA signed SoCG [REP11-033], [REP11-035], [REP11-095], [REP11-097] and [REP11-099] accepted the appropriateness of the noise insulation scheme in principle.
- 3.18.362. On the basis of the above, the ExA concludes that the approach to administration, securing and enforcement of the Compensation Policies are consistent with the requirements of the ANPS when taken in combination with the proposed delivery programme Requirement above.

Compensation Policies – overall conclusions

- 3.18.363. The ANPS (paragraphs 5.239 and 5.240) recognises that airport expansion will have negative impacts on local communities and that an appropriate community compensation package, relevant to planning is expected. The ExA considers that the Compensation Policies are substantially enhanced compared with the current policy and would serve to mitigate impacts on receptors in private and public buildings.
- 3.18.364. The ANPS (paragraphs 5.251 to 5.253) set out the requirements for decision making in respect of compensation, including the extent to which the Applicant has

sought to minimise impacts on local people, consulted on its works, put mitigations in place and considered timely delivery. As highlighted above, the Compensation Policies set out eligibility criteria, go beyond the statutory minimum requirements for mitigation and secure a four-year noise insulation delivery programme for the worst affected receptors.

3.18.365. The ExA considers that the proposed Compensation Policies are consistent with the requirements of the APF, MBU, OANPS, NPPF, NPSNN and local policy including LLP Policy LLP6(B) and LLP38, NHLP Policy D3, Central Bedfordshire LP policy CC8, Stevenage Borough LP saved policy SP11, VALP Policy NE5 and Hertfordshire Local Transport Plan (LTP4) environment policy 21 as they serve to limit aviation noise through mitigation.

3.18.366. However, the Compensation Policies are unable address the impact of outdoor noise. The Applicant has demonstrated the application of a mitigation hierarchy approach to reduce and minimise noise at source, which is consistent with the OANPS requirement to mitigate noise “*as much as is practicable and realistic to do so*”. Although there are no specific statutory legal protections for outdoor noise, the NPPF (paragraph 180e) aims to “*wherever possible, help to improve local environmental conditions*” and Paragraph 191a seeks to “*avoid noise giving rise to significant impacts on health and quality of life*”. LLP6(vii) looks for proposals that “*result in a significant diminution and betterment of the effects of aircraft operations on the amenity of local residents*”. The ExA has concluded that the permanent outdoor noise effects would not meet these aims, which attracts great weight against the making of the Order.

Public Sector Equality Duty

3.18.367. The purpose of the PSED is to ensure that public authorities consider how they can improve society and promote equality in every aspect of their public functions. Decision making must take into account how it would affect groups with protected characteristics (gender reassignment, being married or in a civil partnership, being pregnant or on maternity leave, disability, race including colour, nationality, ethnic or national origin, religion or belief, sex and sexual orientation). For example, considering whether noise effects from the Proposed Development could give rise to any discrimination for protected characteristics groups.

3.18.368. Alison Mitchell [REP1-032] suggested that the Examination should take a wider geographical view of the population affected along flightpaths. [REP6-152] and [RR-0512] argued amongst other things that increased noise would adversely affect people in protected groups with resultant long-term physical and mental distress and health problems (including noise related conditions) and highlighted the effects of noise on children. [REP6-152] also argued for mitigation steps for long-term noise impacts on identified groups and that blanket mitigation was not appropriate.

3.18.369. The EqIA [AS-129, Section 7] identified differential and disproportionate adverse effects eg for children under 16, pregnant individuals, black and minority ethnic groups and older people (aged 65 and over) due to traffic and air noise effects. The Applicant set out its proposed mitigation in respect of equalities impacts in section 10 of its EqIA [AS-129], which referred to noise mitigation in [REP10-009]. In response to comments about the study area, the Applicant [REP11-049] clarified that whilst the “study area for its assessment was smaller than the category 3 boundary, where impacts were identified as part of ES topic assessments outside the study area, they were taken into account”.

- 3.18.370. The ExA has considered representations regarding differential effects on receptor groups and notes that the demographic make-up of the area surrounding LLA means that aviation noise from the Proposed Development has potential to disproportionately affect particular groups as highlighted in [\[AS-129\]](#). The ExA is satisfied with the Applicant's conclusions and with the proposed mitigation measures. The ExA also identified the potential for overflights to affect groups at worship or funerals for eg Breachwood Green Baptist Church [\[RR-0156\]](#).
- 3.18.371. The ExA has not identified a need for additional mitigation measures in respect of protected characteristics groups, beyond that already identified. The ExA concludes that the mitigation for such groups would be broadly similar to measures for the wider population during construction and operation. In relation to Breachwood Green Baptist Church, the ExA considers that effects on outdoor religious activities such as burials are not capable of further mitigation. The ExA therefore considers that the assessment and full or partial mitigation measures satisfy the requirements of the ANPS (paragraph 1.35 and 4.27).

Other matters

- 3.18.372. The ExA has also taken into account a number of additional issues raised by local residents including amongst other things the impact of climate change on aircraft noise and movements, whether more receptors are affected than at Gatwick, changes in altitudes and flightpaths, car parking noise, impacts on outdoor workers and working from home, impacts from helicopter noise, HS2 community area responses, whether compensation is 'virtue signalling', and use of the WHO Environmental Noise Guidelines 2018. However, these matters do not alter the ExA's conclusions on the main issues.

CONCLUSIONS ON NOISE AND VIBRATION

- 3.18.373. At the close of Examination, the JHA and BC were broadly content with the noise and vibration assessment baseline, methods and modelling but remained in of the view that the proposals were not policy compliant because the Applicant's conclusions were based on comparisons with the 2019 actuals baseline. Other IPs remained in disagreement with many aspects of the assessment and modelling.
- 3.18.374. Policy LLP6(B)(ii) requires that Airport expansion proposals "*contribute to achieving national aviation policies*". The ExA has reviewed the requirements of MBU, APF, NPSNN, ANPS and OANPS and considers that the Applicant's assessment meets the requirements for an assessment of future noise and vibration effects, including from construction, operation and surface access.
- 3.18.375. The NPPF (paragraph 180), NPSNN (paragraph 4.55) and ANPS (paragraph 4.58) seek to avoid unacceptable levels of harm from noise from new development. The ExA considers that the Applicant has satisfied this requirement since the ES does not predict UAEL from noise and vibration and no substantive evidence has been provided to draw an alternative conclusion. This is consistent with the requirements of national policy.
- 3.18.376. ANPS (paragraphs 5.52 and 5.53) and NPSNN (paragraphs 5.189 to 5.192) set out the requirement for applicants to provide a noise assessment based on relevant standards and guidance. ANPS (paragraphs 5.54 to 5.66) and NPSNN (paragraphs 5.197 to 5.200) set out mitigation considerations.
- 3.18.377. **Construction** ES Chapter 16 [\[REP9-011\]](#) and [\[REP4-080\]](#) assessed construction noise and vibration and identified no significant effects when measures in the CoCP

were taken into account. The ExA considers that the proposed construction noise and vibration mitigation measures would be consistent with construction practice from other major construction schemes and consistent with the requirements of the ANPS, NPSNN and NPSE to avoid effects above SOAEL and to mitigate and minimise noise below this level. As with any major construction projects there remains the potential for adverse noise and vibration impacts to arise over the duration of the construction period. The JHA were satisfied with the construction noise and vibration assessments and proposed mitigation at the close of Examination. The ExA concludes that the Applicant's assessment satisfies the ANPS, NPSNN and NPSE requirements for construction noise and vibration.

- 3.18.378. **Surface access** ES Chapter 16 [\[REP9-011\]](#) and [\[REP7-079\]](#) assessed surface access noise and proposed noise insulation to mitigate significant adverse effects for receptors on Crawley Green Road, subject to future traffic monitoring and compensation. The ExA considers that the Applicant's surface access assessment is consistent with the ANPS, NPPF and NPSE assessment requirements for surface access noise and vibration for these receptors. The Applicant did not choose to offer compensation for 17 properties on Eaton Green Road experiencing significant adverse surface noise effects in Phase 1 on the basis that receptors were already close to SOAEL, effects were of small magnitude and temporary (for a period lasting a number of years until LBC completed highway works). The ExA concludes that this is inconsistent with the OANPS, ANPS, NPPF and NPSE requirements to limit effects or to avoid significant adverse effects on health and quality of life. In light of the small number of receptors and the temporary nature of the effects, the ExA attributes this moderate negative weight against the making of the Order.
- 3.18.379. **Ground noise** ES Chapter 16 [\[REP9-011\]](#) assessed aviation ground noise impacts and concluded no significant residual effects with mitigation. The ExA considers that the ground noise assessment satisfies the ANPS assessment requirements for ground noise and vibration.
- 3.18.380. **Aviation noise** The Applicant's operational aviation noise assessment [\[REP9-011\]](#), in particular the noise baseline and modelling approach received substantial criticism from IPs such as LADACAN, PAIN, STAQS, STAND and the Harpenden Society during Examination. The JHA had no outstanding concerns on the noise baseline or modelling approach at the close of Examination. The assessment included consideration of effects on noise sensitive receptors including homes, schools, hospitals and care homes and the Chilterns NL. The ExA has considered the arguments presented and concludes that the operational aviation noise assessment provides an appropriate basis for decision making and satisfies the ANPS assessment requirements.
- 3.18.381. There was extensive debate over whether noise levels would increase in future relative to the 2019 baseline. However, it is not disputed that:
- Noise levels would increase in the DS scenario for a large number of receptors compared with the DM scenario.
 - The Proposed Development would give rise to new exposure in excess of SOAEL compared with the 2019 consented baseline in the absence of mitigation.
 - There would be marked increases air traffic movements in the early morning shoulder period (part of the night period), which is sensitive for receptors.
 - Or, that such effects could give rise to differential and disproportionate effects on protected characteristics groups (eg for children under 16, pregnant

individuals, black and minority ethnic groups and older people (aged 65 and over) due to traffic and air noise effects).

- 3.18.382. It is also clear that outdoor noise effects would arise for which no mitigation is possible beyond the noise contour limits in GCG and embedded mitigation measures (eg at source relating to building layouts or acoustic barriers, operational procedures such as noise violations or QCs). Many of the operational controls were determined to already be in use. This is a matter of great concern to the local community.
- 3.18.383. **GCG Framework** The ExA examined the GCG Framework, which is presented by the Applicant as an innovative tool to control noise from the Proposed Development. The ExA considers that the final GCG Framework with QC budgets linked to noise contour Thresholds and Limits has the potential to be a proactive tool for managing noise at the airport. As expressed in the ExA's schedule of changes to the draft DCO [\[PD-018\]](#), the ExA remains of the view that to provide certainty to communities regarding the totality of effects, annual and shoulder movement Limits are required and that these should be on the face of the Order. In order to ensure that the GCG Framework is forward looking during the first year of operation following serving of Article 44(1) notice, the ExA considers that a year of monitoring is required to inform decisions regarding capacity declarations in that first year.
- 3.18.384. **Compensation** The Applicant [\[REP11-025\]](#) offered compensatory noise mitigation in the form of noise insulation. The Compensation Policies were generally acknowledged to be a marked improvement over the existing LLA policy, albeit that questions remained for some IPs eg [\[REP8-078\]](#), [\[REP10-083\]](#) and [\[REP10-078\]](#) regarding the administration and rollout of the Compensation Policies. The ExA concludes that the Compensation Policies are consistent with the requirements of the ANPS, OANPS, NPSE, NPPF, LLP6 and LLP38.
- 3.18.385. **Overall** The APF and ANPS recognise that noise is a primary concern of local communities near airports and set out the Government's objective to "*limit and where possible reduce the number of people in the UK significantly affected by aircraft noise*". They particularly recognise the impact of night flights and their associated health effects. The OANPS requires that "*The impact of aviation noise must be mitigated as much as is practicable and realistic to do so, limiting, and where possible reducing, the total adverse impacts on health and quality of life from aviation noise.*" It explains that "*In circumstances where there is an increase in total adverse effects, 'limit' would mean to mitigate and minimise adverse effects, in line with the NPSE.*"
- 3.18.386. The ExA has considered the Applicant's assessment of effects and concludes that the Proposed Development would increase the number of people significantly affected by noise, including at night in the absence of mitigation.
- 3.18.387. The ExA concludes that the substantial proposed increase in aircraft movements in the sensitive early morning shoulder period of the night period (06:00 to 07:00) is not consistent with mitigating noise impacts as much as is realistic and practicable or to limit and where possible reduce total adverse impacts on health and quality of life.
- 3.18.388. Whilst the ES considers that noise insulation could in future reduce residual effects to 'not significant', there would be a time lag of up to four years for delivery (assuming the Applicant's delivery plan was met). During this time ground noise, surface access and aviation noise receptors could be exposed to significant adverse

noise effects exceeding SOAEL that could contribute to worsening health outcomes. The ExA concludes that the lag in providing noise insulation is inconsistent with the NPSE, ANPS (paragraph 5.68) and NPSNN (paragraph 5.195) requirement to avoid significant adverse impacts on health and quality of life from noise.

- 3.18.389. In addition, the Proposed Development is unable to provide measures beyond the embedded mitigation and GCG controls for significant adverse community aviation noise effects on outdoor spaces such as gardens or cemeteries (eg Breachwood Green Baptist Church) and has not identified any measures to offset amenity and tranquillity effects on the Chilterns NL (which is assessed separately in Section 3.8).
- 3.18.390. The following residual negative noise impacts may arise:
- disruption due to noise insulation and ventilation works;
 - increases in daytime and night-time air, surface and ground noise compared with the DM scenario and effects exceeding SOAEL prior to delivery of noise insulation;
 - night-time noise impacts due to increases in the morning shoulder period and in summer when windows are open for receptors not eligible for ventilation under noise compensation proposals; and
 - non-mitigable noise impacts on outdoor amenity spaces, including noise increases above SOAEL (eg residential gardens, PRoW etc).
- 3.18.391. The ExA concludes that for a temporary period for surface access and ground noise receptors and receptors prior to insulation, and permanently for outdoor noise, the Proposed Development would not comply with the aims of the ANPS, OANPS, NPPF or NPSE and is therefore also contrary to the requirements of Policy LLP6(B)(ii). The ExA attributes these effects great weight against the making of the Order.
- 3.18.392. ANPS (paragraph 5.53) requires assessment to be undertaken in accordance with the developing indicative airspace design. The ES included a sensitivity test based on the Applicant's indicative airspace change proposals, which evaluated how predicted noise contours could change in future as a result of changes to departure paths to demonstrate that they could be accommodated within the noise envelope. This is consistent with the requirements of national policy.
- 3.18.393. The OANPS makes it clear that whilst Applicant's should "*limit and where possible reduce*" total adverse impacts on health and quality of life, such impacts may be offset by "*an increase in economic and consumer benefits*". It also states that 'limit' means to mitigate and minimise such effects. The ExA finds that the Applicant sought to mitigate noise through embedded design measures, operational controls and noise compensation. The ExA considers whether the total adverse impacts on health and quality of life are offset by the economic and consumer benefits in Section 5 of this Report.
- 3.18.394. LLP6(B)(iv) requires an assessment of the impacts of any increase in ATM and identification of appropriate forms of mitigation for significant adverse effects. As highlighted above, the ES provides an assessment of relevant effects on local residents and the environment and proposes a range of mitigation measures as set out in the route map. However, ExA is of the view that the lack of mitigation for a number of temporary and permanent significant adverse effects is inconsistent with the requirements of Policy LLP6(B)(iv), which attracts great weight against the making of the Order.

- 3.18.395. LLP6(B)(v) requires applicants to achieve further noise reduction or no material increase in noise. The Applicant argued that the Proposed Development achieves a reduction in noise in future years and did not predict significant noise effects following compensatory noise mitigation and embedded mitigation such as acoustic screening by T2. The ExA concludes that this commitment is only partially met, with night-time noise worsening in certain future year scenarios compared. On this basis, the ExA considers that the policy aim is only partially achieved, and attracts great weight against the making of the Order.
- 3.18.396. LLP6(B)(vi) requires an effective noise control, monitoring and management scheme. The mitigation route map summarises the ES noise controls including mitigation plans for construction and operational noise. In addition, the GCG Framework included the Applicant's primary noise contour controls. The ExA considers that subject to the provisions of the recommended DCO which propose certain noise controls on the face of the Order (eg noise contour Limits and movement caps), the Applicant has proposed an effective scheme. The ExA considers that these measures are consistent with Policy LLP6(B)(vi).
- 3.18.397. LLP(B)(vii) requires that applicant's include proposals that will, over time, result in a significant diminution and betterment of the effects of aircraft operations. Whilst aircraft are individually predicted to become quieter over time, based on the increase in flights in the shoulder period and the predicted increases in night noise in future year scenarios compared with the 2019 consented baseline, the ExA concludes that the Applicant has not demonstrated that there would be a significant diminution and betterment of effects of aircraft operations over time. The ExA concludes that this weighs against the making of the Order.
- 3.18.398. Policy LLP38 seeks to assess and limit the impacts of noise from developments individually or cumulatively. For the reasons set out above, the ExA considers that the Applicant's assessment satisfies this policy.
- 3.18.399. Other development plan policies are broadly consistent with the policy positions outlined above. The HHA LIR suggested that the proposals were not policy compliant, in as much as development plans sought to restrict adverse environmental impacts. The ExA considers that the Proposed Development has included measures to mitigate effects as much as is practicable and realistic to do so, given the nature of the Proposed Development.
- 3.18.400. St Albans District LP Review (1994) Policy Intention 9 which opposes proposals to expand LLA if they would result in the district being affected by aircraft noise above 1984 levels, particularly at night. The ExA considers that due to the age of the policy it attracts very little negative weight against the making of the Order.
- 3.18.401. In summary, the ExA concludes that the Proposed Development is only partially compliant with the requirements of relevant national policy, LLP6, and other local policy. In the first four years after serving Article 44(1) notice, receptors could be subject to unmitigated noise effects, resulting in significant adverse effects on health and quality of life in conflict with national policy. Following roll out of compensatory noise insulation, effects could be reduced to not significant, particularly during the night-time, however effects relating to outdoor noise relative to the DM scenario would remain (albeit potentially less than in certain 2019 baseline scenarios) for which no mitigation is possible. Overall the ExA concludes that the harm arising from noise and vibration effects attracts great weight against the making of the Order. In line with the requirements of the OANPS, the ExA considers whether such

harm is offset by an increase in economic and consumer benefits in Section 5 of this Report.

Human Rights

- 3.18.402. Human Rights issues in respect of noise were raised by IPs in several representations eg [\[RR-0103\]](#), [\[RR-1354\]](#), [\[RR-1406\]](#), [\[RR-1126\]](#), [\[RR-0743\]](#), [\[RR-1600\]](#), [\[RR-1469\]](#), [\[RR-1100\]](#), [\[REP1-032\]](#), [\[REP1-170\]](#), [\[REP1-095\]](#), [\[REP1-149\]](#), [\[REP1-045\]](#), [\[REP1-105\]](#) and [\[REP1-150\]](#) and at OFHs [\[EV2-003\]](#), [\[EV3-003\]](#) and [\[EV12-003\]](#).
- 3.18.403. The concerns raised included: impact and blight on human rights; the simple human right to hold a 5-minute conversation or the right to a decent night's sleep; as well as effects on peaceful enjoyment of property (including homes and gardens). [\[REP1-150\]](#) specifically referenced *"the rights of UK citizens under law to enjoy peaceful rights to their private property and place of residence"*.
- 3.18.404. The Applicant [\[REP11-049\]](#) stated that it had considered human rights in its Statement of Reasons and that no material human rights issues had been raised during the Examination, however the ExA considered that this primarily related to matters of CA rather than noise. The Applicant maintained that its interference with human rights was proportionate and necessary. The Applicant maintained that its interference with human rights was proportionate and necessary.
- 3.18.405. It is necessary to consider the noise that would occur if development consent were to be granted and whether this engages Article 1 and Article 8 of the Human Rights Act 1998.
- 3.18.406. The ExA considers that although aircraft noise is capable of engaging Article 1 of the First Protocol to the Human Rights Act, 1998, case law (*Dennis v Ministry of Defence* (2003) EWHC 793 (QB)) suggests that this requires aircraft noise to be of a level and frequency that may seriously affect the value of property or even render it unsaleable and thus amount to a partial taking of property, necessitating payment of compensation. In *Dennis v Ministry of Defence* an award was made in respect of Royal Air Force (RAF) jet noise that was judged to be variously deafening, highly intrusive and frightening and to constitute *"a very serious interference with the ordinary enjoyment of the property, whether judged from inside or outside the house"*. The ExA notes that only one instance of frightening noise was identified in the RR, [\[RR-0660\]](#) referred to frightening noise from emergency ascents, which would not be a normal operation. Consent is not sought for operation of military jet aircraft or any other aircraft that would otherwise result in interference of a similar character and considers that whilst aircraft noise is intrusive its character is not such as to engage Article 1.
- 3.18.407. Aircraft noise has potential to engage Article 8 of Schedule I to the Human Rights Act 1998. In *Hatton and others v UK* (36022/97 [2003] ECHR 338) and *Powell and Raynor v UK* ([1990] 12 ECHR 355) it was recognised that regard must be had to the *"fair balance between the competing interests of the individual and of the community as a whole"* and on balancing the rights of the householders and the general interest of the public in access to air travel, that there was no violation of Article 8. In *Hatton and others v UK* the European Court found that Government was entitled to conclude the economic benefits of an airport outweighed the rights of those affected.

- 3.18.408. The ExA considers that noise from the Proposed Development has potential to engage Article 8. It is necessary to assess whether the interference with the rights of individuals is for a legitimate purpose - in this case the wider public interest, which includes the assessment of the need for the airport and its predicted socio-economic benefits.
- 3.18.409. The ExA concludes on Human Rights issues in Section 5 of this Report.

3.19. SOCIO-ECONOMICS

INTRODUCTION

- 3.19.1. This Section considers the effects of the Proposed Development on socio-economics. Socio-economic impacts were identified as a principal issue in the ExA's IAPI [\[PD-007\]](#), Annex C].
- 3.19.2. The need for the development and its range of associated benefits have been set out in Section 3.4. Effects on the community arising from the construction and operation are considered in Section 3.13. and matters relating to local land uses are addressed in Section 3.16.
- 3.19.3. The ExA recognises that there is a significant overlap between need and socio-economic matters. This was reflected in the application documents, the evidence submitted at ISH and in writing, and the concerns raised by various IPs. Many of the issues that were examined by the ExA such as job numbers, GDP and GVA have been covered in detail in the Need Section. The ExA therefore do not propose to repeat them in this section, albeit to confirm that the conclusions that are drawn in this section have been based on what the ExA has read and heard as a whole in relation to these matters.

POLICY BACKGROUND

- 3.19.4. A brief overview of key policies is provided below; a list of relevant policies and legislation can be found in Appendix B.
- 3.19.5. In the APF the Government recognises that the UK aviation sector plays an important role in contributing to economic growth through the connectivity it helps deliver (paragraph 1.2). The APF considers that the benefits to the UK economy are felt at both a national and regional level in addition to social and cultural benefits (paragraph 1.3). It advocates that aviation benefits the UK economy through a direct contribution to GDP (paragraph 1.5) and employment, as an enabler of activity in many other sectors of the economy including business and financial services. The ANPS reflects the APF in that, subject to a number of caveats, it supports the economic benefits of aviation (paragraphs 2.5, 2.8, 2.9, 2.16 and 3.27) as does the JZS (paragraphs 2.27 and 3.61). FTTF sees aviation playing an important role in the post pandemic economic recovery of the UK and supports growth in airport capacity where it is justified (Section 3). BBB recognises that high quality infrastructure is crucial for economic growth, boosting productivity and competitiveness. It recognises that infrastructure helps connect people to each other, people to businesses, and businesses to markets, forming a foundation for economic activity and community prosperity.
- 3.19.6. The NPPF states that significant weight should be placed on the need to support economic growth, recognising specific location requirements of different sectors (paragraphs 85 and 87).
- 3.19.7. The LLP recognises the importance of LLA to economic growth in Strategic Objective 1 which seeks to retain and enhance Luton's important sub-regional role as a place for economic growth and opportunity. To deliver this Policy LLP6 makes provision for LLA to respond positively to future growth helping to safeguard Luton's key sub-regional economic contribution to jobs and wealth creation while setting a clear environment and transport framework to regulate future growth (paragraph 4.15). Part B of Policy LLP6 sets out several criteria which would need to be met

when considering the expansion of LLA. None of the criteria refer to economic outputs. However, Policy LLP13 supports proposals that would deliver sustainable economic growth and prosperity to serve the needs of Luton and the wider sub region.

- 3.19.8. The HHA and CBC development plans do not have specific policies in relation to the airport but do contain a variety of policies supporting economic growth.

THE APPLICATION

- 3.19.9. The Applicant's main assessment of socio-economic matters was contained within Chapter 11 (Economics and Employment) of the ES [\[APP-037\]](#). This assessed the likely significant effects of the construction and operation of the Proposed Development with regard to economic development. In addition, socio-economic issues were also covered in the Planning Statement [\[REP11-009\]](#), section 8.3] and in the Applicant's closing statement [\[REP11-049\]](#), Sections 4.4, 9.7 and 15.2].
- 3.19.10. In Chapter 11 of the ES [\[APP-037\]](#) the Applicant concluded that the Proposed Development would bring forward significant economic benefits on a local, regional and national scale. This would include direct and indirect forms of employment, direct and indirect GVA, increased business travel opportunities, increased tourism GDP and jobs, journey time savings and Air Passenger Duty revenue. The Applicant concluded that the local housing market would be able to accommodate anticipated demand for housing during both the construction and operational phases of the Proposed Development.

Table 8: Without Development Case vs With Development Case: Gross GDP and Employment Growth (Direct, Indirect and Induced) Luton and Three Counties, from [\[APP-037\]](#), Table 11.12]

Year	Area	With Development		Without Development		With Development – Without Development (Net of existing)	
		Jobs	GDP	Jobs	GDP	Jobs	GDP
2027	Luton	12,500	£0.9bn	11,300	£0.8bn	1,200	£87m
	Three Counties	17,500	£1.2bn	15,800	£1.1bn	1,700	£115m
	United Kingdom	30,100	£2.0bn	27,300	£1.8bn	2,900	£190m
2039	Luton	14,100	£1.2bn	10,300	£0.9bn	3,800	£308m
	Three Counties	19,700	£1.6bn	14,400	£1.2bn	5,200	£409m
	United Kingdom	34,000	£2.6bn	24,900	£1.9bn	9,000	£684m
2043	Luton	16,200	£1.5bn	10,100	£0.9bn	6,100	£582m
	Three Counties	22,600	£2.0bn	14,000	£1.2bn	8,600	£762m
	United Kingdom	39,200	£3.3bn	24,200	£2.0bn	15,000	£1.3bn
Note: Rows may not sum due to rounding.							

- 3.19.11. In addition, the Employment and Training Strategy (ETS) [\[REP8-020\]](#) comprises six key goals to ensure that the delivery of sustainable economic growth would be

supported and that the jobs and skills created because of the Proposed Development would generate meaningful benefits throughout the Wider Study Area. In particular the ETS would seek to maximise employment and skills opportunities for local residents. The ETS has been secured through a signed s106 agreement [\[REP11-108\]](#).

- 3.19.12. The Proposed Development would include a hotel (Work No. 4a) which the Applicant considers would deliver a significant sub-regional economic contribution through employment and tourism [\[REP11-009\]](#), paragraph 8.3.49].
- 3.19.13. The Applicant considers that LLA is a community airport and as such it is committed to ensuring that the benefits arising from its ownership of LLA are shared with nearby communities [\[REP11-025\]](#), paragraph 8.1.4]. To do this the Applicant proposes to create the Community First Fund, which is a social fund aimed at providing grant funding to local organisations to assist with delivery of interventions which address LBC's 2040 Vision objectives of tackling deprivation and achieving carbon neutrality by 2040. The fund would be created by taking a £1 contribution per additional passenger over the existing 19mppa cap. Community First would be in addition to an existing community fund which would continue alongside the proposed new fund. This is secured through the signed s106 agreement [\[REP11-108\]](#).
- 3.19.14. The Community First fund would fund projects that either tackled deprivation or would help towards achieving carbon neutrality. To ensure any benefits of airport growth would be shared across the local area 40% of the proceeds would be allocated to areas outside of the boundary of the Borough of Luton. The Applicant advocates that this would be in recognition of the relatively higher incidence of social deprivation impacts in the town [\[REP11-025\]](#), paragraph 9.1.4].

ISSUES CONSIDERED

- 3.19.15. The ExA received over 120 RR supporting the potential economic and employment opportunities that the Applicant states that the Proposed Development would deliver eg [\[RR-0141\]](#), [\[RR-0418\]](#), [\[RR-0504\]](#), [\[RR-1029\]](#), [\[RR-1364\]](#) and [\[RR-1547\]](#). A significant number of these RR were received from a variety of organisations and charities that had benefited from the current community fund or who worked in partnership with the airport eg [\[RR-0256\]](#), [\[RR-0399\]](#), [\[RR-0880\]](#), [\[RR-0881\]](#), [\[RR-1558\]](#) and [\[RR-1593\]](#). A number of these RR eg [\[RR-0070\]](#), [\[RR-0433\]](#), [\[RR-1046\]](#) and [\[RR-1229\]](#) whilst indicating general support for the potential employment and economic opportunities also raised concerns about other matters such as the potential physical and environmental effects. Finally, there were a number of IPs [\[EV12-001\]](#) and [\[REP3-131\]](#) which questioned the number and quality of jobs that would be delivered; the success of previous expansion of the airport in addressing the issues of unemployment and deprivation and the wisdom of focusing investment in Luton on the airport.
- 3.19.16. BC's LIR [\[REP1A-001\]](#), paragraph 3.6.6] recognised the potential positive benefits for the Buckinghamshire economy and sought to maximise any economic opportunities available to residents and businesses of Buckinghamshire. It highlighted that to do this (paragraph 3.6.8) it was vital that accessibility was addressed as there were currently no effective public transport connections between Buckinghamshire and the airport that could be used by potential employees. BC indicated (paragraph 3.6.10) that it wanted to be part of the Local Economic Development Working Group to ensure alignment with local employment and skills strategies and to help facilitate links with other appropriate

Buckinghamshire based stakeholders. In the context of construction jobs BC highlighted (paragraph 3.6.12) that there were other major infrastructure projects ongoing in Buckinghamshire and as a result the availability of an adequate construction workforce locally was a challenge. BC inquired whether the opportunities for employment and training interventions could also, in the interests of levelling up, be targeted at its ten priority wards.

- 3.19.17. CBC LIR [\[REP1A-002\]](#), Section 5.5] considered the impact on employment to be positive but highlighted that in order for CBC residents to benefit it would be important to ensure an appropriate geographical split and mechanisms to enable access to training opportunities. CBC also raised concerns regarding potential pressure on housing and services due to the high number of jobs (paragraphs 5.5.4 and 5.5.5). CBC highlighted that continued dialogue and partnership working would be critical to realise the associated economic benefits. CBC recognised that the Community First Fund would help share the positive social impact with neighbouring areas (paragraph 6.7) but felt there was limited information on how funds would be distributed and limited justification for the 40/ 60 split. CBC highlighted (paragraph 6.8) that three Lower Super Output Areas in Central Bedfordshire are in the 10 to 20% most deprived in England. CBC suggested that as tackling deprivation and achieving carbon neutrality were two very different criteria the fund should be split as well as widened to include other potential projects that would benefit the impacted communities (paragraph 6.9).
- 3.19.18. The HHA LIR [\[REP1A-003\]](#) considered that in general terms the socio-economic impacts of the Proposed Development would likely to be positive (paragraph 7.6.4) although they were concerned that there was a risk that the full extent of any benefits to Hertfordshire were exaggerated due to the location of the development outside of Hertfordshire and if the need for the Proposed Development was less than predicted by the Applicant. However, the HHA (paragraph 8.1.6) took the view that the positive socio-economic effects would not outweigh the negative environmental impacts of the proposal, principally in relation to noise impacts, air quality, GHG emissions, surface access; and specific health, wellbeing and community impacts.
- 3.19.19. LBC RR [\[RR-0876\]](#) identified socio-economic impacts as one of the main issues for consideration, not limited to the creation of jobs and the boost to the local and regional economy, but also the wider socio-economic benefits of aviation.
- 3.19.20. The LBC LIR [\[REP1A-004\]](#) highlighted that the airport is the largest strategic allocation within the Local Plan and combined with the airport business park and Bartlett Square form the Luton Enterprise Zone where the aim is to create 7,200 direct jobs (paragraph 4.2.4). LBC advised that the airport is an important employer, accounting for nearly 12% of all the jobs in the town (paragraph 4.2.5). Unemployment levels in Luton are high and whilst they have dropped following the COVID-19 pandemic LBC considered that there was a need for new jobs in the area (paragraph 4.2.6).
- 3.19.21. LBC highlighted (paragraph 4.2.6) that the Government's IMD show that Luton is a relatively deprived borough, with large parts of the centre, south, north and west ranked in the top 10% to 30% most deprived areas in England. Furthermore (paragraph 4.2.9) Luton is a priority in the Government's 'Levelling Up' agenda, falling within a Priority 1 Area for the Levelling Up Fund. To tackle this and the impacts of the COVID-19 pandemic the Council produced an ambitious town wide vision 'Luton 2040', seeking to provide a healthy, fair and sustainable town where everyone can thrive and no one has to live in poverty. To achieve this, LBC have

developed the Inclusive Economy Strategy and the Population Wellbeing Strategy (paragraph 4.2.12). The Inclusive Economy Strategy includes an emphasis on growing the airport, which is recognised by LBC to be a major asset to Luton and its local economy. LBC concluded (paragraph 5.1.2) that the proposed expansion of LLA would result in significant socio-economic benefits for Luton and the surrounding counties.

- 3.19.22. The JHA commissioned an economic consultant to review the Applicant's socio-economic case. This concluded that the approach to modelling was sound, followed best practice, and demonstrated that the Proposed Development would result in significant benefits for Luton and the Three Counties [\[REP4-189\]](#).
- 3.19.23. The NEF submitted detailed comments on the economic and environmental impacts of the Proposed Development [\[REP1-115\]](#), [\[REP3-131\]](#), [\[REP5-081\]](#), [\[REP7-106\]](#), [\[REP7-107\]](#) and [\[REP9-082\]](#). Many of these are considered elsewhere in this Report in the sections assessing need and GHGs. In relation to socio-economic matters NEF considered that the job impacts that would result from the Proposed Development were overstated. It advised that despite significant growth in passenger volumes there were in fact fewer jobs in air transport now than there were prior to 2007/08. NEF advocated that previous job forecasts by the Applicant had been over optimistic and consequently it would be prudent to assume that the Applicant's direct and indirect job forecasts were also overoptimistic. NEF also questioned the quality of jobs that would be created, highlighting that wages in air transport had fallen faster in real terms than any other sub-sector of the UK economy. NEF indicated that there was evidence to suggest that there had also been a significant real term decline in wages for LLA workers. Finally, NEF advocated that LLA's lowest paid workers were those residing in Luton and Bedfordshire and, as a result, the airport does little to 'level-up' incomes in these more deprived areas.
- 3.19.24. Socio-economic matters were raised at the OFH [\[EV2-001\]](#), [\[EV3-001\]](#) and [\[EV12-001\]](#). They were examined orally at ISH2 [\[EV7-001\]](#). The ExA also asked several written questions [\[PD-010\]](#), CA.1.11 and CA.1.12] and [\[PD-015\]](#), CA.2.1 to CA.2.5 and BCG.2.10]. The focus of the Examination was to understand more fully matters in relation to employment in particular whether the employment figures were realistic; the type of jobs that would be created and how these could positively address the current issues with deprivation experienced in Luton and the surrounding area.

Outstanding issues at the close of the Examination

- 3.19.25. At the close of the Examination the SoCG with CBC [\[REP11-035\]](#), CBC12, CBC19, CBC20, CBC116, CBC117 and CBC118], HHA [\[REP11-095\]](#), HCC19, HCC20, HCC141, HCC142 and HCC143], [\[REP11-097\]](#), NHDC19, NHDC20, NHDC136, NHDC137 and NHDC138], [\[REP11-099\]](#), DBC19, DBC20, DBC115, DBC116 and DBC117] and LBC [\[REP11-033\]](#), LBC156] recorded that all matters in relation to economics and employment issues had been agreed.
- 3.19.26. The SoCG with BC [\[REP11-101\]](#), sections 3.6 and 3.7] recorded that most matters in relation to economics and employment, and employment, training and skills were agreed. However, a lack of public transport linkages to enable residents of BC to benefit from employment opportunities at the airport (paragraph 3.6.1) and the non-inclusion of ten Buckinghamshire priority wards in the ETS, commitments in relation to supply chain preparedness and supporting local procurement (paragraph 3.6.4) were not agreed.

- 3.19.27. In the HHA closing statement [\[REP11-063\]](#) NHDC (paragraph 7.1.25) advised that it considered that whilst the economic effects associated with the airport may benefit the residents of Luton they would likely have the inverse effect on NHDC's local economy in the long-term, due to people avoiding the towns in NHDC as a result of the traffic congestion and delays.
- 3.19.28. LBC's final position statement [\[REP11-069\]](#) stated that the expansion would undoubtedly have major socio-economic benefits for Luton and the region as a whole, and that it considered that significant weight should be given to this effect (paragraph 3.4).
- 3.19.29. At the close of the Examination the Applicant [\[REP11-049\]](#), paragraph 9.7.19] advised that it considered that having regard to economics and employment matters raised during the Examination, the Proposed Development would accord with all relevant planning policy relating to economics and employment.

CONCLUSIONS ON SOCIO-ECONOMIC MATTERS

- 3.19.30. The ExA agree, based on what it has read and heard, that Luton experiences levels of unemployment that are above the regional and national average and that there are parts of the borough which fall within the top 10 to 30% of the most deprived areas in England [\[REP1A-004\]](#), paragraph 4.2.6]. In addition, the ExA is satisfied that the airport is a major employer both within Luton and the wider area, with approximately 12% of jobs in Luton being directly associated with the airport [\[REP1A-004\]](#), paragraph 4.2.6].

Job creation

- 3.19.31. The ExA agrees that the Proposed Development would result in job creation. However, the ExA considers that the number of jobs that would be created remains a matter for debate and establishing a definitive figure during the Examination proved challenging, particularly given that it remained unclear what the long-term implications of the COVID-19 pandemic would be for the travel industry.
- 3.19.32. To establish how much reliance could be placed on the employment projections the ExA requested the Applicant [\[EV7-006\]](#), action point 5] to track the differences between the levels of employment created by the 2012 permission which expanded the airport from 9.5mppa to 18mppa and what was proposed. The Applicant advised [\[REP4-076\]](#), paragraph 2.1.4] that because of the methodological differences used to generate the employment estimates for the 2012 consent and the Proposed Development it was difficult to compare the two estimates. However, the Applicant conceded (paragraph 2.4.5) that the baseline data used in 2012 may have overstated employment related to the operation of LLA by the order of 5%. The Applicant advised that if the figures were reworked that it would suggest in practice that employment growth had been towards the lower end of the range originally estimated, but that it had, nonetheless been significant with the order of 3,000 additional jobs created as the airport grew to 18mppa.

ExA's conclusion

- 3.19.33. The ExA therefore considers that the employment figures provided by the Applicant should be approached with a degree of caution. However, the ExA is satisfied even accepting the lower figures suggested by NEF [\[REP-115\]](#) and [\[REP3-131\]](#) LADACAN [\[REP1-095\]](#) and the Harpenden Society [\[REP1-164\]](#) and [\[REP5-088\]](#) that the Proposed Development would deliver a significant number of new jobs.

Levelling-up through Job creation

3.19.34. The Applicant and many organisations eg [\[RR-0849\]](#), [\[RR-0141\]](#), [\[RR-0143\]](#), [\[REP6-018\]](#), [\[REP6-121\]](#), in Luton emphasised the role that expansion of LLA could play in levelling up. It appeared to the ExA, based on what it had read and heard, that this was predicated on the premise that the delivery of jobs and training opportunities for the residents of Luton would act as a catalyst to enable levelling up. The ExA noted that this was the same argument that was made to LBC when it considered the original application to expand the airport in 2012 and therefore asked the Applicant [\[EV7-006\]](#), Action Point 6] to provide an assessment of the effects on deprivation and growth at the airport resulting from this.

3.19.35. The Applicant advised [\[REP4-076\]](#), Table 3.1] that while employment at the airport had increased since 2011, overall employment in Luton had fallen by a greater amount. Furthermore (paragraph 3.1.5) although Luton continued to be one of the local authority areas with the highest levels of deprivation, its ranking had improved from 59th most deprived in 2015 to 70th most deprived in 2019. The Applicant felt that this suggested that the airport had played, and would continue to play, an important role in reducing levels of deprivation and in driving levelling up.

ExA's conclusion

3.19.36. The ExA concludes that job creation when considered within the existing context of Luton, coupled with the increased GVA, could yield meaningful benefits for the local economy. In addition, the ripple effects of increased passenger spending in sectors like hotels, retail and other local businesses could contribute to boosting the economic vitality of the area.

Job quality

3.19.37. Several IPs [\[REP1-164\]](#), [\[REP3-131\]](#), [\[REP5-088\]](#) and [\[EV12-004\]](#) raised concerns that the type of jobs created would be low paid, low skilled and potentially short term, given that these jobs were more likely to be subject to automation in the longer term. It was felt that this would disproportionately affect the residents of Luton where skill levels were lower than the surrounding areas and unemployment levels higher.

3.19.38. The ExA accept that some of the direct jobs may be entry level. Nevertheless, the ExA considers that this could still provide immediate opportunities to those who are currently unemployed and live in the local area. Furthermore, in the medium to long-term the ETS [\[REP8-020\]](#) would engage with existing educational institutions and local training providers to improve the local skill base to help people access higher skilled and better paid jobs. It would also help support existing workers with upskilling and career advancement.

ExA's conclusion

3.19.39. Consequently, the ExA is satisfied that the Proposed Development would provide jobs at a variety of levels with measures in place to enable the upskilling and progression of both the existing and future workforce.

Overdependence on the airport

3.19.40. Luton has previous experience of overdependence on one industry and the economic consequences of this. The crucial role that the airport plays to Luton's economy was highlighted during the COVID-19 pandemic through the number of furloughed workers and drop in employment levels experienced in Luton during this

period [\[REP11-009\]](#). The ExA can therefore understand the concerns regarding the focusing of investment on the airport.

ExA's conclusion

- 3.19.41. The ExA considers that whilst the long-term aim of a broad, resilient and robust economy is essential for LBC and businesses, it would, given Luton's current economic situation, be counter-productive and short-sighted to limit investment in the airport in the interim with the expectation that other sectors would immediately compensate for any shortfall. Furthermore, the ExA accepts it is neither within the Applicant's control nor their responsibility to control or encourage the growth of other business in the area.

Effects on Tourism

- 3.19.42. National policy acknowledges the significance of overseas travel, not only for business purposes but also for leisure and personal reasons and the resultant socio-economic benefits that this delivers and that airports like Luton enable these trips. Based on the evidence [\[APP-037\]](#) and [\[REP11-009\]](#) provided, the ExA accepts that if LLA was not expanded, most of the additional future passengers would seek to use alternative airports, rather than opting to holiday in the UK.

ExA's conclusion

- 3.19.43. The ExA is therefore satisfied that the Proposed Development would not adversely affect domestic tourism. Furthermore, this would be contrary to national policy. The ExA notes that such a view is consistent with the conclusions on tourism reached by the panels who considered expansion at Bristol Airport and the P19 permission at Luton. The effects on tourism in the Chiltern's NL are considered in section 3.8 of this Report.

Displacement

- 3.19.44. The ExA accept that how passengers decided which airport to fly from is complex. The ExA read and heard that factors determining which airport a passenger chooses to fly from are many and complex including end destination; timing; availability; cost; accessibility and a variety of other factors. Whilst the potential exists that some displacement could occur due to customers deciding to spend in other sectors rather than on flights if additional capacity were not to be available at Luton this argument was not supported by any substantive evidence. Consequently, any potential for displacement of passengers or spending does not weigh against the proposal.

ExA's conclusion

- 3.19.45. National policy, the MBU and ANPS, acknowledges that airport capacity in the southeast of England is constrained and to address this encourages existing airports to make the best use of their runways.

Community First Fund

- 3.19.46. The ExA appreciates the rationale of sharing the benefits of the Proposed Development by providing grant funding to local charities and the community for interventions that, amongst other things, would help to tackle deprivation. However, the ExA considers that the grant funding of schemes to tackle deprivation would not meet the NPPF test (paragraph 57) for planning obligations as it is unclear how such funding would be directly related to the impacts of expansion of LLA the

purpose of which, includes provision of jobs and a potential boost to the local economy, thereby tackling deprivation and enabling levelling up. The ExA is satisfied that the funding of projects to help achieve carbon neutrality by 2040 would meet the NPPF test and these benefits are considered elsewhere in this Report.

ExA's conclusion

- 3.19.47. Whilst the ExA considers it commendable that the airport wishes to share the benefits of Proposed Development with the wider community through the Community First Fund, in reaching its conclusions on socio-economic matters it does not consider, for the reasons set out above, that it can attribute any weight to the funding of schemes to tackle deprivation.

Other matters

- 3.19.48. With regards to BC's concern that a lack of public transport could be a potential barrier to its residents being able to access employment opportunities in Luton, the ExA notes that the Bus and Coach Study [\[REP10-041\]](#) which would be used to inform future Travel Plans included a number of specific bus services including extending the 61X to Aylesbury on an hourly basis. The inclusion of any services in future Travel plans could be raised by the Airport Transport Forum (ATF) Steering Group of which BC is already a member. This is covered in more detail in Section 3.20 of this Report. The ExA is therefore satisfied that a lack of public transport should not be a barrier to its residents from outside of Luton being able to access employment opportunities in Luton.
- 3.19.49. Whilst the ExA would have preferred to see the inclusion of BC's top ten priority wards in the ETS, it is satisfied that BC would be involved with the implementation of the ETS and as such could ensure that opportunities for its residents would be maximised as part of the process.
- 3.19.50. The ExA notes NHDC's concern regarding increased traffic being a potential deterrent to people wishing to visit its towns. Traffic and transport matters are considered in more detail in Section 3.20 of this Report. However, no substantive evidence has been submitted to suggest that increased traffic would deter visitors to North Hertfordshire and even if it did, that this would result in a detrimental impact on its economy. As a result, the ExA considers that this concern is of a little weight when assessing the socio-economic effects of the Proposed Development.

Overall conclusion on socio-economic matters

- 3.19.51. Local and national policy supports airport expansion due, in the main, to the economic benefits it is perceived that it would deliver. The ExA accepts that the Proposed Development would deliver a number of economic benefits including through increased employment and contributions to GVA and GDP.
- 3.19.52. Despite the uncertainty over the accuracy of the number of jobs that the Proposed Development would deliver it is clear to the ExA that it would provide, even at the lowest levels predicted, a significant number of jobs in an area which has high levels of unemployment and deprivation. Furthermore, the jobs would be at a variety of levels which through the measures in the ETS would enable the upskilling and progression of both the existing and future workforce. The ExA, in accordance with its duties under the EA2010, is also mindful that the ETS would seek to support employment opportunities arising from construction and/ or operation of the Proposed Development for those with protected characteristics which would result in a further beneficial differential effect.

- 3.19.53. The ExA therefore concludes that the Proposed Development would be in accordance with LLP Policies LLP 6 and LLP13, similar socio-economic policies contained within the other relevant development plans, the APF, ANPS, FttF, JZS, BBB and the NPPF. The ExA therefore considers that the socio-economic benefits would be positive and carry great weight in favour of the proposal.

3.20. TRAFFIC AND TRANSPORT

INTRODUCTION

- 3.20.1. This section considers the effects of the Proposed Development in relation to Traffic and Transport (TT).

POLICY BACKGROUND

- 3.20.2. A brief overview of key policies is provided below; a list of relevant policies and legislation can be found in Appendix B.
- 3.20.3. The ANPS specifically highlights the Government's commitment that the number of journeys made to airports by sustainable modes of transport is maximised as much as possible (paragraph 5.5).
- 3.20.4. The NPPF (paragraph 115) states *"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."*
- 3.20.5. The NPPF (paragraph 108) states that transport issues should be considered from the earliest stages of development proposals, so that:
- *"the potential impacts of development on transport networks can be addressed;*
 - *opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;*
 - *opportunities to promote walking, cycling and public transport use are identified and pursued;*
 - *the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and*
 - *patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places."*
- 3.20.6. The APF (paragraph 5.11) states *"All proposals for airport development must be accompanied by clear surface access proposals which demonstrate how the airport will ensure easy and reliable access for passengers....and minimise congestion and other local impacts."*
- 3.20.7. LLP Policy LLP6B(viii) states that the use of sustainable transport modes should be maximised.
- 3.20.8. LLP policy LLP6C (Airport-related Car Parking) states that proposals for airport-related parking will need to demonstrate that amongst other things they do not adversely affect the adjoining highway network; and will not lead to the detriment of the amenity of the area and the neighbouring occupiers.

THE APPLICATION

- 3.20.9. The Applicant's final assessment of TT is primarily contained within ES Chapter 18 [\[REP8-009\]](#) and [\[AS-044\]](#). This assessed the likely significant effects of the construction and operation of the Proposed Development from TT. Supporting appendices and additional submissions that comprise the assessment are detailed in Appendix A of this Report.

- 3.20.10. The ES assessed the impact of the Proposed Development on the users (both motorised and non-motorised) of the transport network, and the environment for those walking alongside or crossing the network.

Embedded and Good Practice Mitigation

- 3.20.11. In ES Chapter 18 [\[REP8-009\]](#), Table 18.26] the Applicant provided details of embedded and good practice mitigation for each potential TT impact. This mitigation was described in ES Chapter 15 [\[REP8-009\]](#), Section 18.8]. No additional mitigation was identified as being required.

- 3.20.12. The embedded mitigation measures included in the Proposed Development comprised:

- Extension of the Luton DART system to serve the proposed new Terminal [\[APP-228\]](#);
- Proposed off-site Highway Intervention works as listed in ES Chapter 4 [\[AS-074\]](#), Table 4.4]; and
- Construction of new AAR [\[AS-074\]](#), Work No.6a].

- 3.20.13. The good practice mitigation measures included in the Proposed Development comprised:

- FTP [\[REP11-027\]](#);
- ES Chapter 18 Appendix 18.3 - oCTMP [\[REP10-021\]](#);
- ES Chapter 18 Appendix 18.3 [\[REP10-021\]](#);
- ES Chapter 18 Appendix 18.3 - oCWTP [\[REP8-018\]](#); and
- GCG Appendix F – Surface Access Monitoring Plan [\[REP7-032\]](#).

Methodology

- 3.20.14. The methodology employed for assessing the likely significant effects on TT from the construction and operation of the Proposed Development used the three future years of 2027, 2039 and 2043 [\[AS-075\]](#), Table 5.3]. The future year growth was based on passenger demand forecasts. The assessment scenarios were:

- Assessment Phase 1 (2027) – 21.5mppa;
- Assessment Phase 2a (2039) – 27mppa; and
- Assessment Phase 2b (2043) – 32mppa.

- 3.20.15. The assessment of effects was based on comparison of the changes that would occur on the transport network for a 'DM' scenario in which there was no further development of LLA, and the throughput remained capped at 18mppa, and a 'DS' scenario which incorporated the additional movements on the transport network and mitigation measures proposed for each assessment phase.

- 3.20.16. The scale and extent of the assessment was defined in accordance with the 'Guidelines for the Environmental Assessment of Road Traffic' produced by the Institute of Environmental Assessment (now the IEMA). These guidelines recommend that the following environmental effects may be considered important when considering traffic from an individual development:

- Severance;
- driver delay;
- pedestrian delay;
- pedestrian amenity;
- accidents and safety; and

- hazardous loads.

3.20.17. By comparing the above list with the effects identified in the DMRB the Applicant identified the following additional topics for assessment:

- driver stress; and
- pedestrian fear and intimidation (to reflect pedestrian amenity).

3.20.18. The IEMA guidance was re-issued post the submission of the application for Examination. The Applicant confirmed that it had reviewed the re-issued guidance and concluded that no further assessment was required [\[REP7-061\]](#).

3.20.19. The Applicant assessed the potential impacts on road and transport users, including:

- drivers of vehicles;
- passengers in vehicles;
- cyclists;
- pedestrians;
- those living close to the highway network; and
- public transport users.

3.20.20. Predictions of the distribution of future year trips on the transport network were provided by a modified version of the Central Bedfordshire and Luton Traffic Model (CBLTM) which was amended to provide more detail of the networks around the airport and included elements from HCC's COMET transport model. The resultant model was referred to as the CBLTM-LTN or Strategic Model. A smaller microsimulation model was also constructed using VISSIM traffic simulation software to assess the impacts on the road network local to the airport.

3.20.21. The means of travel to the airport by passengers and staff was incorporated into the models using the following assumed mode shares shown in Table 9 below [\[REP8-009\]](#), Table 18.7];

Table 9 9: Assumed mode shares in the transport modelling from [\[REP8-009\]](#), Table 18.7]

Mode	'Do Minimum' (All Years)	'Do Something' 2027	'Do Something' 2039	'Do Something' 2043
Bus/coach	17%	17%	18%	18%
Rail	23%	23%	27%	27%
Public transport sub-total	40%	40%	45%	45%
Taxi	17%	17%	16%	16%
Car	43%	43%	39%	39%
Total	100%	100%	100%	100%

Note: Percentages are subject to rounding

3.20.22. The distribution of trips by time of day was based on the forecast aircraft movements for October timetables [\[REP8-009\]](#), paragraph 18.5.10]. The times at which the outbound and inbound passengers entered and left the transport network were adjusted from the actual flight times to take account of passengers needing to arrive in advance of their departure and those passengers leaving to exit the plane and get through the airport.

- 3.20.23. The Applicant stated that there were no established criteria for consideration of the effects on public transport and therefore professional judgment was used to determine whether the effects were significant [\[REP8-009\]](#), paragraph 18.5.34].
- 3.20.24. In relation to construction traffic it was assumed that, at the time of peak construction traffic activity, all construction Heavy Goods Vehicles (HGVs) would be limited to the A1081, and the M1.
- 3.20.25. The following assumptions were included in the transport models which were used to predict the future airport related trips [\[REP8-009\]](#), paragraph 18.6.2]:
- Implementation of the measures set out in the SAS [\[APP-228\]](#) would achieve a maximum non-sustainable travel modal share for trips by air passengers of 60% for Assessment Phase 1 and 55% for Assessment Phases 2a and 2b;
 - Implementation of the measures set out in the SAS [\[APP-228\]](#) and the FTP [\[REP11-027\]](#) would achieve a maximum non-sustainable travel mode share for employees of 60% by 2040;
 - Increase in airport employees was based on 350 employees per 1mppa based on future employment data as set out in the TA [\[APP-203\]](#), [\[AS-123\]](#), [\[APP-205\]](#) and [\[APP-206\]](#);
 - The assumption of the time gap from passengers arriving at the airport before departure/ leaving after arrival time was based on previous similar projects and was made to represent the appearance of passengers on the transport network before their departure flight/ after their arrival flight [\[APP-205\]](#), section 9.5];
 - A vehicle occupancy rate of 1.87 air passengers for taxis and private cars [\[APP-205\]](#), Table 9.6];
 - Public transport operators would provide increased capacity in response to SAS. This applies to bus, coach, and rail travel; and
 - East Luton highway improvement schemes (not part of the Proposed Development) would be implemented by LBC and it has been agreed with LBC that they should be included in the 'DM' and 'DS' scenarios for modelling purposes for all future assessment years.
- 3.20.26. In relation to the rail network the Applicant stated [\[REP8-009\]](#), paragraph 18.6.3] that, in order to assess the effects of the additional trips, it was necessary to assume that the timetables operated by Thameslink and East Midlands Railway during the Autumn of 2022 would remain unchanged through the assessment years.
- 3.20.27. The Applicant identified three different scenarios which it considered in a sensitivity analysis: slower growth in passenger demand; faster growth in passenger demand; and the absence of widening on the southbound carriageway of the M1 between J10 and J9. The Applicant did not identify any significant environmental effects as a result of any of these three scenarios occurring.

Applicant's Assessment Conclusion

- 3.20.28. The Applicant's assessment concluded that:
- No significant effects for TT during the construction or operational phases were likely [\[REP8-009\]](#), Table 18.26].
 - Two significant moderate beneficial effects for TT during the operational phase (collision safety on Eaton Green Road/ Frank Lester Way) were likely [\[REP8-009\]](#), Table 18.26].

ISSUES CONSIDERED

- 3.20.29. At the start of the Examination the ExA identified TT in its IAPI [\[PD-007\]](#), Annex C]:
- transport assessment methodology, including how COVID-19 is accounted for in the modelling;
 - effects from construction and operation on the strategic and LRNs;
 - surface access; and
 - parking.

- 3.20.30. Following the submission of the RR, WR and the LIR, the ExA considered that the following TT matters required further examination:

- transport modelling;
- traffic;
- proposed off-site highway works;
- parking;
- sustainable transport (including cycling and walking); and
- construction (transportation issues).

Transport Modelling

- 3.20.31. In [\[PD-005\]](#) and [\[PD-006\]](#) the ExA requested that the Applicant review its transport modelling in light of the advice produced by the DfT regarding the treatment of the COVID-19 pandemic in transport modelling. The ExA requested that the modelling and application documentation, including any dependent assessments, be updated as necessary.
- 3.20.32. In response to [\[PD-005\]](#) and [\[PD-006\]](#) the Applicant submitted the 'Accounting for COVID-19 in Transport Modelling Final Report' [\[AS-159\]](#). This report documented that the Applicant had collated and reviewed traffic data over the pre-, during and post-pandemic period and updated modelling with no All Lane Running (ALR) on the M1 in 2043 and later Vauxhall Way dualling in 2028 (and therefore not included in the 2027 model runs). The report concluded that the proposed highway mitigation measures for the airport expansion could be considered 'robust' and continued to be effective even with the updated modelling assumptions. The report stated that the modelling demonstrated that the impacts of the Proposed Development, along with the included mitigation in Assessment Phases 1, 2a, and 2b (full development), would not significantly adversely affect the operation of the highway network in the local or wider area.
- 3.20.33. All the relevant highway authorities reviewed and commented on the final report [\[AS-159\]](#) with some asking for further clarification or additional information which the Applicant supplied at D8 [\[REP8-039\]](#). At the close of the Examination only the HHA had outstanding concerns in relation to the COVID-19 work [\[REP8-056\]](#). The HHA lacked confidence in the traffic modelling and the potential impacts on traffic flow in Hertfordshire [\[REP9-067\]](#).
- 3.20.34. The HHA were concerned that the COVID-19 modelling update did not include adjustments to the LRN. They stated that the lack of adjustments, combined with changes in public transport demands, might have an impact on the forecasts [\[REP8-039\]](#), section 4]. However, the HHA accepted that there was insufficient time in the examination process to re-run traffic models so instead asked for additional post decision monitoring sites to ensure any potential impact would be identified [\[REP11-095\]](#), ID reference HCC22]. The Applicant did not initially consider it necessary to include the additional locations identified by the HHA and suggested

that, if it was necessary, the HHA could bring forward proposals for those locations through the oTRIMMA as Mitigation Type 2 (MT2) [\[REP10-036\]](#). However, the Applicant entered into discussion with the HHA towards the close of the Examination in relation to potential additional monitoring sites [\[REP9-067\]](#). This issue is discussed later in this section.

- 3.20.35. To consolidate and simplify the information in relation to traffic, the ExA requested that the Applicant produce Trip Distribution Plans (for base and each of the future assessment years) [\[PD-007\]](#). The Applicant submitted these plans at D1 [\[REP1-019\]](#). Through the course of the Examination these plans were reviewed by all parties with the Applicant submitting a final version of them at D5 [\[REP5-037\]](#).
- 3.20.36. Various transport infrastructure assumptions were made by the Applicant [\[APP-201, Table 3.3\]](#). Four of these were specifically explored in the Examination;
- M1 ALR - The Applicant had undertaken a sensitivity test for the eventuality that ALR would not proceed. However, it was confirmed at ISH4 [\[EV9-001\]](#) that through the model updates as a result of the COVID-19 work the ALR scenario would be removed [\[REP3-051\]](#).
 - M1-A6 Link Road - At ISH4 [\[EV9-001\]](#) the ExA queried why this link was not shown on the Trip Distribution Plans. The Applicant responded that the link had been included as 'Near Certain' in the 2027 models onwards, but that airport traffic was not forecast to use the link so was not showing on the Trip Distribution plans [\[REP5-037\]](#).
 - EWR - At ISH4 [\[EV9-001\]](#) the ExA asked the Applicant to confirm if the EWR Scheme being included in the transport modelling as 'near certain' was appropriate. The Applicant replied that the phasing of the EWR Scheme had changed over time. When the Applicant undertook the modelling, phasing of the EWR Bicester to Bedford section of the programme was due to be delivered earlier. However, the Applicant confirmed that the phasing of EWR did not have a material impact on the results of the transport modelling [\[REP3-051\]](#).
 - Traffic from other developments – Various proposed developments were accounted for in the modelling, including residential developments (greater than 250 dwellings) and local solar farms [\[APP-201, Table 3.3\]](#). These, and other developments (for example Power Court (Luton Football Club), were queried in the Examination as to their effect on the transport modelling and the Applicant confirmed that any potential affects had been accounted for in the model. In any event these developments would be re-assessed if, or when, that development is submitted for planning approval.
- 3.20.37. The ExA is satisfied that the transport modelling was undertaken in accordance with all relevant policy and guidance, and informed by ongoing engagement with relevant stakeholders.

Traffic

- 3.20.38. Over 380 RRs, eg [\[RR-0196\]](#), [\[RR-1009\]](#), [\[RR-1104\]](#), [\[RR-0587\]](#), [\[RR-0817\]](#) and [\[RR-1439\]](#), raised concerns about the increase in traffic that would be generated by the Proposed Development.
- 3.20.39. Surface access is one of the four environmental topics that the Applicant proposed would be controlled by the GCG Framework [\[REP7-032\]](#).
- 3.20.40. The Applicant [\[REP1-021\]](#) explained that GCG was seeking to ensure that the 'reasonable worse case' mode share assumptions that underpin the TA and ES would not be exceeded, with significant consequences for airport growth if this was

the case. The GCG Limits are therefore the proposed measures that would control the maximum amount of additional traffic which could be generated by the Proposed Development. Any exceedance of these Limits would result in more traffic on the network than was assessed in the ES.

- 3.20.41. GCG for surface access comprises Thresholds and Limits in relation to the percentage mode shares for 'non-sustainable' (use of private car or taxi) passenger and staff travel. The values of the Limits and Thresholds are contained in the GCG Explanatory Note [\[REP11-011\]](#), Table 3.8] and the GCG Framework [\[REP11-013\]](#), Table 6.1] see Table 10 below.

Table 10 10: Limits and Thresholds for travel mode share in the Green Controlled Growth Framework (from [\[REP11-011\]](#), Table 3.8))

Limit	Limit Values			
	Phase 1	Phase 2a	Phase 2b	Full Operating Capacity
Air passenger non-sustainable travel mode share	Limit			
	62%	60%	55%	55%
	Level 2 Threshold			
	60%	58%	53%	53%
	Level 1 Threshold			
	58%	56%	51%	51%
Airport staff non-sustainable travel mode share	Limit			
	70%	68%	64%	60%
	Level 2 Threshold			
	69%	66%	62%	58%
	Level 1 Threshold			
	67%	64%	61%	56%
Note: all Limit and Threshold values have been rounded to zero decimal places				

- 3.20.42. Several RRs including TfL [\[RR-1543\]](#), HHA [\[RR-0558\]](#), [\[RR-1119\]](#) and [\[RR-0297\]](#) and NH [\[RR-1076\]](#) raised concerns regarding the surface access aspects of GCG. These included concern over the level of the targets set and how they had been determined, and how GCG would work in practice.
- 3.20.43. At ISH9 [\[EV16-001\]](#) the ExA asked questions in relation to the staff mode share targets. The ExA was concerned that these targets were low when considered against the proximity of LLA to residential areas and asked the Applicant to explain how the staff mode shares were determined [\[EV16-009\]](#), AP31]. The Applicant responded that professional judgment was used to establish the public transport mode share, which assumed a steady increase in the public transport mode share between each phase [\[REP7-072\]](#).
- 3.20.44. The Applicant advised that the magnitude of the mode share assumptions (and consequently the surface access mode share Limits) for passengers and staff were based on a comparative analysis of other UK airports [\[APP-202\]](#). The Applicant used Stansted airport as a comparator. The ExA sought clarification as to why Stansted was used given the difference in proximity to residential areas where staff live for Luton [\[EV16-009\]](#), AP30]. The Applicant confirmed that the primary use of

Stansted Airport as a comparison to LLA was not due to its location but to its similar characteristics. Primarily the airport is located a similar distance from London with a similar size and employment make up. It also has a fairly similar level of bus and rail provision to Luton [REP6-067].

- 3.20.45. TfL [RR-1543] stated that the Proposed Development should not be dependent on any increase in car trips or car parking and referred to the ANPS.
- 3.20.46. The ANPS states that Heathrow Airport has committed to ensuring its landside airport-related traffic is no greater than today. While this is not necessarily a requirement for other applications, the ExA asked the Applicant to explain what it was doing to achieve a similar outcome [PD-010]. The Applicant stated that it could not comment on the commitments made by other airports in their own applications for expansion, which were made under different circumstances and conditional to that applicant. The Applicant stated that there is no obligation on airport (or other) developments to result in no net increase in traffic, only that any impacts where identified are mitigated [REP4-069]. Nevertheless, the Applicant stated [REP4-069] *“The SAS and Framework Travel Plan set out the measures the Applicant proposes to increase sustainable travel mode share at the airport for both passengers and staff. The Applicant stated that there is no obligation on airport (or other) developments to result in no net increase in traffic, only that any impacts where identified are mitigated [REP4-069]. Nevertheless, the Applicant stated [REP4-069] ‘The Surface Access Strategy and Framework Travel Plan set out the measures the Applicant proposes to increase sustainable travel mode share at the airport for both passengers and staff. **These will reduce the number of vehicles travelling to the airport** allowing the airport to appropriately develop and refine the strategy over the period of airport development.” (bold emphasis added).*
- 3.20.47. In relation to the statement by the Applicant that the SAS and FTP would ‘reduce the number of vehicles traveling to the airport’ [REP4-069], at ISH7 [EV14-001], the ExA asked what mode share targets would be required to achieve this. The Applicant confirmed [REP7-072] that to reduce the number of vehicles generated by passengers and staff, the public transport mode share assumption included in the TA would need to be significantly increased (see Table 11 below from [REP7-072]).

Table 1111: Modelled assumption of transport mode share vs required reduction to reduce the number of vehicles travelling to the airport from [REP7-072]

Passengers	Scenario	With Development		
		Phase 1 (2027)	Phase 2a (2039)	Phase 2b (2043)
		21.5mppa	27mppa	32mppa
Public transport mode share	TA modelling assumption	40%	45%	45%
	To reduce number of vehicles	53%	61%	68%

Staff	Scenario	With Development		
		Phase 1 (2027)	Phase 2a (2039)	Phase 2b (2043)
		21.5mppa	27mppa	32mppa
Public transport mode share	TA modelling assumption	30%	35%	40%
	To reduce generated vehicles	54%	65%	69%

3.20.48. The Applicant stated that whilst it was keen to promote sustainable travel to/ from the airport as far as practicable, the Public Transport Strategy – Summary Report [APP-202, Appendix H] concluded that the possible public transport mode share for passengers and staff was 43% to 50% and 30% to 40% respectively. The Applicant therefore stated that mode share to reduce the generated vehicles (for passengers or staff) would be unachievable [REP7-072].

3.20.49. The HHA raised concerns that the GCG mode share percentages could be masking serious increases in traffic on the surrounding networks [RR-0558], [RR-1119], [RR-0297]. The ExA noted [EV14-001] that although the percentages for non-sustainable transport usage reduced for each Phase, the number of overall passengers the percentages were based on increased, leading to an overall increase in the use of non-sustainable transport for each Phase. The Applicant responded that GCG sought to control mode share at a high level and highways mitigation at specific locations would be controlled via the TRIMMA [REP6-067, section 7.2].

Traffic Related Impacts Monitoring and Mitigation Approach

3.20.50. An oTRIMMA was originally submitted with Appendix I of the TA [APP-202]. NH [RR-1076] and the HHA [REP1-069] raised concerns that the oTRIMMA lacked detail and during the Examination this issue was explored resulting in the oTRIMMA being updated and extracted into a standalone document [REP10-036] secured under Requirement 30 of the draft DCO [REP11-091].

3.20.51. The oTRIMMA sets the proposed strategy for:

- monitoring the impact of traffic growth related to the Proposed Development on parts of the public highway;
- agreeing the need for and form of mitigation required because of traffic growth related to the Proposed Development; and
- agreeing mitigation for residual traffic-related impacts to be funded by the Sustainable Transport Fund (STF).

3.20.52. The oTRIMMA defines two types of mitigation [REP10-036, Table 2-1], as shown in Table 12 below.

Table 12 12: Types of mitigation in the oTRIMMA from [REP10-036, Table 2-1]

	Mitigation Type 1 (MT1)	Mitigation Type (MT2)
Type	Proposed works	Residual impact works
Description	'Off-site Highway Works' contained in Schedule 1 of the DCO [TR020001/APP/2.01]	Interventions designed to address 'residual' traffic-related effects that may arise from the Proposed Development
Basis for securing of mitigation	Identified works at Schedule 1 of the DCO [TR020001/APP/2.01], delivered when agreed with relevant highway authorities	Agreement of the Airport Transport Forum (ATF) Steering Group and funded via the STF

3.20.53. The oTRIMMA submitted into the Examination at D4 described the two types of mitigation (MT1 and MT2). It contained the stipulation that it would be the responsibility of the relevant highway authority to fund and undertake additional monitoring to demonstrate locations for consideration of MT2. The highway authorities raised several concerns on this matter [REP5-064], [REP5-066], [REP5-068] and [REP5-091].

3.20.54. The oTRIMMA was examined at ISH7 [EV14-008] and the ExA asked several questions in relation to the concerns raised [PD-015, TT.2.4 to TT.2.7]. In response the Applicant amended the oTRIMMA [REP10-036]. The final version of the oTRIMMA [REP10-036] included a section on 'fly-parking' and controlled parking zones and stated that any costs incurred during the evidencing of MT2 would be reimbursed. The ExA is satisfied that this is secured under Requirement 30 of the draft DCO [REP11-091].

3.20.55. Requirement 30 requires that the final TRIMMA must be substantially in accordance with the oTRIMMA and be approved in writing by LBC, following consultation with CBC, HHA, BC and NH. The airport would not be able to operate above its extant passenger cap until the TRIMMA has been approved [REP10-036, paragraph 1.2.2]. The ExA is satisfied that the requirement to consult on the TRIMMA with the highway authorities prior to approval would ensure that it was fit for purpose. Consequently, the ExA is satisfied that the TRIMMA would be an appropriate mechanism to identify and monitor the traffic related effects of the Proposed Development.

Traffic Calming in Hertfordshire

3.20.56. Over 30 RRs eg [RR-0061], [RR-0810], [RR-0899] and [RR-1051] raised specific concerns about airport related traffic using the smaller local roads to access the airport ('rat-running'). The HHA noted that the TA indicated locations of potential traffic calming measures which could mitigate the 'rat-running' issue but supplied no further detail [RR-0558], [RR-1119] and [RR-0297]. The Applicant responded that it had positioned the locations of the indicative traffic calming to help dissuade airport-related traffic from reaching villages in the first instance and that it was willing to work with local authorities in delivering highway mitigation and local traffic calming schemes, subject to ongoing monitoring [REP1-021, page 233]. None of this traffic calming was proposed to be constructed as part of the Proposed Development.

3.20.57. The ExA asked a clarification question in relation to traffic calming before ISH4 [EV9-002]. The Applicant responded [REP3-074] explaining that although the locations of traffic calming shown in the TA were indicative, the Applicant would

work with the local authorities to identify traffic management proposals subject to the TRIMMA. The issue of traffic calming was further examined at ISH7 where the ExA asked why traffic calming measures had not been included in the proposed off-site highway mitigation works. The Applicant explained that the transport modelling showed small but not necessarily significant increases in traffic flow in those rural areas closest to the Proposed Development, so the Applicant's approach would be to monitor these locations rather than provide mitigation [\[REP6-065\]](#).

3.20.58. However, the oTRIMMA [\[REP10-036\]](#) only included areas of monitoring by the Applicant in the locations of the proposed off-site highway mitigation works (MT1). The locations of concern to the HHA were not included as part of this monitoring. At the close of the Examination the ExA was made aware that the Applicant was proposing a side agreement with HHA to cover additional monitoring areas in North Hertfordshire and discussions were ongoing about other monitoring sites near Harpenden [\[REP9-067\]](#). The HHA closing statement [\[REP11-063\]](#) stated that they had remaining outstanding concerns on the transport modelling underpinning the application and that this, and the longevity of the proposal, brought medium to long-term uncertainty and risk to the Hertfordshire highway network that HHA found unacceptable. The HHA requested additional monitoring of the network to monitor that risk and act as a basis for consideration of mitigation proposals.

3.20.59. The ExA has not had sight of any side agreement and notes from the SoCG between HCC and the Applicant [\[REP11-095\]](#) that these issues were still outstanding at the Examination close.

Traffic Calming in Hertfordshire - Conclusion

3.20.60. Considering the substantial traffic increases that would be generated by the Proposed Development, the concerns of the HHA, and the fact that the Applicant identified that traffic calming was potentially required, the ExA considers that additional monitoring locations in Hertfordshire would be appropriate. This monitoring should be positioned where it would identify locations where, if measures were imposed, it would help dissuade airport-related traffic from using the rural road network.

3.20.61. The APF paragraph 5.11 states *"All proposals for airport development must be accompanied by clear surface access proposals which demonstrate how the airport will ensure easy and reliable access for passengers....and minimise congestion and other local impacts."* By providing additional monitoring locations in Hertfordshire the Applicant would identify, and subsequently be able to minimise, any local impacts of airport-related traffic.

3.20.62. The ExA considers there is a potential for 'rat-running' on rural roads from an increase in traffic and agrees with the HHA that suitable monitoring should be provided. At the close of the Examination this issue remained outstanding and the ExA has had no sight of any side agreement. The ExA recommends that the SoS may wish to check that an appropriate side agreement is in place in this respect. The ExA concludes that without an appropriate side agreement this matter attracts great weight against the making of the Order.

Ivinghoe Junction

3.20.63. BC were concerned about the impact of airport related traffic on the LRN to the west of the M1 in Buckinghamshire. BC proposed that the Applicant provide highway mitigation work to change the priority of the junction of the B488 and B489 in Ivinghoe to dissuade traffic using the B489 through the villages of Ivinghoe, Pitstone

and Marsworth that were sensitive to congestion. BC explained that this was required to satisfy Policy TRA2 of the made Ivinghoe Parish Neighbourhood Plan 2014-2033 [RR-0166] This was further explained in BC's LIR [REP1A-001].

- 3.20.64. The issue of airport related traffic on the B489 was considered throughout the Examination and was the subject of a USI [EV1-013]. The Trip Distribution Plans [REP5-037] showed airport related traffic using the B489 to travel east/ west between the airport and the Aylesbury region. The ExA queried why no traffic was shown to turn off the B489 onto the B488 at the Ivinghoe junction despite the B488 being the larger road. The Applicant explained that this was due to how the junction was coded in the model [REP6-065]. The Applicant explained how the junction model had been reviewed [REP6-070]. The Applicant concluded that because there was only a small percentage increase in overall traffic it did not warrant capacity improvement [REP6-070] and any proposal to re-prioritise the junction could potentially divert traffic onto the B488 and into the Hertfordshire road network and that no consultation had been done in this respect.

Ivinghoe Junction - Conclusion

- 3.20.65. The ExA understands BC's concerns regarding the B489/ B488 junction in Ivinghoe and Policy TRA2. However, it considers that the Applicant has demonstrated that the forecast additional traffic at this location arising from the Proposed Development to be small and it would not be proportionate for the Applicant to change the priority of the junction. The ExA notes that if deemed necessary in the future, BC could bring forward proposals for this junction through the TRIMMA as MT2. The ExA concludes that this issue neither weighs for nor against the making of the Order.

Traffic - Conclusion

- 3.20.66. The ExA understand that the GCG Limits were used to inform the ES and the TA, and provide the 'reasonable worse case' for the mode shares for non-sustainable transport. The ExA is concerned that the GCG mode shares are unambitious, particularly for staff, but understand that the Travel Plan would have more ambitious mode share targets (this aspect is discussed in more detail later in this section). It would be the Travel Plan which would ultimately drive and control the mode share in the future leaving GCG as the 'backstop' to prevent further growth of LLA if the worst-case mode share figures, relied upon in the ES, are exceeded.
- 3.20.67. However, during the Examination it became apparent that the airport is already exceeding the Phase 1 GCG Limits for surface access. In response to the ExA's ExQ1 [PD-010, TT.1 9] the Applicant provided the latest (2022 data) figures for passengers and staff travelling by non-sustainable means to the airport [REP4-069]. The 2022 figures recorded that the non-sustainable transport usage figures were higher than the proposed Phase 1 GCG Limits for passengers and staff exceeding them by 3% and 6% respectively. At ISH9 [EV16-001] the ExA asked the Applicant how confident it was that the 2022 mode shares could be reduced to a point where they would not exceed the Phase 1 Limits. The Applicant stated that the public transport usage was returning to pre COVID-19 levels and as such considered that the mode share Limits would be achievable. However, the Applicant also noted that if the mode share were outside the limits the airport would not be able to grow [REP6-067, section 7.3].
- 3.20.68. Requirement 21 secures the monitoring of the GCG. In relation to monitoring surface access [REP11-091, Requirement 21(1)(b)] states that '*The undertaker must, in accordance with the Monitoring Plans, monitor.....surface access from 1 January following the end of the calendar year in which that notice is served.*' The

proposed monitoring for surface access would comprise an annual Staff Travel Survey and collecting data from the CAA annual Departing Passengers Survey.

- 3.20.69. The ExA is concerned that the delay in starting monitoring specified in Requirement 21 could potentially result in a breach of GCG Limits not being identified for a considerable period after notice was given that the airport intended to grow. The ExA is concerned that the airport is already exceeding its proposed Phase 1 GCG Limits for passengers and staff. The ExA was not provided with sufficient evidence to provide confidence that these levels could be reduced sufficiently if the DCO was granted. The ExA therefore proposes that, for surface access, Requirement 21 is amended to secure monitoring which would enable the production of a Monitoring Report before the notice under Article 44(1) is served. The ExA does not consider this to be an onerous requirement based on the type of monitoring proposed. Early monitoring would ensure that the Applicant could identify trends in the surface access mode share and only serve the notice when it was confident that the Phase 1 Limits would not be breached and ultimately prevent a situation occurring which was materially worse than assessed in the ES.
- 3.20.70. Whilst the ExA acknowledges that there is no requirement on the Applicant to prevent an increase in airport related traffic, it is clear from what the ExA has read and heard in the Examination that the Proposed Development would result in a substantial traffic increase. The GCG surface access mode shares act as the 'reasonable worst case' and are used to inform the ES and TA and therefore act as a backstop in relation to the maximum additional traffic the Proposed Development could generate. The Applicant intended that the Travel Plan would contain more ambitious mode share targets but it has identified that targets that would ensure no increase in traffic are unachievable; in fact they would need to be significantly lower (around 20%) than the proposed GCG Limits.
- 3.20.71. The NPPF (December 2023) states *"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."* Whilst the modelling suggests that there would be no significant adverse effects to either the LRN or the SRN, the amount of extra traffic the Proposed Development would generate is considerable. The proposed off-site highway mitigation has been designed to alleviate this traffic increase at certain locations, however there would remain numerous minor impacts across the network. In particular, the ExA is concerned that there is a potential for 'rat-running' on rural roads from an increase in traffic, but the Proposed Development does not include the appropriate monitoring to identify it and subsequently mitigate it. The Applicant has acknowledged the potential for residual traffic related impacts and created the TRIMMA process to address this. However, this process only included monitoring at the locations of the proposed off-site highway works. Monitoring at other locations on the LRN and SRN would need to be undertaken by the relevant highways authority and the onus would be on them to demonstrate any issue identified was airport related. The ExA considers that these residual impacts when considered cumulatively on the road network could be severe. This therefore weighs greatly against the making of the Order.

Proposed Off-Site Highway Works

- 3.20.72. The application included several off-site highway mitigation work packages to support the Proposed Development and mitigate the forecasted traffic related impacts (Works Nos 6e (a to r). In [\[PD-015, TT.2.14\]](#) the ExA asked if works to Eaton Green Road/Frank Lester Way (Works No 6e(q)) should be included in the

proposed off-site highway works because they were also listed as part of the East Luton highway improvements. The Applicant confirmed [\[REP7-061\]](#) that this was an error and Work No 6e(q) was not part of the East Luton highway improvements and would be delivered at Assessment Phase 2a.

3.20.73. [\[REP1A-002\]](#) raised the issue that no Stage 1 RSA had been completed for these proposed off-site works. The ExA raised this concern at ISH4 [\[EV9-001\]](#) where the Applicant confirmed that Stage 1 RSAs had been commissioned, the results of which would be submitted into the Examination before the November ISHs. At D5 Stage 1 RSA's were submitted for all the locations of the proposed off-site mitigation works apart from the M1 [\[REP5-055\]](#) and at D6 the remaining RSA for the M1 proposed mitigation works were submitted [\[REP6-071\]](#). However, at this point all the RSAs were lacking 'Overseeing Organisation' comments confirming that the relevant Highway Authorities agreed with the designer's response to any issues identified by the audit. A fully completed Stage 1 RSA was submitted at D11 although agreement on the designer's response was not reached with HCC in relation to the junctions in Hitchin [\[REP11-106\]](#), Table 2.1].

3.20.74. The ExA is satisfied that all the proposed off-site highway works would be designed around the relevant standards including DMRB, Manual for Streets and other applicable documents [\[REP2A-005\]](#). These standards would ensure that infrastructure was designed so that it caters for all types of users, including those with protected characteristics such as children and those with mobility issues. The ExA considers that it has had full regard to the requirements of the EA2010 in the design of these works.

3.20.75. During the Examination several of the proposed off-site highway mitigation works were explored in detail, these are discussed in the following paragraphs.

A1081 New Airport Way/ Gypsy Lane Junction (Works Nos. 6e (b))

3.20.76. Following the Stage 1 RSA [\[REP11-106\]](#), CBC raised concerns regarding the off-site highway mitigation works proposed at the A1081 New Airport Way/ Gypsy Lane Junction. CBC were not confident that the highway works proposed could be fully delivered within the Order Limits when taking into account the recommendations of the RSA and the need to meet relevant design standards [\[REP8-053\]](#). In the CAH1 [\[EV5-001\]](#) the ExA asked the Applicant to confirm that no land outside the Order Limits was required for any of the proposed off-site highway works. The Applicant confirmed that no additional land was required in this respect [\[REP3-054\]](#).

3.20.77. The Applicant and CBC agreed a side agreement securing the proposed works to the satisfaction of both CBC and the Applicant [\[REP11-058\]](#). Whilst the ExA has not had sight of any side agreement it sees no reason to disagree with CBC that it is sufficient. However, the ExA recommends that the SoS may wish to check that an appropriate side agreement is in place.

Eaton Green Road/ Wigmore Lane/ Crawley Green Road (Works Nos. 6e (d, e, f, j and q)).

3.20.78. Over 70 RRs, eg [\[RR-1332\]](#), [\[RR-0409\]](#) and [\[RR-1498\]](#), expressed concern about the extent and the scale of the proposed off-site highway mitigation works to Eaton Green Road, Wigmore Lane and Crawley Green Road. The proposed works comprised changing eight roundabouts and mini roundabouts to signalised junctions with associated works on a section of local highway just over a mile in length. The RRs raised concerns about travel disruption and delay for the driver and safety for the non-motorised users, particularly as there were three schools in the area.

- 3.20.79. The TA did not supply junction performance data for the 'do-nothing' scenario (the situation of Proposed Development traffic without any proposed junction mitigation) so it was not clear to the ExA what benefit the proposed off-site mitigations were intended to provide. At ISH4 the ExA asked the Applicant to provide information which would help to explain why the works were necessary [\[EV9-007\]](#). The Applicant responded that the TA did not produce a without mitigation scenario because the output would not have been representative of the real impact on any junction [\[REP4-082\]](#).
- 3.20.80. At ISH7 [\[EV14-001\]](#) the ExA further explored the need for the proposed works. The ExA asked both the Applicant and LBC why they believed the works were necessary when the Trip Distribution Plans showed that there was no airport related traffic forecasted to use Eaton Green Road or Crawley Green Road and very low levels of traffic forecasted to use Wigmore Lane. LBC confirmed that it was satisfied with the proposed mitigation. LBC explained that highway mitigation proposed along these roads also took account of traffic displacement and congestion that would otherwise occur on other parts of the LRN if the capacity enhancements on these sections of the highway were not delivered. LBC also noted that the final form of mitigation could differ from the outline designs included in Schedule 1 of the DCO as a result of MT1 monitoring through the TRIMMA and that would allow for the works to be scaled down if necessary [\[REP6-105\]](#). The Applicant explained that in the absence of airport growth, there is expected to be increased congestion associated with a combination of committed development and background growth in the Wigmore Lane area [\[REP6-065\]](#).
- 3.20.81. Due to the significant number of RRs expressing concerns regarding the extent of the proposed works to Eaton Green Road, Wigmore Lane and Crawley Green Road, and the lack of sufficient justification for these works, the ExA considered they were unnecessary and therefore should be deleted from the draft DCO [\[PD-018\]](#). The Applicant disagreed and supplied a sensitivity test using the 2043 Assessment Phase 2b full development proposed demand without the proposed off-site mitigation to the Wigmore area [\[REP9\]](#). The sensitivity test demonstrated a decline in the performance of the LRN and showed an increase in the number of unreleased vehicles (vehicles that could not enter the network due to network congestion/ constraints) [\[REP9-054\]](#). The sensitivity test demonstrated a decline in the performance of the LRN and showed an increase in the number of unreleased vehicles (vehicles that could not enter the network due to network congestion/ constraints) [\[REP9054\]](#).
- 3.20.82. Based on the evidence supplied through the Examination from LBC and the Applicant it is clear to the ExA that the proposed off-site highway works to Eaton Green Road, Wigmore Lane and Crawley Green Road are not solely for the mitigation of airport related traffic. The ExA has not seen evidence which demonstrates that the scale of the proposed works is necessary. LBC has highlighted that the final version of the works could be scaled down if MT1 monitoring (through the TRIMMA) showed lower levels of airport related flows than are forecast [\[REP6-105\]](#).
- 3.20.83. The ExA considers that if the proposed off-site highway mitigation for this area remains in the DCO then more stringent controls are required to ensure that the primary purpose of such works is to mitigate airport related traffic. To ensure that this is the case the ExA proposes a new Requirement which is set out in detail in Table 23 in Chapter 7 of the Report. With the inclusion of this new Requirement, the ExA is satisfied that the scale and extent of any works undertaken in this area would be proportionate and appropriate to mitigate the impacts from airport related traffic

and as such neither weighs for nor against the making of the Order. If the SoS considers that the new Requirement is not necessary, then the ExA takes the view that, for the reasons set out above, these works would attract moderate negative weight against the making of the Order.

Eaton Green Road Link (Part of Works No. 6a (2))

- 3.20.84. Over 20 RRs, eg [\[RR-0879\]](#), [\[RR-0935\]](#), [\[RR-1171\]](#) and [\[RR-1437\]](#), raised concern that the proposed Eaton Green Road Link (proposed new road connecting Eaton Green Road to the proposed AAR) would breach the LLP because if constructed it would allow traffic to access the airport from Eaton Green Road.
- 3.20.85. LLP Policy LLP6D(i) for Century Park states;
- “Details of the proposed access, which shall be via the extension of New Airport Way (which connects the airport to M1 J10A) and shall link Percival Way through to Century Park (as shown by the arrow on the Policies Map), such access shall be designed so as to ensure that no use is made of Eaton Green Road to provide access to Century Park or the Airport, except for public transport, cyclists, pedestrians and in the case of emergency.”*
- 3.20.86. The ExA asked the Applicant where in the application it had addressed concerns that the proposed link road breached LLP Policy [\[EV9-001\]](#) and [\[PD-010\]](#), TT.1.21]. The Applicant responded that the Eaton Green Road Link was already consented as part of the New Century Park (now referred to as GHP) planning permission. The Applicant explained that the committee report concluded that whilst the proposed link between Eaton Green Road and the New Century Park access road may be contrary to policy LLP6D(i), there were TT benefits that would arise from its provision. The committee report concluded that the overall benefits that the proposed New Century Park development would deliver were considered to outweigh any conflict with the development plan [\[REP4-069\]](#).
- 3.20.87. At ISH7 [\[EV14-001\]](#) the ExA explored whether or not LLP6D(i) applied to the current Application given that it was significantly different from the New Century Park consent [\[EV14-008\]](#) and [\[PD-015\]](#), TT.2.16]. LBC clarified that LLP6D was specific to Century Park and consequently advised that it did not consider that policy LLP6D(i) applied directly to the Proposed Development [\[REP8-057\]](#).
- 3.20.88. The ExA is satisfied, based on the evidence from LBC, that LLP6D(i) does not apply to the Proposed Development.

Hitchin Junctions (Works Nos. 6e (i, k and m))

- 3.20.89. Several IPs eg [\[RR-0396\]](#), [\[RR-0614\]](#) and [\[RR-0961\]](#), including the HHA [\[RR-0297\]](#), [\[RR-0558\]](#) and [\[RR-1119\]](#), were concerned about the proposed off-site highway mitigation works in Hitchin. The HHA were concerned that the design of the proposed works did not appear to consider vertical buildability and that the proposed mitigation did not sufficiently address the airport related traffic impacts. The HHA also considered that active travel and public transport had not been sufficiently accounted for and therefore the proposed mitigation at the three junctions would not be in accordance with the Hertfordshire LTP4 [\[REP1A-003\]](#).
- 3.20.90. The proposed mitigation to the three Hitchin junctions comprised minor amendments (mainly comprising kerb realignment) to the existing roundabouts to improve capacity. The TA did not supply information regarding junction performance for forecast traffic flows with no junction mitigation works so it was not clear to the

ExA what benefit the proposed off-site mitigations provided. At ISH4 the ExA asked the Applicant to provide information which would help to explain why only minor works were required at junctions with significant current congestion issues [\[EV9-007\]](#). The Applicant responded by providing the junction performance data as requested which it considered demonstrated that the impacts of the Proposed Development would be mitigated [\[REP4-082\]](#).

- 3.20.91. The proposed mitigation to the three Hitchin junctions was further explored at ISH7 [\[EV14-001\]](#) and in ExQ2 [\[PD-015\]](#), TT.2.15]. The Applicant engaged with HCC to attempt to reach an agreement before the close of the Examination [\[REP7-072\]](#) and [\[REP8-038\]](#).
- 3.20.92. The Applicant confirmed that the mitigation proposals did not preclude other measures from being implemented and, through the TRIMMA process, the measures could be modified in discussions with the HHA. The Applicant produced and shared with the HHA plans which showed how the proposed mitigation could be amended at the detailed design stage, within the Order Limits, to improve provision for other road users (including signalisation of the A505/ Pirton Road junction and part-signalisation of the Hitchin Hill junction). The ExA understands that these alternative proposals have been discussed and an offer was made to fund the alternatives schemes, but no agreement was reached with the HHA by the end of the Examination [\[REP11-049\]](#).
- 3.20.93. The HHA confirmed that they were content that the alternative junction layouts were more consistent with policy and therefore agreed to them forming the basis of a side agreement. However, the HHA sought to reduce the cost risk associated with accepting the mitigation proposals without necessary assurances in relation to cost and deliverability [\[REP11-063\]](#). Subsequently no side agreement existed at the close of the Examination.
- 3.20.94. The ExA shares the concerns of the HHA regarding the proposed mitigation for the effects of traffic around Hitchin and agrees that suitable amendments should be made to the proposed designs for the three Hitchin junctions. The ExA recommends that the SoS may wish to check that an appropriate side agreement is in place that provides amended designs which are more consistent with HHA policy. The ExA therefore concludes that this attracts great weight against the making of the Order.

M1 J10 (Works Nos. 6e (n, o and p)

- 3.20.95. NH were concerned that the proposed mitigation to M1 J10 would not be sufficient to mitigate the forecasted traffic impact and that additional works would be required [\[RR-1076\]](#).
- 3.20.96. The Applicant engaged with NH throughout the Examination and NH's concerns were explored at ISH4 [\[EV9-001\]](#) and ISH7 [\[EV14-001\]](#). At the close of the Examination the Applicant and NH had agreed that the proposed mitigation to M1 J10, with the addition of gantries, smart technology and maintenance bays, would be sufficient to enable safe operation. However there remained a disagreement as to what further works would be required to address the impacts of the Proposed Development on the SRN as a whole [\[REP11-093\]](#).
- 3.20.97. NH were concerned about the operation of the south facing slip roads and their interaction with the main carriageway and questioned the robustness of the modelling [\[REP11-093\]](#). The Applicant disagreed that the modelling was not robust and noted that NH concerns regarding the south facing slips related to forecast

demand even in the absence of the Proposed Development. The Applicant believed that the matter should be for NH to resolve through its on-going responsibilities to manage the network and as part of its Road Investment Strategy programme. However, the Applicant revised the oTRIMMA to include a commitment to make a financial contribution to assist NH in the event that it considered that the operation of the M1 J10 southbound on-slip or M1 mainline between J9 and J10 required works to alleviate congestion, and NH would develop and implement proposals for such works should this be the case [\[REP10-036\]](#).

- 3.20.98. The ExA understands NH's concerns regarding the M1 J10 and the SRN. However, it concludes that the Applicant has included sufficient mitigation within the oTRIMMA to ensure that, if deemed necessary in the future, NH could bring forward proposals through the TRIMMA as MT2 [\[REP10-036\]](#), paragraph 4.2.3]. However, the ExA considers that it would be reasonable to amend the drafting of Requirement 30 to require the submission of details of, and a timetable for, the implementation of Work No. 6e (n) with the submission of the TRIMMA for approval. With the additional wording to Requirement 30 the ExA is confident that the Phase 1 works to M1 J10 could be implemented as early as is reasonably practicable. The ExA concludes that if this change is made this issue neither weighs for nor against the making of the Order.

Parking

- 3.20.99. Over 100 RRs eg [\[RR-0130\]](#), [\[RR-0565\]](#), [\[RR-0891\]](#), [\[RR-1302\]](#), [\[RR-1349\]](#) and [\[RR-1402\]](#) raised concerns in relation to parking. Of these, over 80 were complaints about passengers and staff parking inappropriately in residential areas (an issue known as 'fly-parking'). LLP Policy LLP6C (Airport-related Car Parking) states:

"Proposals for airport-related car parking should be located with the Airport Strategic Allocation, as shown in the proposals plan (excluding Century Park and Wigmore Valley Park) and will need to demonstrate that the proposals: meet an objectively assessed need; do not adversely affect the adjoining highway network; and will not lead to the detriment of the amenity of the area and the neighbouring occupiers. Proposals for airport-related car parking outside this area will only be permitted where: there is demonstrated to be a long-term car parking need that cannot be met at the airport; they accord with sustainable development principles as defined by the plan as a whole; they relate well to the strategic road network and do not exacerbate traffic congestion; they do not have an adverse impact on amenity; and they are in accordance with the most recently approved London Luton Airport SAS."

- 3.20.100. The Proposed Development included various areas of new car parking facilities for both passengers and staff. IPs were concerned about the amount of parking the Proposed Development included. NH and Holiday Extras queried the capacity and utilisation of the current car parking, and how that compared to future capacity with the projected number of passengers and staff [\[RR-1076\]](#) and [\[RR-0565\]](#). Concern was also raised in relation to the extra traffic generated by those vehicles travelling to car parks controlled by both the airport and by third parties, and that increased passengers would result in additional third-party shuttle buses travelling to the airport eg [\[REP3-124\]](#), [\[REP4-124\]](#) and [\[REP4-176\]](#). These issues were explored by the ExA throughout the Examination, including at ISH4 [\[EV9-001\]](#) and ISH7 [\[EV14-001\]](#) and written questions [\[PD-010\]](#), TT.1.11 and TT.1.12] and [\[PD-015\]](#), TT.2.20 and TT.2.21].
- 3.20.101. In relation to utilisation and capacity the Applicant provided eight months of 2023 data showing the utilisation of passenger and staff car parks [\[REP4-069\]](#). The

Applicant also provided detail regarding how the airport operator currently managed the car parking capacity. At ISH7 [\[EV14-001\]](#) the ExA asked the Applicant to confirm the actual number of passengers for the January to August time period given in [\[REP4-069\]](#) and, if this was below the equivalent 18mppa, to explain why the baseline number of parking spaces of 10,550 would be sufficient for 18mppa [\[EV14-008\]](#). The Applicant provided the data as requested and explained why it considered the proposed number of spaces was adequate [\[REP6-065\]](#).

- 3.20.102. The TA relied upon parking spaces provided by third parties. The ExA asked the Applicant to explain how the number of spaces had been determined [\[EV14-008\]](#). The Applicant responded by providing the assumed amount of off-site parking provision across the three assessment phases. The Applicant explained that in the event that insufficient off-site car parking was brought forward in the future (to meet the mode share assumptions in the TA), the intention would be to increase the sustainable transport mode share through public transport measures identified in the FTP [\[REP11-027\]](#) and Bus and Coach Study [\[REP10-041\]](#), which would be supported by funding from the STF. The Applicant further noted that if lower than anticipated provision of off-site car parking resulted in 'fly-parking' this could be dealt with by measures set out in the oTRIMMA [\[REP10-036\]](#).
- 3.20.103. In relation to the concern that the off-site car parking would generate extra traffic the Applicant stated that the growth in peak hour trips associated with off-site third-party car parks was predicted to be small and would be dispersed across the network to various unknown locations. The Applicant stated that if the growth of off-site car park trips was included in the 'With Development' scenario, the impact would not be significant and concluded that the trips were nevertheless included in the modelling as background traffic and were therefore used to inform the performance of the road network and design of off-site highway mitigation proposals [\[REP8-038\]](#). This issue was not agreed at the close of the Examination as detailed in the SoCG of CBC [\[REP11-035\]](#) and the SoCG for each of the HHA [\[REP11-095\]](#), [\[REP11-097\]](#) and [\[REP11-099\]](#).
- 3.20.104. In relation to 'fly-parking' the concerns of the IPs were generally about disruption and inconvenience to the residents living where the 'fly-parking' was occurring and safety concerns (inappropriately parked cars restricting PRow and emergency vehicle access) see eg [\[RR-1105\]](#), [\[RR-0775\]](#) and [\[RR-0046\]](#). The RRs highlighted 'fly-parking' concerns in areas both close to the airport and in the surrounding local villages.
- 3.20.105. In relation to the concern that airport staff were 'fly-parking' the Applicant confirmed that airport operator did not charge staff for parking. It stated that one of the reasons for this was to reduce the risk of staff 'fly-parking' in the local area [\[REP7-061\]](#). However, the Applicant noted that it did not have access to information on the current staff parking policies for the other private companies present on the airport campus.
- 3.20.106. Measures to prevent 'fly-parking' were explored by the ExA throughout the Examination. One measure highlighted in the application was a proposed area of residential parking restriction to the north of LLA [\[AS-023\]](#). This measure was not included in the proposed off-site highway mitigation work but was the location where many of the RRs who raised 'fly-parking' concerns originated. At ISH7 the ExA asked LBC and the Applicant to detail potential options to mitigate the 'fly-parking' issue including whether a Controlled Parking Zone, as suggested in [\[AS-023\]](#) would be viable. The ExA also asked for commentary on how these measures could be funded without cost to residents [\[EV14-008\]](#). In response LBC confirmed that the

Applicant had agreed to fund a consultation on this matter and any parking controls introduced as a result would be funded by the Applicant. However, LBC stated that it was the Council's policy that parking permits are funded by the permit holder [REP6-105]. The ExA asked LBC to consider if a scheme could be implemented where the Applicant would fund the parking permits and, if not, explain why not [PD-015, TT.2.18]. LBC [REP7-090] maintained that it was the residents who would benefit from any scheme so it should be the residents that covered the cost of providing the permits.

- 3.20.107. Concerns were raised about 'fly-parking' outside the Luton area eg [RR-0170], [RR-1408], [RR-0211] and [REP6-157]. The Applicant responded that it would enter into discussions with local authorities regarding assistance with parking management schemes where there was a clear demonstration that the problems were related to the airport. However, the Applicant noted that it should ultimately be the responsibility of neighbouring authorities to put in place any parking restrictions as appropriate [REP1-020, page 191]. As the issue of 'fly-parking' developed through the Examination the Applicant added specific mitigation to the oTRIMMA [REP10-036] allowing the STF to fund the full process of introducing any controlled parking zone that was deemed necessary.

Parking - Conclusion

- 3.20.108. The ExA is satisfied that the traffic modelling takes account of those driving to car parks as background traffic and that the Applicant could utilise the STF to facilitate increased mode share if there was insufficient off-site car parking available in the future. The ExA is satisfied that the parking proposed by the Applicant is in accordance with LLP Policy LLP6C.
- 3.20.109. However, the ExA does not consider that 'fly-parking' was sufficiently considered in the application documents. The 'fly-parking' concern was highlighted as a significant issue through the large number of RRs, in OFH and throughout the Examination. The ExA questioned LBC's view that residents should pay for permits as it is the residents who are suffering with the 'fly-parking'. However, aside from the issue that the residents would be required to pay for permits for any future controlled parking schemes the ExA is satisfied that the oTRIMMA contains mechanisms to address 'fly-parking'.
- 3.20.110. The APF paragraph 5.11 states *"All proposals for airport development must be accompanied by clear surface access proposals which demonstrate how the airport will ensure easy and reliable access for passengers....and minimise congestion and other local impacts."* The Examination has identified that it is likely that there is a current 'fly-parking' issue as a result of LLA. The Proposed Development with the increase in passengers would likely make this issue worse. Although the oTRIMMA contains mechanisms to address 'fly-parking', residents would still be adversely impacted because they would be expected to pay for parking permits and a permit scheme would take some time to implement. Furthermore, requiring the local residents to pay for permits could reduce the uptake of the scheme and a delay in implementation would lead to local impacts on local parking, in conflict with the APF policy. The ExA therefore concludes that this issue attracts moderate negative weight against the making of the Order.

Sustainable Transport

- 3.20.111. Over 120 RRs, eg [RR-0064], [RR-0884], [RR-0992] and TfL [RR-1543], raised concerns about the affect the Proposed Development could have on sustainable modes of transport. The ANPS specifically highlights the Government's commitment

that the number of journeys made to airports by sustainable modes of transport is maximised as much as possible (paragraph 5.5). The NPPF (paragraph 108) states that transport issues should be considered from the earliest stages of development proposals, so that:

- a. *“the potential impacts of development on transport networks can be addressed;*
- b. *opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;*
- c. *opportunities to promote walking, cycling and public transport use are identified and pursued;*
- d. *the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and*
- e. *patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.”*

Framework Travel Plan

- 3.20.112. The FTP [\[REP11-027\]](#) outlined the structure and approach for the future Travel Plan that would be produced to deliver the vision and objectives of the SAS. The Travel Plan would stipulate the mode share targets for sustainable transport use for those travelling from/to the airport. The FTP would be secured by Requirement 31 of the draft DCO [\[REP11-091\]](#), Schedule 2]. The FTP sets out a ‘toolbox’ of potential interventions and measures that could be included in the future Travel Plan that would be agreed by the ATF who would manage the process.
- 3.20.113. IPs concerns regarding the FTP were discussed at ISH4 [\[EV9-001\]](#). As a result, the Applicant revised the FTP to clarify which interventions and measures were proposed to be implemented as part of the current application. The Applicant also added information to the interventions and measures to indicate timescales and restrictions for implementation [\[REP11-027\]](#).
- 3.20.114. The ExA considers that the GCG non-sustainable mode share Threshold and Limits are unambitious, particularly for staff considering the control the Applicant has over how its staff travel to work and the proximity of residential areas to the airport. However, it is understood that it is the intention that the mode share targets in the Travel Plan would be more ambitious than those in GCG [\[REP11-027\]](#), paragraph 4.1.4]. The Travel Plan would have a five-yearly review process and therefore the mode share could be regularly updated to ensure it is set as high as possible to encourage the switch to sustainable modes of transport.
- 3.20.115. The ANPS (paragraph 5.5) states the Government’s commitment to see the number of journeys made to airports by sustainable modes of transport maximised as much as possible. The ExA considers that to secure maximisation of the sustainable transport mode share Requirement 31 should be amended to include a requirement to ensure that the non-sustainable mode shares are no higher than those in GCG and set as low as possible through agreement with the ATF. With the additional wording in Requirement 31, the ExA is satisfied that the Travel Plan mode share targets would be more ambitious than those within GCG and maximised as much as possible. If the SoS considers that the additional wording is not necessary, then the ExA takes the view that, for the reasons set out above, there is a risk that the Travel

Plan mode shares would not be set at a level which would maximise the use of sustainable modes of transport to the airport and could be contrary to the ANPS.

The Airport Transport Forum

- 3.20.116. The APF advises all airports in England and Wales with more than 1,000 passenger ATM a year to set up ATFs. In accordance with this policy Luton Airport already has an ATF, run by the airport operator, to enable partnership between the airport operator, relevant authorities, transport providers, and other relevant parties. The forum allows all parties to engage on surface access matters for the airport and collate proposals on transport interventions and initiatives.
- 3.20.117. BC's PADSS, requested that it be included in the ATF [\[REP3-051\]](#) as a highway authority. At D4 BC confirmed that it had been invited to join the ATF and would be part of the ATF Steering Group (a sub-committee of the ATF involved in decision-making regarding surface access and administration of the STF [\[REP5-064\]](#)).
- 3.20.118. The ExA is satisfied that the membership of the ATF and the Steering Group is appropriate.

Sustainable Transport Fund

- 3.20.119. In response to concerns raised by IPs including England's Economic Heartland [\[REP1-057\]](#), the HHA [\[REP1-067\]](#), [\[REP1-068\]](#) and [\[REP1-069\]](#), and BC [\[REP1-042\]](#) relating to sustainable transport, the Applicant stated that a STF, which would be used to fund the mitigation measures in the FTP, was being developed with further detail to be provided later in the Examination [\[REP2-035\]](#). The STF was explored at ISH4 [\[EV9-001\]](#). The Applicant was asked to provide an update on its development, including the size of the fund and how it would be secured [\[EV9-007\]](#). The initial version of the STF was submitted at D5 [\[REP5-056\]](#).
- 3.20.120. The STF was further explored at ISH7 [\[EV14-001\]](#). The ExA queried when the fund would be available and whether the fund, as proposed, would be of sufficient size to fund the mitigation listed in the FTP. In the ExA's ExQ2, the ExA sought clarification as to how the fund would work in practice, including asking how the Applicant would ensure it had grown sufficiently to allow for 'pump-priming' of services (providing funding to improve commercial viability) [\[PD-015\]](#), TT.2.10 to TT.2.12]. In response the Applicant submitted a revised STF [\[REP7-042\]](#) which included a significant increase in the fund size (going from £18.5M to £37M) and the introduction of a facility to allow the fund to be used for 'pump-priming'.
- 3.20.121. Following consultation with the local authorities the STF was amended again at D9 [\[REP9-044\]](#) with a final version submitted D10 [\[REP10-039\]](#). The amendments included the incorporation of the Residual Impacts Fund (to fund MT2 as described in the oTRIMMA [\[REP10-036\]](#)) into the STF and a facility for reprovision of any surplus funds to the Community First or Community Fund. The SoCGs signed between the Applicant and HCC [\[REP11-095\]](#) and NHDC [\[REP11-097\]](#) and BC [\[REP11-101\]](#) confirmed that they agreed that the Applicant had adequately considered and addressed their concerns regarding the STF.
- 3.20.122. The airport operator would make the STF available to the ATF to use for mitigation measures required for the Travel Plan or MT2 unforeseen and residual traffic impacts.

- 3.20.123. The signed SoCG confirm that the JHA and BC are satisfied with the STF. The ExA sees no reason to come to a different conclusion. The ExA is satisfied that the STF is secured through Requirement 32 of the draft DCO.

Rail

- 3.20.124. Over 45 RRs raised specific concerns about how the Proposed Development could affect rail capacity. For example, [\[RR-0817\]](#), [\[RR-1506\]](#) and [\[REP1-083\]](#) stated that the north/ south rail links were already overcrowded without the additional passengers that the Proposed Development would generate.
- 3.20.125. At D1 NR stated that it was assessing whether the increased passenger numbers generated as a result of the Proposed Development would create any rail capacity issues [\[REP1-113\]](#). The Applicant responded to NR referring to the TA which presented the rail capacity assessment for the Proposed Development [\[REP2-039\]](#). The Applicant explained that the extent of the interventions to support the growth of rail passenger numbers would depend on the monitoring and evaluation carried out as part of the future Travel Plan and was linked to the proposed GCG Framework. The Applicant stated that it was committed to monitoring the usage of rail services as part of the future Travel Plan and, if deemed appropriate, improvements could be discussed with Train Operating Companies and NR using the future Travel Plan development process and the ATF to prioritise and agree any potential mitigation required.
- 3.20.126. The issue of rail capacity was explored by the ExA during ISH4 [\[EV9-007\]](#). NR, who attended the hearing, were asked if it had undertaken the assessment as to whether the increased passenger numbers generated by the Proposed Development would create any rail capacity issues. NR had not undertaken an assessment at that point and therefore took this away as an action point (AP20) to provide for the Examination for D5 [\[EV9-007\]](#).
- 3.20.127. On 24 October 2023 NR contacted the ExA to explain that their representation in relation to a rail capacity assessment due at D5 would be delayed until D6 in order that it could review information that the Applicant was due to submit at D5 [\[AS-158\]](#). At D5 the Applicant submitted a Rail Impacts Summary [\[REP5-057\]](#).
- 3.20.128. At D6 NR issued a letter to the ExA to explain that although discussions were ongoing between the Applicant and NR in respect of the Rail Impacts Summary [\[REP5-057\]](#) NR still had outstanding questions so could not submit any representations until these had been resolved [\[REP6-119\]](#). In ExQ2 the ExA emphasised that due to the late stage in the Examination it was imperative that NR provided the assessment as to whether the increased passengers numbers would create any rail capacity issues for D7 [\[PD-015\]](#), TT.2.22]. NR responded to [\[PD-015\]](#) at D7 explaining that it was still awaiting information from the Applicant and until this information was received and reviewed it was unable to provide an assessment on capacity [\[REP7-095\]](#).
- 3.20.129. On 17 January 2024 the ExA issued [\[PD-019\]](#) to the Applicant and NR stating that whilst the ExA was mindful that discussions were ongoing, any resolution after the close of the Examination would not be able to be considered by the ExA in its report to the SoS. The ExA therefore requested, as a matter of urgency, that the Applicant supplied NR with the information it required so that NR could review and provide a response to the ExA before the close of the Examination. In response to this PD the Applicant reissued an amended version of the Rail Impacts Summary [\[REP8-030\]](#).

- 3.20.130. At D11 NR submitted [\[REP11-076\]](#) which detailed NR outstanding concerns. NR stated that some of the assumptions and calculations presented in the Rail Impacts Summary [\[REP8-030\]](#) were still unclear or unknown. NR believed that there was a risk that the impact of LLA expansion on Luton Airport Parkway station capacity had been underestimated and listed several questions in relation to Luton Airport Station capacity it wanted the Applicant to answer and additional data it wanted the Applicant to supply. NR also asked the ExA to ensure that it was satisfied that there had been appropriate engagement with Govia Thameslink Railway and East Midlands Railway [\[REP11-076\]](#).

Rail - Conclusion

- 3.20.131. The ExA considers it vital that confirmation that there would be sufficient capacity in the rail network to accommodate the increased passengers that would be generated by the Proposed Development is obtained before any DCO is granted. The ExA recommends that the SoS may wish to consult both the Applicant and NR to establish the position in relation to capacity. The SoS may also wish to satisfy themselves that there has been appropriate engagement by the Applicant with Govia Thameslink Railway and East Midlands Railway as discussed above.
- 3.20.132. The ExA concludes that because it has not been confirmed that there is sufficient capacity in the rail network to accommodate the increased passengers that would be generated by the Proposed Development, this issue attracts great negative weight against the making of the Order.

DART

- 3.20.133. Several IPs, eg [\[RR-0879\]](#), [\[RR\]](#) and [\[RR-1440\]](#), were concerned about the DART, stating that they thought it was too expensive and that it would not have any impact on car use to access the airport. The ExA explored these concerns at ISH4 [\[EV9-007\]](#) and ExQ1 [\[PD-010\]](#), TT.1.15 and TT.1.16]. The Applicant provided information regarding the current DART usage [\[REP3-051\]](#) and [\[REP4-069\]](#) and explained that Luton residents can travel at half-price by scanning a QR code at the station, and that people with a disability and those holding an older person's bus pass can travel for free [\[REP3-051\]](#). [\[RR1440\]](#), were concerned about the DART, stating that they thought it was too expensive and that it would not have any impact on car use to access the airport. The ExA explored these concerns at ISH4 [\[EV9007\]](#) and ExQ1 [\[PD010\]](#), TT.1.15 and TT.1.16]. The Applicant provided information regarding the current DART usage [\[REP3051\]](#) and [\[REP4069\]](#) and explained that Luton residents can travel at half-price by scanning a QR code at the station, and that people with a disability and those holding an older person's bus pass can travel for free [\[REP3051\]](#).
- 3.20.134. The Applicant confirmed that although there were no specific plans to reduce DART fares to encourage more use, because the DART system was owned by the Applicant, it had the ability to take such steps as may be required in the future to increase the attractiveness of the DART to passengers [\[REP4-069\]](#).
- 3.20.135. The ExA understands the concerns raised regarding usage of the DART but is satisfied that the Applicant has demonstrated there would be no capacity issue. The ExA understands IP's concerns with respect to the cost of using the DART. However, it is satisfied that the Applicant would have the ability to reduce the ticket prices in the future to make usage more attractive to passengers if required to support mode share targets. The ExA therefore concludes that this issue neither weighs for nor against the making of the Order.

Bus and Coach

- 3.20.136. Several RRs eg [\[RR-0042\]](#), [\[RR-0472\]](#) and [\[RR-0581\]](#) raised concerns about both future and current lack of bus and coach services to the airport. There was general concern about the lack of east/west bus and coach connectivity, eg [\[RR-1160\]](#) stated that bus connections from Hertfordshire were non-existent. BC was also concerned about east/ west connectivity and asked for local bus service 61 to be reinstated and that long-distance fast bus services connecting east and west should be secured [\[RR-0166\]](#). The HHA were concerned that the lack of detail in the application with respect to anticipated bus patronage would make it hard to plan future bus services [\[RR-0228\]](#), [\[RR-1119\]](#) and [\[RR-0297\]](#).
- 3.20.137. The ExA was concerned that, whilst the Proposed Development included the provision of additional bus and coach bays at the airport, there was no detail supplied about how these would be utilised by the bus and coach operators to provide services particularly in the east/ west directions. LBC expressed these concerns in its LIR [\[REP1A-004\]](#) where it also stated that the application contained no detail of new or enhanced services to meet predicted demand in the assumed modal shift or whether there would be adequate capacity to meet the increased numbers. LBC stated that whilst a commitment was expressed in the draft DCO to support interventions relating to strengthening bus services there should also be a commitment to a feasibility study to identify and develop new routes.
- 3.20.138. The ExA explored these matters at ISH4 [\[EV9-007\]](#) and through ExQ1 [\[PD-010 TT.1.17 and TT.1.18\]](#). In response, the Applicant produced a bus and coach study [\[REP5-058\]](#) which identified gaps in the current network and listed suggested improvements to services to improve connectivity to the airport. The Applicant proposed that this study would be used to inform the Travel Plan. The Applicant also suggested that every five years it would commission a market study of bus and coaches accessing the airport to ensure that opportunities for new and improved services would be identified.
- 3.20.139. The issues were explored further at ISH7 [\[EV14-008\]](#) where the Applicant provided information in relation to its engagement with bus and coach operators and the likelihood of the proposed spaces at the airport being utilised [\[REP6-065\]](#). The Applicant amended the STF to include a facility for £1M to be available for bus and coach services if the first Travel Plan demonstrated the need for early funding, for example to 'pump prime' services which were not initially commercially viable [\[REP7-042\]](#).
- 3.20.140. Through further discussion with the local authorities the Applicant submitted two amended versions of the bus and coach study [\[REP8-032\]](#) and [\[REP10-041\]](#). The SoCG signed between the Applicant and the HHA [\[REP11-095\]](#), [\[REP11-099\]](#) and [\[REP11-097\]](#) and BC [\[REP11-101\]](#) confirmed that they agreed that the Applicant had adequately considered and addressed their concerns regarding bus and coach services.
- 3.20.141. The ExA is satisfied that that the Applicant has considered the concerns regarding the potential lack of bus and coach services to the airport particularly in the east/ west direction. It is satisfied that the proposed mitigation identified within the Bus and Coach Study [\[REP10-041\]](#) for use in the Travel Plan, combined with the STF [\[REP10-039\]](#) ability to be used for 'pump priming' services if required, would be sufficient to ensure there is the facility to provide suitable bus and coach routes to the airport. The ExA considers that, in order that use of the Bus and Coach Study [\[REP10-041\]](#) is secured, Requirement 31(2) is amended to include its use. The ExA

subsequently consider that the Bus and Coach Study [\[REP10-041\]](#) be added to the certified list of documents (Schedule 9). The ExA concludes that if these changes are made this issue neither weighs for nor against the making of the Order.

Walking and Cycling

- 3.20.142. Several IPs, eg [\[RR-0443\]](#), [\[RR-0995\]](#) and [\[RR-1079\]](#) commented that there was a lack of cycling and walking provision in the Proposed Development. For example, the Luton and Dunstable Cycling Forum [\[RR-0874\]](#) stated that the proposals lacked high quality secure cycle parking, for staff who would work at the airport and choose to cycle to work. TfL also noted that given the proximity of Luton to the airport they considered that the Applicant could commit measures to specifically increase the proportion of staff travelling to work by walking or cycling [\[RR-1543\]](#).
- 3.20.143. The HHA considered that the proposed off-site highway works in Hitchin had not sufficiently considered active travel and therefore the proposed mitigation at the three junctions would not be in accordance with the Hertfordshire LTP4 [\[REP1-067\]](#), [\[REP1-068\]](#) and [\[REP1-069\]](#). This concern was also discussed earlier in this section under proposed off-site highway works.
- 3.20.144. The Applicant responded [\[REP1-020\]](#) to the concerns and stated that pedestrian and cycle facilities were indicated on all arms of the junction between the AAR link road and Eaton Green Road, with the potential for signalised crossings to be incorporated into the junction and that crossing facilities would be included in the southern junction with AAR. The Applicant also stated that cycling improvements were included in the toolbox of measures set out in the FTP [\[REP11-027\]](#). However, LBC's LIR did not consider there to be enough detail in the FTP and asked that the Applicant fund the design and construction of cycle route J in the Council's Local Cycling and Walking Infrastructure Plan (LCWIP) [\[REP1A-004\]](#).
- 3.20.145. The ExA explored the cycling and walking provision included in the Proposed Development at ISH4 [\[EV9-007\]](#) and in ExQ1 [\[PD-010\]](#), TT.1.9] asked the Applicant how it had taken account of the DfT Cycle Infrastructure Design guidance (Local Transport Note 1/20 (LTN 1/20)) in the design of the proposed off-site highway works [\[PD-010\]](#). The Applicant's response was that the proposed off-site highway mitigation works had been principally designed to accommodate increased volumes of traffic given that the development would only generate limited numbers of additional walking and cycling trips by the very nature of an airport trip but that the scheme did offer significant opportunities for improvements for cycle provision at a number of locations [\[REP4-069\]](#).
- 3.20.146. In response to [\[EV9-007\]](#), Action point 29] the Applicant produced 'Catchment area for staff walking and cycling' [\[REP4-084\]](#). This document was explored at ISH7 [\[EV14-001\]](#). The report established that currently 2% of staff walked or cycled to work but 28% of staff lived within a 15 minute cycle ride of LLA. Unlike the bus and coach study [\[REP10-041\]](#) the walking and cycling report only explored the catchment area and did not include proposals as to any potential new cycle routes or detail any cycle facilities/ routes that could be improved to make cycling to work more accessible and attractive to staff.
- 3.20.147. The NPPF (paragraph 108) states that transport issues should be considered from the earliest stages of development proposals, so that: "*c) opportunities to promote walking, cycling and public transport use are identified and pursued.*" In relation to cycling in 2020 the DfT published LTN 1/20 This guidance states that appropriate cycle facilities should be provided within all new and improved highways, regardless

of whether the scheme is on a designated cycle route, unless there are clearly defined and suitable alternatives.

- 3.20.148. The Applicant stated in the SAS that they would improve access to the airport on foot and bicycle [APP-228, paragraph 6.5.3] and detailed potential improvements such as dedicated cycling routes into the airport and measures such as exploring the popularity of power-assisted e-cycles. The Applicant also stated that it and the operator would look to improve onsite facilities to support cycling. However, none of these improvements were included within the Proposed Development aside from being listed within the FTP 'toolbox' of potential measures which could be included within the future Travel Plan.
- 3.20.149. The Applicant described the proposed physical cycle provision in [REP4-069]. The Applicant stated that locations of proposed off-site highway mitigation work which included signalised junctions could incorporate signal-controlled crossings which would facilitate safe junction navigation for cyclists. At ISH7 [EV14-001] the ExA explored why no new or improved cycle routes were included within the Proposed Development which would link the airport with the residential area to the north. The Applicant explained that LCWIP sets out a priority list of cycling and walking routes and that the key routes, that have an interface with the existing airport and proposed expansion, are Route J and Route L. The Applicant explained that as part of the first Travel Plan it would look to identify cycling improvements deliverable in the first 5 years and would work with LBC to ensure airport proposals matched with LBC developments to deliver corridor improvements with the greatest potential. LBC confirmed that emerging designs were consistent with LCWIP and noted that the LCWIP is a strategic 10-year plan so was subject to further detailed design [REP6-065].

Walking and Cycling - Conclusion

- 3.20.150. LLP6B(viii) states that the use of sustainable transport modes should be maximised. The ANPS (paragraph 5.5) states the Government's commitment to see the number of journeys made to airports by sustainable modes of transport maximised as much as possible. The DfT's 'Decarbonising Transport' (2021) details the Government's commitment to increase cycling and walking with the aim that half of all journeys in towns and cities will be cycled or walked by 2030. The NPPF (paragraph 108) requires that "*opportunities to promote walking, cycling and public transport use are identified and pursued*".
- 3.20.151. The ExA does not consider that the Applicant has optimised walking and cycling provision in accordance with the requirements of national and local policies which prioritise sustainable transport modes or the guidance within LTN1/20. The ExA concludes that the proposal is not compliant with policy in respect of provision for cycling and walking. Given the emphasis on this factor across policies, the ExA considers that this is a significant omission which therefore attracts great negative weight against the making of the Order.

Sustainable Transport - Conclusion

- 3.20.152. The ExA considers that the GCG non-sustainable mode share Threshold and Limits are unambitious. However, the ExA propose an amendment to Requirement 31 to secure maximisation of the sustainable transport mode share. With the additional wording in Requirement 31, the ExA is satisfied that the Travel Plan mode share targets would be more ambitious than those within GCG and are maximised as much as possible. If the SoS considers that the additional wording is not necessary, then the ExA takes the view that, for the reasons set out above, there is a risk that

the Travel Plan mode shares would not be set at a level which would maximise the use of sustainable modes of transport to the airport and could be contrary to the ANPS. This would therefore weigh greatly against the making of the Order.

- 3.20.153. The ExA is satisfied that the Applicant has considered the concerns regarding the potential lack of bus and coach services to the airport, particularly in the east/west direction. The ExA is also satisfied that the Applicant would have the ability, to support mode share targets in the future, through control of DART ticket prices to make usage more attractive to passengers. The ExA concludes that the number of journeys made to airports by bus and coach has been or can be maximised and that this neither weighs for nor against the making of the Order.
- 3.20.154. However, the ExA is concerned that by the close of the Examination NR [\[REP11-076\]](#) had not been able to confirm whether there would be sufficient capacity on the rail network to accommodate the increased passengers that would result from the Proposed Development. The ExA concludes that the use of rail cannot be relied upon to contribute towards maximisation of sustainable transport modes in line with policy. Given the importance of the DART as a link to the railway and proximity of the main line station, this is considered to be a significant failing and therefore attracts great negative weight against the making of the Order.
- 3.20.155. Furthermore, the ExA does not consider that the Applicant has optimised walking and cycling provision in accordance with the requirements of national and local policies which prioritise sustainable transport modes, and the guidance within LTN1/20. The ExA concludes that the proposal is not compliant with policy in respect of provision for cycling and walking. Given the emphasis on this factor across policies, the ExA considers that this is a significant omission which therefore attracts great negative weight against the making of the Order.

Construction

- 3.20.156. Over 30 RRs, eg [\[RR-0237\]](#), [\[RR-0922\]](#) and [\[RR-1510\]](#) raised concerns in relation to the construction phase of the Proposed Development. These concerns were mainly related to the disruption caused by the construction of the proposed off-site highway works and the effect that construction traffic, particularly HGVs, would have on the LRN, eg [\[RR-0342\]](#). BC was particularly concerned with the lack of information that was provided in the application on routes which could be used by construction vehicles particularly as Buckinghamshire was already affected by other construction projects (including HS2) [\[RR-0166\]](#).
- 3.20.157. For the mitigation of construction related impacts specifically related to TT the Applicant produced an oCTMP [\[APP-130\]](#) and an oCWTP [\[APP-131\]](#).
- 3.20.158. In relation to the oCTMP the relevant Highway Authorities at ISH7 were asked to provide the Applicant with a list of roads they considered should not be used for construction traffic [\[EV14-008\]](#). The Applicant agreed to consider this list but stated that although it was too early to impose specific limitations, they would be considered for the final CTMP which would be issued before any authorised development commenced. The Applicant did amend the oCTMP to include the requirement for dilapidation surveys to be undertaken at the start and end of each phase. The Applicant also included a condition on the lead contractor to develop and implement a HGV management system during the construction of the Proposed Development to enable the lead contractor to track vehicle movements off-site and ensure sensitive locations were appropriately protected [\[REP11-005\]](#).

- 3.20.159. The potential additional measures mentioned in the oCWTP were explored by the ExA at ISH7 [\[EV14-008\]](#). The Applicant responded by amending the oCWTP to include a list of potential measures that could be implemented. [\[REP8-018\]](#).
- 3.20.160. In response to the ExA commentary on, or schedule of changes to the draft DCO [\[PD-018\]](#) the Applicant changed Requirement 14 and Requirement 15 in Schedule 2 so that rather than the CTMP and CWTP requiring consultation with the relevant highway authority it must instead be with the “specified authorities” (comprising CBC, HHA, LBC), BC and NH under Requirement 14, and with the “specified authorities” and BC under Requirement 15.
- 3.20.161. The SoCG signed between the Applicant and BC [\[REP11-101\]](#) confirmed that it agreed that the Applicant had adequately considered and addressed their concerns regarding construction impacts on TT in Buckinghamshire.

Construction - Conclusion

- 3.20.162. The ExA is satisfied that the requirement for consultation with all highway authorities would ensure that the final approved CTMP and CWTP would be fit for purpose. The ExA is satisfied that the construction related impacts specifically related to TT would be suitably mitigated by the CTMP and the CWTP. Although any construction impacts would be temporary, they would occur over a number of years due to the length of the various construction phases. The ExA therefore concludes that overall, considering the measures proposed within the CTMP and CWTP, construction attracts little negative weight against the making of the Order.

CONCLUSIONS ON TRAFFIC AND TRANSPORT

- 3.20.163. The ExA has examined the following topics as part of TT:
- transport modelling;
 - traffic;
 - proposed off-site highway works;
 - parking;
 - sustainable transport (including cycling and walking); and
 - construction (transportation issues).
- 3.20.164. The ExA is satisfied that matters relating to transport modelling are neutral and do not weight for nor against the making of the Order.
- 3.20.165. The ExA is satisfied that that the construction related impacts specifically related to TT would be suitably mitigated by the CTMP and the CWTP. The ExA concludes that although any construction impacts would be temporary, they would occur over a number of years due to the length of the various construction phases, subsequently construction attracts little negative weight against the making of the Order.

Traffic (including off-site highway works and parking)

- 3.20.166. In relation to the off-site highways works, based on the evidence supplied through the Examination, the ExA does not consider that the scale of the proposed works to Eaton Green Road, Wigmore Lane and Crawley Green Road is necessary. The ExA considers that if the proposed off-site highway mitigation for this area remains in the DCO then more stringent controls are required to ensure that the primary purpose of such works is to mitigate airport related traffic. To ensure that this is the case the ExA proposes a new Requirement which is set out in more detail in Table 23 of Chapter 7 of this Report. With the inclusion of this new Requirement, the ExA is

satisfied that the scale and extent of any works undertaken in this area would be proportionate and appropriate to mitigate the impacts from airport related traffic and as such would neither weigh for nor against the making of the Order. If the SoS considers that the new Requirement is not necessary, then the ExA takes the view that, for the reasons set out above, these works would attract moderate negative weight against the making of the Order.

- 3.20.167. Furthermore, the ExA shares the concerns of the HHA regarding the proposed mitigation for the effects of traffic around Hitchin and agrees that suitable amendments should be made to the proposed designs for the three Hitchin junctions. The ExA recommends that the SoS may wish to check whether an appropriate side agreement is in place that provides amended designs which are more consistent with HHA policy. At the close of the Examination this issue remained outstanding and the ExA has had no sight of any side agreement. The ExA therefore concludes that this attracts great weight against the making of the Order.
- 3.20.168. The ExA considers there is a potential for ‘rat-running’ on rural roads from an increase in traffic and agrees with HHA that suitable monitoring should be provided. At the close of the Examination this issue remained outstanding and the ExA has had no sight of any side agreement. The ExA recommends that the SoS may wish to check that an appropriate side agreement is in place in this respect. The ExA therefore concludes that without an appropriate side agreement this attracts great weight against the making of the Order.
- 3.20.169. The Examination has identified that it is likely that there is a current ‘fly-parking’ issue as a result of LLA. The increase in passengers and staff generated by the Proposed Development would probably make this issue worse. Although the oTRIMMA contains mechanisms to address ‘fly-parking’, residents would still be adversely impacted because they would be expected to pay for parking permits and a permit scheme would take some time to implement. Furthermore, requiring the local residents to pay could reduce the uptake of the scheme and a delay in implementation would lead to local impacts on local parking, in conflict with the APF policy. The ExA therefore concludes that this issue attracts moderate negative weight against the making of the Order.
- 3.20.170. Whilst the ExA acknowledges that there is no requirement on the Applicant to ensure no increase in airport related traffic it is clear from what the ExA has read and heard in the Examination that the Proposed Development would result in a substantial traffic increase. The GCG surface access mode shares act as the ‘reasonable worst case’ and are used to inform the ES and TA and therefore act as a backstop in relation to the maximum additional traffic the Proposed Development could generate. It is intended that the Travel Plan contain more ambitious mode share targets, however the Applicant has identified that targets that would ensure no increase in traffic are unachievable, in fact they would need to be significantly lower (around 20%) than the proposed GCG Limits.
- 3.20.171. The NPPF (December 2023) states that “*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*” Whilst the modelling suggests that there would be no significant adverse effects to either the LRN or the SRN the amount of extra traffic the Proposed Development would generate is considerable. The proposed off-site highway mitigation has been designed to alleviate this traffic increase at certain locations, however there would remain numerous minor impacts across the network. In particular, the ExA is

concerned that there is a potential for 'rat-running' on rural roads due to an increase in traffic, but the Proposed Development does not include the appropriate monitoring to identify it and subsequently mitigate it. The Applicant has acknowledged the potential for residual traffic related impacts and created the TRIMMA process to address this. However, this process only includes monitoring at the locations of the proposed off-site highway works. Monitoring in other locations on the LRN and SRN would need to be undertaken by the relevant highways authority and the onus would be on them to demonstrate any issue identified was airport related. The ExA considers that these residual, albeit individually minor impacts, when considered cumulatively on the road network could be severe. This weighs greatly against the making of the Order.

Sustainable Transport

- 3.20.172. The ExA considers that the GCG non-sustainable mode share Threshold and Limits are unambitious, particularly for staff considering the control the Applicant has over how its staff travel to work and the proximity of residential areas to the airport. However, it is understood that it is the intention that the mode share targets in the Travel Plan would be more ambitious than those in GCG [\[REP11-027\]](#), paragraph 4.1.4]. The Travel Plan would have a five-yearly review process and therefore the mode share could be regularly updated to ensure it is set as high as possible to encourage the switch to sustainable modes of transport.
- 3.20.173. The ANPS (paragraph 5.5) states the Government's commitment to see the number of journeys made to airports by sustainable modes of transport maximised as much as possible. The ExA considers that to secure maximisation of the sustainable transport mode share Requirement 31 should be amended to include a requirement to ensure that the non-sustainable mode shares are no higher than those in GCG and set as low as possible through agreement with the ATF. With the additional wording in Requirement 31, the ExA is satisfied that the Travel Plan mode share targets would be more ambitious than those within GCG and maximised as much as possible. If the SoS considers that the additional wording is not necessary, then the ExA takes the view that, for the reasons set out earlier in this section, there is a risk that the Travel Plan mode shares would not be set at a level which would maximise the use of sustainable modes of transport to the airport and could be contrary to the ANPS which would weigh against the making of the Order.
- 3.20.174. LLP Policy LLP6B(viii) states that the use of sustainable transport modes should be maximised, and the use of the private car minimised. The ANPS (paragraph 5.5) states that the Government is committed to seeing the number of journeys made to airports by sustainable modes of transport maximised. The NPPF states that *"opportunities to promote walking, cycling and public transport use are identified and pursued"*. The DfT 'Decarbonising Transport' (2021) details the Government's commitment to increase cycling and walking with the aim that half of all journeys in towns and cities will be cycled or walked by 2030.
- 3.20.175. The ExA is satisfied that that the Applicant has considered the concerns regarding the potential lack of bus and coach services to the airport, particularly in the east/west direction. This is because the proposed mitigation identified within the Bus and Coach Study [\[REP10-041\]](#) for use in future Travel Plan, combined with the STF's [\[REP10-039\]](#) ability to be used for 'pump priming' services if required, would be sufficient to ensure there is the facility to provide suitable bus and coach routes to the airport. The ExA proposes that this is secured through an amendment to Requirement 31(2) and Schedule 9. The ExA is also satisfied that the Applicant would have the ability, to support mode share targets in the future, through control

of DART ticket prices to make usage more attractive to passengers. The ExA concludes that the number of journeys made to airports by bus and coach has been or can be maximised and that this weighs neither for nor against the making of the Order.

3.20.176. However, the ExA is concerned that by the close of the Examination NR [\[REP11-076\]](#) had not been able to confirm whether there would be sufficient capacity on the rail network to accommodate the increased passengers that would result from the Proposed Development. The ExA concludes that the use of rail cannot be relied upon to contribute towards maximisation of sustainable transport modes in line with policy. Given the importance of the DART as a link to the railway and proximity of the main line station, this is considered to be a significant failing and therefore attracts great negative weight against the making of the Order.

3.20.177. Furthermore, the ExA does not consider that the Applicant has optimised walking and cycling provision in accordance with the requirements of national and local policies which prioritise sustainable transport modes or the guidance within LTN1/20. The ExA concludes that the proposal is not compliant with policy in respect of provision for cycling and walking. Given the emphasis on this factor across policies, the ExA considers that this is a significant omission which therefore attracts great negative weight against the making of the Order.

Overall conclusion on traffic and transport

3.20.178. In summary the ExA is satisfied that that the construction related TT impacts would attract a little negative weight against the making of the Order. Matters relating to the transport modelling approach are neutral and do not weigh for nor against the making of the Order.

3.20.179. The ExA acknowledges that whilst the modelling suggests that there would be no significant adverse effects to either the LRN or the SRN, the amount of extra traffic the Proposed Development would generate is considerable. The proposed off-site highway mitigation has been designed to alleviate this traffic increase at certain locations, however there would remain numerous minor impacts across the network. The ExA considers that these residual impacts when considered cumulatively on the road network could be severe. This therefore weighs greatly against the making of the Order.

3.20.180. If it can be confirmed that there is sufficient rail capacity and including the amended Requirement 31 (Travel Plan), then the ExA concludes that the lack of ambition in the Proposed Development for sustainable transport would attract moderate negative weight against the making of the Order.

3.20.181. However, if the SoS decides that the proposed amendments to Requirement 31 are not necessary and no confirmation can be secured regarding rail capacity then insufficient provision for sustainable transport alone would attract great negative weight against the making of the Order.

3.20.182. The ExA is concerned that the airport is already exceeding its proposed Phase 1 GCG Limits for passengers and staff. The GCG surface access mode shares act as the 'reasonable worst case' and are used to inform the ES and TA. With the amendment to Requirement 21(b) the ExA is confident that the Applicant could identify trends in the surface access mode share and only serve the notice when it was confident that the Phase 1 Limits would not be breached, and ultimately prevent a situation occurring which was materially worse than assessed in the ES.

- 3.20.183. On the basis of the amended Requirement 21, overall, for the reasons discussed in this section, the ExA concludes that TT attracts great negative weight against the making of the Order.

3.21. WASTE AND RESOURCES

INTRODUCTION AND POLICY BACKGROUND

- 3.21.1. This section considers the assessment of Waste and Resources (W&R).
- 3.21.2. A list of relevant policies and legislation related to the assessment of W&R can be found in Appendix B.
- 3.21.3. W&R comprise the generation and management of waste; and the consumption of materials and products (from primary, recycled or secondary, and renewable sources).
- 3.21.4. Resources are defined as construction materials and products, assets associated with the management of waste or production of materials such as landfill capacity, safeguarded waste sites and MSA.
- 3.21.5. Waste is defined in the European Waste Framework Directive (2008/98/EC, Waste FD) (Ref. 19.1) as *“any substance or object which the holder discards or intends or is required to discard”*.
- 3.21.6. The historic landfill in Wigmore Park and transportation issues relating to the hauling of waste and resources in and out of the Proposed Development are not considered here. These topics are covered in Geology and Land Contamination and Traffic and Transport (Sections 3.11 and 3.20) of this report.

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- 3.21.7. The Applicant's assessment of W&R is primarily contained within Chapter 19 of the ES [\[AS-081\]](#) and [\[APP-162\]](#). This assessed the likely significant effects of the Proposed Development on W&R.
- 3.21.8. In addition, the Applicant submitted the following:
- ES Appendix 19.1 oSWMP [\[AS-097\]](#);
 - ES Appendix 19.2 Outline Operational Waste Management Plan (oOWMP) [\[APP-134\]](#); and
 - ES Appendix 4.2 CoCP [\[REP8-013\]](#).
- 3.21.9. In relation to W&R the following effects of the Proposed Development were assessed: the availability of resources, specifically key construction materials during construction and operation; and landfill void capacity during construction and operation.
- 3.21.10. The Applicant [\[AS-081\]](#), Table 19.56] provided details of embedded and good practice mitigation for each potential W&R impact. This mitigation is split into three areas: design, construction and operation, as described in [\[AS-081\]](#), Section 19.8].
- 3.21.11. The design of the Proposed Development and the planned approach for its construction was developed with an overarching principle of achieving efficiencies in W&R where possible. The Applicant proposed to divert waste from landfill through on-site and off-site recycling and recovery by implementing embedded mitigation [\[AS-081\]](#), paragraph 19.8.4] and good practice [\[AS-081\]](#), paragraphs 19.8.7 and 19.8.8].

- 3.21.12. The Applicant stated that mitigation measures to minimise the W&R effects during construction were embedded into the Proposed Development, including the setting of waste and recycling targets as per the ANPS [AS-081, paragraph 19.8.5] and [AS-081, table 19.3]. Good practice mitigation for waste management was set out in the CoCP [REP8-013] and the oSWMP [AS-097] [AS-081, paragraph 19.8.9 to 19.8.13].
- 3.21.13. The Applicant's assessment included estimated key construction material quantities for each assessment phase and by year (dividing each assessment phase equally by the number of years within it). The Applicant provided tables to compare these quantities with the national and regional annual consumption baseline [AS-081, Table 19.40 to Table 19.43]. The Applicant concluded that for all construction years, no individual construction material is equal to or greater than 1% by weight of the national baseline consumption [AS-081, paragraph 19.9.10].
- 3.21.14. When considering the assessment phases regionally some of the percentages were higher, particularly for Assessment Phase 2a [AS-081, Table 19.42] (see Table 13 below). However, the Applicant concluded that assessment by phase was conservative since the total construction material use would not be within a single year. [AS-081, paragraph 19.9.18]. The estimated construction material quantities and percentage of regional consumption by year was given in Table 19.43 (see Table 14 below).

Table 13 13: Estimated construction material and percentage of regional consumption by assessment phase from [AS-081, Table 19.42]

Material type	Regional consumption (million tonnes)	Assessment Phase 1 (tonnes)	%	Assessment Phase 2a (tonnes)	%	Assessment Phase 2b (tonnes)	%
Concrete	48.4	111,295	0.23	944,421	1.95	206,117	0.43
Asphalt	9.9	138,013	1.39	251,678	2.54	151,503	1.53
Steel - Structural and rebar	Not applicable, considered at national scale only	-	-	-	-	-	-
Aggregate and earthworks material - imported	62.4	145,745	0.23	1,425,730	2.28	661,365	1.06

Table 14 14: Estimated construction material and percentage of regional consumption by year from [AS-081, Table 19.43]

Material type	Regional consumption (million tonnes)	Assessment Phase 1 (2025-2027 2.5 years) (tonnes)	% of regional consumption	Assessment Phase 2a (2033-2036 3 years) (tonnes)	% of regional consumption	Assessment Phase 2b (2037-2040 4 years) (tonnes)	% of regional consumption
Concrete	48.4	44,518	0.09	314,807	0.65	51,529	0.11
Asphalt	9.9	55,205	0.56	83,893	0.85	37,876	0.38
Steel - Structural and rebar	Not applicable, considered at national scale only	-	-	-	-	-	-
Aggregate and earthworks material - imported	62.4	58,298	0.09	475,243	0.76	165,341	0.26

- 3.21.15. Mitigation measures to minimise the W&R effects during operation have been embedded into the Proposed Development, including the setting of waste recycling

targets as per the ANPS within the oOWMP [APP-134] [AS-081, paragraph 19.8.6]. Good practice examples were given in [AS-081, paragraphs 19.8.14 to 19.8.17].

3.21.16. The Applicant's assessment concluded that:

- No significant effects for resources during the construction phase were likely [AS-081, Table 19.56].
- No significant effects for non-hazardous waste during the construction phase were likely [AS-081, Table 19.56].
- There would be a moderate significant effect on hazardous waste capacity during the construction phase in the Three Counties Expansive Study Area, which would reduce to slight and not significant when considered against the available national hazardous landfill void capacity [AS-081, Table 19.56].
- No significant effects for resources or waste during the operation phase were likely [AS-081, Table 19.56].

ISSUES CONSIDERED

3.21.17. W&R was not highlighted as a specific concern in any of the LIRs. The SoCG record that any matters that were raised in relation to this topic are agreed. The ExA did not consider it necessary to ask questions or examine the matter further.

3.21.18. Two IPs raised concerns in relation to W&R. [RR-0712] was concerned about increased levels of littering and fly tipping and [RR-1183] thought the LBC household and waste recycling centre 'Tidy Tip' would be lost. The Applicant responded to these concerns in [REP1-020].

3.21.19. In relation to the concern over increased levels of littering the Applicant advised that LBC, was responsible for the management of streets surrounding the airport and that this included the management of litter, so this was not a matter of relevance to the application [REP1-020, page 107].

3.21.20. In relation to the concern over the potential loss of the 'Tidy Tip' the Applicant explained that the Proposed Development study boundary safeguarded the waste site. The Applicant confirmed that the Proposed Development would not impact the 'Tidy Tip'. The Applicant also confirmed that access to the 'Tidy Tip' would be maintained during construction and that it would not be used to manage waste from the Proposed Development [REP1-020, page 103].

3.21.21. The ExA is satisfied that littering would be managed by LBC and that the 'Tidy Tip' would be maintained.

CONCLUSIONS ON WASTE AND RESOURCES

3.21.22. The oOWMP would be secured by Requirement 35 and the CoCP (including oSWMP) would be secured by Requirement 8 of the draft DCO [REP11-091]. The ExA is therefore satisfied that the effect of the construction and operation of the Proposed Development on W&R would be properly managed. The ExA is also satisfied that adequate steps would be taken to minimise the volume of waste (non-hazardous and hazardous) sent for disposal through the setting of waste targets in line with the requirements of ANPS (paragraph 5.141) [AS-097].

3.21.23. The ExA is satisfied that the Proposed Development accords with relevant legislation, policy and guidance requirements relating to W&R, including LBC LLP37. As such the ExA considers that W&R is neutral and therefore does not weigh for nor against the making of the order.

3.22. WATER RESOURCES AND FLOOD RISK

INTRODUCTION

- 3.22.1. This section of the report considers the effects of the Proposed Development on the water environment, including flood risk. Approximately 30 IPs submitted RR raising concerns about the effect of the proposals on water resources, drainage and flooding. The potential effects on water resources were identified as a principal issue in the ExA's IAPI [\[PD-007\]](#), Annex C].

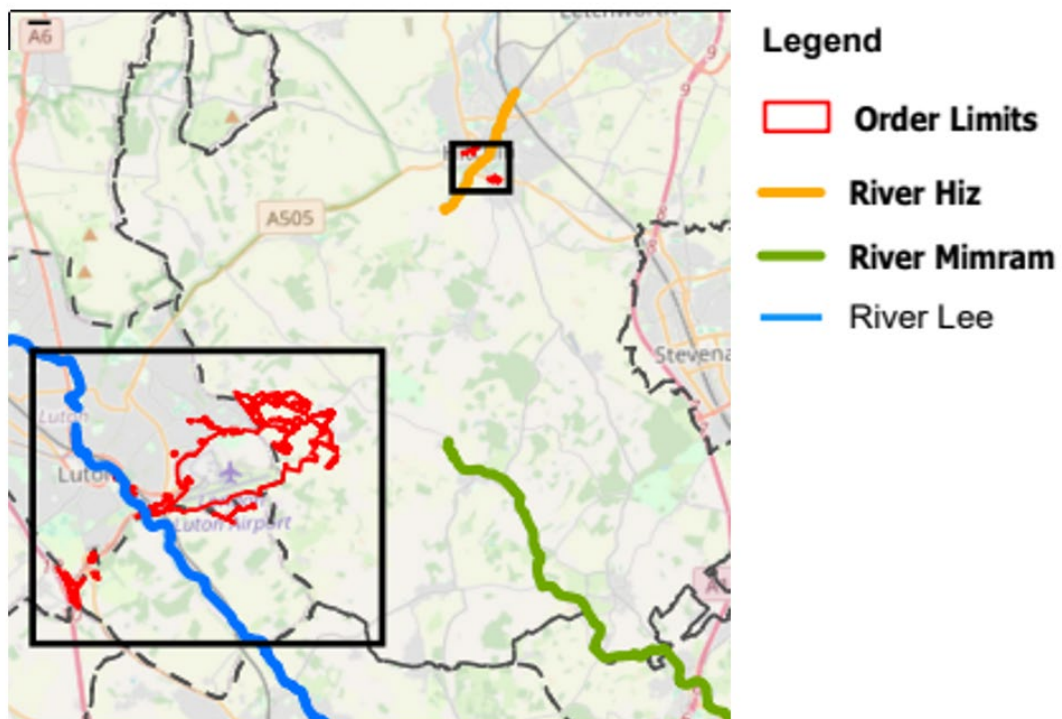
POLICY BACKGROUND

- 3.22.2. A brief overview of key policies is provided below; a list of relevant policies and legislation can be found in Appendix B.
- 3.22.3. The ANPS recognises that airport infrastructure projects can have adverse effects on the water environment (paragraph 5.172). Airports can lead to increased demand for water, involve discharges and cause adverse ecological effects from physical modifications to the water environment. There may also be an increased risk of spills and leaks of pollutants, including from de-icer. Paragraph 5.175 onwards set out the expectations for the Applicant's assessment. This includes early contact with the regulators and cooperation with the water and sewerage undertakers. It is recognised that the risk of impacts on the water environment can be reduced through careful design to adhere to good pollution practice.
- 3.22.4. Paragraph 5.183 states more weight will generally need to be given to impacts on the water environment where a project would have adverse effects on the achievement of the environmental objectives established under the WFD.
- 3.22.5. NPPF (paragraph 180) states that development should not contribute to or be adversely affected by unacceptable levels of water pollution. Development should, wherever possible, help to improve water quality, taking into account relevant information, such as river basin management plans (RBMP).
- 3.22.6. The NPPF (paragraph 165) and the ANPS, states that inappropriate development in areas at risk of flooding should be avoided, setting out the sequential and exception tests (paragraph 172). NPPF (paragraph 173) and the ANPS (paragraph 5.148) state that development should not increase flood risk elsewhere and a site-specific flood-risk assessment should accompany applications for development in Flood Zone 1 of 1ha or more. The ANPS (paragraph 5.154) sets out the expectations for flood risk assessments. The ANPS states that decisions should take account of policy on climate change adaption (paragraph 5.147).
- 3.22.7. NPPF (paragraph 175) states that major developments should incorporate SuDS. ANPS (paragraph 5.170) states that where construction work has drainage implications it must be demonstrated that the proposed system complies with any technical standards issued by the Government. In addition, the DCO must make provision for the adoption and maintenance of any SuDS.
- 3.22.8. Policy LLP6 of the LLP requires that provision is made for sustainable drainage at LLA in order to ensure protection of the underlying aquifer and prevent any harm occurring to neighbouring and lower land. Policy LLP36 reflects national policies in directing new development to areas with the lowest probability of flooding and requiring that the development does not increase the risk of flooding. The development plans of the HHA contain similar policies for the protection of water resources.

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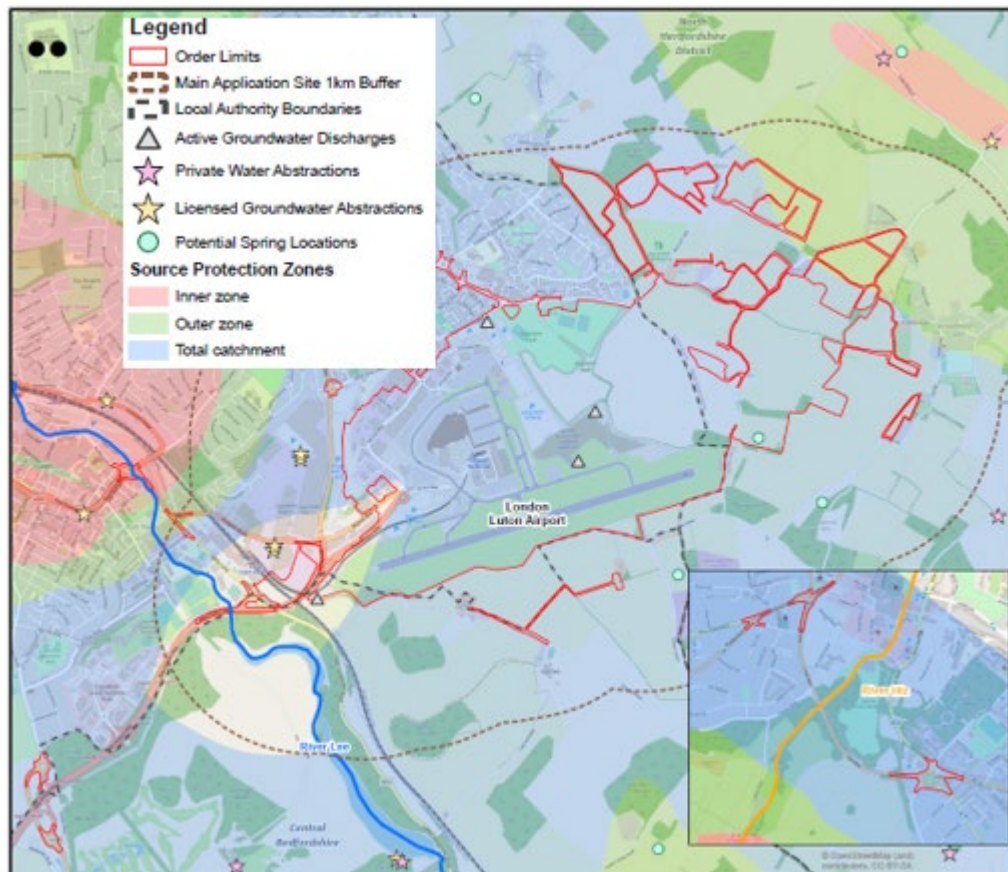
- 3.22.9. The Applicant's assessment of the potential effects of the Proposed Development on water resources and flood risk is in Chapter 20 of the ES [\[AS-031\]](#). Baseline conditions are described in [\[AS-031\]](#), section 20.7].
- 3.22.10. The Main Application Site straddles the catchments of two surface water courses, the River Lee (also referred to as the Lea) and River Mimram (see Figure below). The Lee runs through Luton to within approximately 450m south-west of LLA via Luton Hoo Lakes, crossing below highways works (Works Nos. 6e (a), (b) and (i)). The Mimram emerges over 2 Km to the south-east of the Order Limits. Both rivers are likely to be in continuity with groundwater. In addition, the River Hiz near Hitchin is in proximity to highway Works Nos. 6e (k), (l) and (m).

Figure 21: Surface water features in the area [\[REP9-019\]](#), Figure 20.1]



- 3.22.11. The Order land is underlain by chalk bedrock, which predominantly transports water through a network of fissures and fractures. This is generally overlain with clay rich superficial deposits. The area is one of groundwater scarcity [\[REP5-096\]](#), paragraph 3.3.1]. Monitoring indicates that groundwater levels are at least 15m below ground level (mBGL) at the Main Application Site [\[AS-031\]](#), paragraph 20.7.18]. The Applicant concluded that there would be no detriment to baseflows in the area because neither excavation works below the water table nor groundwater lowering would be required [\[AS-031\]](#), 20.9.3]. The chalk is a 'principal' aquifer and is classified by the EA as having 'high to intermediate vulnerability' below the site. The Main Application Site is almost entirely underlain by Source Protection Zones (SPZ) associated with AW's public water supply to the north-east (see Figure below). Contamination of groundwater from previous industrial use, including the landfill, has been identified beneath the Main Application Site, although this is limited in extent [\[APP-124\]](#).

Figure 22: Abstractions and Source Protection Zones [REP9-019, Figure 20.2]



3.22.12. AW and TWUL are the current statutory undertakers for public water supply and sewerage respectively. Veolia Water operates the private water supply and sewerage infrastructure within LLA itself. LLAOL operate LLA's surface water drainage system. The Applicant reported that all of these organisations were consulted to inform the proposed design [AS-031, paragraph 20.4].

3.22.13. The methodology for the environmental assessment was set out in [AS-031, paragraph 20.5]. This established a baseline identifying all surface water and groundwater features, including flood zones, based on published literature, ground investigation and asset location plans. The Applicant then identified all the construction and operational activities that could affect these receptors [AS-031, paragraph 20.5].

Water usage

3.22.14. The Water Cycle Strategy (WCS) [REP4-033] determined the existing baseline conditions of the local water environment with reference to LBC's Luton Water Cycle Strategy [REP4-033]. It reviewed the potential changes to the water balance caused by the Proposed Development, including a review of likely consumption, and outlined measures to reduce the impact [REP4-033, paragraph 1.1]. The Applicant reported that LLAOL has committed to reduce consumption per passenger [REP5-096, paragraph 4.2.14].

3.22.15. A rainwater harvesting system would be introduced to allow roof water from Terminal 1 to be used as a non-potable water source. From Phase 2 the water would be recycled via the new WTP with attenuated surface water [REP5-096] and

[\[REP4-033\]](#). Details of rainwater harvesting for Phase 2 were illustrated in [\[REP5-096\]](#), Inset 4.5].

- 3.22.16. The DDS [\[REP5-096\]](#) and WCS [\[REP4-033\]](#) described a number of water efficiency, collection and recycling measures to minimise any net increase in supply requirements that would be needed from operation of the expanded airport. The WCS concluded a water balance that would not exceed 7.5 litres per second for the terminal and non-terminal buildings could be achieved for all phases. This would be the same as the current average water demand for LLA. The Applicant concluded that as a result there would not be a significant effect on water resources during operation [\[AS-031\]](#), Table 20.14].
- 3.22.17. The CoCP [\[REP8-013\]](#), paragraph 17.6] listed water efficiency measures to be observed during construction, including a commitment to report consumption to AW on a quarterly basis. The Applicant concluded that there would be a temporary increase in water demand during construction works but that this would not significantly affect water resources [\[AS-031\]](#), Table 20.13].

Drainage infrastructure

- 3.22.18. A detailed description of the existing drainage network, including catchment areas and a water balance were presented in the DDS [\[REP5-096\]](#). Surface water generated on the Main Application Site is currently captured by a pipe network with a mechanism to send the first pulse of a rainfall event to the combined sewerage system and onto East Hyde Sewage Treatment Works (STW), operated by TWUL to the south of LLA on the River Lee. Water is then directed into one of the existing soakaways or the public surface water drainage network, which ultimately discharges under a permit to the northern soakaway or the River Lee. Contaminated water from the FTG is currently tankered off-site for treatment [\[AS-031\]](#), paragraph 20.7.48].
- 3.22.19. The Applicant stated that the DDS is predicated on the core principles of SuDS [\[REP5-096\]](#), paragraph 3.10]. The DDS describes and illustrates how flows would be balanced to maximise sustainability. In Phase 1, surface water discharge from the proposed apron and reconfigured long stay car park (Work No. 4) would be discharged to the central soakaway. Live monitoring of contaminants would occur, and any contaminated water would be diverted to the public sewerage network. Petrol interceptors and treatment would be provided for discharge from the new car park (Wok No. 4) prior to discharge [\[AS-031\]](#), paragraph 20.8.8]. Foul water discharge to the TWUL network would increase. To address this the DDS proposes to attenuate peak flows in storage tanks and to discharge to the network at off-peak times.
- 3.22.20. The main new drainage infrastructure would be installed in Phase 2a. This would include installation of a new WTP and attenuation tanks [\[AS-031\]](#), paragraph 20.8.12]. Two large, underground infiltration tanks would be installed in the south-east corner of the Order Limits. One would act as a replacement for the existing central soakaway for uncontaminated surface water. The second infiltration tank would mainly be for treated effluent from the WTP [\[AS-031\]](#), Section 20.8.12]. The drainage design from Phase 2a onwards has been developed to accommodate a 1 in 100 year return period storm event, including a 40% uplift to allow for climate change [\[AS-031\]](#), paragraph 20.8.24].
- 3.22.21. Inline pollution prevention measures such as full retention separators would be utilised for all runoff from aprons, taxiways and the runway. There would be real-

time monitoring of contaminant levels and volumes to determine if surface water across the remainder of the Main Application Site was contaminated. If contamination was detected, water would be diverted into storage tanks and then to the WTP. Permeable paving comprising bio-membranes would be installed at all surface car parks [AS-031, paragraph 20.8.13].

- 3.22.22. The WTP would have three treatment streams; one for sewage from T2 and a second for contaminated airfield drainage, which would then be discharged to the treated effluent infiltration tank. The third stream would be for attenuated surface water for re-use as greywater for returning to the terminals via a holding tank for non-potable use [AS-031, paragraph 20.8.18]. The processes are described in more detail in [REP5-096].
- 3.22.23. The proposed FTG (Work No. 2) would be self-contained; surface water would be diverted to a holding tank. Effluent associated with the FTG would then be directed to the public foul sewerage system or tankered away [AS-031, paragraph 20.8.21]. Surface water in the fuel storage area (Work No. 6) would drain through petrol interceptors with sensors and if contamination were detected the water would be diverted to the WTP. In the event of a substantial leak, the fuel would be collected and tankered away [AS-031, paragraph 20.8.22].
- 3.22.24. The drainage system for the AAR would be separate to that on the Main Application Site and the Applicant assumed that it would be adopted and managed by LBC [AS-031, paragraph 20.8.25]. A screening process was undertaken by the Applicant to determine the risk posed by highway works to local surface water receptors, based on the potential change in traffic volumes and extent of works [AS-031, paragraph 20.9.30]. The Applicant undertook further assessment of numerous works [AS-031, paragraph 20.9.30] using the Highways England Water Risk Assessment Tool (HEWRAT), which identified that additional management measures were required. The Applicant stated that these would be specified during the detailed design stage in consultation with the local authority and EA, as secured in the draft DCO [REP11-091, Requirement 13]
- 3.22.25. Given the mitigation measures described above, the Applicant concluded that there would not be a significant effect from the drainage on water resources [AS-031, Table 20.17].

Production of water resources and quality during construction

- 3.22.26. Controls for manage water runoff and pollution risk during construction were outlined in the CoCP [REP8-013, section 18]. This would require the lead contractor to prepare a Construction Surface Water Management Strategy [REP8-013, section 18.2].
- 3.22.27. The CoCP [REP8-013] listed the key precautionary measures that would need to be implemented, including water management, surface water drainage, sediment control and pollution prevention. These were underpinned by reference to best practice guidance, including for SuDS [REP8-013, paragraph 18.2.2].
- 3.22.28. Works in the landfill would be subject to the measures in the oRS (for the Former Eaton Green Landfill) [REP6-005]. An Environmental Permit would be required prior to recovery of the landfill waste for which a Hydrogeological Risk Assessment would need to be prepared. The Foundation Works Risk Assessment (FWRA) [REP6-007] provided an evaluation of the most appropriate piling techniques to ensure that contamination would not be mobilised. The Applicant concluded that there could be

a beneficial effect to groundwater and surface water quality in the long-term, given the removal of potential sources of contamination, and installation of a capping layer [AS-031, paragraph 20.9.19] albeit this would be minor [AS-031, paragraph 20.9.7].

- 3.22.29. The appointed contractor would need to agree the groundwater monitoring plan pre-construction, during construction and post construction into the operational period of the Proposed Development. To this end, an Outline Strategy Report for Groundwater, Ground Gas and Leachate Monitoring was provided [APP-127].
- 3.22.30. Based on the above, the Applicant concluded that the effects on water resources and quality during construction would not be significant [AS-031, paragraph 20.9.6, Table 20.13, Table 20.14].

Water Framework Directive

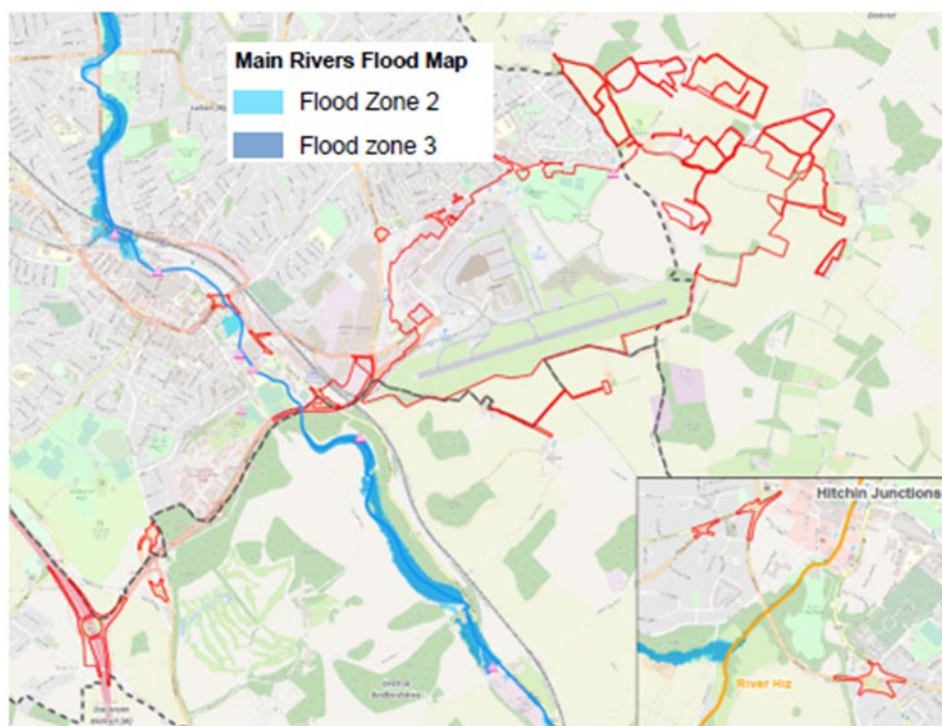
- 3.22.31. The WFD Compliance Assessment [REP4-027] reviewed the potential effects of the Proposed Development on all local groundwater and surface water bodies. A map of the waterbodies was presented in Figure 20.4 [REP9-019].
- 3.22.32. The River Lee (from Luton to Luton Hoo Lakes) is designated as a Highly Modified Water Body. In the 2019 classification it was classified as having a bad ecological status and failing for chemical status. Failures were attributed in part to sewage discharge, urbanisation, groundwater abstraction, transport drainage and flood protection structures [REP4-027, paragraph 6.2.9]. The water body has an objective of meeting good status by 2027 [REP4-027, paragraph 6.2].
- 3.22.33. The River Mimram (Whitwell to Codicote Bottom) was scoped into the WFD assessment because of its interaction with the chalk aquifer underlying the Main Application Site. In 2019, the water body was classified as having a moderate ecological status and failing for chemical status. This was due to pressures from nutrients, phosphate, water industry processes and groundwater abstraction. The overarching objective to achieve good status for all water bodies was considered in the assessment [REP4-027, 6.2.15].
- 3.22.34. The underlying aquifer is part of the Upper Lee Chalk groundwater body, the status of which was classified as poor for both the quantity and quality tests [REP4-027, paragraph 6.3]. The EA has attributed this to the contamination associated with urban development, transport, manufacturing and industry, and poor nutrient management [REP4-027, paragraph 6.3.8]. The site is also within a drinking water protected area.
- 3.22.35. The stepped approach to the assessment outlined in [REP4-027, section 4] screened out the requirement for a detailed assessment of any of the WFD water bodies, one the proposed mitigation measures were taken into account [REP4-027, section 7.2].
- 3.22.36. The assessment concluded that the Proposed Development would not result in deterioration of any waterbody status or affect future compliance.

Flood risk

- 3.22.37. The Flood Risk Assessment (FRA) [REP4-038] identified that the Main Application Site would be entirely located in Flood Zone 1 (see Figure 23 below). Two sections of off-site highway works would be in Flood Zone 3 through their proximity to the River Lee. Numerous small areas of surface water (pluvial) flood risk were identified on the Main Application Site [REP9-019, Figure 20.3].

- 3.22.38. Two main areas were designated as having potential for groundwater flooding; an area associated with the River Lee to the west of LLA and the dry valleys to the east and south east [AS-031, paragraph 20.7.35]. A significant flood event in the village of Kimpton in February 2001 was linked with activation of the dry valleys to the east of the Main Application Site. Localised groundwater flooding was also associated with the existing central soakaway.
- 3.22.39. The Applicant included measures to manage localised flood risk during construction in the CoCP [REP8-013, section 18.7].
- 3.22.40. Localised groundwater mounding from soakaways during operation was identified by the Applicant [AS-031, 20.9.18]. The Applicant recognised that the large volumes of surface water runoff directed to the infiltration tank in Phase 2 would have the potential to increase flows in the River Mimram, including at Kimpton [AS-031, 20.9.32]. Local groundwater mounding associated with the infiltration tanks was considered, including the potential effects on local groundwater flooding and downstream receptors, including Kimpton. This was not assessed to be significant [AS-031, 20.9.33].

Figure 23: Main rivers flood map [from REP9-019]



- 3.22.41. The outcomes of the FRA informed the drainage design to ensure that appropriate measures would account for any increase in impermeable surface required as part of the Proposed Development. The drainage design for LLA incorporated a 1 in 100 year plus 40% climate change allowance [REP4-038].
- 3.22.42. The detailed design of the off-site highway interventions would be designed in accordance with appropriate standards and would include an appropriate climate change allowance. Engagement was also completed with the Lead Local Flood Authorities (LLFA) to inform the ES to discuss any amendments required to the design and strategy to managing flood risk as part of the Proposed Development [AS-031, Section 20.4].

- 3.22.43. The Applicant concluded that these measures would ensure that the effects on flood risk from the Proposed Development would not be significant [\[AS-031\]](#), paragraph 20.9.33].

Significant changes to the Applicant's submission during the Examination

- 3.22.44. As a result of ongoing discussions with statutory stakeholders, in particular the concern raised by the EA eg [\[AS-056\]](#), that every opportunity should have been taken to discharge foul and surface water runoff to the public network before discharge to ground could be considered, the Applicant submitted a change request [\[AS-151\]](#), [\[AS-152\]](#). This was accepted by the ExA [\[PD-014\]](#). The Applicant stated that its preferred option was now to direct all contaminated discharges from Phases 2a and 2b to TWUL infrastructure rather than treating and infiltrating into the ground [\[AS-152\]](#), paragraph 2.2.9]. This option recognised TWUL's capacity and flow limitations through use of attenuation tanks and other infrastructure to control flows. However, given that TWUL's assessment of improvements to capacity was ongoing and that there was uncertainty in timing of funding for such work, the Applicant retained infiltration to ground as a reserve option [\[AS-152\]](#), paragraph 2.2.11].
- 3.22.45. At D5, the Applicant introduced a separate 'drainage works' section into its 'DP' document, which contained 69 relevant 'principles' [\[REP9-030\]](#), section 5]. This document aimed to strengthen the framework that would be followed at the detailed design stage. The commitments were secured by the draft DCO [\[REP11-091\]](#), Requirement 13] which required that written details of the plan to be approved would need to be in accordance with these principles.

ISSUES CONSIDERED

- 3.22.46. Over 20 IPs submitted RR raising concerns about the effect of the proposals on water resources, drainage and flooding. These included infrastructure capacity [\[RR-1038\]](#), in particular the capacity of the East Hyde STW and discharge to the River Lee [\[RR-0335\]](#). Concerns were raised about a shortage of water resources [\[RR-1038\]](#), RR-1018, RR-0809] and contamination of groundwater, including from the landfill [\[RR-0966\]](#), [\[RR-0616\]](#), [\[RR-1113\]](#), RR-0014, RR-0676 and RR-0264]. Other RRs highlighted the sensitivity of the chalk streams locally, which are supported by the chalk aquifer [\[RR-0062\]](#), [\[RR-0809\]](#), [\[RR-0226\]](#) and [\[RR-0229\]](#). One RR raised a query about management of flood water [\[RR-0355\]](#), in addition to a WR [\[REP1-117\]](#) raising concerns about exacerbating flooding through Wheathampstead due to the extra water in the river from LLA.
- 3.22.47. The Applicant responded to these thematically in [\[REP1-020\]](#). This response referred IPs to the protections for water resources that would be provided by the DDS, CoCP [\[REP8-013\]](#), oRS, the FRA, the FWRA and the conclusions of the WFD compliance assessment. It also drew attention to the fact that an Environmental Permit would be required prior to works on the landfill.
- 3.22.48. LBC did not agree with the scope for consultation on the detailed drainage design in the draft DCO [\[REP11-091\]](#), Requirement 13], requesting that the other LLFA be included. AW also requested to be consulted on various Requirements in the draft DCO [\[REP11-091\]](#). These matters are dealt with in the DCO section of this Report.
- 3.22.49. AW would only agree with the proposals for water supply demand, provision of monitoring data and various Articles in the draft DCO [\[REP11-091\]](#), subject to execution of a side agreement [\[REP11-031\]](#). Similarly, the potential effects on a number of sewers from highway adjustments and protection of TWUL apparatus would need to be covered by Protective Provision or secured by side agreement

[REP11-029]. Agreement was reached with TWUL [REP11-077]. However, a side agreement was not reached with AW by the end of the Examination and this matter is dealt with below and in the DCO section of this Report.

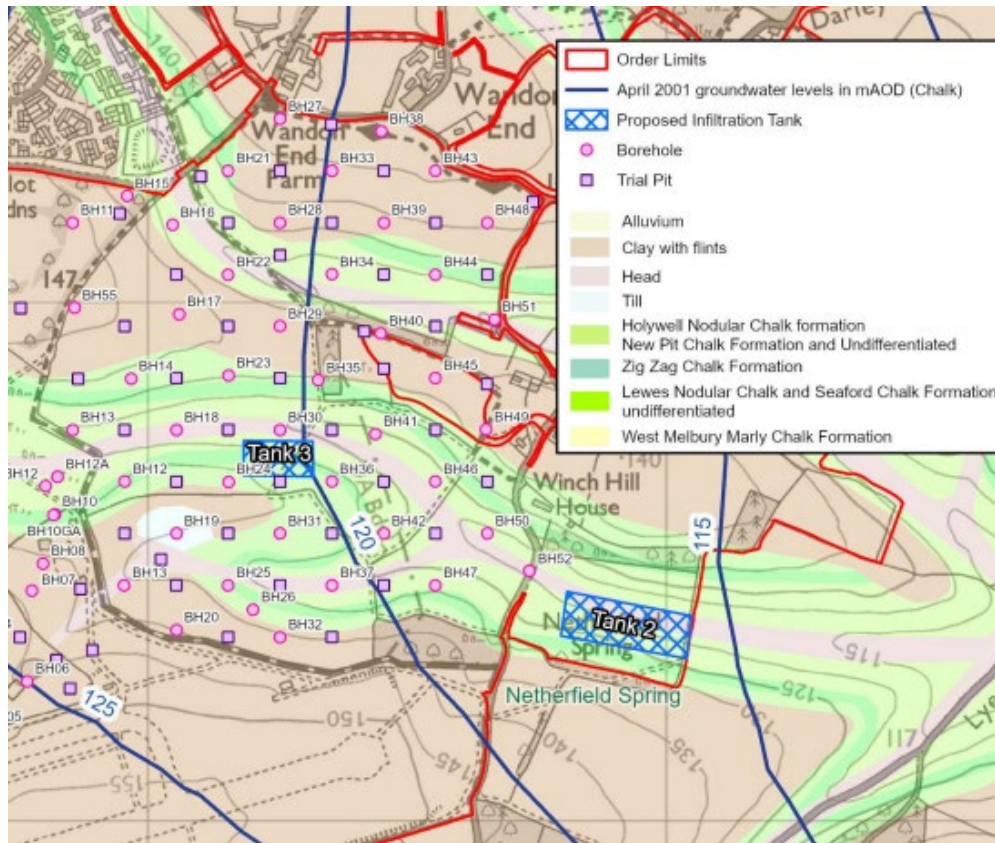
- 3.22.50. All other matters were agreed between the EA, water companies and JHA by the end of the Examination in the signed SoCGs.
- 3.22.51. Numerous matters were raised by consultees and IPs during the Examination that the ExA considers were satisfactorily addressed by the Applicant. These included securing detailed HEWRAT assessments [REP8-056, RR-1076 and REP9-035] reference to gaps in the DDS for protection of water quality raised by the JHA [REP8-056], discharge of water during Phase 1 [REP1A-004], clarification of the space for filter drains [REP1-021], application of the Environment Act 2021 [REP1-021], SuDS eg [REP2A-007], management of water in an emergency [AS-057], surface water overland paths [REP1-021], whether the AAR should be designated as essential infrastructure, the effects on nearby Netherfield Spring [PD-010, WE.1.1], groundwater dependent terrestrial ecosystems [REP3-053], and clarification on the approach to rainwater harvesting [REP1-021].
- 3.22.52. Matters that the ExA considers would benefit from further discussion are presented in more detail below.

Groundwater flooding

Given the recent history of significant flooding on the River Mimram and the existing groundwater mounding recognised below the site, the ExA considered the potential for groundwater flooding to be an important issue, despite limited representations on the matter eg [REP7-114], [AS-057].

- 3.22.53. The ExA sought to understand the confidence that could be had in the hydrogeological conceptual model for the infiltration tanks given the paucity of groundwater monitoring associated with Tank 2 and reliance on regional scale modelling [PD-010, WE.1.1]. The Applicant responded [REP4-066] with an explanation of the information available and an illustration of the maximum April 2001 groundwater levels from the EA Hertfordshire groundwater model in the vicinity of the tanks (shown in Figure 24 below).
- 3.22.54. The Applicant acknowledged that the drainage design for LLA and off-site highway works would be further developed at the detailed design stage, which might influence the potential mounding impacts [REP1-021].
- 3.22.55. However, the Applicant noted that the DDS, later incorporated in the DP [REP9-030], set out the principles to be followed at the detailed design stage [REP1-021 and REP4-066]. In particular, the Applicant drew attention to the principle that infiltration tanks must not result in groundwater flooding downstream and that at least 1m clearance between the highest water table and the underside of buried tanks and other underground structures must be provided.

Figure 24: Groundwater contours in blue showing that flow is approximately east below Tanks 2 and 3 [REP4-066]



- 3.22.56. An analysis of the historical groundwater flooding was provided by the Applicant [REP4-066], which suggested that the rainfall in 2000/ 2001 that led to flooding at Kimpton was extreme and that groundwater had probably emerged approximately 750m down-gradient of the site. For these reasons, the Applicant concluded that it was unlikely that the dry valleys at the site were at risk of flooding.
- 3.22.57. At ISH8 [EV15-013] the ExA requested a review of the potential effects on groundwater levels from the proposed major changes to the landform up-gradient of the infiltration tanks. In response [REP6-066], the Applicant stated that changes to landform could impact groundwater levels. However, the site would be largely covered by low permeability or impermeable surfaces, which would reduce infiltration. The runoff would be captured by the drainage system, attenuated to greenfield runoff rates and either used by LLA or discharged to ground. Decommissioning of the existing central soakaway would remove the existing mounding, which would reduce levels. The DP [REP9-030] should ensure that mounding would not result in down-gradient flooding, and the details would be further informed by ongoing monitoring.
- 3.22.58. In ExQ1 [PD-010, WE.1.2], the ExA explored how climate change had been incorporated into assumptions about future groundwater levels. The Applicant stated that the effects of climate change on groundwater levels in a general sense were inconclusive. There would likely be more extreme events, but the Applicant concluded that the magnitude of these was unlikely to be significantly greater than the 2000/ 2001 event. It also drew attention to the fact that LLA was located at the headwaters of two catchments. Groundwater levels would be influenced by drainage of LLA, which had been designed to allow for climate change, including significant storage and attenuation capacity [REP4-066].

- 3.22.59. In ExQ1 [PD-010, WE.1.3, WE.1.4, WE.1.5], the ExA explored whether groundwater levels from mounding beneath the infiltration tanks had been appropriately modelled given likely pattern of discharge, infiltration rate and assumptions about storage in the unsaturated zone, including whether the character of this could be significantly changed through continuous discharge. The Applicant provided satisfactory responses to all of these questions [REP4-066].
- 3.22.60. The ExA raised the issue that approximately 9ha of the current drainage to the River Lee would be diverted to the River Mimram [ExQ1, WE.1.9]. The Applicant responded [REP4-066] that this was to ensure that potentially contaminated runoff in the west of the runway would be captured and managed. At ISH8 [EV15-001], the Applicant said that it understood that the operator had engaged designers for the western drainage works, which were planned to be constructed in 2024/ 25 under the Project Curium scheme. This would avoid diversion of the surface water from the River Lee catchment to that of the River Mimram [REP6-066].
- 3.22.61. The ExA concludes that there would be limited groundwater monitoring down-gradient of Tank 2 in the south-east corner of the Order Limits and, to a large degree, reliance has been placed on regional modelling to estimate groundwater levels, which is unlikely to be reliable at a small scale. In addition, the likely effects of climate change on groundwater levels are not well understood. However, the Applicant has acknowledged these limitations and through the DDS [REP5-096], DP [REP9-030] and associated monitoring, [APP-127] has demonstrated that adverse effects would be avoided. The ExA is also satisfied that diversion of water from the River Lee catchment to the River Mimram would not significantly increase the potential for groundwater flooding, in the unlikely event that it goes ahead. The ExA therefore concludes that groundwater flooding is a neutral matter in the making of the Order.

Discharge of foul water and contaminated surface water from Phase 1

- 3.22.62. TWUL initially raised concerns about the increase in sewage discharge [RR-1499], requesting to see the modelled foul water flows at least 36 months before required. It also needed to understand how wastewater from aircraft would be managed with emphasis on chemical composition, volumes and points of discharge to its network.
- 3.22.63. LBC raised concerns about the capacity of infrastructure during Phase 1. If the works required by Project Curium or those under the P19 permission were not carried out before the DCO came into force, then LBC raised a concern that drainage improvements might not be implemented until Phase 2, which could lead to a potential gap [REP2A-007]. The ExA asked a question on this matter in ExQ1 [PD-010, WE.2.3] because serving of notice under Article 44(1) could mean that the drainage improvements required under the LLAOL planning permission would cease to have effect.
- 3.22.64. In response, the Applicant stated [REP4-066] that it understood LBC's primary concern was that the planned Airport Way drainage upgrades, which had been timetabled for 2024/ 25, would not be implemented prior to serving of notice under Article 44(1). However, Article 44 of the Draft DCO was updated at D7 [REP7-003] to preserve a number of 'specified conditions', which would continue to have effect until such time as they have been discharged or LBC certify that they have been superseded. This included conditions relating to the delivery of drainage improvements under Project Curium or, where implemented, those under the P19 permission.

- 3.22.65. The EA sought assurances that the East Hyde STW could cope with the additional 3.5mpps in Phase 1 eg [REP2-014]. In EXQ1 [REP4-066, WE.1.7], the ExA asked for confirmation from TWUL that it was content to take all the flows as described, including trade effluent, and that it had sufficient capacity. At D4 [REP4-213] TWUL stated that it could not confirm it could take all flows as described in Phase 1 and that it needed the Applicant to confirm the volumes expected and percentage of hydrocarbons.
- 3.22.66. However, TWUL indicated that it would likely be able to take the discharge, including trade effluent, potentially with investment from the Applicant to help provide additional capacity [REP4-213]. If this was not possible, at least in the short term, then other options would be available to the Applicant, such as tankering effluent off-site.
- 3.22.67. At ISH8 [EV15-001], the ExA asked for an update on the disposal of water to the TWUL network]. The Applicant confirmed that the storage provided as part of the development would mean that no increase in capacity at East Hyde Works STW would be required in Phase 1 [REP6-066].
- 3.22.68. In conclusion, the ExA considers that there should be sufficient storage capacity installed as part of the development to ensure that East Hyde STW would not be overwhelmed by the additional flows during Phase 1. The requirement to undertake drainage improvement works under previous permissions would remain and the Applicant has indicated that this work should happen soon. TWUL would likely be able to accommodate trade effluent, but if this were not possible, other methods of disposal would be available. Discharge of foul water, contaminated water and trade effluent therefore neither weighs for nor against the making of the Order

Discharge of treated foul water and contaminated surface water from Phase 2

- 3.22.69. The EA identified discharge of treated foul water and contaminated surface water to ground from Phase 2 as a principal area of disagreement at the start of the Examination [AS-056], [RR-0444]. It highlighted the sensitivity of the location, which is above a principal aquifer and within SPZ 3, noting that discharge of treated effluent to ground was only possible when no other options existed, including a connection to the public foul sewer. The EA initially stated that a permit might not be issued in principle because not all options had clearly been explored. AW [REP1-030] also raised concerns that this discharge could cause issues with their potable supplies. This was echoed by the JHA in their PADSS [AS-057].
- 3.22.70. During the Examination [REP3-142], TWUL confirmed that it had a statutory duty to receive and treat domestic and foul water from LLA and that improvement works to the network were planned to meet the expansion of Luton, irrespective of LLA, after which there would be sufficient to process the foul water from the Proposed Development.
- 3.22.71. The Applicant responded with a change request [AS-151, AS-152], accepted by the ExA [PD-014], to amend the application to make it clear that its preferred option was to discharge foul and contaminated water to TWUL.
- 3.22.72. At D4 [REP4-213] TWUL confirmed that if the Order was granted, funding to meet its statutory obligations and upgrade infrastructure would be phased into its Asset Management Plan (AMP) once it had a final build programme. In [REP3-142] TWUL said that similar sized upgrades can take between 5 and 15 years to deliver in full. At D4 TWUL confirmed that this would be from the date that funding became

available and a finalised build programme. According to the Applicant, this could be delivered within 5 years [ISH6, [EV11-001](#)]. At ISH8 [\[EV15-001\]](#) the Applicant confirmed that there would be two relevant AMP cycles to secure the improvements; 2025 to 2030 and 2030 to 2035 [\[REP6-066\]](#).

- 3.22.73. Given the uncertainty in delivery timescales of the necessary infrastructure, the change request retained the option to discharge to ground in the interim. At ISH6 [\[REP4-066\]](#) the Applicant expressed confidence that the WTP would be able to achieve an appropriate standard before discharging the effluent to the ground.
- 3.22.74. The EA confirmed at [\[REP6-110\]](#) that discharge to ground could be removed as a principal area of disagreement, following extensive engagement with the Applicant, amendments to the drainage design and inclusion of the 'preferred option' of discharging to the TWUL network. It was satisfied that, should it prove necessary to discharge to the ground, it had been demonstrated that both processes and manufacturers existed that would be able to treat the water to a sufficient standard [\[REP7-092\]](#).
- 3.22.75. The ExA concludes that the DDS secures the Applicant's preference to discharge foul water and contaminated surface to the TWUL network from Phase 2 and TWUL has confirmed that it has an obligation to take this. However, this would require an upgrade to TWUL's infrastructure, the timescale and financing of which is uncertain. Taking into consideration the next AMP cycles and the time that it could take to construct, it is possible that this facility would not be available by the time that it was needed. Therefore, treated water might need to be infiltrated into the ground on the east side of the Proposed Development. There would be risks to groundwater quality from this activity, but the EA has confirmed that this activity would require a permit and that it no longer has objections to this in principle, given the amendments to the design. The ExA is therefore satisfied that potential discharge of treated foul water and contaminated surface water from Phase 2 would neither weigh for nor against the making of the Order.

Water demand

- 3.22.76. Several IPs, including Luton Friends of the Earth [\[REP1-099\]](#) highlighted that the Proposed Development could put 'great stress' on the ability of water companies to cope with supply, in the driest region in the UK. AW was clear about the pressures it faces in respect of water demand in the area [\[REP1-030\]](#).
- 3.22.77. Estimated water demand during construction was outlined in the Construction Method Statement and Programme Report [\[REP8-011\]](#) and the Applicant confirmed that the figures had been discussed with AW [\[REP4-066\]](#). In addition to the CoCP [\[REP8-013\]](#) and WCS [\[REP4-033\]](#), this committed the operator to reducing water use as much as possible. The CoCP [\[REP8-013\]](#) required that the lead contractor undertake a water use profiling exercise in liaison with AW.
- 3.22.78. AW [\[REP4-108\]](#) also noted that, based on the data provided, the water required during construction would significantly increase the supply requirements beyond the 2019 consumption baseline. However, it stated that annual allowances were made for the short-term requirements of construction, and, on current forecasts, AW believed that it would be able to accommodate the proposals. Nevertheless, given the time until the water would be required it was not prepared to guarantee that it could provide that water.

- 3.22.79. The Applicant suggested that alternative sources of water would be available during construction, should AW not be able to provide sufficient water. These would include tankered water and rainwater. Other forms of non-potable water could also be considered [REP4-066].
- 3.22.80. In their PADSS, the HHA [REP8-056] requested that the Applicant demonstrate that the water consumption data were appropriate. They provided detailed calculations questioning the Applicant's figures and highlighted the potential effects of climate change. In response, the Applicant corrected an error in the DDS and answered the HHA's satisfactorily [REP1-021].
- 3.22.81. The ExA is content that the controls in the CoCP [REP8-013], WCS [REP4-033], and DP [REP9-030] would encourage minimisation of water use. The ExA is also satisfied that the commitment to maintaining consumption at the 2019 baseline is appropriate given the stress that water resources would be under in the area. If more water was required during construction, AW has indicated that it might be able to supply this and, if not, the Applicant has demonstrated that other options would be available.
- 3.22.82. AW was content [REP1-030, REP4-108] with the principle of maintaining water demand during operation at the current baseline, aside from short term peaks during construction, but wanted this commitment secured through a Requirement in the DCO. It also recommended amendments to the DP document [REP9-030] and the DDS [REP5-096], including a clear definition of the 2019 consumption baseline.
- 3.22.83. In response to the ExA's question [PD-010, WE.1.8] on this matter [REP4-066], the Applicant amended the draft DCO to state that the Surface and Foul Water Drainage Plan must abide by the DP [REP11-091, Requirement 13]. The Applicant concluded that this, in addition to a commitment elsewhere to inform AW about any requirement for an increase, should prevent any issues.
- 3.22.84. By the end of the Examination, the SoCG between the parties [REP11-031] recorded that the matter was agreed subject to a side agreement being signed. However, although AW confirmed [REP11-070] that an agreement had been drafted it had not been signed. The ExA has drafted a Requirement based on that drafted by AW [REP4-108, REP9-070] for inclusion in the DCO that:
- defines the 2019 consumption baseline;
 - prevents the applicant from going above this without approval from AW;
 - commits the Applicant to profiling additional water need and agreeing this with AW; and
 - requires a timetable for submission of monitoring data to AW.
- 3.22.85. The Applicant responded to this proposal at [REP8-036]. It drew attention to the significant modifications already made to the Requirements, the CoCP [REP8-013] and the DP [REP9-030] for AW's benefit, quoting DP SUS.15 and DDS.10.
- 3.22.86. SUS.15 of the DP [REP9-030] states that "*Detailed design will include such water efficiency measures as are necessary, so far as reasonably practicable, to maintain water demand (excluding construction water demand) at the 2019 consumption baseline.*" DDS.10 states "*The detailed design will include specification of operation and maintenance of drainage forming part of the Proposed Development, including the monitoring of water consumption during operation in agreement with AW as the regulatory local water supplier.*"

- 3.22.87. The ExA does not consider that the use of '*so far as reasonably practicable*' in SUS.15 reflects the gravity of AW's concerns or their request to be involved in any consumption above this. It appears to the ExA that DDS.10 only requires the Applicant to agree the monitoring of water consumption during operations with AW. In addition, the DP could be amended through Requirement 2 without recourse to AW, as currently written.
- 3.22.88. The Applicant also drew the ExA's attention [\[REP8-036\]](#) to the CoCP [\[REP8-036\]](#), which requires that water efficiency measures are adopted. The lead contractor would need to undertake a water use profiling exercise in advance of works in liaison with AW. The volumes would be agreed with AW and then monitored. This might be sufficient when read in isolation. However, the ExA is concerned that R2 allows amendments to the CoCP [\[REP8-013\]](#) without recourse to AW.
- 3.22.89. AW confirmed that the controls that the Applicant was proposing through the CoCP [\[REP8-013\]](#) and DP [\[REP9-030\]](#) did not resolve its concerns [\[REP9-070\]](#).
- 3.22.90. Given the severe constraints that AW is operating under due to the pressure on water resources in the area, and given the concerns identified about the Applicant's proposed mechanisms for control above, the ExA concludes that restrictions on water consumption during both construction and operation should be secured via the proposed Requirement in the DCO, unless already met through the signed side agreement.
- 3.22.91. If a signed side agreement is produced or the ExA's recommended Requirement is inserted into the DCO, the ExA concludes that issues of water demand and supply are a neutral matter.
- 3.22.92. Without this Requirement, AW has advised [\[REP1-030\]](#), [\[REP4-108\]](#), [\[REP6-120\]](#) that it could be subject to unexpected increased demand on an on-going basis, which would exacerbate its ability to supply water to residents and other businesses in the area. The ExA does not anticipate that there would be any risk to achievement of the objectives under the WFD because this would be controlled by the abstraction licensing regime. However, it could lead to AW finding it more difficult to meet the requirements of its water resource management plan which is a matter for 'consideration' in the ANPS (paragraph 5.185).
- 3.22.93. Although the ExA accepts that a large additional demand for water (outside construction) is unlikely and certainly not the Applicant's intention, the controls in the DP as currently worded do not prevent an increase in demand. Instead they require that demand is kept at a baseline level '*so far as reasonably practicable*'. AW has advised that the consequences of an unexpected increase could be serious, given the lack of additional water in the area, and could affect other businesses and residents. If a signed side agreement is not produced or the ExA's recommended Requirement is not inserted into the DCO, the ExA concludes that the issues of water demand and supply would be a matter of moderate weight against the making of the Order.

Risks to groundwater quality from Eaton Green landfill

- 3.22.94. Several IPs raised concerns about the potential for engineering works at the landfill to cause pollution of groundwater, including AW eg [\[REP2-015\]](#).
- 3.22.95. At D4 [\[REP4-066\]](#) the EA stated that it could not confirm if the proposed works on the landfill would be acceptable, but that any works would be subject to an

Environmental Permit and would require adherence to an agreed Waste Recovery Plan. At [\[REP6-110\]](#), the EA stated that it had issued new guidance to the Applicant for drilling through the landfill for inclusion in the proposals, which the Applicant then incorporated.

- 3.22.96. At [\[PD-010\]](#), WE.1.10] the ExA queried the Applicant's claim that the landfill would be covered with an impermeable cap, with the implication that leaching of contamination would no longer occur. In response [\[REP4-066\]](#) the Applicant conceded that it would not be impermeable. The EA confirmed that water would continue to infiltrate [\[REP4-166\]](#), observing that a reduction in the rate of infiltration would result in a lower level of contamination but over a much longer period.
- 3.22.97. At [\[PD-010\]](#), WE.1.11] the ExA queried the risks from the proposed landside drainage attenuation tank, which would be installed in the landfill. The EA also raised concerns about the greywater storage tanks beneath the T2 building because the quality of the water would be more questionable and access would not be possible. The EA considered that they might pose an unacceptable risk to groundwater due to physical stresses and chemical attack, which could cause breakage [\[REP4-166\]](#) and that design of the storage tanks would be critical to reduce the risk. In the signed SoCG [\[REP9-035\]](#), the EA agreed that the DP [\[REP9-030\]](#) addressed its concerns.
- 3.22.98. In conclusion, the ExA finds that there is an inherent risk to groundwater from the proposed engineering works on and in the Eaton Green Landfill. However, the ExA concludes that the Applicant is taking all reasonable precautions to minimise these risks during construction, including agreeing piling and foundation strategies with the EA, which would manage the activities through an Environment Permit and Waste Recovery Plan.
- 3.22.99. The ExA considers that the location of the underground storage tanks at an inaccessible location within the landfill is not ideal. However, the EA is satisfied that the tanks could be engineered to an appropriate standard and that ongoing monitoring would be sufficient to ensure protection of groundwater quality.
- 3.22.100. Given the above, the ExA is satisfied that the risk to groundwater quality from works at Eaton Green Landfill is a neutral matter in the making of the Order.

Requirement to meet the Drainage Design Statement

- 3.22.101. The outcomes of the ES were based on the DDS [\[REP5-096\]](#) and the earlier versions of the DCO reflected this with a requirement to '*reflect the principles set out in the drainage design statement*' [for eg [APP-006](#)]. At D5, the Applicant introduced a separate 'drainage works' section into its 'DP' document, the final version of which was provided in [\[REP9-030\]](#), section 5] and contains 69 relevant 'principles'. The relevant Requirement of the DCO [\[REP11-091\]](#), Requirement 13] was updated to require reference to the DP [\[REP9-030\]](#) rather than the DDS [\[REP5-096\]](#), with the addition of some details relating to the proposed WTP would still reference the DDS.
- 3.22.102. The ExA explored [\[PD-010\]](#) whether both the DP [\[REP9-030\]](#) and the DDS [\[REP5-096\]](#) should be more generally referenced in Requirement 13, to ensure that the proposals on which the ES was based would be secured. The Applicant responded [\[REP8-036\]](#) that it did not consider this necessary because the DP [\[REP9-030\]](#) were largely the same as those in the DDS [\[REP6-096\]](#) but gathered into the one document.

3.22.103. The ExA notes that the JHA were supportive of including reference to both the DP [\[REP9-030\]](#) and the DDS [\[REP5-096\]](#) in the DCO. However, having compared the outcomes of the DP against the DDS, the ExA concludes that the Applicant's proposed controls reflect those relied upon in the ES and would be appropriate to ensure protection of water resources and quality. The ExA also notes the requirement to apply the DP in conjunction with the DDS [\[REP9-030\]](#), section 5.1.2].

3.22.104. The ExA considers that this is a neutral matter in the making of the Order.

Water Framework Directive

3.22.105. As a result of the proposed drainage of effluent to ground, the EA [\[RR-0444\]](#) identified a potential risk to groundwater quality and therefore a risk to the Upper Lee Chalk groundwater body and associated surface water bodies. The Upper Lee Chalk water body is classified as Poor for its Chemical Status and no further deterioration is allowed.

3.22.106. The EA [\[REP4-168\]](#) stated that the latest RBMP (2022) and interim classifications should be accounted for in the assessment. The Applicant responded that as the conditions of the water bodies were either the same or better, use of the later classifications did not undermine the conclusions of the assessment [\[REP4-066\]](#). At ISH8 [\[EV15-001\]](#), the Applicant confirmed that it had undertaken a comparison with the updated classifications and sent this to the EA [\[REP6-066\]](#). At D6 [\[REP6-110\]](#), the EA stated that it was content with the Applicant's comments in response to its concerns.

3.22.107. However, at D6 [\[REP6-017\]](#), the EA stated that the minor adverse effects identified for the River Lee were not acceptable. It also said that the application as a whole failed to assess water quality impacts from increased traffic loads to neighbouring water bodies. In response to the ExA's request [\[PD-019\]](#) to make a clear statement on its position regarding potential deterioration of WFD water bodies, the EA stated [\[REP8-062\]](#) that, if principle 'DDS.03' of the DP [\[REP9-030\]](#) was amended, then it was satisfied that appropriate protection would be achieved. This was inserted by the Applicant in the final version of the DP [\[REP9-030\]](#) and the issue was not outstanding in the final SoCG [\[REP9-035\]](#).

3.22.108. In conclusion, the ExA considers that the WFD would be complied with and would not cause a deterioration of a water body, prevent future attainment of good status, nor impact on protected or priority species and habitats. The ExA notes that the WFD requires that new development should also provide opportunities to improve the water environment but, given the constraints of the proposal, accepts that opportunities for this are necessarily limited. The ExA concludes that compliance with the WFD is a neutral matter in the making of the Order.

CONCLUSIONS ON WATER RESOURCES AND FLOOD RISK

3.22.109. The Applicant has demonstrated that it has worked with regulators and co-operated with water and sewerage undertakers in the design of the Proposed Development, as expected by the ANPS (paragraph 5.175). The ExA is also satisfied that the scope of the Applicant's assessment is sufficient for the purposes of decision making, incorporating the recommended content from the ANPS (paragraphs 5.176 and 5.177).

3.22.110. Mitigation and monitoring measures secured through the CoCP [\[REP8-013\]](#), oRS [\[REP6-005\]](#), the DDS [\[REP5-096\]](#), the DP [\[REP9-030\]](#) and the Water Cycle Strategy [\[REP4-033\]](#), in addition to regulatory controls, ensure that there would be

no significant effects on water quality and resources, including the underlying aquifer, during construction and operation of the Proposed Development. In these respects, the ExA is satisfied that the Proposed Development would meet the requirements of the ANPS (including paragraphs 5.178 and 5.181), NPPF (paragraph 180) and LLP (Policy LLP38).

- 3.22.111. However, this conclusion is predicated on a side agreement between AW and the Applicant being signed to ensure that the 2019 water consumption baseline is not exceeded without prior agreement and monitoring of this. This was not provided by the end of the Examination. The ability to deliver the water resources management plan should a matter of consideration according to the ANPS (paragraph 5.185) and the ExA is satisfied that AW's requests on this related matter are reasonable. The ExA has therefore recommended a Requirement to secure this. If either the side agreement or Requirement are in place, then the ExA concludes that issues of water demand and supply are a neutral matter and do not weigh for nor against making the Order. If a signed side agreement is not produced or the ExA's recommended Requirement is not inserted into the DCO, the ExA concludes that the issues of water demand and supply are a matter of moderate weight against the making of the Order.
- 3.22.112. The Applicant submitted a Flood Risk Assessment [\[REP4-038\]](#) to meet the requirements of the ANPS (paragraph 5.152), the NPPF (paragraph 173) and LLP (Policy LLP36). The Main Application Site is entirely in Flood Zone 1, with two small sections of highway running through Flood Zone 3. Appropriate mitigation for flooding has been secured and the proposals would not increase the risk of flooding elsewhere, including in relation to groundwater flooding in the River Mimram catchment; the LLFAs have no outstanding concerns. The ExA is therefore satisfied that the application meets the requirements of national and local flood risk policies.
- 3.22.113. The ExA is satisfied that appropriate SuDS and management of these have been incorporated in the proposals through the DP [\[REP9-030\]](#), as required by the ANPS (paragraph 5.180), the NPPF (paragraphs 173 and 175) and the LLP (Policies LLP6, LLP36). The final design of these would need to be approved for each part by the RPA following consultation with EA, the LLFA and the relevant water and sewerage undertakers [\[REP11-091\]](#), Requirement 13]. An Environmental Permit would be required for any discharge of effluent to the ground and for works on the landfill, which would ensure that the proposal meets legislative requirements.
- 3.22.114. The ExA concludes that the WFD would be complied with and notes that the EA did not have any outstanding objections in relation to water quality and resources at the end of the Examination.
- 3.22.115. Matters in relation to water resources do not weigh for nor against the Order being made. If water demand is not managed, either through the ExA's proposed Requirement or through a side agreement between AW and the Applicant, then this would be a matter of moderate weight against the Order.

3.23. IN-COMBINATION AND CUMULATIVE EFFECTS

INTRODUCTION AND POLICY BACKGROUND

- 3.23.1. This section considers the In-combination and Cumulative effects (ICCE) of the Proposed Development.
- 3.23.2. The requirement to consider ICCE is set out in Regulation 5(2)(e) of the EIA Regulations, which requires the consideration of 'interactions': *'the interaction between the factors [population and human health; biodiversity; land, soil, water, air and climate; material assets, cultural heritage and landscape.]'*
- 3.23.3. Paragraph 5(e) of Schedule 4 of the EIA Regulations describes cumulative effects as: *'the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources.'*
- 3.23.4. The ANPS (paragraphs 4.14 to 4.15) also reiterates the need for ICCE to be considered.

A list of relevant policies and legislation can be found in Appendix B.

THE APPLICATION

- 3.23.5. The Applicant's assessment of ICCE is primarily contained within Chapter 21 of the ES [\[REP10-011\]](#) and [\[APP-164\]](#). This assessed the likely significant in-combination and cumulative effects of the Proposed Development.
- 3.23.6. The Applicant described the in-combination effects as those which may be a result of the combined action of different environmental impacts from the Proposed Development upon the same receptor(s). The method the Applicant employed for the in-combination effects assessment was described in [REP10-011](#), Section 21.2].
- 3.23.7. The Applicant considered the potential interaction of air quality, noise and visual effects on receptors which would experience a combination of these effects. The Applicant identified that residential properties under the flight path or near the Proposed Development, such as, those in South Wigmore, Tea Green, Stony Lane, Winch Hill, Winch Hill Cottages and Darleyhall, would potentially experience minor in-combination effects. The Applicant concluded that these effects were not significant [\[REP10-011](#), Table 21.4].
- 3.23.8. Cumulative noise effects with aircraft from other airports were ruled out on the basis that flights from other airports were above the altitude where significant effects would be likely.
- 3.23.9. The Applicant described cumulative effects as those which may occur due to the 'cumulation' or combined action of a number of different projects and 'other developments' cumulatively with the Proposed Development on the same receptor(s). The Applicant stated that the cumulative effect assessment was undertaken in accordance with The Planning Inspectorate Advice Note Seventeen: Cumulative Effects Assessment (2019) [\[REP10-011](#), Section 21.3].
- 3.23.10. The Applicant discussed and agreed the 'long list' of other developments with relevant local authorities [\[APP-140](#), Appendix 21.1]. Using the screening criteria in PINS Advice Note 17, the Applicant produced a short list of other developments [\[APP-140](#), Appendix 21.2] which it considered in its assessment [\[REP10-011](#), Table

21.10]. The Applicant proposed mitigation measures, following the inclusion of embedded mitigation, and identified any residual effects in [\[REP10-011\]](#), Table 21.10]. The Applicant concluded that there would be no significant cumulative effects.

ISSUES CONSIDERED

- 3.23.11. In the ExA's ExQ1 [\[PD-010\]](#), BCG.1.4] the ExA asked each Host Authority to provide an update on any planning applications or consents submitted or granted since the Applicant's assessment that could either affect the Proposed Development or be affected by the Proposed Development, and, if so, whether these would affect the conclusions reached in the ES.
- 3.23.12. In response to [\[PD-010\]](#), BCG.1.4] the HHA provided details of application 21/00356/FPM [\[REP4-126\]](#). No other developments of note were identified by the other Host Authorities. The Applicant responded that 21/00356/FPM was on the western edge of Stevenage, approximately 7 km from the Proposed Development and therefore did not meet the selection criteria for inclusion in the cumulative assessment which was restricted to 5km [\[REP11-049\]](#). The ExA sees no reason to come to a different conclusion.
- 3.23.13. In ExQ2 [\[PD-015\]](#), BCG.2.4] the ExA asked each Host Authority to provide an update on any applications for planning permission or prior approval that had been submitted or determined since ExQ1 that could either affect the Proposed Development or be affected by the Proposed Development. In this request the ExA asked each Host Authority to confirm whether these could change the conclusions reached in the ES. The ExA also specifically asked the Host Authorities to provide an update on the Wandon End Solar Farm and Bloor Homes applications.
- 3.23.14. In response to [\[PD-015\]](#), BCG.2.4] CBC and LBC identified that an application had been submitted by the airport operator to LBC to determine whether the construction of a solar farm to the south of the runway was permitted development. LBC and CBC confirmed that the proposal constituted permitted development on 13 December 2023 (ref: 23/01314/GPDOPD) [\[REP7-084\]](#) and [\[REP7-090\]](#). In [\[PD-019\]](#) the ExA requested that CBC and LBC provide plans and commentary on the implications of the solar farm to the south of the runway on the current application. [\[PD-019\]](#) also requested that the Applicant submit further information setting out any implications on the Proposed Development and the findings of the ES. The Applicant confirmed that the inclusion of the proposed solar farm on operational land to the south of the runway did not change the conclusions of the assessments reported in the ES [\[REP11-047\]](#). The ExA sees no reason to come to a different conclusion.
- 3.23.15. In response to BCG.2.4 the HHA provided updates on the Wandon End Solar Farm and Bloor Homes applications [\[REP7-087\]](#). In [\[PD-021\]](#) the ExA requested that the Applicant provide comment on any implications of these developments for the conclusions of the ICCE [\[REP10-011\]](#). In [\[REP9-057\]](#) the Applicant confirmed that the Bloor Homes development had been taken account of in the cumulative assessment but stated that the Wandon End Solar Farm application had not been fully considered in the ES at the time of submission but that it had subsequently updated Chapter 21 to fully consider the development and resubmitted at D10 [\[REP10-011\]](#). The Applicant confirmed that this did not alter the conclusions of no new or different cumulative effects [\[REP10-011\]](#). The ExA sees no reason to come to a different conclusion.

- 3.23.16. The signed SoCG for the JHA [\[REP11-095\]](#), [\[REP11-097\]](#), [\[REP11-099\]](#), [\[REP11-035\]](#) and [\[REP11-033\]](#) raised one issue in relation to the 500m search area for identifying minor applications or allocations for the cumulative effects assessment. By the close of Examination all SoCGs for the JHA were signed to record that this issue was resolved. The ExA sees no reason to come to a different conclusion. In-combination issues were not raised in these SoCG.
- 3.23.17. The SoCG for BC [\[REP11-101\]](#) raised the matter of airspace change. The SoCG agreed that it was not possible at this stage to consider in-combination effects associated with potential options for airspace change. However, BCC did not agree with the Applicant's position that changes to airspace and flightpaths and their cumulative effects were outside the scope of the Proposed Development. This issue remained outstanding at the close of the Examination. The ExA accepts the Applicant's position but as highlighted in Preliminary Matters (Section 3.3) is unable to give further consideration to airspace change, since it is subject to a separate consenting regime.
- 3.23.18. BCC raised concerns regarding ICCE to Buckinghamshire due to the construction phase of the Proposed Development considering the current impact on the region from the HS2 and East-West Rail projects [\[RR-0166\]](#). This issue is covered in Sections 3.19 (Socio-Economic) and 3.20 (Traffic and Transport) of this report.

CONCLUSIONS ON IN-COMBINATION AND CUMULATIVE EFFECTS

- 3.23.19. The ExA is satisfied that the assessment of cumulative and in-combination effects accords with the EIA Regulations and the ANPS.
- 3.23.20. Effects relating to ICCE are neutral and therefore do not weigh for nor against the making of the Order.

3.24. OTHER MATTERS

3.24.1. During the Examination a number of other matters were raised in RR and WR.

HUMAN RIGHTS

3.24.2. Several RR and WR referenced the Human Rights Act, referred to human rights issues or to Article 1 of the first protocol of the Human Rights Convention on the right to enjoy your property peacefully eg [\[RR-0103\]](#), [\[RR-0948\]](#), [\[RR-1354\]](#), [\[RR-1406\]](#), [\[RR-1126\]](#), [\[RR-0743\]](#), [\[RR-1600\]](#), [\[RR-1469\]](#), [\[RR-1100\]](#), [\[REP1-032\]](#), [\[REP1-170\]](#), [\[REP1-095\]](#), [\[REP1-149\]](#), [\[REP1-045\]](#) and [\[REP1-105\]](#). Some of these concerns related to the possible physical effects arising from the Proposed Development such as potential increases in noise or reduction in air quality. These are addressed in relevant sections of this Report.

3.24.3. Other concerns arose from the Applicant having notified the person submitting the RR that they might have a relevant claim under section 57(4) of the PA2008 (Category 3 person). These concerns are considered in the Compulsory Acquisition Section of this Report.

3.24.4. In relation to the remaining RR that contained a general reference to human rights, the ExA is satisfied that, having undertaken a public Examination, it has complied with Article 6 of the first protocol which entitles those affected by the Proposed Development to a fair and public hearing.

3.24.5. Consequently, the ExA concludes that in the process of examining the application it has considered IPs human rights relevant to the Proposed Development.

PUBLIC SECTOR EQUALITY DUTY

3.24.6. Equality issues were raised in a number of representations eg [\[RR-1448\]](#), [\[RR-1087\]](#), [\[REP6-152\]](#) and [\[REP1-032\]](#) and over 100 representations referenced related effects such as impacts on quality of life for residents and communities. [\[REP1-032\]](#) suggested the EqIA [\[AS-129\]](#) showed no mitigation for the identified groups, that additional information was required on the impact on different protected characteristic groups and that the Examination should take a wider geographical view of the population affected along flightpaths.

3.24.7. The ANPS (paragraph 4.27) requires a project level EqIA to examine potential effects on groups of people with protected characteristics. Paragraph 1.35 suggests that the assessment should be developed through consultation. The ExA is satisfied that the EqIA [\[AS-129\]](#) has assessed the potential for differential or disproportionate effects on protected characteristics groups and detailed the public consultation that informed the assessment.

3.24.8. The Applicant provided an EqIA [\[AS-129\]](#), Section 7] identifying groups with protected characteristics that might be disproportionately affected by the Proposed Development concluding:

- neutral effects on protected characteristic groups due to loss of Prospect House Day Nursery, due to the measures secured in the s106 [\[REP11-108\]](#);
- differential and disproportionate adverse effects eg for children under 16, pregnant individuals, black and minority ethnic groups and older people (aged 65 and over) due to traffic and air noise effects;

- adverse effects on children under 16, people with disabilities and pregnant individuals relating to temporary disruption of the Public Rights of Way network during construction;
- beneficial effects on children under 16, young people (16-24), pregnant individuals, older people (aged 65 and over) and people with mobility and sight impairment issues in operation due to improved accessibility in open space;
- beneficial (and cumulative beneficial) differential effects for young people (16-24) and people with disabilities in relation to employment in construction and operation;
- beneficial effects on people undergoing gender reassignment due to design measures including appropriate facilities; and
- potential for climate change to exacerbate effects on groups including children, older people, certain black and minority ethnic groups and those with disabilities.

- 3.24.9. The Applicant set out its proposed mitigation in respect of these impacts in section 10 of its EqlA [\[AS-129\]](#), in ES Chapter 16 [\[REP9-011\]](#) and also considered vulnerable groups and mitigation as part of ES Chapter 13 [\[REP10-009\]](#). The Applicant responded to comments about the study area in [\[REP11-049\]](#). The ExA was satisfied with the Applicant's response.
- 3.24.10. The ExA has considered representations regarding differential effects on receptor groups and finds that the demographic make-up of the area surrounding LLA means that the Proposed Development has potential to disproportionately affect particular groups as highlighted in [\[AS-129\]](#). The ExA has considered some of these effects separately (eg in the design and noise and vibration sections of this Report). The ExA also identified the potential for increased overflights to affect groups at worship or funerals eg at Breachwood Green Baptist Church [\[RR-0156\]](#).
- 3.24.11. Based on the nature of the assessed effects, the ExA is satisfied with the Applicant's conclusions that effects might be both beneficial and adverse for certain groups and that relevant mitigation measures have been identified in respect of these, where possible.
- 3.24.12. The ExA has not identified a need for additional mitigation measures in respect of protected characteristics groups, beyond those already identified.
- 3.24.13. The ExA therefore considers that the assessment and mitigation measures satisfy the requirement of the ANPS in respect of a detailed review, consultation and mitigation. The ExA is satisfied that it has discharged its duty under s149 of the Equality Act 2010 and that the Secretary of State can be confident that they are fulfilling their PSED.

ISSUES RELATING TO LUTON BOROUGH COUNCIL

- 3.24.14. Around 150 RR raised concerns regarding the finances of LBC and the financial implications for the Council and Luton if the Applicant were to proceed with the Proposed Development. These included the implications of a potential new airport concession in the 2030s and a perceived conflict of interest in development control due to LBC's ownership of the airport eg [\[RR-0907\]](#), [\[RR-1314\]](#), [\[RR-1408\]](#), [\[RR-1255\]](#), [\[RR-0817\]](#) and [\[RR-0103\]](#).
- 3.24.15. A decision as to whether it would be prudent for LBC to proceed with investing in the Proposed Development rather than making other investment within Luton is a decision for LBC and its elected members and is not a matter that the ExA can consider. Similarly the choice of concessionaire to operate the airport is a commercial decision for the organisation and is not a matter that the ExA can

consider. Whether there is a reasonable prospect that the funds needed to cover the implementation of the scheme could be secured is a matter that is considered further in the CA Section of this Report.

- 3.24.16. A number of representations eg [\[RR-0103\]](#), [\[RR-0251\]](#) and LADACAN [\[RR-0817\]](#) suggested that the Applicant had not met earlier promises relating to noise reductions and that a Luton growth incentive scheme had led to a breach of noise contour limits between 2017-2019. The ExA considers that these matters were addressed by the Luton P19 inquiry. The Inspectors' report concluded that the airport had identified the breaches and both LLAOL and LBC had considered whether any material harm was occurring. On the basis that this was not the case, a planning application was made to regularise the position. LADACAN's planning witness in the P19 case confirmed that it would have been disproportionate for the LPA to have taken enforcement action.
- 3.24.17. The Inspectors in the P19 inquiry also noted that LADACAN's case focussed heavily on the fact that LBC owned the airport. They considered that the suggestion there had been less scrutiny of the airport than other development was wholly unfounded. The Inspectors concluded that LLAOL was "*a private, independent operating company that operates LLA under agreement. It is not LBC and it is independent from it. LBC's ownership of LLA itself is separate from LLOAL.*" They went on to say that "*LBC's land-owning function of LLA itself is kept separate from its very different function of acting as the LPA. The applicant currently pays (and will continue to pay) a monitoring fee to LBC under the extant planning agreement. LBC has engaged external independent consultants to scrutinise the Airport, including this application. Far from there being any basis for suggesting any improper or less than exacting process of scrutiny of the Airport, the whole history has been characterised by exactly the opposite. The Airport has never sought to deny, downplay or minimise the fact that breaches of the conditions did occur in the years identified.*"
- 3.24.18. In conclusion, matters in relation to finance are considered further in the CA Section of this report. With regard to concerns that LBC has acted and will continue to act appropriately, the ExA notes that LBC's duties are bound by statute. Their functions are set out in numerous Acts of Parliament and many of these functions have associated legal duties. There are many opportunities for LBC to be held to account, such as elections for councillors responsible for making public decisions, independent external audits and independent regulation of service and standards. The ExA therefore does not consider that the governance of LBC is a matter it can consider.

IMPACTS ON PROPERTY AND RENTAL VALUES, REQUESTS TO SELL AND LACK OF AWARENESS WHEN MAKING PROPERTY PURCHASES

- 3.24.19. Around 90 RR were concerned about how the Proposed Developments would affect the value of their property including rental value and/ or could make it difficult to sell eg [\[RR-0205\]](#) and [\[RR-0702\]](#), [\[RR-1129\]](#). RR also included requests to sell properties to the Applicant eg [\[RR-0753\]](#), or expressed frustration that IPs were not aware of the expansion proposals when they made property purchases eg [\[RR-1598\]](#).
- 3.24.20. Whilst the ExA notes these concerns, the planning system operates in the public interest and therefore a private loss, such as the devaluation of a property, is not in itself a material consideration. However, matters such as increases in noise, loss of air quality and traffic congestion that could result in a diminution of property values

are material considerations and the ExA has considered these in the relevant sections of this Report.

- 3.24.21. Requests to sell property to the airport and people's awareness of the expansion proposals when making property purchase decisions are private matters, and not matters for the ExA to consider.

INTERFERENCE WITH ELECTRONIC DEVICES

- 3.24.22. Several representations highlighted that overflights temporarily interfered with television reception eg [\[RR-0860\]](#), [\[RR-0422\]](#), [\[RR-0360\]](#) and [\[RR-0422\]](#), internet signals [\[RR-0911\]](#), mobile phones eg [\[RR-0228\]](#) and radio reception eg [\[RR-0386\]](#). The Applicant [\[REP1-020\]](#) stated that it was not aware of any specific impacts on communications networks currently but that such issues should be addressed to the airport operator. The NPPF (paragraph 120(b)) and LLP Policy LLP35 require consideration of the possibility that new buildings or other structures could interfere with broadcast and electronic communications services, however this is not directly relevant to consideration of aircraft movements. The ExA has not had any relevant policy put before it in respect of this matter and has therefore attributed a very little negative weight to this matter.

RELEVANCE OF AVIATION POLICIES POST COVID-19

- 3.24.23. A number of representations questioned the relevance of aviation policies following the COVID-19 pandemic eg [\[RR-0054\]](#), [\[RR-1487\]](#), [\[RR-0289\]](#) and [\[RR-0721\]](#) in light of changing business practice (eg more reliance on videoconferencing). The ExA acknowledges that the COVID-19 pandemic has affected the aviation industry but is required to consider the Proposed Development against the policy requirements that prevail at the current time.

IMPACT ON EXISTING TENANTS

- 3.24.24. Harrods Aviation [\[RR-0532\]](#) suggested that the Proposed Development could impact on the use and enjoyment of assets it leases. The ExA notes that construction activities at LLA would have potential to interfere with airport operations but considers that this is an operational and contractual management issue for the airport operator to address and is not for the ExA to comment on.

IMPACT ON CRIME

- 3.24.25. In relation to the suggestion in [\[RR-1565\]](#) that expanding the airport would support people travelling to the country to commit crime, the ExA is of the view that this is a matter that falls outside the scope of the Examination to consider.

LOCATION OF DECISION MAKERS

- 3.24.26. [\[RR-0959\]](#) suggested that people making decisions about the airport did not live near it. The ExA observes that such decisions are made in the context of the planning policy framework that exists at that time.

4. SUMMARY OF THE HABITATS REGULATION ASSESSMENT

- 4.1.1. The Competent Authority, before deciding to give consent to a project which is likely to have a significant effect on a European site (either alone or in combination with other plans or projects) and is not directly connected with or necessary to the management of that site, can only agree to the project after ascertaining that it would not adversely affect the integrity of European Sites.
- 4.1.2. A 'Habitats Regulation Assessment No Significant Effects Report' [Appendix 8.3, [APP-171](#)] was submitted by the Applicant. Consideration has been given to the adequacy of this HRA report and its conclusions.
- 4.1.3. There are four European Sites within 30 km of the Proposed Development. These are shown in Figure 25 below and described in Table .

Figure 25: European Sites within 30km of the Proposed Development extract from [APP-171](#), Appendix A, Figure 1]

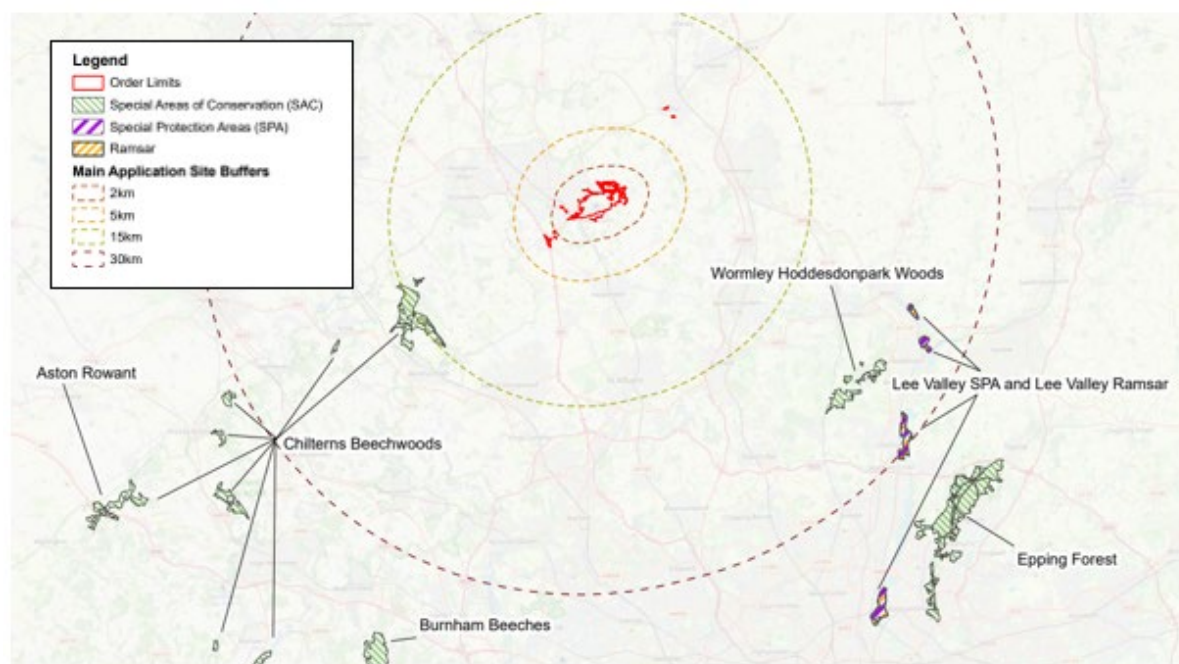


Table 14 15: Summary of European Sites and their qualifying features [based on [APP-171](#), Table 3.1]

Site name	Description	Qualifying features
Chilterns Beechwoods SAC	Ancient seminatural and secondary woodland, plantation, scrub, bracken and grassland. Approximately 1,286ha.	9130 <i>Asperulo-Fagetum</i> beech Forests 6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates <i>Festuco brometalia</i> ,

Site name	Description	Qualifying features
		which are of importance for orchids 1083 Stag beetle (<i>Lucanus cervus</i>)
Wormley Hoddesdonpark Woods	The site mainly comprises ancient semi-natural and secondary woodland, wood- pasture and heaths. 337ha.	9160 Sub-Atlantic and medio-European oak or oak-hornbeam forests of the <i>Carpinion betuli</i>
Lee Valley SPA	Four discrete areas located within a lowland valley floodplain with extensive waterbodies.	Wetlands which support wintering population of bittern (<i>Botaurus stellaris</i>), shoveler <i>Anas clypeata</i> ; and gadwall <i>Anas strepera</i>
Lee Valley Ramsar site	Four discrete areas located within a lowland valley floodplain with extensive waterbodies	Wetlands which support a Nationally Rare water-boatman (<i>Micronecta minutissima</i>); the Nationally Scarce whorled water-milfoil (<i>Myriophyllum verticillatum</i>), wintering population of gadwall (<i>Anas strepera</i>); and spring/autumn passage population of shoveler (<i>Anas clypeata</i>).
Aston Rowant	One of the largest surviving complexes of beech <i>Fagus sylvatica</i> woodland, mixed scrub, juniper and chalk grassland in the Chilterns.	<i>Asperulo-Fagetum beech forests</i> . (Beech forests on neutral to rich soils) <i>Juniperus communis</i> formations on heaths or calcareous grasslands. (Juniper on heaths or calcareous grasslands)

4.1.26. Potential impact pathways considered in the report included habitat loss, degradation and severance, species disturbance and mortality/injury [APP-171, section 4.1.2].

4.1.27. The potential effects on air quality from emissions of nitrogen, ammonia and sulphur dioxide were included. Consideration was also given to 'fuel dumping' as a potential pathway. This assessment also included consideration of the potential for likely

significant effects on Aston Rowant SAC, given its proximity to the M40. The Applicant concluded that there would be no impact pathway on the qualifying features of the European Sites from changes in air quality, due to the distance of the sites from the Proposed Development [[APP-171](#)-section 4.1.2].

- 4.1.28. There was also no evidence of functional linkages between other habitats within 5km of the Proposed Development and the Lee Valley SPA/ Ramsar Site, and therefore no pathways for effects on the qualifying features [[APP-171](#), section 4.2.13]. In addition, aircraft would be flying well above the minimum distance for disturbance and noise effects [[APP-171](#), section 4.2.15].
- 4.1.29. The Applicant concluded that there was no potential for likely significant effects in-combination with other plans or projects given that there were no relevant pathways for effects on the qualifying features of any of the European Sites [[APP-171](#), section 4.2.16].
- 4.1.30. The Applicant reported that Natural England (NE) was consulted during the scoping stage of the Habitats Regulations Assessment (HRA) [[APP-171](#), section 1.3.7]. In the signed SoCG [REP9-040], NE confirmed it agreed with the approach to, and associated results and conclusions contained within the HRA No Significant Effects Report [[APP-171](#)]. No comments were made by any other IPs in relation to the HRA during the Examination. Given this conclusion, it was not considered necessary to produce a Report on the Implications for European Sites during the Examination.
- 4.1.31. The ExA concludes that likely significant effects from the Proposed Development on the identified European Sites, alone or in combination with other plans and projects, may be excluded beyond reasonable scientific doubt. On this basis the ExA concludes that an appropriate assessment of the implications of the project is not required.

5. THE CASE FOR MAKING THE DEVELOPMENT CONSENT ORDER

5.1. INTRODUCTION

- 5.1.1. This Chapter considers the overall planning merits of the Proposed Development and the case for development consent. It brings together the legal and policy context set out in Chapter 2 and the matters, issues and findings determined in relation to planning issues in Chapter 3.
- 5.1.2. The ExA has taken into account all RR, WR, responses to the ExA's written questions and Rule 17 requests for further information, as well as all other representations made during the course of the Examination including the LIRs from the HHA, LBC, CBC and BC and the representations made at hearings.
- 5.1.3. Examination Library references are not included in this summary; full references are available in the relevant Sections 2 and 3 of this Report.
- 5.1.4. Section 3 dealt with most topics alphabetically. However, to aid understanding the ExA has arranged the following section so that topics that interface with or affect findings on other topics are grouped together sequentially.
- 5.1.5. The conclusions in this section are made on the basis that the changes to or new Requirements recommended by the ExA in Chapter 7 are part of the amended draft DCO under consideration. If changes or additions to the recommended DCO are not incorporated then this would affect the conclusions on individual elements and overall in the planning balance.

5.2. SUMMARY OF THE MAIN PLANNING ISSUES AND COMPLIANCE WITH POLICY

THE PRINCIPLE AND NEED FOR THE PROPOSED DEVELOPMENT, INCLUDING ALTERNATIVES

- 5.2.1. The ExA is satisfied that the Proposed Development is an NSIP under s14 and s23 of the PA2008 as it is for the alteration of an airport in England to enable an increase by at least 10 million per year the number of passengers for whom the airport is capable of providing air passenger transport services.
- 5.2.2. The ExA accepts that due to the nature of the proposal, which is an extension to an existing airport, there are very limited alternatives for site location and configuration that could meet all the necessary requirements for an operational airport. The ExA accepts that the proposed expansion is, in part, intended to serve international destinations, which would not be practicable by alternative modes of surface access. In addition, there is no evidence that, should the Proposed Development not go ahead, potential passengers would choose alternative forms of transport rather than fly from another airport. The ExA is therefore satisfied that it has met the requirements for consideration of alternatives as prescribed in the EIA Regulations but this has been explored in more detail in Section 3.5.
- 5.2.3. This is a decision that falls to be determined under s105 of the PA2008 because although there is an ANPS, this only has 'effect' in relation to the delivery of additional airport capacity at Heathrow Airport through the Northwest Runway project. However, the ANPS in paragraph 1.41 makes it clear that the ANPS

contents will be an important and relevant consideration under s105 in the determination of an application for development consent for any other airport development, particularly where it relates to London or the South East of England.

- 5.2.4. Having regard to LIRs, the ExA notes that LBC stated that Government policy was *“very clear and unambiguous in its support for airport growth where it can be delivered within existing environmental obligations”*. BC’s LIR also considered that there was clear policy support for aviation growth and for airports making best use of their runways, as set out in various national aviation policy documents. The HHA’s LIR highlighted that their support was not unconditional and any decision should not be driven solely by demand and economic benefits as in their view adverse environmental effects carried as much weight in the decision-making process.
- 5.2.5. The ExA considers that clear policy support for the principle of the Proposed Development is demonstrated through, amongst other things, the APF, MBU, Aviation 2050, FttF, the JZS, JZSOYO and the OANPS. The ExA is satisfied that the Proposed Development would enable the Applicant to make the best use of its existing runway as supported by MBU. Furthermore, expansion of LLA would contribute to addressing identified airport capacity pressures in the South East of England, as set out in the ANPS. It would deliver increased connectivity which could benefit both business and leisure passengers by improving exports, access to jobs in high value sectors and helping to facilitate competition within the aviation sector. It would bring a variety of socio-economic benefits which are considered below. All of these factors attract great weight in favour of the Proposed Development. The ExA is satisfied that the long-term demand forecasts accompanying the Need Case have demonstrated that the airport could reach 32mppa if the DCO were to be granted.
- 5.2.6. The principle of, and need for, the Proposed Development therefore attracts great weight for the making of the Order. However, in accordance with MBU, this weight must be balanced against environmental issues.

SOCIO-ECONOMIC

- 5.2.7. The ExA concludes that numerous socio-economic benefits would arise from the construction and operation of the Proposed Development. These would include the delivery of a substantial number of new jobs at a variety of levels which could help reduce levels of deprivation and help drive levelling up in Luton, which is ranked in the top 10 to 30% of the most deprived areas in England. A training scheme (ETS), which has been secured through a s106 agreement, would engage with existing educational institutions and local training providers to improve the area’s skill base, and help people access higher skilled and better paid jobs.
- 5.2.8. The ExA also considers that the ripple effects of increased passenger spending in the retail and leisure sector would help support local businesses and contribute to boosting the economic vitality of Luton and the surrounding area. The increased GVA that the Proposed Development would deliver could yield meaningful benefits for the local economy.
- 5.2.9. The LIRs recognised the potential economic benefits that the Proposed Development could deliver to their respective economies, albeit these were subject to several caveats relating to access to job markets, including transport connections and availability of training. The HHA LIR considered in general terms that the socio-economic impacts were likely to be positive, but they were concerned that there was

not enough evidence to demonstrate that the economic and other benefits of the scheme outweighed the adverse impacts.

- 5.2.10. Due to the economic and consumer benefits, the Proposed Development would accord with national (ANPS, MBU, FttF) and local policy (in particular LLP Policies LLP6 and LLP13 which support airport expansion). As a result, the ExA concludes that specific local socio-economic matters weigh greatly in favour of the making of the Order.

DESIGN

- 5.2.11. In accordance with the ANPS (paragraph 4.35) the Applicant has provided suitable information explaining how the design process was conducted and how the proposed design evolved. The DP would set adequate measures to inform any future detailed design stages.
- 5.2.12. As encouraged in the NPPF (paragraph 138) and LLP Policy LLP25, a design review process, which is secured by the s106, to inform and scrutinise the proposed T2 (Work No. 3b(01) and (02)), coach station (Work No. 3d), T2 plaza (Work No. 3f), DART T2 Station (Work No. 3g) and hotel (Work No. 4a) would secure an important mechanism in seeking to achieve a sustainable and aesthetically sensitive design for the key public facing components of the Proposed Development. This would attract a little positive weight for the making of the Order.
- 5.2.13. The ExA is satisfied that Requirements 5 and 6, subject to suggested amendments, would allow for the phasing scheme to be approved by the specified authorities. This would appropriately secure the details required in progressing any future detailed design stages.
- 5.2.14. However, the design approach to the proposed earthworks (Work No. 1a) and earth bund (Work No. 5c(02)) would not respond positively to the existing landform, conflicting with the NPPF (paragraph 135) and LLP Policy LLP25. There is also a lack of clarity as to how the outline layout in the Scheme Layout Plans and built parameters of the Proposed Development have responded to its surroundings, particularly the relationship to the rural areas to the east. These matters would attract a little negative weight against the making of the Order.
- 5.2.15. The ExA is satisfied that the recommended DCO contains suitable measures to secure an appropriate mechanism for achieving good design. There would be both positive and negative aspects to the design approach which, overall, would weigh neither for nor against the making of the Order.

NOISE AND VIBRATION

- 5.2.16. The Applicant has provided a noise and vibration assessment that is appropriate for the purposes of decision making and consistent with the requirements of national policy (MBU, APF, ANPS, NPSNN and OANPS) and local policy (eg LLP Policies LLP6, LLP38, NHLP Policy D3 and CBLP Policy CC8). The contributory elements of noise are:
- 5.2.17. **Construction:** The ExA finds that the CoCP contains appropriate measures to control noise and vibration during construction, that these are consistent with practice from other major construction projects and have been subject to consultation and scrutiny during the Examination. Whilst such effects are assessed as non-significant, adverse construction noise and vibration would still arise, which

does not fully accord with the NPPF (paragraph 180e) aim to “*wherever possible, help to improve local environmental conditions*”. The ExA considers that this attracts a little negative weight against the making of the Order.

- 5.2.18. **Operation (fixed plant):** The ExA examined the fixed plant noise management plan and is content that the revised plan ensures that fixed plant noise would not give rise to significant effects on receptors and is acceptable to the local authorities. This matter weighs neither for nor against the making of the Order.
- 5.2.19. **Operation (surface access):** The Applicant’s surface access noise assessment identified that dependent on phase and location there would be perceptible but non-significant increases and decreases in traffic noise in the DS scenario compared with the DM scenario across the ARN. On balance, there is a general trend of worsening traffic noise for which mitigation is not proposed as effects would be below SOAEL. The ExA considers that this does not fully comply with the requirements of NPPF (paragraph 180e) to help to improve local environmental conditions and attracts a little negative weight against the making of the Order.
- 5.2.20. The Applicant identified the potential in Phase 1 for significant adverse effects from surface access noise for properties close to Eaton Green Road, between Vauxhall Way and Frank Lester Way. No mitigation was proposed as the properties were predicted to already be close to SOAEL, experience a small magnitude of change and the Applicant considered effects would be temporary once separate highway works by LBC were complete. The ExA considers that the lack of mitigation is inconsistent with the requirements of the ANPS and NPSE to avoid effects above SOAEL. Based on the small number of properties, the small magnitude of change and the temporary but uncertain duration of the effects the ExA considers that this attracts moderate negative weight in the short to medium term for the making of the Order.
- 5.2.21. The Applicant identified significant effects for 55 receptors on Crawley Green Road in Phases 2a and 2b for which compensatory mitigation in the form of noise insulation was identified. The ExA concludes that with mitigation effects these would be reduced to ‘not significant’ and do not weigh for nor against the making of the Order. The Applicant also identified significant effects for a small number of properties on Stony Lane in Tea Green but as effects were below SOAEL and so they did not propose to mitigate these. The ExA accepted the Applicant’s arguments but considered that the worsening noise below SOAEL would attract a very little negative weight against the making of the Order.
- 5.2.22. **Operation (aviation noise - general):** The Applicant’s ES assessed a worst-case increase to 209,410 annual air traffic movements of which 12,460 movements would be in the early morning shoulder period (06:00 to 07:00). The Applicant’s noise assessment identified the potential for the increase in aviation noise to give rise to effects above SOAEL. No effects exceeded the UAEL. They set out their proposed noise controls in the Air Noise Management Plan, Ground Noise Management Plan, Operational Noise Management (Explanatory Note) and the GCG Framework. These seek to avoid significant adverse effects and to mitigate and minimise noise, which the ExA considers is consistent with the aims of the OANPS, ANPS (paragraph 5.67), APF, NPSE, NPPF and Planning Practice Guidance for Noise.
- 5.2.23. **Operation (aviation noise controls including GCG):** The Applicant’s primary noise control comprised a noise envelope based on noise contour ‘Limits’ and ‘Thresholds’, noise and track violation limits, aircraft quota count limits and annual quota count budgets, which were developed in consultation with stakeholders and

communities and further developed through Examination in public. The noise envelope's proposed noise contour area Limits were originally based on the Applicant's 'faster growth' scenario contours but discussion of fleet modernisation trends during the Examination identified some uncertainty in the forecasts and led the Applicant to submit revised noise contour limits ('updated faster growth contours') responding to a faster than predicted modernisation in the aircraft fleet. These were used to update the Thresholds and Limits in the Applicant's GCG Framework and in operation would be converted into annual quota count budgets to proactively ensure that noise from flights allocated slots would not exceed the noise contour Limits.

- 5.2.24. The ExA did not consider that the use of faster growth contours, or the UFGS met the ANPS requirement to make particular efforts to limit, or where possible reduce, noise impacts or demonstrate sufficient sharing of benefits between growth and noise reduction. It also does not satisfy the NPPF (paragraph 180e) aim to help improve local environmental conditions or the LLP Policy LLP6 requirements to secure a significant diminution or betterment in noise over time. On this basis, the ExA has included a Requirement in the recommended DCO securing the smaller noise contour area Limits based on the Applicant's core growth assessment. The ExA has included provision within the drafting for changes to the Limits to be allowed by approval of the SoS.
- 5.2.25. Although the ExA considers that the proposed noise controls are acceptable, it does not consider that the GCG Framework on its own would provide a sufficiently enforceable control mechanism. This is because exceeding a GCG Limit would only trigger the production of mitigation plans but there would be no consequences for continued exceedance of limits except for a cap on further growth at the airport. Based on the Applicant's proposed DCO drafting, enforcement would only be possible against the Requirements of the GCG Framework, which would be satisfied by the production of mitigation plans. The ExA's new Requirement to secure the noise contour area Limits (referenced above) would enable enforcement action to be taken if a contour Limit was exceeded.
- 5.2.26. **Operation (movement caps):** In response to community concerns regarding the impact of increasing overflights, which would be uncapped in the current proposals, and recognising that noise impacts are not experienced in an averaged manner, the ExA has proposed that movement caps should be imposed through requirements in the DCO. The ExA considers that this would provide certainty regarding the maximum number of movements that would be permitted during the year and during the sensitive early morning shoulder period. The ExA has recommended movement caps based on the Applicant's worst-case assessment. This would enable enforcement action and, as part of the overall noise envelope, would help to establish clear noise performance targets consistent with the aims of the ANPS (paragraph 5.60).
- 5.2.27. The ExA has also included reinstatement of the existing night quota period movement cap in the amended draft DCO. Whilst this would not provide a predictable period of relief at night as suggested by the ANPS (paragraph 5.56), it would ensure that there were controls on night noise, an issue of specific concern to local communities. It would also serve to avoid a material increase in night-time noise in accordance with LLP Policy LLP6(B)(v). Subject to the inclusion of these requirements, the ExA is satisfied that suitable mitigation and controls for aviation noise would be in place consistent with the requirements of LLP Policies LLP6 and LLP38 and other relevant local policies.

- 5.2.28. **Operation (night flights ban):** The ExA is satisfied that a ban on night flights at Luton is not required by policy and could impact on the operating model for the airport. The Applicant had included quota count restrictions on night flights to incentivise use of quieter aircraft.
- 5.2.29. **Operation (balanced approach):** The ExA is satisfied that the Applicant has adopted a 'balanced approach' to aircraft noise and vibration mitigation as required by the ANPS (paragraph 5.54). When compensatory noise mitigation in the form of noise insulation is taken into account, the Proposed Development would avoid significant adverse effects on health and quality of life due to aviation noise in future. This is consistent with the aims of the MBU, ANPS, the NPSE and OANPS.
- 5.2.30. **Operation (compensation):** The Applicant's mitigation package meets the ANPS requirements for residential and non-residential receptors and has been subject to consultation and Examination. However, the ExA considered that the programme of delivery for noise insulation lacked certainty, but it has addressed this through inclusion of a specific requirement in the Recommended DCO.
- 5.2.31. **Operation (overall conclusions):** The ExA finds that for a period of up to four years (assuming that delivery programmes for insulation are met) the Proposed Development would not avoid significant adverse noise impacts on health and quality of life for receptors. These effects would include a substantial increase in movements during the early morning shoulder period, which is part of the night period. This would be inconsistent with the requirements of the ANPS (paragraph 5.68), NPSE and LLP Policy LLP6 which emphasise the need to avoid such effects and make extra efforts to mitigate night noise and attracts great negative weight against the making of the Order in the short to medium term.
- 5.2.32. After this period of time, effects on outdoor amenity, including in areas close to the airport and the Chilterns NL would remain. The ExA has considered effects on the Chilterns NL separately but considers that effects on outdoor amenity including significant adverse community noise effects that the Applicant has identified would attract great negative weight against the making of the Order.
- 5.2.33. The ExA considered whether the Proposed Development would result in a reduction in noise levels compared with the 2019 baseline and concluded that the Proposed Development would not be consistent with the ANPS, OANPS, NPPF or local policy aims to reduce aviation noise effects in future because under the Proposed Development:
- the area of SOAEL contours (63dB $L_{Aeq16hr}$ day and 55dB L_{Aeq8hr} night) would be greater in all future DS scenarios compared with the DM during the day and night; The extent of the 57dB $L_{Aeq16hr}$ and 48dB L_{Aeq8hr} noise contours would increase in all future scenarios during the day and night compared with the 2019 conditioned 57dB $L_{Aeq16hr}$ and 48dB L_{Aeq8hr} contours; and
 - the number of receptors exposed to noise levels above SOAEL in the DS scenario would increase by up to 500 during the day and by up to 1900 during the night compared with the DM scenarios.
- 5.2.34. As the OANPS states that "*An overall reduction in total adverse effects is desirable, but in the context of sustainable growth an increase in total adverse effects may be offset by an increase in economic and consumer benefits.*" The ExA considers whether the total adverse effects identified outweigh the economic and consumer benefits in the final part of this Section.

CHILTERN NATIONAL LANDSCAPE

- 5.2.35. The Applicant's assessment of effects on the SQ of the Chilterns NL would have benefited from additional detail but was deemed sufficient for the purposes of decision making ahead of the publication of any guidance on the interpretation of the changes arising from the Levelling Up and Regeneration Act 2023. The ExA considers that the Proposed Development would compromise the SQs relating to Relative Tranquillity and Panoramic Viewpoints within the Chilterns NL.
- 5.2.36. The ExA finds that the Proposed Development would not conserve and enhance the natural beauty of the NL and would conflict with the aims and objectives within the Chilterns NL Management Plan. The Applicant's mitigation measures for the Chilterns NL are limited to operational controls such as noise contour controls and future improvements in engine technology. In the absence of more specific mitigation measures being put forward by the Applicant to offset the harm to the Chilterns NL, the ExA does not consider that the Proposed Development would enable the SoS to meet its duties under s85 of the Countryside and Rights of Way Act 2000 to "*seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty*".
- 5.2.37. The ExA concludes that the Proposed Development would not be consistent with national and local policies relating to the Chilterns NL and attracts great negative weight against the making of the Order.
- 5.2.38. The ExA has also considered the implications of a proposed boundary extension to the NL that is currently being considered by NE. It concludes that in light of uncertainties in the boundary extension process and the candidate area that could be taken forward, this issue would attract very little weight.

AIR QUALITY

- 5.2.39. The APF, ANPS, FttF and Policy LLP6 recognise that airport development can give rise to air quality effects. They require that such effects are assessed, and suitable forms of mitigation identified for significant adverse effects. Similar assessment and mitigation requirements are set out in the NPPF, NPSNN and development plan policy (eg LLP38 and NHLP Policy D4 and CBLP Policies HQ1 and CC8). The ANPS, NPSNN, NPPF and PPGAQ place emphasis on the need to consider effects on AQMA, including the local AQAP.
- 5.2.40. The Applicant provided air quality assessment and modelling that considered relevant pollutants, dust and odour during construction and operation. The assessments included forecasts of emissions for the DM and DS scenarios, including the Proposed Development at full capacity. The forecasts applied relevant Defra projections. This approach is consistent with the requirements of the ANPS (paragraphs 5.32-5.34), LLP Policies LLP6(iv) and LLP38.
- 5.2.41. The Applicant's assessment identified that the Proposed Development would contribute to a slight deterioration, or in a few cases slight improvement, in air quality on the ARN in the DS compared with the DM scenario, depending on location. This included predicted changes in air quality in AQMA (eg in Hitchin). As these effects were either assessed as being below the legal limit values or demonstrated minimal change between the DM and DS scenarios, the Applicant concluded that such effects would not be significant. The ExA is also satisfied that the Proposed Development would not affect compliance. Air quality effects on

ecological receptors including nature conservation sites are addressed under biodiversity.

- 5.2.42. Off-site highway works lack detail regarding any proposed measures to replace the limited roadside GI that would be lost during construction. This does not fully accord with the NPPF (paragraph 192) to mitigate air quality effects, including through provision of green infrastructure. The ExA considers that this attracts a very little weight against the making of the Order.
- 5.2.43. The Applicant used the results of the air quality dispersion modelling to determine changes in pollutant concentrations and calculate changes in health outcomes. Based on the small magnitude of changes in air quality, it identified a minor adverse, non-significant worsening of health outcomes. The Applicant was unable to confirm the distribution of effects but suggested that differential effects could arise for receptors closer to pollution sources.
- 5.2.44. Mitigation for construction stage effects was set out in the CoCP and associated construction traffic management plans. Operational mitigation including for fuel odour was primarily addressed in the oAQAP. The Applicant included air quality monitoring and mitigation measures in the GCG Framework to act as a backstop for operational air quality effects. It also relied on the Environmental Permitting process to control odour effects from the proposed Water Treatment Plant (Work No. 4d).
- 5.2.45. The ExA is satisfied with the assessments provided and the conclusions of no likely significant air quality and odour effects during construction or operation subject to mitigation measures, and agrees that the Proposed Development would be compliant with legal obligations and meet the requirements of national and development plan policies.
- 5.2.46. However, the Proposed Development would slow the trajectory of improvement in air quality, at odds with the NPPF (paragraph 180e) aim that developments “*wherever possible, help to improve local environmental conditions such as air... quality*”. It would also be inconsistent with the requirements of the ANPS (paragraph 5.43) to avoid deterioration in air quality. Furthermore, it would not satisfy the LLP Policy LLP6(vii) objective of “*a significant diminution and betterment of the effects of aircraft operations on the amenity of local residents*”. Combined with the minor adverse health impact identified, the ExA considers that effects on air quality attract a little negative weight against the making of the Order.

HEALTH AND COMMUNITY

- 5.2.47. The APF, ANPS, MBU and the OANPS recognise the need for a fair balance between the positive benefits of aviation and the negative impacts of development on health, amenity and quality of life. The ANPS, NPSNN and NPPF seek to avoid unacceptable levels of harm to health from new development. In combination with the NPSE, they also seek to avoid significant adverse effects on health and quality of life from noise. The relevant development plan policies seek to assess, mitigate and minimise effects on health and quality of life (eg LLP Policy LLP38, NHLP Policy D3 and D4, DBCS Policies CS8 and CS32, CBLP Policy CC8, VALP Policies S1, S5, NE3-5 and BE3). LLP Policy LLP6(iv) requires assessment and mitigation of significant adverse effects from air transport movements and LLP6(vii) requires “*a significant diminution and betterment of the effects of aircraft operations on the amenity of local residents*”. The ANPS requires that developments provide project level health impact assessments and identify mitigation that seeks to maximise

health benefits and avoid, reduce or compensate for adverse health impacts and cumulative impacts.

- 5.2.48. ES Chapter 13 included a project specific assessment of health and community effects. Cumulative health effects were ruled out in ES Chapter 21. The Applicant predicted that the Proposed Development would give rise to a range of positive and negative effects on health and quality of life. Many of these effects are considered and attributed weight under other relevant sections of this Report, listed below:
- Land use: health benefits in respect of improved PRoW and improved access to open space in WVP and temporary negative effects on these resources during construction;
 - Socio-economic: health benefits of additional employment opportunities, including measures in the ETS to assist in upskilling local people, including hard to reach groups which received substantial support from businesses and charities;
 - Air Quality: minor adverse, non-significant effect on health outcomes; and
 - Noise and Vibration: adverse effects exceeding SOAEL for a period of up to four years prior to installation of noise insulation, increases in traffic noise and permanent effects on outdoor amenity and relative tranquillity, including for Chilterns NL.
- 5.2.49. The Applicant identified that moderate significant adverse health effects due to perception and uncertainty during planning and construction of the Proposed Development would arise but suggested that there was weak evidence for this effect. To address this, it proposed mitigation in the form of community engagement measures in the CoCP. The ExA considers that weak evidence base means that these effects would attract a little negative weight against the making of the Order.
- 5.2.50. The Applicant also concluded that residual non-significant minor adverse health effects would arise from:
- displacement of businesses within Green Horizons Park and President and Percival Way following compensation;
 - impacts of the construction workforce on community cohesion and access to services, accounting for provision of occupational healthcare facilities; and
 - impacts of the operational workforce on the housing market which could arise due to the operational workforce, taking into account the ETS.
- 5.2.51. The ExA considers that each of these effects attracts a little negative weight against the making of the Order.
- 5.2.52. Community effects included the loss of community assets including Ace Sandwich Bar and Prospect House Day nursery. However, the Applicant identified that there would be non-significant effects arising from the demolition of Prospect House Day Nursery following mitigation secured in the s106 and for Ace Sandwich Bar. The ExA considers that these matters neither weigh for nor against the making of the Order.
- 5.2.53. The ExA concludes that the Applicant's health and community assessment has identified relevant direct and indirect health effects and mitigation, consistent with the requirements of the ANPS and LLP Policy LLP6 and other development plan policy. The ExA concludes that the harm from health and community effects, not already accounted for in other sections of this Report, collectively attracts moderate negative weight against the making of the Order.

TRAFFIC AND TRANSPORT

- 5.2.54. The ExA concludes that the construction related impacts specifically related to traffic and transport would attract a little negative weight against the making of the Order. Matters relating to the transport modelling approach neither weigh for nor against the making of the Order.
- 5.2.55. The ExA acknowledges that whilst the modelling suggests that there would be no significant adverse effects to either the Local Road Network or the Strategic Road Network the amount of extra traffic the Proposed Development would generate is considerable. The proposed off-site highway mitigation has been designed to alleviate this traffic increase at certain locations, however there would remain numerous minor impacts across the network. The ExA considers that these residual, albeit individually minor, impacts when considered cumulatively on the road network could be severe. This therefore attracts great negative weight against the making of the Order.
- 5.2.56. If it can be confirmed that there is sufficient rail capacity and including the amended Requirement 31 (Travel Plan), then the ExA concludes that lack of ambition in the Proposed Development for sustainable transport would attract moderate negative weight against the making of the Order.
- 5.2.57. However, if the SoS decides that the proposed amendments to Requirement 31 are not necessary and no confirmation can be secured regarding rail capacity then insufficient provision for sustainable transport alone would attract great negative weight against the making of the Order.
- 5.2.58. The ExA is concerned that the airport is already exceeding its proposed Phase 1 GCG Limits for passengers and staff. The GCG surface access mode shares act as the 'reasonable worse case' and are used to inform the ES and Transport Assessment. With the amendment to Requirement 21(b) the ExA is confident that the Applicant could identify trends in the surface access mode share and only serve the notice under article 44(1), which would allow the airport to operate above its current passenger cap, when it was confident that the Phase 1 Limits would not be breached and ultimately prevent a situation occurring which was materially worse than assessed in the ES.
- 5.2.59. On the basis of the amended Requirement 21 overall the ExA concludes that traffic and transport matters attract great negative weight against the making of the Order.

GREENHOUSE GASES

- 5.2.60. Emissions will ultimately be controlled through the budgets set by the Climate Change Act (2008). The Government has laid out its preferred pathway to achieve this in the Jet Zero Strategy (2022) and Decarbonising Transport (2021). The ExA considers it reasonable that the Applicant relies on these for the purposes of the ES, keeping in mind that if the pathways change in the future, the outcomes in the legislation must still be met. The ExA has considered the numerous requests for sensitivity analysis of delivery of the JZS mitigation policies and has concluded that, for the reasons above, it is not required for the purposes of this Examination.
- 5.2.61. The Applicant has provided evidence that the predicted CO₂ emissions would not have a material impact on the ability of Government to meet either its planning assumption for aviation or the budget for aviation and shipping in the 6th Carbon Budget, as required by the ANPS (paragraph 82). The total emissions from aviation,

construction, operation and surface access of the Proposed Development would also not have an impact on delivery of the carbon budgets, given their relatively small size.

- 5.2.62. As required by the ANPS (paragraph 5.76), the Applicant has quantified the GHG impacts before and after mitigation to show the impacts of the proposed measures as far as reasonably possible. Emissions have been split into traded sector and non-traded sector emissions, and a distinction made between international and domestic aviation emissions.
- 5.2.63. The Applicant has also provided evidence of appropriate mitigation measures to ensure that the carbon footprint is not 'unnecessarily high' from construction and operations, as required by the ANPS (paragraph 5.83). It has been demonstrated that carbon emissions would be reduced through good design, largely secured by the DP, which meets the requirements of LLP Policies LLP25 and LLP37. The Proposed Development would support energy efficiency and low carbon heating improvements, as required by the NPPF (paragraph 164). The design has also incorporated increased energy and water efficiency and would achieve at least BREEAM 'good' status, as required by LLP Policies LLP25 and LLP37. These measures would be secured through application of the CoCP, the Construction Workers Travel Plan, the DP and the outline GHG Action Plan. The additional control on emissions from airport operations offered by the GCG Framework gives a little positive weight for the making of the Order.
- 5.2.64. In addition, opportunities for avoiding and mitigating adverse effects through electrification of vehicles and enabling charging of vehicles have been included in the DP and the GHG Action Plan, as required by paragraph 116 of the NPPF. However, the ExA has concluded that the controls on GHG emissions from surface access offered by the GHG Action Plan, SAS and FTP are weak. However, the cost of offsetting emissions above the Limit in the GCG Framework should incentivise mitigation of these. In addition, there is provision for the management plans to be regularly reviewed and revised. For these reasons, the ExA concludes that LLP Policy LLP25 and the requirements of the ANPS (paragraph 5.83) would be met and, on balance, this is a neutral matter.
- 5.2.65. Related to this, the ExA notes that the core planning case CO₂ emissions in the GHG Methodology, which inform the ES, would potentially be higher than the GCG Limits at commencement and could remain unmonitored or offset for at least two years. To overcome this, the ExA has inserted a requirement in the recommended DCO that would require monitoring of emissions for a year prior to serving the notice under Article 44(1). On the basis that the amendment is accepted, then the ExA concludes that this would be a neutral matter.
- 5.2.66. Overall, the total GHG emissions from the project would be significantly higher than the 'without proposal' scenario. In the recent P19 permission, the Secretaries of State concluded that a small, temporary increase in emissions should be of 'limited weight' against the expansion of LLA. The ExA notes that although the emissions may not be a significant contribution at a sectoral level, they are a substantial increase above the DM scenario. Taking these factors into account, the ExA concludes that the substantial additional GHG emissions that would be released to the atmosphere from the Proposed Development are a matter of great weight against making the Order.
- 5.2.67. There would be a little positive weight from the controls in the GCG Framework on emissions and great negative weight from the substantial additional total emissions

that would be generated by the Proposed Development. Overall, the issue of GHGs is considered by the ExA to be a matter of moderate weight against the making of the Order.

LANDSCAPE AND VISUAL

- 5.2.68. The Proposed Development would give rise to significant adverse landscape and visual effects for a number of receptors. Proposed embedded and additional mitigation measures would give rise to beneficial effects in future that could offset adverse effects, although significant residual adverse effects would remain at the design year.
- 5.2.69. Significant direct adverse effects would occur to the Wigmore Rural (LBLCA 13) and Peters Green Plateau (HLCA 200) LCAs during construction and operational phases and parts of Kimpton and Whiteway Bottom (HLCA 201) LCA during construction phases to accommodate the physical footprint of the Proposed Development which would result in a permanent deterioration of their character. The landscape receptor 'The parkland of Wigmore Valley Park' would experience major and moderate adverse effects through the construction phases which would reduce as landscape mitigation matured over time.
- 5.2.70. Wigmore Rural ALLV and Someries Farm ALLV would be adversely affected by the Proposed Development which would conflict with the NPPF (paragraph 180) and LLP Policy LLP29. Minor adverse effects on Stockwood Park AGLV would also occur.
- 5.2.71. Adverse visual effects would be experienced by a number of receptors throughout the phases of the Proposed Development, which would remain during the operational period. These effects result from built structures such as the Fire Training Ground (Work No. 2d), Proposed T2 (Work No. 3b), Hotel (Work No. 4a), Car Park P12 (Work No. 4r), and surface movement radar (work No. 2a(02)) that would form prominent features in the landscape. The Proposed Development would also increase the visual prominence of lighting emitted from the airport to surrounding rural areas notwithstanding mitigation measures.
- 5.2.72. The Proposed Development would include embedded and additional landscape mitigation measures to reduce adverse landscape and visual effects, as required by the ANPS (paragraph 5.218), LLP Policy LLP6F(i), NHLP Policy NE2 and CBLP Policy EE5. The ExA considers that once matured the measures could result in slight positive beneficial effects over time.
- 5.2.73. Overall, notwithstanding the proposed landscape mitigation measures, residual adverse landscape and visual impacts would cause harm and give rise to significant adverse effects on a number of receptors, conflicting with the NPPF (paragraphs 135c and 180), LLP Policies LLP25(i) and LLP29, CBLP Policies HQ1(6) and EE5 and NHLP SP12.
- 5.2.74. The ExA considers that whilst adverse effects would be experienced in North Hertfordshire, the Proposed Development would not result in unacceptable harm to the character and appearance of the surrounding area and therefore would comply with NHLP Policy NE2.
- 5.2.75. In summary, the ExA considers that adverse landscape and visual effects would attract great (landscape) and moderate (visual) negative weight for the making of the Order in the short to medium term. The landscape mitigation would attract a little

positive benefit once matured. Overall, landscape and visual impacts would attract a little negative weight in the longer term.

- 5.2.76. In accordance with the ANPS (paragraph 5.225), a judgement as to whether the negative visual effects on sensitive receptors that have been identified outweigh the benefits of the development is carried out below.

HERITAGE

- 5.2.77. The ExA has had regard to the desirability of preserving listed buildings or their settings, preserving or enhancing the character or appearance of Conservation Areas and preserving Scheduled Monuments and their settings in considering heritage matters.
- 5.2.78. The ES identified significant adverse effects at Luton Hoo Grade II* through the operational phase. Significant effects during the construction phases would be experienced at Wandon End House and Wandon End Farmhouse Grade II listed buildings and on-site archaeological remains including an Iron Age and Roman settlement site and cropmarks.
- 5.2.79. The ExA is satisfied that there would be no substantial harm from the construction or operation of the Proposed Development either physically or on the setting of any designated heritage assets.
- 5.2.80. However, the ExA considers that less than substantial harm would occur to the heritage significance of a number of designated and non-designated heritage assets including a number of listed buildings and conservation areas, Someries Castle Scheduled Monument, Luton Hoo RPG and St Paul's Walden Bury RPG.
- 5.2.81. In accordance with the ANPS, NPPF and the relevant development plan policies, where there is harm the SoS must give that harm considerable importance and weight and any harm should require clear and convincing justification. The ExA considers that the harm to heritage assets, due to a number of the assets being assets of the highest significance, should be given great weight against the making of the Order.
- 5.2.82. However, this harm must be weighed against any public benefit that the Proposed Development would deliver, which is undertaken in the overall Planning Balance at the end of this section of the Report.

BIODIVERSITY

Local and regional wildlife sites, habitats and species

- 5.2.83. The development would result in the unavoidable loss of Wigmore Park CWS, and a notable portion of both Dairyborn Scarp DWS and Luton Parkway Verges DWS. The latter would also be subject to permanent, albeit not significant, adverse effects during operation, which would be managed through the LBMP. There could also be a reduction in air quality at local and regional wildlife sites, although this would be unlikely to give rise to significant adverse effects.
- 5.2.84. The ANPS (paragraph 5.102) states that adequate compensation should be considered where sites of regional and local interest are adversely affected. Compensation for loss of habitats is a requirement under the hierarchy in the ANPS (paragraph 5.91), the NPPF (paragraph 186) and the LLP Policy LLP28(A). The ExA is satisfied that a larger area of land of equivalent value to those wildlife sites and

habitats lost would be provided by the proposed replacement land and habitat creation areas. It is concluded that the proposals could be in accordance with the national and local policies.

5.2.85. However, there could be a significant delay prior to maturation of the compensatory habitats, during which the effects on habitats and species, including those of principal importance, could be adverse and significant. In these circumstances, the ANPS (paragraph 5.105) states that consent should be refused unless the benefits clearly outweigh the harm. If it is concluded that the overall public benefits of the scheme are established, then harm to the habitats and species of principal importance would be a little weight against the making of the Order given their local to regional value.

5.2.86. The ExA has reviewed the potential effects from construction and operation on Winch Hill Wood CWS/ DWS and ancient woodland inventory site, which is within the Order Limits. Although the effects would likely be negative, the ExA is satisfied that the woodland is unlikely to suffer from significant cumulative or in-combination effects when the proposals for mitigation and long-term management of the site are taken into account.

5.2.87. The Proposed Development would be likely to result in the deterioration or loss of an irreplaceable ancient and veteran tree. Where irreplaceable habitats would be lost or deteriorate, the ANPS (paragraph 5.102) and NPPF (paragraph 186) both state that development should not be consented unless the benefits clearly outweigh the loss or deterioration, and a suitable compensation strategy exists. The ExA is content that an appropriate compensation strategy has been provided through the LBMP. Allowing for this and taking the small quantum of loss into account, if it is concluded that the overall public benefits of the scheme are established, then loss or deterioration of the tree is a matter of a little weight against the making of the Order.

Net gains for biodiversity

5.2.88. The NPPF (paragraph 180) states that net gains should be provided. The ANPS (paragraph 5.104) states that consideration should be given to whether the opportunities for building in beneficial biodiversity have been maximised. LLP Policy LLP28 states that proposals adding to the net stock of wildlife habitats or delivering a net gain are supported. Even allowing that some of the land set aside by the Applicant would be needed as 'compensation' for habitat loss, the ExA is satisfied that the commitment to at least 10% Biodiversity Net Gain is still likely to be deliverable, and the requirements of these policies would be met.

5.2.89. The ExA is satisfied that the Proposed Development would deliver green infrastructure, including enhancing ecological networks, and maximises opportunities to conserve biodiversity through the LBMP and the DP. This meets the requirements of the NPPF (paragraph 180), which requires that coherent ecological networks should be established and the ANPS (paragraphs 5.104 and 5.91), which state that opportunities for green infrastructure and benefits to biodiversity should be maximised.

Conclusion

5.2.90. In conclusion, if the benefits of the Proposed Development clearly outweigh the harm, then the loss or deterioration of the ancient and veteran tree, and harm to habitats and species of principal importance is a matter of a little weight for the

making of the Order. However, this is subject to the final planning balance, which is carried out below.

LAND USE, INCLUDING GREEN BELT

- 5.2.91. The ExA is satisfied that the Proposed Development must necessarily be adjacent to the existing airport and therefore accepts that alternative sites would not be available and different layouts would not avoid loss of 25ha of BMV land. In addition, the Proposed Development would require the removal of nearly 150,000m³ of topsoil from areas previously used for agriculture and previously developed areas outside the landfill. Both these losses attract moderate weight against the making of the Order.
- 5.2.92. A number of works are proposed in the GB. The ExA is satisfied that some of the works would be 'not inappropriate development' in policy terms and would not affect the openness or purposes of including land in the GB. These works were the infiltration tank (Work No. 4v), fuel pipeline (part of Work No. 4c(02), junction improvements (Work No. 6e(b) and replacement open space (Work Nos. 5(01), (02) and (03)). Where proposed works would constitute inappropriate development, the surface mounted radar (Work No 2a(02)), above ground infrastructure (part of Work No. 4c(02) and stockpiling of soil, if there was a demonstrated need for the Proposed Development then the works would be required and therefore the ExA considered that the 'very special circumstances' that would outweigh the harm to the GB' resulting from these elements would exist.
- 5.2.93. The Proposed Development would result in the loss of open space for which new compensatory land and facilities is proposed. Whilst the ExA found that there is sufficient evidence to indicate that the public have been using the replacement open space on an informal basis this was of a limited extent. Therefore, even if the informal paths were removed from the quantum of replacement land, the ExA is satisfied that the overall quantum would be greater and in time, with the establishment of landscaping, would be of better quality. The ExA therefore considers that the Proposed Development meets the requirements of the LLP Policies LLP6 (e) and LLP27, the NPPF and the ANPS. The ExA recognises that in the short to medium term the experience for users of the replacement open space would be less than they currently experience and as such would attract a little to moderate negative weight for the making of the Order. However, in the longer term, after landscaping has matured and construction ceased the ExA considers that, due to the enhanced accessibility and improved management, it would attract a little positive weight for the making of the Order.
- 5.2.94. The ExA is satisfied that the stopping up of a number of PRoW would be necessary to enable the construction and operation of the Proposed Development. In addition to improvements to the existing PRoW network, a number of new ProW are proposed. The ExA considers that the Applicant's PRoW proposals would comply with the NPPF, the ANPS and relevant development plan policies and because of the improvements to access and new networks would attract moderate positive weight for the making of the Order.

GEOLOGY AND LAND CONTAMINATION

- 5.2.95. The ES identified that there would be risks to human health and controlled waters at the site, both from the former landfill and a legacy of industrial use in the wider area. The ExA is satisfied that the investigation, remediation, verification and management measures secured in the Recommended DCO would be sufficient to

mitigate, manage and remediate potential adverse effects to the extent that they were not significant. The proposals meet the requirements of LLP Policy LLP38 in this respect.

- 5.2.96. The Applicant has demonstrated that the development would not contribute to, or be adversely affected by, unacceptable levels of soil pollution or land instability, as required by the NPPF (paragraph 180). Works associated with recovery of waste at the landfill and those that pose a risk to groundwater would be regulated by the EA through an Environmental Permit. The Proposed Development would help to improve environmental conditions and remediate and mitigate despoiled land as required by the NPPF (paragraph 180). The ExA considers that the site would be suitable for its proposed use and should not be capable of being determined as 'contaminated land', meeting the requirements of paragraph 189 of the NPPF and paragraph 5.116 of the ANPS following development.
- 5.2.97. The ExA concludes that there would not be any significant effects on an MSA, nor geological and geomorphological features of scientific interest from the Proposed Development and there would be no conflict with national or local policies in this respect.
- 5.2.98. This topic would neither weigh for nor against the making of the Order.

WATER RESOURCES

- 5.2.99. The Applicant has demonstrated that it has worked with regulators and co-operated with water and sewerage undertakers in the design of the Proposed Development, as expected by the ANPS (paragraph 5.175). The ExA is also satisfied that the scope of the Applicant's assessment is sufficient for the purposes of decision making, incorporating the recommended content from the ANPS (paragraphs 5.176 and 5.177).
- 5.2.100. Mitigation and monitoring measures secured through the CoCP, oRS, the DDS, the DP and the Water Cycle Strategy in addition to regulatory controls, ensure that there would be no significant effects on water quality and resources, including the underlying aquifer, during construction and operation of the Proposed Development. In these respects, the ExA is satisfied that the Proposed Development could meet the requirements of the ANPS (including paragraphs 5.178 and 5.181), NPPF (paragraph 180) and LLP (Policy LLP38).
- 5.2.101. However, this conclusion is predicated on a side agreement between AW and the Applicant being signed to ensure that the 2019 water consumption baseline is not exceeded without prior agreement and monitoring of this. This was not provided by the close of the Examination. The ability to deliver the water resources management plan should be a matter of consideration according to the ANPS (paragraph 5.185) and the ExA is satisfied that AW's requests on this matter are reasonable. The ExA has included a new Requirement to secure this in the Recommended DCO. If either the side agreement or requirement are in place, then the ExA concludes that issues of water demand and supply neither weigh for nor against the making of the Order. If a signed side agreement is not produced or the ExA's recommended Requirement is not in any made DCO, the ExA concludes that the issues of water demand and supply would be of moderate negative against the making of the Order.
- 5.2.102. The Applicant submitted a Flood Risk Assessment to meet the requirements of the ANPS (paragraph 5.152), the NPPF (paragraph 173) and LLP (Policy LLP36). The Main Application Site is entirely in Flood Zone 1, with two small sections of highway

running through Flood Zone 3. Appropriate mitigation for flooding has been secured and the proposals would not increase the risk of flooding elsewhere, including in relation to groundwater flooding in the River Mimram catchment; the LLFA have no outstanding concerns. The ExA is therefore satisfied that the application meets the requirements of national and local flood risk policies.

- 5.2.103. The ExA is satisfied that appropriate SuDS and management of these have been incorporated in the proposals through the DP as required by the ANPS (paragraph 5.180), the NPPF (paragraphs 173 and 175) and the LLP (Policies LLP6, LLP36). The final design of these would need to be approved for each part by the Relevant Planning Authority following consultation with the EA, the LLFA and the relevant water and sewerage undertakers. An Environmental Permit would be required for any discharge of effluent to the ground and for works on the landfill, which would ensure that the proposal meets legislative requirements.
- 5.2.104. The ExA concludes that the Water Framework Directive would be complied with and notes that the EA did not have any outstanding objections in relation to water quality and resources at the end of the Examination. With the inclusion of the new Requirement or completion of a side agreement, matters in relation to water resources do not weigh for nor against the Order being made. In the absence of either of these provisions, the ExA concludes that issues of water demand and supply are a matter of moderate weight against the making of the Order.

OTHER MATTERS

- 5.2.105. In relation to major accidents and disasters the ExA is satisfied that the Proposed Development accords with all legislation, policy and guidance requirements including the Department for Transport Policy paper '*Control of development in airport public safety zones*' and LLP Policy LLP34. The ExA considers that this matter neither weighs for nor against the making of the Order.
- 5.2.106. In relation to waste and resources the ExA is satisfied that the Proposed Development accords with all legislation, policy and guidance requirements, including LLP Policy LLP37. As such the ExA considers that this matter neither weighs for nor against the making of the Order.
- 5.2.107. In respect of climate change resilience, the ExA concludes that there would be no significant effects from climate change on the Proposed Development or surrounding receptors and the proposal would meet all relevant policy tests. This matter neither weighs for nor against the making of the Order.

IN-COMBINATION AND CUMULATIVE EFFECTS

- 5.2.108. The ExA is satisfied that the assessment of cumulative and in-combination effects accords with the requirements of the EIA Regulations and the ANPS. This matter therefore neither weighs for nor against the making of the Order.

HABITATS REGULATIONS ASSESSMENT

- 5.2.109. HRA is a matter for the SoS to undertake as the Competent Authority in respect of the Proposed Development.
- 5.2.110. The Proposed Development is not directly connected with or necessary for the conservation management of a European site. The Applicant therefore produced a HRA No Significant Effects Report to establish whether the proposal was likely to have a significant effect on the conservation objectives of four European Sites within

30km of the Proposed Development. Having considered this Report the ExA is satisfied that the SoS may exclude the potential for likely significant effects on these sites alone or in combination with other plans and projects. Natural England has agreed with the outcome of the Applicant's assessment.

- 5.2.111. The ExA considers that there is sufficient information before the SoS to enable them to fulfil their duty as Competent Authority under the Habitats Regulations and that the need for an Appropriate Assessment has been ruled out.

5.3. COMPLIANCE WITH S105 OF THE PA2008 AND THE PLANNING BALANCE

- 5.3.1. In examining this application, the ExA has been mindful of the legal framework within which the SoS must make a decision. Section 105(2) of the PA2008 requires the SoS to have regard to any LIR, any matters prescribed in relation to development of the description to which the application relates, and any other important and relevant matters.
- 5.3.2. The principle of, and need for, the Proposed Development as provided through, amongst other things, the APF, the ANPS, MBU, FttF, JZS and JZSOYO, attracts great weight for the making of the Order. However, in accordance with the aims of MBU, the OANPS and the ANPS this weight must be assessed and balanced against the other economic, consumer and environmental considerations.
- 5.3.3. The ExA is satisfied that the benefits, such as enhancements to connectivity, employment, including the health benefits from employment, and levelling up opportunities would weigh greatly in favour of the making of the Order. The additional control on emissions arising from the operation of the expanded airport offered by the GCG Framework is a matter of little positive weight for the making of the Order. In the longer term, after landscaping has matured and construction ceased, the ExA considers that, due to the enhanced accessibility and improved management, the replacement open space would attract a little positive weight for the making of the Order, as would the improvements to the PRoW.
- 5.3.4. However, the ExA has also identified a range of negative impacts, several of which would be a matter of great weight against the making of the Order. The ExA has concluded that the Proposed Development would not be consistent with national and local policies relating to the Chilterns NL and this therefore attracts great negative weight against the making of the Order. The Proposed Development would adversely affect the setting of heritage assets, several of which are of the highest significance and therefore the ExA must give this great weight against the making of the Order.
- 5.3.5. In the short to medium term the adverse landscape and visual effects would attract great (landscape) and moderate (visual) negative weight against the making of the Order, albeit the ExA acknowledge that this would reduce to a little negative weight with the maturation of the landscape mitigation.
- 5.3.6. The ExA considers that for a period of up to four years a significant adverse noise impact on health and quality of life for receptors would not be avoided. These effects would include a substantial increase in movements during the early morning shoulder period, which is part of the more sensitive night period. As a result, this attracts great negative weight against the making of the Order in the short to medium term. Effects from noise on outdoor amenity, outside of the Chilterns NL, would result in significant adverse community noise effects, which the ExA

considers attracts great negative weight against the making of the Order. Residual, albeit individually minor impacts, on the road network when considered cumulatively would be severe and attract great negative weight against the making of the Order. Lack of mitigation for traffic noise impacts on Eaton Green Road would not avoid effects above SOAEL but, due to the small number of properties and the temporary nature of these effects, the ExA considers that this attracts moderate negative weight in the short to medium term. General worsening of traffic noise attracts a little negative weight against the making of the Order.

- 5.3.7. During design and construction, temporary effects of the Proposed Development on health due to perception and uncertainty would attract moderate negative weight against the making of the Order. Minor impacts on health would arise due to displacement of businesses, and impacts due to the presence of the workforce, which the ExA considers attract a little negative weight against the making of the Order.
- 5.3.8. In addition, the ExA has concluded that the emissions of GHG and loss of BMV land and topsoil are all matters of moderate negative weight against the making of the Order. The harm from health and community effects not already accounted for in other sections of the Report are also a matter of moderate negative weight against the making of the Order. In the short to medium term, the experience of users for the replacement open space would be less than they currently experience and therefore, until construction has ceased and the landscaping matured, these would attract moderate negative weight against the making of the Order. If the public benefits are demonstrated to outweigh the harm, then the damage to an ancient and veteran tree, and to habitats and species of principal importance are a matter of a little weight against the making of the Order.
- 5.3.9. The ExA has concluded that slowing the trajectory of improvements in air quality, resulting in a minor worsening of health outcomes would attract a little negative weight against the making of the Order. Loss of roadside green infrastructure attracts a very little negative weight. As the construction impacts, specifically traffic and transport, air quality and noise and vibration would be temporary, but over a long duration, the ExA considers that they attract a little negative weight against the making of the Order.
- 5.3.10. Other matters in relation to design, geology and land contamination, water resources, major accidents and disasters, waste and resources, climate change resilience and in-combination and cumulative effects neither weigh for nor against the making of the Order subject to the inclusion of related controls in the Recommended DCO and/ or the confirming of agreements.
- 5.3.11. In applying the overall Planning Balance, the ExA concludes that the adverse environmental impacts of the Proposed Development would outweigh the economic and consumer benefits.
- 5.3.12. In accordance with national and local policy, having concluded that the harms would outweigh the economic and consumer benefits, the ExA must give great negative weight to the loss or deterioration of an ancient and veteran tree; harm to habitats and species of principle importance; harm to the setting of designated and non-designated heritage assets; noise; and the impact on the openness of the GB from inappropriate development. In considering whether the negative visual effects on sensitive receptors outweigh the benefits of the development the ExA considers that the adverse visual effects alone would not outweigh the benefits. The Proposed

Development would therefore be contrary to the ANPS, MBU, OANPS, NPPF, APF and the relevant development plan policies.

5.3.13. This is all predicated on the amended or new requirements in the DCO Section being incorporated if a DCO is made. The ExA therefore concludes that the case for development consent has not been made.

5.3.14. If the SoS comes to a different decision and finds that the public benefits would outweigh the harms identified above, it is important to note that the conclusions above were predicated on the requirements in the recommended DCO, which would be needed to mitigate the harms. If some or all of these were not included or not amended then the degree of harm assessed could be greater or the potential benefits lessened.

5.4. HUMAN RIGHTS ACT

5.4.1. The ExA concludes that the Applicant has been able to demonstrate sufficient need for its proposals but economic and consumer benefits are outweighed by the impacts of the Proposed Development in the context of sustainable aviation development.

5.4.2. In considering Article 8, the ExA concludes that the proposed interference with the Human Rights of individuals is not justified in the public interest or proportionate when balanced against the assessed need for the development and the likely scale of benefit that would arise.

5.5. PUBLIC SECTOR EQUALITY DUTY

5.5.1. The Equality Act 2010 establishes a duty to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The ExA has had regard to this duty throughout the Examination and in its consideration of the issues raised in this report and has taken account of the findings of the Applicant's EqIA.

5.5.2. Whilst the EqIA identifies the potential for differential effects on protected characteristics groups, it has identified relevant mitigation in respect of such effects and these have been further secured by the amendments or new Requirements in the Recommended DCO. The ExA finds that the Proposed Development does not differentially harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. On that basis, the ExA has found no breach of the Public Sector Equality Duty.

6. LAND RIGHTS AND RELATED MATTERS

6.1. INTRODUCTION

- 6.1.1. The application includes proposals for the Compulsory Acquisition (CA) of the freehold of land, rights in land and the temporary possession (TP) of land.

6.2. LEGISLATIVE REQUIREMENTS

- 6.2.1. CA powers can only be granted if the conditions set out in section (s) 122 and s123 of the Planning Act 2008 (PA2008) are met. Section 122(2) requires that the land must be required for the development to which the development consent relates or is required to facilitate or is incidental to the development. In respect of land required for the development, the land to be taken must not be more than is reasonably required and proportionate, as set out in the Department for Communities and Local Government Guidance (DCLG Guidance). A conclusion on this matter is reached later in this Section.
- 6.2.2. Section 122(3) requires that there must be a compelling case in the public interest to acquire the land, which means that the public benefit derived from CA must outweigh the private loss that would be suffered by those whose land would be affected. In balancing public interest against private loss, CA must be justified in its own right. This does not mean, however, that the CA proposals can be considered in isolation from the wider consideration of the merits of the Proposed Development. There must be a need for the Proposed Development to be carried out and there must be consistency and coherency in the decision-making process. A conclusion on this matter is reached later in this section.
- 6.2.3. Section 123 requires that one of three conditions must be met by the proposals. The Examining Authority (ExA) is satisfied that the condition in s123(2) is met because the application for the Development Consent Order (DCO) includes a request for CA of the land to be authorised.
- 6.2.4. Several general considerations also must be addressed, either as a result of the CA Guidance, CA Regulations or in accordance with legal duties on decision-makers. These include:
- all reasonable alternatives to CA must have been explored;
 - the Applicant must have a clear idea of how it intends to use the land subject to CA powers and demonstrate that there are funds available;
 - the decision-maker must be satisfied that the purposes stated for the acquisition are legitimate and sufficiently justify the inevitable interference with the human rights of those affected.
- 6.2.5. The PA2008 requires that if changes are sought to the application, whether material or non-material, then the ExA must consider whether to accept them into the Examination. If the changes require additional land then if the consent of persons with an interest in that land is not obtained by the Applicant, the procedures prescribed in regulations 5 and 19 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 would apply.
- 6.2.6. Further to Part 1 of Schedule 5 of the PA2008 at paragraph 2, TP powers are capable of being within the scope of a DCO. PA2008 and the DCLG Guidance do not contain the same level of specification and tests to be met in relation to the

granting of TP powers, as by definition such powers do not seek to permanently deprive or amend a person's interests in land.

6.2.7. The Neighbourhood Planning Act 2017 contains provisions which amount to a codification of new TP practice. In recognition of the greater extent to which TP is being sought by scheme promoters and of the extended durations to which TP can be sought, the Neighbourhood Planning Act provisions in general terms provide for enhancements to the rights of Affected Persons (APs) subject to TP, with a view to ensuring that they have equivalent or proportionate rights to notice and to relevant compensation to those already available to APs subject to CA. However, at the submission of this Report to the Secretary of State (SoS), the relevant provisions had not yet commenced.

6.2.8. The ExA has taken all relevant legislation and guidance into account when considering this matter and relevant conclusions are drawn at the end of this Chapter.

6.3. THE REQUEST FOR COMPULSORY ACQUISITION AND TEMPORARY POSSESSION POWERS

POWERS SOUGHT

6.3.1. The application for Development Consent [\[APP-002\]](#) seeks CA and TP powers in respect of certain land interests. Articles in the submitted draft DCO [\[REP11-091, Part 5\]](#) seek both permanent and temporary powers to construct, operate and maintain the Proposed Development. Consequently, the Applicant is seeking the CA of land and rights over land, and powers for the temporary use of land both for construction and operation [\[AS-071, paragraph 5.1.3\]](#).

6.3.2. The Order limits of the draft DCO establish the extent of the land that would be affected by the CA and TP powers sought.

6.3.3. The ExA is satisfied that it has considered all APs who objected to CA or who have participated in the Examination.

6.3.4. Land over which CA and/ or TP powers are sought is referred to in this Chapter as Order land.

THE PURPOSES FOR WHICH LAND IS REQUIRED AND EXTENT OF POWERS SOUGHT

6.3.5. The application is for development consent for the expansion of London Luton Airport (LLA). If the SoS makes a DCO in respect of the scheme the Applicant considers that it would be necessary for the DCO to contain powers to enable the Applicant to acquire compulsorily land and rights over land, and to take possession of land temporarily, to enable the construction and delivery of the scheme. This is because, whilst the Applicant already owns large sections of the proposed site, land that is presently owned or occupied by persons other than the Applicant is required for the construction and operation of the Proposed Development. The Applicant states that without acquisition and temporary use of the land, the scheme could not be delivered [\[AS-071\]](#).

6.3.6. The Book of Reference (BoR) [\[REP9-007\]](#) identifies all the plots of land required and these are shown on the Land Plans [\[AS-011\]](#).

- 6.3.7. The powers sought in the recommended DCO relate to the acquisition of land, rights and the temporary possession of land. The BoR [\[REP9-007\]](#) set out the various categories of rights which are being sought, as described in Table 6.1:

Table 16: Land use power being sought by the Applicant

Land use power sought	Wording used in BoR plot description	Colour of plot on land plans	Number of plots	Principal relevant DCO article
CA of all interests and rights in land (including, as required, subsoil, surface land or airspace)	“all interests and rights in....”	Pink	194	Articles 22 and 23
Creation and CA of new rights (including, where necessary, a right to impose restrictive covenants)	“acquisition of rights over...”	Blue	60	Article 25
Temporary possession or use of land	“temporary possession and use of land....”	Green	195	Articles 31 and 32

- 6.3.28. The powers being sought by the Applicant are set out in the Statement of Reasons (SoR) [\[AS-071\]](#), Section 8 and Appendix A] and on the Land Plans [\[AS-011\]](#).
- 6.3.29. In addition, the Land Plans include areas of land coloured grey, which is land in which no interest, rights or possession are being sought but which currently forms part of the operational airport land. It was included within the Order limits so that it would benefit from the increased capacity in passenger numbers which would be authorised by the development [\[AS-011\]](#), note 6].
- 6.3.30. Appendix A of the SoR includes a table which sets out on a plot by plot basis the nature and purpose of the proposed acquisition of interests in the land or the need for TP. It also advises that the Applicant already owns or controls most of the land required for the Proposed Development [\[AS-071\]](#), paragraph A1.1.1].
- 6.3.31. The SoR explains that rights are sought over Crown land. Part 4 of the BoR [\[REP9-007\]](#) identifies one plot within which the Crown has an interest. This is also shown on the Crown Land Plans [\[REP5-011\]](#). The interest is held by the Department of Levelling Up, Housing and Communities (DLUHC).

- 6.3.32. The Proposed Development would also require the CA and TP of land which falls into a “special category”; that is land forming part of a common, open space, National Trust land or fuel or field garden allotment. Part 5 of the BoR [\[REP9-007\]](#) identifies six plots that fall within this definition and a further two plots which would provide the replacement land.
- 6.3.33. The Proposed Development would also involve Statutory Undertakers (SU) land and electronic communication code operators land, and powers are sought to acquire land, interfere with interests and remove apparatus. All the land involved is listed in Parts 1 to 3 of the BoR [\[REP9-007\]](#).
- 6.3.34. The recommended DCO grants the power to acquire such land as is required for the Proposed Development, or to facilitate it, or is incidental to it (article 24), and the power to acquire existing rights and restrictions, to create new rights and restrictions over the land as described in the BoR [\[REP9-007\]](#) and shown on the Land Plans [\[REP5-011\]](#).
- 6.3.35. The recommended DCO (Article 30) incorporates the provisions of the Compulsory Purchase (General Vesting Declaration) Act 1981.
- 6.3.36. The recommended DCO (article 33) seeks powers to enter and take temporary possession of land specified in Schedule 7 to the recommended DCO to enable the Applicant to:
- remove buildings, apparatus, fences, landscaping, debris and vegetation from that land;
 - use any private road within the Order land for the passage of persons or vehicles (with or without materials, plant and machinery);
 - construct temporary works (including the provision of means of access) or buildings on that land; and
 - construct any works mentioned in Schedule 1 (authorised development) of the recommended DCO.
- 6.3.37. It also includes the powers of TP (article 34) for the purposes of maintaining the Authorised Development.

CHANGES DURING THE EXAMINATION

- 6.3.38. On the 22 September 2023 the Applicant wrote to the ExA [\[AS-151\]](#) and [\[AS-152\]](#) requesting a change to the preferred option for the treatment and discharge of foul water and contaminated surface water. At Issue Specific Hearing (ISH) 6 [\[EV11-001\]](#) the ExA sought additional information and asked a number of questions in relation to the change request. Having reviewed all matters the ExA [\[PD-012\]](#) concluded that proposed change did not change the land required for the development. The ExA concluded that the change was non-material and accordingly accepted it into the application.
- 6.3.39. On 5 October 2023 the Applicant advised [\[REP3-047\]](#) that it wished to include an acoustic barrier alongside the proposed new Airport Access Road (AAR). The reason for the change was to align the Proposed Development with a previous commitment to provide an acoustic barrier in this location as part of the planning permission for the New Century Park Access Road (Luton Borough Council Reference: 17/023000/EIA). Having reviewed the matter [\[PD-014\]](#) the ExA concluded that the change did not alter the land required for the development. The ExA concluded that the change was non-material and accordingly accepted it into the Application.

STATUTORY UNDERTAKERS' LAND

- 6.3.40. If a SU submits a representation about the CA or right over land and this is not withdrawn, then s127 of the PA2008 applies. If this is the case, the Order can only include a provision authorising the CA of that land or right if the SoS is satisfied that the land or right can be obtained without serious impediment to the SU carrying out of their undertaking, or that such impediment can be made good by the use of alternative land.
- 6.3.41. S138 of the PA2008 applies where a SU has a relevant right or relevant apparatus in the CA land. Where this happens, the Order can only authorise the extinguishment of the right or removal of the apparatus if the SoS is satisfied that this is necessary for the purpose of carrying out the development to which the Order relates.
- 6.3.42. The land affected by the Proposed Development includes land, rights or other interests owned by several SUs. At the close of the Examination the following SU had not withdrawn their objections:
- Affinity Water Ltd (AW);
 - National Highways (NH); and
 - Network Rail Infrastructure Ltd (NR).
- 6.3.43. In addition at D11, the Joint Host Authorities (JHA) submitted an objection in their role as the relevant highways authority [\[REP11-061\]](#).
- 6.3.44. At D10 the Applicant submitted its s127/ 138 case [\[REP10-073\]](#) setting out the current status of negotiations with the SU and outlining how the Proposed Development could proceed without prejudicing the outstanding objectors from undertaking their statutory duties.

SPECIAL CATEGORY LAND

- 6.3.45. Special Category Land is defined in Regulation 2 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 as "*land identified as forming part of a common, open space, National Trust land or fuel or field garden allotment*". The Applicant is seeking the acquisition of Special Category Land. The affected plots are set out in the SoR [\[AS-071\]](#), Appendix A] and shown on the Special Category Land Plans [\[AS-021\]](#).
- 6.3.46. Sections 131 and 132 of the PA2008 apply to the CA of open space. The Applicant is not seeking to CA any rights over such land and as a result s132 does not apply. With regards to s131 it states that an order granting development consent would be subject to Special Parliamentary Procedure (SPP) unless the SoS can be satisfied that one of the relevant subsections applies and that fact is recorded on the face of the Order. The Applicant advocates that subsection 131(a) applies as it is proposing that replacement land be provided.
- 6.3.47. The open space that the Applicant is seeking to acquire is located in the eastern part of the Main Application Site. It consists of an area of existing open space (plots 3-01, 5-06, 5-09, 5-12, 5-15 and 5-22) and two agricultural fields, woodland and a public footpath which the Applicant proposes to acquire to provide the replacement land (plots 5-13 and 5-22).

- 6.3.48. The existing open space is known as Wigmore Valley Park (WVP) and County Wildlife Site and consists of both formal (children's play area, skate park, playing pitches) and informal (woodland, hedgerows and open grassland) areas.
- 6.3.49. The land that the Applicant is seeking to acquire which is currently open space covers an area of 35.9 hectares (ha) [\[AS-071\]](#), paragraph 12.1.6]. The land sought to replace this would be 36.6ha [\[AS-071\]](#), paragraph 12.1.9]. However, the Applicant proposes to maintain as much of WVP as possible and provide at least 10% more public space than currently exists [\[AS-071\]](#), paragraph 12.1.9]. As a consequence, following the Applicant's proposed enhancements (Work Nos. 5b(01) and 5b(02)) and creation of new replacement open space WVP would be at least 47.6ha [\[AS-071\]](#), paragraph 12.1.10]. The Applicant envisages that at least 11.2ha of the existing open space would remain as open space.

CROWN LAND

- 6.3.50. There is one plot, 2-46, which the Applicant is seeking to permanently acquire where the Secretary of State for Levelling Up, Housing and Communities has an interest in the land. As a result, s135 of the PA2008 would apply to the Articles of the DCO as it would include a provision authorising the CA of an interest in Crown land owned otherwise by or on behalf of the Crown and so the consent of the appropriate Crown Authority would be required. This is set out in Part 4 of the BoR [\[REP9-007\]](#) and shown on the Crown land plans [\[REP5-011\]](#).
- 6.3.51. Throughout the Examination the Applicant engaged in active discussions with the relevant Crown Authority. However, at the end of the Examination the Applicant had not managed to obtain Crown Consent.

6.4. THE APPLICANT'S GENERAL CASE

- 6.4.1. At the commencement of the Examination, the application was accompanied by:
- A SoR [\[APP-010\]](#);
 - A Funding Statement [\[APP-012\]](#);
 - A BoR [\[APP-011\]](#);
 - Land Plans and Crown Land Plans [\[APP-015\]](#); and
 - Special Category Land Plans [\[APP-026\]](#).
- 6.4.2. Taken together, these documents set out the land and rights sought by the Applicant together with the reasons for its requirement and the basis under which compensation would be funded. Where the Examination and due diligence processes required changes to this documentation, new versions were submitted. By the close of the Examination the most up to-date versions of these documents were as follows:
- SoR [\[AS-071\]](#);
 - Funding Statement [\[REP5-009\]](#);
 - BoR [\[REP9-007\]](#);
 - Land Plans [\[AS-011\]](#);
 - Special Category Land Plans [\[AS-021\]](#); and
 - Crown Land Plans [\[REP5-011\]](#).
- 6.4.3. These documents taken together form the basis for the analysis in this Chapter. Reference to the BoR and the Land Plans in this Chapter from this point should be read as reference to the latest revisions cited above.

- 6.4.4. The Applicant's need and benefits case for the Proposed Development were set out in the Need Case [\[AS-125\]](#) and summarised in Section 4 of the SoR [\[AS-071\]](#). The need for the development is considered in detail in Section 3 of this Report.
- 6.4.5. In brief, the Applicant advocated that the Proposed Development would enable it to make best use of its runway in accordance with the Airport National Policy Statement (ANPS) and Beyond the horizon – the future of UK aviation: making best use of existing runways (MBU) [\[AS-071\]](#), paragraph 4.3.2]. The Applicant stated that growth projections, showed that additional airport capacity was urgently needed at the airport in order to keep pace with demand (paragraphs 4.3.3 to 4.3.5). As the only major airport within the Oxford-Cambridge Arc (the Arc) initiative the Applicant believed that it would, through its ability to facilitate trade, investment and tourism, be central to the Arc achieving its aspirations (paragraph 4.3.6). The Proposed Development would enhance connectivity of the region by providing opportunities for business travel and inbound tourism (paragraphs 4.3.7 and 4.3.8). Finally, the Applicant considered that the airport's role was also vital in the context of the 'levelling up' agenda (paragraphs 4.3.9 to 4.3.12) because it would deliver substantial economic benefits in terms of jobs and provide a boost to economic activity in the local area, thereby supporting other initiatives to grow the economy in Luton and beyond.
- 6.4.6. The Applicant also set out the alternatives to the proposed site and layout [\[AS-026\]](#) which are considered in more detail in Section 3 of this Report. However, given the location and the nature of the application site, the Applicant believed that acquisition and/ or use of third-party land could not be avoided [\[AS-071\]](#), paragraph 9.3.1]. In each case the Applicant considered that the land and/ or rights sought would be necessary to deliver the Proposed Development and would be proportionate to the degree of interference with the interests and rights of landowners [\[AS-071\]](#), paragraph 9.3.2]. Where appropriate the Applicant sought to take powers to temporarily use the land, rather than CA land or rights [\[AS-071\]](#), paragraph 9.4.3].
- 6.4.7. The Applicant considered that it has included within the Order limits no more land than would be reasonably required to construct and operate the Proposed Development. As such it believed that the proposed use of land for the purpose of delivering the Proposed Development would be proportionate and justifiable. [\[AS-071\]](#), paragraph 9.4.3]. Furthermore, as advocated by the Guidance (paragraph 9) the Applicant advised that it had a clear idea of how the land is intended to be used. The SoR [\[AS-071\]](#), Appendix A] set out the particular purpose for which each plot of land was proposed to be compulsorily acquired or used temporarily.
- 6.4.8. The Applicant [\[AS-071\]](#), paragraph 9.3.7] advocated that notwithstanding the voluntary agreements for purchase of land and/ or the grant of rights may have, or would be entered into, it sought compulsory powers to acquire land and rights in land for the following reasons:
- An option might be obtained by agreement prior to the application for development consent or during the application process, rather than the substantive right itself. The compulsory powers would therefore provide a fallback should the voluntary agreements fail and cover instances where the person with an interest in land was unwilling to, or could not, grant the relevant land interest or right at the time when the option was exercised.
 - Including all interests in the DCO would allow all required land or rights to be obtained in the same way and through one process, potentially through General Vesting Declaration (GVD).

- CA by GVD is effective against all interests in the land, so avoiding the risk of failure to disclose a relevant interest; the GVD would be effective even against unknown interests.
- Compulsory powers would be more readily enforceable, so reducing additional risk, cost and delay.
- Without the powers of CA, the national need for the Proposed Development would not be met because the land and rights required in the land subject to the DCO might not be assembled, uncertainty as to the ability to construct, operate and maintain the Proposed Development would continue, and the Applicant considered that its objectives would not be achieved.

6.4.9. The Applicant also confirmed that any persons affected by CA and TP would be entitled to compensation under Article 28 and Schedule 6 of the draft DCO. The Applicant advocated that the Funding Statement [\[REP5-009\]](#) demonstrated that there would be a reasonable prospect that funding would be available to build the Proposed Development and to enable the CA within the statutory timescale in accordance with Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulation 2009 (as amended) (the Regulations) [\[AS-071\]](#), paragraph 9.6.1].

6.4.10. The Applicant stated that it was not aware of anything that was likely to prevent the grant of Development Consent. The need for other consents was set out in [\[REP11-003\]](#), which the SoR stated would not present any impediment to the implementation of the Proposed Development [\[AS-071\]](#), 11.1]. The SoR also sets out the Applicant's position with regards to Human Rights and the Equality Act [\[AS-071\]](#), 13].

6.5. APPROACH TO THE EXAMINATION OF THE COMPULSORY ACQUISITION AND TEMPORARY POSSESSION CASE

INTRODUCTION

6.5.1. The ExA received objections to the CA and TP of land and rights via Relevant Representations (RR) and Written Representations (WR). Three objections to the CA of land were withdrawn by the close of the Examination.

6.5.2. The ExA has considered all objections received, many of the issues raised by objectors have been considered in Section 3 of this Report when considering the planning issues. As a result, the objections considered here are only considered in the context of the application for the grant of CA and TP powers. Therefore, unless an AP who is listed in the BoR has specifically objected to the CA or TP of land or rights they are assumed to have no objection to the CA or TP of land in which they have an interest and will not be reported below.

THE APPLICANT'S RESPONSE TO OBJECTIONS

6.5.3. The Applicant responded to CA objections throughout the course of the Examination. It actively pursued discussions with objectors to seek to address, where possible, specific issues and concerns. At various points throughout the Examination the Applicant provided the ExA with an update on progress on negotiations by submitting a Compulsory Acquisition Schedule [\[REP2A-003\]](#), [\[REP3-041\]](#), [\[REP6-047\]](#) and [\[REP11-041\]](#).

6.5.4. The CA Schedule submitted at D11 [\[REP11-041\]](#) advised that:

Table 17: Status of negotiations at the close of the Examination

Status	Number of APs
In negotiation*	43
Concluded	6

- 6.5.11. Unhelpfully the Applicant used a variety of terms to indicate that it was in negotiations eg in negotiations, discussions on-going, initial contact made etc. For the purposes of this table the ExA has categorised these as 'in negotiation'. Similarly, a variety of terms were used where negotiations had been concluded eg settled, assurance given, no further action and objection withdrawn. For the purposes of this table the ExA has categorised these as 'concluded'.

6.6. INDIVIDUAL AND LOCAL AUTHORITY OBJECTIONS

PERSONS WITH AN INTEREST IN LAND/ AFFECTED PERSONS WHO HAD NOT WITHDRAWN OBJECTIONS

- 6.6.1. This section reports on all the APs who lodged objections that were not withdrawn by the close of the Examination. The objections below are ordered in accordance with when they were received.

BARTHOLOMEW PLEYDELL-BOUVIERE [REP1-036]

- 6.6.2. The BoR [REP9-007] shows Mr Pleydell-Bouviere holding an interest in 10 plots (1-72, 1-73, 1-89, 1-120, 4-10, 4-11, 4-12, 6-01, 6-05 and 6-06). Mr Pleydell-Bouviere [REP1-036] only objected to the acquisition of plot 6-06 where the Applicant was seeking the permanent acquisition of rights. The matter was due to be considered at CAH-1 [EV5-001] but the AP did not attend so the ExA asked for further details and an update via a written question [PD-010, CA.1.8]. The ExA also visited the site [EV1-021]. At D7 [REP7-097] Mr Pleydell-Bouviere's Agent advised that following agreement with the Applicant he withdrew his objection to the acquisition of plots 6-06.
- 6.6.3. Given that Mr Pleydell-Bouviere entered into a voluntary agreement with the Applicant in relation to the plot that he objected to being acquired, the ExA considers that no objection remains to the CA of this plot. Whilst Mr Pleydell-Bouviere has not objected to the acquisition of the other plots he owns, the ExA has nevertheless applied the relevant tests to those plots and concludes that they would be needed to either enable the construction or operation of the Proposed Development. The ExA considers that should the SoS consider that the public benefit of the Proposed Development outweighs the harm it has identified in Section 5 of this Report, then this would outweigh any private harm to the objector and the SoS could grant the CA powers sought in relation to these plots.
- 6.6.4. The ExA notes the reference in [REP7-097] to plot 6-07. Having checked the BoR [REP9-007] Mr Pleydell-Bouviere is not listed as having an interest in this plot and the ExA is therefore unclear as to why it is referred to.

BLOOR HOMES LIMITED (LTD) [RR-0153] AND [REP1-062]

- 6.6.5. Bloor Homes Ltd has a category 2 interest in 7 plots (3-40, 3-42, 7-13, 7-14, 7-40, 7-43 and 7-46) where the Applicant was seeking to permanently acquire rights.
- 6.6.6. The plots form part of the East of Luton strategic housing site in the North Hertfordshire Local Plan 2011-2031 (Policy SP19) for which Bloor had submitted a planning application and was committed to developing. Bloor considered that the works (Work No. 5e) would be unnecessary as the proposed houses would screen views of the expanded airport negating the need for the enhancement works to the hedgerows. The matter was discussed at CAH1 [\[EV5-001\]](#). It was confirmed that the Applicant had been in active discussions with Bloor and that Bloor would be prepared to grant the rights, or at least access, subject to agreement. However, this would be subject to a number of points of clarification including: whether these were works to existing hedgerows or new hedgerows; a request that it would be consulted on the details of the landscaping proposals; and that the proposed works would not interfere with their proposals. The Applicant also confirmed that the works were only required for screening and not for ecological mitigation.
- 6.6.7. The D11 CA Schedule [\[REP11-041\]](#) advised that negotiations had been on-going throughout the Examination and that a draft deed of assurance had been circulated between the parties. However, a voluntary agreement had not been secured by the close of the Examination. The Applicant's Closing Submissions [\[REP11-049\]](#), table 7-1] advised that the Applicant expected the legal agreement to be agreed shortly after the close of the examination and the Applicant would update the SoS on the conclusion of this agreement and, if this happened request that the AP withdraw its representations directly to the SoS.

ExA Conclusion

- 6.6.8. The ExA agrees that there is a possibility that the works for which the rights are sought might not be required. However, as planning permission has yet to be obtained for the Bloor Homes Ltd development an element of uncertainty remains and therefore the proposed works would be required to screen the Proposed Development from users of the footpath. The ExA considers that, should the SoS consider that the public benefit of the Proposed Development outweighs the harm it has identified in Section 5 of this Report. then this would outweigh any private harm to the objector and that the SoS could grant the CA powers sought in relation to these plots.

CELLA UK PROPERTY TRUST (CELLA) [\[RR-0209\]](#) AND [\[REP1-167\]](#)

- 6.6.9. The BoR [\[REP9-007\]](#) lists Cella as having an interest in 16 plots (1-70, 1-72, 1-73, 1-74, 1-74a, 1-77, 1-77a, 1-79, 1-81, 1-86, 1-88, 1-89, 1-120, 4-10, 4-11, 4-12). The Applicant was seeking to permanently acquire all the plots apart from 5 (plots 1-70, 1-74, 1-77a, 1-81 and 1-88) which it was seeking to TP. The plots would be required for sitewide works to enable the development, airfield works, terminal and associated works, airport support facilities, landscaping and mitigation, the AAR and airport operational roads.
- 6.6.10. Cella [\[RR-0209\]](#) advised that it owns a stand-alone industrial warehouse that was tenanted by Luton Borough Council (LBC). Cella was concerned:
- that the permanent land take would remove the access to the property and there did not appear to be provision for a replacement access;

- the CA would result in the loss of vital loading bays and HGV parking with significant severance matters;
- that no indication of the time period had been provided and the powers provided by the articles within the draft DCO were extensive and imposed unnecessary risk in relation to the temporary use of the building and car park for “*laydown areas, access, working space to support construction*”;
- the 10-year period for the exercise of CA rights would be unacceptably long and lead to blight; and
- there had been limited attempts to negotiate compensation in advance of submitting the DCO.

6.6.11. Cella considered that, together, the permanent and temporary acquisitions would result in unacceptable injury to its property. It suggested that full and early acquisition might be the only acceptable method of compensating their interest. Finally, it considered that the Applicant had failed to take reasonable steps to acquire the land by agreement. The matter was due to be discussed at CAH1 [\[EV5-001\]](#) but Knight Frank who represented Cella did not attend so the ExA asked a written question [\[PD-010\]](#), CA.1.8]. No response was provided.

6.6.12. At D10 [\[REP1-068\]](#) Knight Frank provided an update advising that the Applicant had confirmed that it would acquire the entire freehold of the property. Whilst the Applicant had indicated that this was likely to be achieved before the close of the Examination, Knight Frank advised that formal agreement had not been reached because the Applicant did not have the financial authorities in place to make the acquisition. Knight Frank was concerned that assurances to acquire their client's property were not something that could necessarily be relied upon in the future without the assurances being formally recorded in the report provided to the SoS. They sought acknowledgement via the Report that, should the DCO be granted, obligations be placed on the Applicant to acquire the entire freehold and compensation be provided on Compulsory Purchase Terms. The Applicant did not comment on this in its response to deadline submission [\[REP11-050\]](#).

6.6.13. The Applicant's Closing Submissions [\[REP11-049\]](#), Table 7-1] confirmed that, in response to the representations, it had made a commitment to acquire the whole property which would substantively remove the concerns raised. However, the AP had subsequently sought an accelerated acquisition subject to the DCO being made, despite the premises being subject to a secure lease to LBC to 2029 which would mean that such an acquisition was premature. The Applicant advised that it understood that LBC was considering acquiring the property and it was LBC not the Applicant who was awaiting the financial authorities. The Applicant advised that it did not consider that the investment held in the property by the AP would be prejudiced and, having agreed to buy the whole property at the time it would be required, had addressed the concerns made in the representations. The Applicant disagreed that the assurances could not be relied on as these were widely used across DCOs and act as a constraint on the exercise of CA.

ExA Conclusion

6.6.14. Whilst the ExA is aware that the Applicant should seek to minimise land take by only seeking acquire or possess the land needed, the ExA observed [\[EV1-002\]](#) that the land being sought would adversely affect the remainder of the site as it would result in the loss of its vehicular access and service yard. Consequently, the ExA supports the current undertaking by the Applicant to acquire the site as a whole. However, this wouldn't be secured by the powers in the DCO and any assurances are outside (albeit in parallel) with the Examination, and therefore the ExA must conclude on what the Applicant has requested.

- 6.6.15. The ExA is of the opinion that the works would be required to construct and operate the Proposed Development. Should the SoS consider that the public benefit of the Proposed Development outweighs the harm it has identified in Section 5 of this Report then this would outweigh any private harm to the objector and the SoS could grant the CA powers sought in relation to these plots.

ELDRIDGE FAMILY [RR-0410]

- 6.6.16. The Eldridge's own a detached residential property in approximately 5 acres of grounds to the northeast of the end of the runway. The BoR [REP9-007] shows that Dean and Linda Eldridge have an interest in four plots (5-03, 5-13, 6-04 and 6-18). Of particular concern to the Eldridge's was plot 6-04 where the Applicant was seeking to permanently acquire rights in 3.3 acres of their grounds. The rights were being sought to enable the installation and maintenance of a fuel pipeline (Work No. 4c (02)) and provide and maintain a landscape restoration area (Work No. 5c (02)) which the Eldridge's referred to as a habitat mitigation area.
- 6.6.17. In [RR-0410] the Eldridge's advised that they had previously been advised by the Applicant that it intended to CA the whole of their property, but the Applicant was now only seeking to CA rights (plot 6-04). The Eldridge's were concerned that:
- they had insufficient information to understand the implications of the proposal;
 - the habitat mitigation area could possibly sterilise their land;
 - plot 6-04 was adjacent to an outbuilding which had planning permission to be converted into two dwellings which they proposed to build for family members. The garden for one of the dwellings would be located within the area where CA was being sought; and
 - for the remaining plots which the Applicant was seeking to permanently acquire they had a category 2 interest in relation to a right to a private water supply and other services.
- 6.6.18. The Eldridge's also questioned why their land would be required given that, in the case of the pipeline route, the Applicant owned the adjacent plot and a variety of other land which could be used for landscape restoration.
- 6.6.19. This matter was examined at CAH1 [EV5-001] where the Applicant confirmed that plot 6-04 was required to enable the fuel pipeline to connect to the national fuel pipeline which is located to the north of the Eldridge's property. The Applicant advised that whilst the route of the pipeline shown on the workplans [AS-015, Sheet 10 of 10] was relatively narrow the actual route could only be determined following additional survey work which would happen post decision. As a result, it required CA rights in the larger area. Work No. 5c (02) would then be required to restore and maintain the landscape that would be removed to install the pipeline and to enable the Applicant to improve the woodland as part of their ecological mitigation proposals. The Applicant acknowledged that the garden for one of the proposed new units would be affected by the request. At the hearing the ExA was advised that the Applicant and the Eldridge's representative had a recent met and negotiations would be on-going during the Examination. The ExA asked to be kept updated through the CA schedule and emphasised that the Applicant should be seek to achieve a voluntary agreement wherever possible.
- 6.6.20. Following CAH1 the Eldridge's Agent [REP3-134] advised that discussions were ongoing but not concluded and that the Applicant had provided some useful clarifications including that their woodland was 'woodland 4' and that the proposals were for a 10-year felling and replanting programme to enhance it as a native

Broadland woodland. The original concerns about routing of the pipeline were also repeated. The Applicant [\[REP4-102\]](#), page 4 and 5] provided a detailed explanation that, due to a number of engineering, design and environmental factors and constraints, the fuel pipeline would need to be in this location.

- 6.6.21. At D11 the CA Schedule [\[REP11-041\]](#), pages 38-40] showed that although discussions were ongoing throughout the Examination, the matter remained outstanding. The Agent for the Eldridge's [\[REP11-078\]](#) advised that the Applicant had advised that a right to manage the woodland was not required for Biodiversity Net Gain (BNG) and that this could instead be accommodated on land already owned by the Applicant. The ExA was advised that a letter of assurance confirming that the Applicant would not take rights to manage the woodland for BNG had been provided. However, these rights remained in the DCO and this was causing a great deal of uncertainty. The Eldridge's also maintained their position that the pipeline could be rerouted via land owned by the Applicant and therefore would not need to be routed through plot 6-04.
- 6.6.22. The Applicant's Closing Submissions [\[REP11-049\]](#), Table 7-1] states that it continued to try and reach agreement with the Eldridge's but that it had not been possible to resolve all the issues raised. The Applicant advised that it has not received any clear explanation for the challenge other than the AP does not accept their position. In all other respects the terms of agreement are in place and the Applicant has issued a signed assurance excluding any reference to the fuel pipeline so that all other commitments would be secured for the AP.

ExA Conclusion

- 6.6.23. The ExA is satisfied that the pipeline would need to be routed through plot 6-04 and that until further survey work is done there is some uncertainty regarding the exact route. Furthermore, the ExA accept that a 6 metre (m) easement over the pipeline [\[REP1-026\]](#), page 39] would be required to enable construction and that this would result in the removal of some trees which would need to be replaced. However, the ExA considers that the wider area of woodland would not be needed for BNG enhancements [\[REP4-102\]](#), page 2] or for landscape restoration in relation to the pipeline. Therefore, the ExA considers that the Applicant would not need to acquire rights in the whole of this plot. To address this, the Applicant would need to amend plot 6-04 to take only the land needed to install, operate and maintain the proposed fuel pipeline.
- 6.6.24. With regards to the remaining plots the ExA notes that the Applicant is only seeking to extinguish rights that would interfere with the Proposed Development and that it had committed to maintaining existing services to the Eldridge's property [\[REP1-026\]](#), page 42 and 43]. Subject to plot 6-04 being amended the ExA considers that, should the SoS consider that the public benefit of the Proposed Development outweighs the harm identified in Section 5 of this Report then this would outweigh any private harm to the objector and the SoS could grant the CA powers sought in relation to these plots.

FOLLETT PROPERTY HOLDINGS LTD [\[RR-0461\]](#)

- 6.6.25. The BoR [\[REP9-007\]](#) shows Follett Property Holdings Ltd as having an interest in 42 plots (1-72, 1-73, 1-89, 1-101 to 1-107, 1-109, 1-113, 1-120, 1-121, 1-123, 2-01, 2-02, 2-05, 2-16, 2-19, 2-26, 2-27, 2-30, 2-38, 2-39, 2-40, 2-43, 2-44, 2-45, 2-46, 2-49, 2-53, 2-60, 2-67, 2-68, 2-113, 2-115, 2-140, 2-149, 4-10, 4-11 and 4-12). The Applicant is seeking to permanently acquire all the plots except for six where TP is

being sought. The plots would be needed in connection with sitewide works to enable the development, airfield works, terminal and associated works, airport support facilities, landscaping and mitigation and the AAR.

- 6.6.26. Follett Property Holdings Ltd [\[RR-0461\]](#) was concerned that the Order as proposed did not provide an adequate period of time in which to reinvest the compensation monies. Furthermore, the Applicant was seeking to acquire all the areas of car parking and amenity land but leave the building in isolation which would be impractical to the occupants and as a result it was seeking an undertaking from the Applicant to acquire the entirety of the interest. The matter was due to be discussed at CAH1 [\[EV5-001\]](#) but Follett Property Holdings Ltd did not attend so the ExA asked a written question [\[PD-010\]](#), CA.1.8]. No response from the AP was received.
- 6.6.27. The CA schedule [\[REP11-041\]](#) indicated that the Applicant had engaged with Follett Property Holdings Ltd and negotiations had been ongoing throughout the Examination but that agreement had not been reached. The Applicant's Closing submissions [\[REP11-049\]](#), Table 7-1] advised that a letter of assurance had been given and a deed of assurance was in the process of being entered into. If this was not completed by the close of the Examination then the AP would write to acknowledge the positive position reached direct to the SoS. At the close of the Examination this matter remained outstanding.

ExA conclusion

- 6.6.28. The ExA is of the opinion that, whilst it might be preferable to the owners that the Applicant acquire the whole of the site, the ExA can only consider what the Applicant has applied for. The ExA is satisfied that the works would be required to construct and operate the Proposed Development and therefore, should the SoS consider that the public benefit of the Proposed Development outweighs the harm identified in Section 5 of this Report, then this would outweigh any private harm to the objector and that the SoS could grant the CA powers sought in relation to these plots.

GKN AEROSPACE LTD [\[RR-0514\]](#)

- 6.6.29. The BoR [\[REP9-007\]](#) lists GKN Aerospace Ltd (GKN) as having an interest in 4 plots (2-61, 2-63, 2-69 and 2-82) which the Applicant is seeking to permanently acquire. The RR [\[RR-0514\]](#) advised that, whilst GKN was broadly supportive of the Proposed Development, the proposals for the AAAR would directly impact on its operational site which would damage its ability to deliver an important and long-standing customer contract from the site. GKN advised it wished to engage with the Applicant to negotiate a solution and also to help them to understand the application. The matter was due to be discussed at CAH1 [\[EV5-001\]](#) but GKN did not attend.
- 6.6.30. The CA schedule [\[REP11-041\]](#) indicated that the Applicant engaged with GKN and negotiations were ongoing during the Examination. A Memorandum of Understanding was also exchanged which set out the parties' positions. The Applicant's Closing Submissions [\[REP11-049\]](#), Table 7-1] referenced the Applicant taking action to mitigate impact on production to enable a seamless transition of production from the existing building into a replacement building which would need to be purpose built. At the close of the Examination the matter remained unresolved.
- 6.6.31. These plots would be required to enable the delivery of:

- Work No. 4t(06) a new surface level car park to provide replacement parking for land affected by work No 6A(02) – plot 2-61; and
- Work No. 6a(02) and Work No 6a(03) the AAR and link road – plot 2-63, 2-69 and 2082.

ExA conclusion

- 6.6.32. The ExA is of the opinion that the works would be required to construct and operate the Proposed Development and therefore, should the SoS consider that the public benefit of the Proposed Development outweighs the harm identified in Section 5 of this Report then this would outweigh any private harm to the objector and that the SoS could grant the CA powers sought in relation to these plots.

JAISON PROPERTY DEVELOPMENT COMPANY LTD [\[RR-0603\]](#)

- 6.6.33. The BoR [\[REP9-007\]](#) lists Jaison Property Development Company Ltd as having an interest in 7 plots (2-09, 2-10, 2-27, 2-29, 2-30, 2-38, 2-39). The Applicant is seeking to permanently acquire all the plots except two (2-09 and 2-27) which it is seeking to temporarily possess. The plots would be required to enable construction of the AAR (Work No. 6a(02)), Terminal Approach (Work No. 5a) and AAR replacement car parking (Work Nos. 4t (01) and (02)).
- 6.6.34. Jaison Property Development Company Ltd [\[RR-0603\]](#) was concerned that the Order as proposed did not provide an adequate period of time in which to reinvest the compensation monies. Furthermore, the Applicant was seeking to acquire all the areas of car parking and amenity land but leave the building in isolation which would be impractical to the occupants' As a result it was seeking an undertaking from the Applicant to acquire the entirety of the interest. The matter was due to be discussed at CAH1 [\[EV5-001\]](#) but Jaison Property Development Company Ltd did not attend so the ExA asked a written question to the AP [\[PD-010, CA.1.8\]](#) to which no response was received.
- 6.6.35. The CA schedule [\[REP11-041\]](#) indicated that Applicant had engaged with the Company and negotiations have been ongoing throughout the Examination but that agreement had not been reached. The Applicant's Closing Submissions [\[REP11-049, Table 7-1\]](#) advised that a letter of assurance had been given and a deed of assurance was in the process of being entered into. If this was not completed by the close of the Examination then the AP would write direct to the SoS to acknowledge the positive position reached. At the close of the Examination this matter remained outstanding.

ExA conclusion

- 6.6.36. The ExA is of the opinion that whilst it might be preferable to the owners that the Applicant acquire the whole of the site, the ExA can only consider what the Applicant has applied for The ExA is of the opinion that the works would be required to construct and operate the Proposed Development. Therefore, should the SoS consider that the public benefit of the Proposed Development outweighs the harm identified in Section 5 of this Report then this would outweigh any private harm to the objector and the SoS could grant the CA powers sought in relation to these plots.

JOHN ANDREW JASON AND JANA NINOT JASON [\[RR-0691\]](#)

- 6.6.37. The BoR shows the Jason's as having an interest in 16 plots (2-73, 2-74, 2-76, 2-78, 2-81, 2-83, 2-85, 2-86, 2-87, 2-89, 2-91, 2-92, 2-94, 2-110, 2-117, 2-136). The

Applicant is seeking to permanently acquire these plots except for two (plots 2-87 and 2-117) where TP is being sought. The plots would be required in order to construct the AAR (Work No. 6a (02)), AAR link road (Work No. 6A(03)), two hangers (Work No. 4b) and new hanger aprons (Work No 2c(03) and AAR permanent car parking replacement provision (Work No 4t(04)). The Jason's were concerned that the Order as proposed did not provide an adequate period of time in which to reinvest the compensation monies. They were therefore seeking an undertaking from the Applicant to make adequate provision to do so. The matter was due to be discussed at CAH1 [EV5-001] but the Jason's did not attend so the ExA asked them a written question [PD-010, CA.1.8]. No response was received.

- 6.6.38. The CA schedule [REP11-041] indicated that the Applicant engaged with the Jason's and negotiations were ongoing throughout the Examination, but that agreement has not been reached. The Applicants Closing Submissions [REP11-049, Table 7-1] advised that a letter of assurance had been given, a deed of assurance was being entered into and the Agent would write to withdraw the representations made once the legal agreement recording the assurance was complete. If this did not happen prior to the conclusion of the Examination the AP informed the Applicant that they would write to the SoS to acknowledge the positive position reached. At the close of the Examination this matter remained outstanding.

ExA conclusion

- 6.6.39. The ExA is of the opinion that whilst it might be preferable to the owners that the Applicant acquire the whole of the site and note the concerns about time periods, the ExA can only consider what the Applicant has applied for. The ExA are of the opinion that the works would be required to construct and operate the Proposed Development and therefore should the SoS consider that the public benefit of the Proposed Development outweighs the harm it has identified in Section 5 of this Report then this would outweigh any private harm to the objector and that the SoS could grant the CA powers sought in relation to these plots.

THE TRUSTEES OF PAUL TOMPKINS WILL TRUST [RR-1517]

- 6.6.40. The BoR [REP9-007] shows that the trustees of Paul Tompkins Will Trust have an interest in 8 plots (3-32, 3-40, 7-12, 7-13, 7-14, 7-15, 7-29 and 7-40). The RR [RR-1517] raised concerns about the need for the hedgerow restoration and screening needs to be compatible with the on-going use of the land. The Applicant is seeking the permanent acquisition of rights in these plots to enable Work No 5e. Bloor Homes Ltd (see above) also have an interest in three of the plots (7-13, 7-14 and 7-40). The works would be required to screen views of the Proposed Development from users of the footpath and to restore hedgerows. The matter was due to be discussed at CAH1 [EV5-001] but the AP did not attend so the ExA asked then a written question [PD-010, CA.1.8]. No response was received.
- 6.6.41. The CA schedule [REP11-041] indicated that the Applicant tried to make contact with the land owner on several occasions although no progress was made in acquiring the land voluntarily.

ExA conclusion

- 6.6.42. The ExA notes that the proposed works are along the boundaries of the fields and therefore does not consider that the proposed works would interfere with the on-going use of the land. Furthermore, the ExA notes that these plots are also within the East of Luton strategic housing site. The ExA therefore considers that the land would be required to enable the Proposed Development. Therefore should the SoS

consider that the public benefit of the Proposed Development outweighs the harm identified in Section 5 of this Report then this would outweigh any private harm to the objector and the SoS could grant the CA powers sought in relation to these plots.

NETWORK RAIL [\[REP1-113\]](#)

- 6.6.43. NR are listed in the BoR [\[REP9-007\]](#) as having an interest in 17 plots. The Applicant is seeking to permanently acquire 8 plots (1-22, 1-25, 1-25a, 1-36, 1-38, 1-42, 1-44 and 1-47), acquire permanent rights in plot 1-41 and TP a further 8 plots (1-15, 1-21, 1-26, 1-27, 1-31, 1-32, 1-33 and 1-34). The plots would be required to deliver Work No. 4g (Car Park 1), Work No. 4h (Car Park 2) and Work No. 6e(f) offsite highways works on Eaton Green Road/ Wigmore Lane.
- ~~6.6.44.~~ In [\[REP1-113\]](#), paragraph 1.7] NR objected to any CA of rights over operational railway land and its assets or extinguishment of the rights held by NR over operational railway land or any of its assets. NR also objected to the Applicant seeking powers to carry out works in the vicinity of the operational railway without first securing protections for NR statutory undertaking.
- 6.6.45. NR (paragraph 4.2) did not consider the scope of rights that the Applicant was seeking was acceptable. It advised the ExA that the precise impact of the works on the railway line and assets was being assessed and was subject to an internal clearance process. NR considered that even if the physical works were considered acceptable the rights being sought were very wide ranging and exercisable over the entirety of several plots. In concluding NR felt that the SoS in applying s127 of the PA2008 could not conclude that the CA powers being sought would not cause serious detriment to the carrying on of NR undertaking.
- 6.6.46. The matter was due to be discussed at CAH1 [\[EV5-001\]](#) but the AP did not attend so the ExA asked them a written question [\[PD-010, CA.1.8\]](#). NR responded at D4 [\[REP4-119\]](#) and [\[REP4-120\]](#) where it confirmed which plots it held an interest in and repeated the concerns expressed in [\[REP1-113\]](#). NR confirmed that it was in discussions with the Applicant, subject to internal clearances, and was prepared to enter into a private agreement.
- 6.6.47. At D10 [\[REP10-064\]](#), paragraph 2.3] NR advised that it would severely compromise its ability to carry out its statutory functions if the Applicant were to have unfettered powers to CA rights and interests belonging to NR on which it relies for the function of the rail network. To address this NR suggested the insertion of some drafting into the protective provisions which would prevent the Applicant from exercising its CA powers without the consent of NR in relation to railway property. As drafted NR would be unable to act unreasonably when consent was sought. NR (paragraph 2.5) advised that voluntary transfer of land and/ or extinguishment of rights should be governed by an agreement, but no such agreement was in place.
- 6.6.48. The Applicant responded to these concerns at D11 [\[REP11-050\]](#), 2] highlighting that this was the first substantive response from NR. The Applicant considered that the Proposed Development would not materially affect NR's operational land and interests and it would not adversely affect its ability to carry out its statutory undertaking as set out in the Applicant's s127 case [\[REP10-043\]](#). The Applicant explained that where it was seeking CA over NR land (plots 1-22, 1-25 and 1-25a) it had engaged in discussions to voluntarily acquire the land. The other principal form of acquisition related to a right of access for car park users through an existing footway under the railway, again discussions had been held to try and acquire these

rights voluntarily. The Applicant highlighted that discussions on these matters had commenced in November 2019.

6.6.49. The Applicant stated that the effect of the Proposed Development on NR land would be:

- for the land where CA is being sought, this was being sought through voluntary agreement and in any event was not considered operational land;
- a right of pedestrian access via an existing NR pedestrian tunnel under the railway, no substantive construction is proposed to take place under the railway other than the installation of additional lighting;
- minor highways works associated with the car parks and highway works. These works would be to the existing (not new) highway, which could be undertaken by the local highway authority under permitted development rights without recourse to NR.
- a number of NR's property interests were understood to be legacy sub-surface highway rights (*ad medium filum*) and not operational railway interests.

6.6.50. The Applicant provided a plot-by-plot analysis [REP11-050, Appendix 2] which it considered demonstrated that there would be no interference with NR's ability to carry out its operational duties.

6.6.51. The Applicant did not agree to NR's suggestion to include drafting in the protective provisions that would prevent it exercising its CA rights without the further approval of NR. The Applicant considered that this would be unnecessary and would risk compromising the efficient and effective exercise of those powers. The Applicant considered that the current drafting already provided NR with protection, and it had agreed to secure NR's approval before carrying out any 'specified work' on NR land. Therefore, it considered that NR would have an effective means of controlling those aspects of the Proposed Development that would interact with its undertaking.

6.6.52. The Applicant stressed the need to ensure it retained unfettered land powers as having to secure further consents would cause delay. Furthermore, it considered that the CA process already provided a process for resolution of disputes. The Applicant acknowledged a restriction on the exercise of CA rights was included in a number of Orders but also highlighted a number of Orders where this had not been accepted. In response to NR citing the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022 the Applicant highlighted that it had wider impacts on NR's operation land than the Proposed Development.

6.6.53. The CA schedule [REP11-041] stated that the Applicant was in discussion with NR regarding voluntary acquisition of land and rights.

ExA conclusion

6.6.54. The Applicant is seeking to permanently acquire only two plots (1-25 and 1-36) which are owned by NR. These would be required to deliver Work No. 4g (Car Park 1). Plot 1-25 would be required for off-road construction activity and plot 1-36 would be required to deliver new/ improved access into the proposed car park and improvements to the underpass associated with pedestrian footway beneath railway lines. The Applicant predicted that there would be minimal impact to station operation from the acquisition of these two plots. Having reviewed these plots, the ExA agrees with the Applicant's conclusion.

6.6.55. The Applicant is seeking to acquire permanent rights in plot 1-41, an existing tunnel under the railway, to provide a pedestrian access from the new staff car park to the

London-DART station. The Applicant is proposing several minor works (surface upgrades and improved lighting) to the tunnel. The Applicant considered that as this was an existing tunnel any impact to operational activities of NR would be minimal. Having reviewed this plot and the proposed works, the ExA agrees with the Applicants conclusion.

- 6.6.56. For the remaining plots where the Applicant is seeking CA (plots 1-22, 1-25a, 1-38, 1-42 and 1-44) NR hold a category 2 interest having only a right in the plot. The Applicant predicted that there would be minimal impact to NR operations from the acquisition of these plots. Having reviewed these plots, the ExA agrees with the Applicants conclusions.
- 6.6.57. The Applicant is seeking to TP the remaining plots, it advised that this would not impact on NR operations as where necessary access would be retained. Having reviewed these plots, the ExA agrees with the Applicants conclusion.
- 6.6.58. The ExA therefore considers that the Proposed Development would be unlikely to adversely affect NR's ability to operate and run the railway. The ExA agrees with the Applicant that the purpose of CA and TP is to eliminate the need for the Applicant to undertake further procedures to acquire the land or rights needed to implement a scheme. Therefore, the ExA considers the NR request to include drafting in the provisions to ensure that the Applicant could not exercise its CA powers in relation to NR land without their consent to be unreasonable as it could compromise the Applicants ability to deliver the Proposed Development. Furthermore, the ExA notes that the protective provisions (paragraph 72) would require the Applicant to submit details for approval to NR for any 'specified works' which are defined as any of the authorised development as is situated upon, across, under, over or within 15m of, or may in any way adversely affect railway property. These would be subject to approval by a NR engineer and therefore the ExA considers that NR would be able to ensure that the works themselves would not interfere with its ability to operate and maintain the rail network. The ExA notes that the Applicant has tried to obtain the plots voluntarily.
- 6.6.59. The ExA therefore concludes that should the SoS consider that the public benefit of the Proposed Development outweighs the harm it has identified in Section 5 of this Report then this would outweigh any private harm to the objector and the SoS could grant the CA powers sought in relation to these plots.

PROSPECT HOUSE DAY NURSERY AND ACE SANDWICH BAR

- 6.6.60. The Applicant is seeking to permanently acquire both these sites. The loss of both of these sites was identified in the ES [\[REP10-009\]](#) as an adverse community effect in the absence of mitigation. In the case of Prospect House Day Nursery this would be a major adverse significant effect on mental health and wellbeing and for the Ace Sandwich bar this would be a minor adverse (not significant effect) on a community asset. The loss of these facilities is covered in detail in Section 3 of this Report. For completeness the ExA is also reporting on them here simply to note that whilst no objections to the CA of either of these sites were received, the matter was Examined by the ExA through written questions [\[PD-010\]](#), CA.1.9 and CA.1.10].

CATEGORY 3 PARTIES

- 6.6.61. Parties with a Category 3 interest are defined in s44 of the PA2008 as persons who may make a claim under section 10 of the Compulsory Purchase Act 1965 or Part 1 of the Land Compensation Act 1973. The ExA refers to these as Category 3 parties.

- 6.6.62. The ExA received a significant number of RR from parties who were classified as Category 3 by the Applicant in the BoR [\[REP9-007\]](#). These parties objected on a range of issues arising from the construction and operation of the scheme. Most of the concerns mainly related to noise from aircraft taking off and landing and the effect that this had on their living conditions and property values.
- 6.6.63. The ExA has been concerned throughout the Examination to ensure that there would be adequate safeguards and mitigations in place on a number of these issues particularly noise. These are covered in detail in Section 3 of this Report and the ExA do not propose to reprise them here. It is worth noting that, as covered later in this section, the Applicant identified the Category 3 parties based on noise contours and as such the majority of Category 3 parties would be eligible for some form of noise insulation under the Applicant's proposed noise insulation programme.
- 6.6.64. The ExA notes that the remedies of making a claim under s10 of the Compulsory Purchase Act 1965 or in due course under Part1 of the Land Compensation Act 1973 would be available to these objectors.

6.7. STATUTORY UNDERTAKERS

- 6.7.1. Throughout the Examination the Applicant has sought to reach agreement with affected SU and, where necessary, to include protective provisions within the draft DCO [\[REP11-091\]](#), Schedule 8] to protect their interests. However, at the close of the Examination objections from the following SU remained outstanding:

- AW;
- NH;
- NR; and
- The Local Highway Authorities.

- 6.7.2. As a consequence, s127 and s138 of the PA2008 apply.

- 6.7.3. The ExA asked for updates on the progress with the drafting/ agreement of protective provisions at each of the CAH [\[EV5-001\]](#) and [\[EV13-001\]](#). The Applicant was asked [\[EV5-007\]](#), action point 8], if SU objections remained outstanding to submit a s127/ 138 case at D9. This was submitted at D9 [\[REP9-053\]](#) and updated at D10 [\[REP10-044\]](#). In addition, the ExA requested [\[PD-023\]](#) that where SU's had requested the submission of bespoke protective provisions that, if they hadn't already, they provide their preferred form of drafting at D10.

AFFINITY WATER LTD

- 6.7.4. AW is listed in the BoR [\[REP9-007\]](#) as having an interest in 63 plots. The Applicant is seeking both the CA and TP of land in which AW holds an interest. AW had no objection in principle to the Proposed Development [\[REP1-030\]](#), paragraph 2.1]. However, throughout the Examination [\[RR-0019\]](#), [\[REP1-030\]](#), [\[REP7-096\]](#) and [\[REP11-070\]](#) AW objected to the use of a standard protective provision as it considered that it was not satisfactory for the benefit of AW [\[REP11-070\]](#), paragraph 2]. AW advised that it had engaged in extensive negotiations with the Applicant to modify the protective provisions to avoid the serious detriment to AW's undertaking that would arise from the project.
- 6.7.5. At D11 (paragraph 3) AW confirmed that it had reached substantive agreement with the Applicant on the terms of the modified protective provisions and a side agreement. However, due to its governance procedure, AW was unable to obtain final sign off for the side agreement and modified protective provisions before the

end of the Examination, albeit AW advised that it did not anticipate any changes to these documents (paragraph 4). AW anticipated receiving the requisite approvals and executing the side agreement by 1 March 2024 and intended to report completion and withdraw its objection direct to the SoS (paragraph 5).

6.7.6. AW advised (paragraph 6) that discussions between the parties had been on the basis that the agreed position would be confidential and that the parties intend that the modified protective provisions would be subject to a confidentiality clause that would be contained within the side agreement. As a result, AW did not consider it appropriate to provide the ExA with a copy of the modified provisions. AW advised that if, at the end of the determination period, the side agreement had not been executed then it would provide the SoS with AW's preferred form of protective provisions.

6.7.7. The Applicant [\[REP10-043\]](#) advised that Schedule 8, Part 1 of the draft DCO contained a generic protective provision for the protection of electricity, gas, water and sewerage undertakers and as a result was satisfied that, in relation to AW, the tests in s127/ 138 of the PA2008 would be met.

ExA conclusion

6.7.8. Despite repeated requests the ExA was not provided with detail as to why AW considered the generic protective provision unsatisfactory and would cause serious detriment to its undertaking. As a result, whilst the ExA accepts that the Part 1 provision would provide AW with some protection of its assets it cannot be satisfied that, given the concerns raised, AW would be able to continue to carry out its statutory functions or that the tests in s127 and 138 would be met. The ExA cannot therefore recommend the grant of CA and TP for the plots where AW has an interest. However, the ExA notes that AW will either advise the SoS that agreement has been reached or provide them with details of their preferred drafting and as a result the ExA considers that the SoS should have sufficient information to be able to conclude on this matter.

NATIONAL HIGHWAYS

6.7.9. NH is listed in the BoR [\[REP9-007\]](#) as having an interest in 21 plots. The Applicant is only seeking TP of land in which NH have an interest. The draft DCO [\[REP11-091\]](#), Schedule 8, Part 5] included a bespoke protective provision for the benefit of NH. However, at D11 NH [\[REP11-073\]](#) maintained its objection to the proposed protective provision and requested (paragraph 1.2.4) that the protective provisions included in the Applicant's draft DCO be replaced with those it provided in Appendix 1 of [\[REP11-073\]](#). NH provided a detailed table (section 4) showing each of the provisions which remained in dispute and NH's reasons for their inclusion. The signed Statement of Common Ground (SoCG) submitted at D11 [\[REP11-093\]](#) reported that matters in relation to the protective provisions for the Strategic Road Network (SRN) and funding of costs during pre-construction stages were not agreed.

6.7.10. The s127/ 138 case submitted at D9 [\[REP9-053\]](#) did not include a reference to NH. Following a request from the ExA [\[PD-023\]](#) to update this document to include NH, the resubmitted document [\[REP10-043\]](#), paragraph 1.1.5] advises that the Applicant's position on the NH interface is that:

- the Applicant had established the traffic related impacts monitoring and mitigation approach (TRIMMA) process, secured by requirement 30 of the draft

DCO, to ensure that mitigation for impacts on the SRN would be delivered at the appropriate time;

- the Applicant had included substantial protective provisions for the benefit of NH in Schedule 8 of the draft DCO; and
- consequently, the Applicant believed that NH interest would be adequately protected and there would be no detriment to those interests as a result of the Proposed Development.

- 6.7.11. The CA Schedule [\[REP11-041\]](#) advised that the Applicant was engaged in ongoing discussions with NH on the impacts of the Proposed Developments but they were not in agreement on the impacts of the Proposed Development on the operation of M1 J10 and the effectiveness of the proposed mitigation. The Applicant continued to engage with NH regarding NH's residual concerns about the south facing slips; road safety audits and Rule 9 update and assessment. This position was repeated in the Applicant's Closing Submissions [\[REP11-049\]](#), paragraph 7.6.17]

ExA conclusion

- 6.7.12. The ExA has considered the wording of the Protective Provisions in Section 7 of this Report, including finding on the matters of substantive dispute between the parties for the recommended DCO. As a result the ExA is satisfied that the recommended DCO would provide an appropriate form of protection for NH and therefore the tests in s127(5) and 138(4) would be met and the TP of these plots is recommended, subject to the SoS finding that the public benefit of the Proposed Development outweighs the harm the ExA has identified in Section 5 of this Report.

NETWORK RAIL INFRASTRUCTURE LTD

- 6.7.13. NR is listed in the BoR [\[REP9-007\]](#) as having an interest in 17 plots. The Applicant is seeking to CA 9 plots and TP 8 plots. The draft DCO [\[REP11-091\]](#), Schedule 8, Part 7] included a bespoke protective provision for the benefit of NR. However, at D11 [\[REP11-075\]](#) NR advised that the form of protective provision included in the draft DCO would not be adequate to ensure the safe and efficient operation of the railway and protection of the assets and land that NR's undertaking relies on. NR key concerns were set out in [\[REP10-064\]](#). Of particular concern was:

- the absence of any restriction on the exercise of CA powers (paragraphs 2.2 to 2.6);
- the absence of any requirement to enter into asset protection agreements (paragraphs 2.7 to 2.9); and
- amendments to the indemnity provisions (paragraph 2.13 and 2.22).

- 6.7.14. In addition to which, NR had numerous other amendments which it had not agreed. NR provided a preferred form of protective provision (Appendix 1). NR acknowledged that the D11 draft DCO did include some amendments which addressed, to varying degrees, some of their previous concerns.

- 6.7.15. The CA Schedule [\[REP11-041\]](#) advised that the Applicant was in on-going discussions with NR on terms of appropriate protective provisions and a side agreement. In its Closing Submissions the Applicant [\[REP11-049\]](#), paragraph 7.6.18] advised that the protective provisions were yet to be agreed. Reference was also made to the Applicant's final position which summarised the position of NR being set out in the Consents and Agreements Position Statement [\[REP11-003\]](#). However, this document did not contain any references to NR.

ExA conclusion

- 6.7.16. The ExA has considered the wording of the protective provisions in Section 7 of this Report including finding on the matters of substantive dispute between the parties for the recommended DCO. As a result, the ExA is satisfied that the recommended DCO would provide an appropriate form of protection for NR. Therefore, the tests in s127(5) and 138(4) would be met and the TP and CA of these plots is recommended subject to the SoS finding that the public benefit of the Proposed Development outweighs the harm the ExA has identified in Section 5 of this Report.

THE LOCAL HIGHWAY AUTHORITIES

- 6.7.17. The JHA own a number of plots that the Applicant was seeking to CA or TP. The JHA [\[REP11-061\]](#) advised that they had engaged in constructive negotiations with the Applicant in relation to the terms of the Local Highway Authority Protective Provisions [\[REP11-091\]](#), Part 6, Schedule 8]. The JHA submitted their preferred form of protective provisions at D10 [\[REP10-053\]](#) some of which were incorporated into the draft DCO. An updated preferred form of protective provision was provided [\[REP11-061\]](#), Appendix 2]. The JHA considered that there were only three points of disagreement remaining. These were:
- “commence” triggers should be replaced with “begin” and cognate terms wherever they appeared;
 - the drafting of paragraph 56(8) was unacceptable; and
 - the minimum insured sum of £10 million would be appropriate and reflective of the risks that might arise, particularly in relation to third parties, from works in the highway and that those risks did not directly correlate to the value of the works being carried out.
- 6.7.18. In addition, the JHA considered that it was inappropriate for works covered by a permit issued under a permit scheme to avoid the protective provision regime. The permit scheme was additional to, and did not duplicate, the protective provisions regime. As such the JHA requested that the reference that would allow a permit to stand in for a protective provision should be deleted. The JHA advised that they thought that the Applicant agreed with this position [\[REP11-061\]](#), paragraph 5.6].

ExA conclusion

- 6.7.19. The ExA has considered the wording of the protective provisions in Section 7 of this Report including finding on the matters of substantive dispute between the parties for the recommended DCO. As a result, the ExA is satisfied that the recommended DCO would provide an appropriate form of protection for the Local Highway Authorities and therefore the tests in s127(5) and 138(4) would be met.

OTHER STATUTORY UNDERTAKERS

- 6.7.20. A number of other SU have land and rights that would be affected by the Proposed Development. With regards to those SU whose rights and apparatus would be interfered with by the delivery and operation of the Proposed Development but who have not made a representation, Part 1 of Schedule 8 of the recommended DCO includes provisions for the protection of all electricity, gas, water and sewage undertakers and Part 2 provides protection for operators of electronic communications code networks. However, as they have not made representations the provisions of s127 and s138 are not triggered.

EXA CONCLUSION ON S127 AND S138

- 6.7.21. Section 127 and s138 representations were submitted to the Examination which were not withdrawn by its close. These representations have been considered as set out above.
- 6.7.22. On the basis of the evidence before the ExA, it is satisfied that the provisions contained within Schedule 8 of the recommended DCO would ensure that an appropriate degree of protection would be given to the affected undertakers, so that there would be no serious detriment to the carrying out of those organisations' undertakings. The ExA is satisfied, should the SoS decide to make the Order, that the interference with apparatus and extinguishment of rights would be necessary for the carrying out and operation of the Proposed Development.
- 6.7.23. Accordingly, having regard to s138(4) of the PA2008 the ExA recommends, that subject to the SoS deciding that the Order should be made, that the Order may include provision for the extinguishment of the relevant rights or the removal of the relevant apparatus.

6.8. SPECIAL CATEGORY LAND OPEN SPACE

- 6.8.1. The Applicant is seeking to CA parts of WVP an area of land which is a designated district park and area of public open space. It comprises 6 plots (3-01, 5-06, 5-09, 5-12, 5-15 and 5-22) which are shown on the Special Category Land Plans [\[AS-021\]](#). The total existing area of open space within the Order limits that the Applicant is seeking to permanently acquire covers an area of approximately 35.9ha. Details are set out in Part 5 of the BoR [\[REP9-007\]](#).
- 6.8.2. The Applicant advocated that the land is essential to enabling the Proposed Development as it would be required to accommodate most of the works associated with the expansion including, but not limited to, the new Terminal, aprons and taxiways, car parking, water treatment plant and fuel storage facility. Full details of the works were set out in the SoR [\[AS-071\]](#), Appendix A].
- 6.8.3. As set out earlier in this chapter, s131 of the PA2008 applies to the CA of open space. Section 131 states that where a DCO would authorise the CA of open space, unless the SoS can be satisfied that one of the relevant subsections applies and the fact is recorded on the face of the Order, the DCO would be subject to SPP.
- 6.8.4. Subsection 4 applies if:
- f. replacement land has been or will be given in exchange for the Order land, and
 - g. the replacement land has been or will be vested in the prospective seller and subject to the same rights, trusts and incidents as attached to the order land.
- 6.8.5. Subsection 12 defines "replacement land" as meaning land which is not less in area than the Order land and which is no less advantageous to the persons, if any, entitled to rights of common or other rights, and to the public.
- 6.8.6. The proposed replacement land is located to the east of WVP and to the south of Darley Road. The land consists of plots 5-13 and 6-20 and is already owned by the LLA albeit it is currently tenanted. The Applicant proposes to retain as much of WVP as possible and provide at least 10% more public open space that currently exists

[AS-071, paragraph 12.1.9]. Work No. 5b(01) would deliver enhancements to the area of WVP that would be retained and Work No. 5b(02) would deliver the works in the replacement open space. The replacement open space would be approximately 36.3ha. The Applicant therefore considers that the first element of s131 subsection 4 would be achieved as replacement land, not less in area that the relevant land being CA would be provided [AS-071, paragraph 12.1.9].

- 6.8.7. The Applicant advocates [AS-071, paragraph 12.1.10] that following the proposed enhancements and creation of new replacement open space, WVP would be at least 47.6ha, as at least 11.2ha of the existing open space would remain.
- 6.8.8. The replacement open space would retain the existing main entrance into WVP and would incorporate several of the enhanced facilities proposed in this area as part of Green Horizons Park (GHP), including the play facilities and skate park which would be secured through Work No. 5b(01) [AS-071, paragraph 12.1.13].
- 6.8.9. The replacement open space would focus on the establishment of natural habitats, delivering areas of meadow grassland, native shrub planting, broadleaf woodland and mixed-species hedgerows with hedgerow trees, as well as several surface footpaths which would connect into the existing public rights of way (PRoW) network. Furthermore, the replacement open space has been designed to include a number of landscape features to avoid, minimise, replicate and/ or replace landscape and visual effects [AS-071, paragraph 12.1.15].
- 6.8.10. Proposals would include appropriate signage and facilities to help support and encourage various existing and new user groups. The Applicant envisaged that the replacement open space would deliver additional opportunities for unstructured or natural play and would also include additional recreational facilities, albeit this detail would evolve post consent [AS-071, paragraph 12.1.16].
- 6.8.11. The existing open space would only be able to be taken for the Proposed Development once the replacement open space was open. Whilst several of the existing features of WVP would be retained some of the semi-improved grassland, tall ruderal herb and scrub vegetation in the west of the park would be lost. However, the Applicant [AS-071, paragraph 12.1.17] advocated that this loss would be fully mitigated by:
- the enhancement of existing facilities, such as upgrading of existing footpaths and signage;
 - the provision of a larger area of publicly accessible open space; and
 - the continuation of accessibility to the park through the existing main entrance and within the replacement open space through the upgrading of existing PRoW and new surfaced paths which would further improve public accessibility.
- 6.8.12. The Applicant concluded that the replacement land would be no less advantageous than the existing open space and therefore the test in subsection 12 of s131 of the PA2008 would be satisfied [AS-071, paragraph 12.1.18].

EXAMINATION ISSUES AND EXA'S CONCLUSIONS

- 6.8.13. The issues in relation to open space, the loss of WVP and the quality of the replacement land are considered in detail in the land use section of Section 3 and are not repeated here.
- 6.8.14. However, specifically related to CA the ExA focused on:

- the quality of the open space and whether it would meet the ‘no less advantageous’ test in s131;
- the status of the replacement land; and
- whether or not the designation of WVP as an asset of community value (ACV) had an implication for its acquisition.

The quality of the open space and whether it would meet the ‘no less advantageous’ test in s131

- 6.8.15. As set out in the land use sections of Section 3 of this Report the ExA has concluded that the replacement open space would be a betterment in terms of quantity and would be re-provided in the immediate vicinity of the space that would be lost. However, it would take a significant length of time for the landscaping to mature and the construction works to cease and therefore the ExA has concluded that in the short to medium term users of the open space would have a poorer experience to that which they currently enjoy. Nevertheless, taking into account the commitments to long term management, landscaping and the facilities on offer, in the long term the ExA is satisfied that the proposed replacement open space would provide a slightly enhanced experience for users to that they currently enjoy and would therefore be ‘no less advantageous’.

Status of replacement land

- 6.8.16. The Applicant advocated that the replacement open space is currently in agricultural use [[AS-071](#), paragraph 12.1.9]. However, as the ExA observed on a number of its site inspections [[EV1-001](#)], [[EV1-003](#)], [[EV1-004](#)] and [[EV1-012](#)] whilst some of the proposed replacement open space is actively being farmed, a number of the fields immediately adjacent to the existing WVP have been left to go fallow and there were a number of informal paths and tracks over these fields that were being used by the public.
- 6.8.17. The public use of these fields was referred to in a number of submissions and by the representatives for the FoWVP in their oral submissions at CAH1 and CAH2 in response to the ExA’s examination of this matter. The ExA notes that the Applicant considered these claims to be speculative, without reasonable basis and it considered that any current use was unlawful [[REP11-049](#), paragraph 7.5.10]. The ExA also observed [[EV1-018](#)] that the Applicant had taken measures, through erecting signage on site, to ensure that the legal status of the land was clear and to deter any continued informal use of the land.
- 6.8.18. Given the importance in s131 that any loss of open space is replaced the ExA considers that it is appropriate to take a precautionary approach when considering this matter. Consequently, it finds that there is sufficient evidence to indicate that the public have been using the replacement open space on an informal basis for a significant amount of time. However, the ExA considers that the usage was generally confined to the informal network of paths around and across the agricultural fields. Therefore, even if the informal paths were removed from the quantum of replacement land, the ExA is satisfied that the remaining land would provide sufficient land to replace that which would be lost.

Whether or not the designation of WVP as an ACV had an implication for its acquisition

- 6.8.19. WVP is currently owned by LBC. The Applicant entered into a licence with LBC for this land and has the right to manage it as open space. The terms of the licence allowed the Applicant to apply for development consent which would include the

open space. The Applicant advised [\[AS-071\]](#), paragraph 12.1.19] that it intends to enter into a long-term lease for the land with LBC. However, during these discussions WVP was designated an ACV under the Localism Act 2011. Consequently, this could result in a moratorium on a purchase of the land by the Applicant, during which period third parties may have a right to acquire the land. LBC [\[EV13-003\]](#), 50:39] advised that the moratorium process was split into two parts. The initial moratorium would be six weeks from the point that the council had been advised, by itself, that it proposed to dispose of the asset. If a qualifying organisation indicated in that period that it wished to proceed then it would become a six month moratorium.

6.8.20. This matter was discussed at CAH2 [\[EV13-001\]](#) where LBC advised that the moratorium period for the ACV disposal was likely to commence in early 2024 and that until that process had been completed no disposal could be completed. As a result, the Applicant confirmed that it was unlikely to have voluntarily acquired the land by the close of the Examination and therefore the ability to CA the land would need to be retained.

6.8.21. The ExA is satisfied that the Applicant tried to acquire the land voluntarily and that due to its designation as an ACV and the uncertainty that has caused for the ability and timescales to obtain the land voluntarily the ExA considers that the need to CA the land should the Order be made, remains. Furthermore, the ExA notes that should a moratorium be successful and a community group acquires the ACV this would not affect the ability of the Applicant to CA the land.

ExA Conclusion on s131

6.8.22. The ExA is satisfied that replacement land would be given in exchange for the Order land and that the replacement land would be vested in the prospective seller and subject to the same rights, trusts and incidents as attach to the Order land (subsection 4). Furthermore, for the reasons set out above, the ExA is satisfied that the replacement land would be no less in area than the Order land and would be no less advantageous to the persons entitled to other rights and to the public. The ExA is also satisfied that the Applicant has tried to acquire the land voluntarily but for the reasons set out above, needs to retain the power to CA the land should the Order be made.

6.8.23. Consequently, the ExA considers that the tests in s131(4) and (12) of the PA2008 would be satisfied and there is drafting in the preamble at the front of the recommended DCO for the SoS to confirm this point should the SoS decide to make the Order.

6.8.24. The ExA can confirm that no common land or fuel or field garden allotments would be affected by the Proposed Development.

6.9. CROWN LAND

6.9.1. Section 135 of the PA2008 would apply to the Articles of the DCO as it includes a provision authorising the CA of an interest in Crown land otherwise by or on behalf of the Crown and so the consent of the relevant Crown Authority would be required (article 39 Crown rights).

6.9.2. Crown land has been identified in the BoR [\[REP9-007\]](#), Part 4] and on the Crown Land Plans [\[REP5-011\]](#).

- 6.9.3. Initially there were 16 separate plots of land that were identified as possibly being Crown land. Following further work undertaken by the Applicant at the close of the Examination there is only one Crown interest in plot 2-46 which remains in the BoR. The interest is held by the Secretary of State for DLUHC.
- 6.9.4. At D11 [\[REP11-049\]](#), paragraph 7.4.4] the Applicant advised it was still trying to obtain confirmation that the interests could be within the scope of powers. However, to avoid the impact on crown interests, the BoR was amended to exclude the interests held by the Crown in this plot.
- 6.9.5. Just before the close of the Examination the Applicant advised [\[REP11-049\]](#), 4] that it was still in discussions regarding the obtaining of Crown consent but that it was evident that this would not be achieved before the close of the Examination. The Applicant advised that it would continue to seek the required consent and that there had been no suggestion of any impediment in achieving this. The Applicant remained confident that consent would be forthcoming. The Applicant therefore intends to update the SoS directly prior to the close of the recommendation stage.
- 6.9.6. Whilst the ExA is satisfied that the Applicant has actively engaged with the relevant Crown Authorities throughout the Examination, at the close of the Examination it had not secured the consent of the appropriate Crown Authority for the CA of Crown land.
- 6.9.7. To manage this situation the ExA explained to the Applicant [\[EV5-007\]](#), action point 22] that if Crown consent had not been obtained by the close of the Examination, it would need to submit a s135 case explaining how the Proposed Development could proceed if all of the Crown land was removed from the Order land at D9. The Applicant was reminded of this request in [\[PD-023\]](#). The Applicant advised [\[REP10-058\]](#) that whilst it remained hopeful that consent would be obtained it would submit a s135 case at D11 if this was not the case. No case was received.
- 6.9.8. The Applicant is seeking to permanently acquire plot 2-46 to deliver Work Nos. 2c(03), 3a(01), 3a(02), 3a(03), 3a(04), 3a(05), 3g, 4c(01), 4j and 6c(01). However, on the indicative scheme layout plan [\[AS-072\]](#) it appears that this plot would in fact be needed to deliver the new AAR in addition to the car parking identified (Work No. 4j). The ExA considers, in the absence of information from the Applicant, that should this plot be removed then the project would not be able to proceed without access to Crown land. This would apply equally for either the works listed in the SoR or those shown on the indicative scheme layout plans.
- 6.9.9. The ExA therefore concludes that the Proposed Development could not and cannot proceed without access to, and CA of rights in Crown land. As the Applicant has failed to secure consent from the relevant Crown Authority, the ExA recommends that the SoS must ask the Applicant for an update on the progress of its negotiations. However, the SoS cannot make the Order without the necessary consent of the Crown in respect of the CA of this plot. If this consent is not forthcoming, then as the scheme could not proceed without this plot the SoS would need to withhold consent for the Proposed Development.

6.10. THE EXA'S CONSIDERATION OF THE CASE FOR COMPULSORY ACQUISITION AND TEMPORARY POSSESSION

- 6.10.1. The ExA's approach to the question of whether and what CA powers it should recommend the SoS to grant has been to apply the relevant sections of the

PA2008, notably s122 and s123 and the Human Rights Act 1998. In considering whether a compelling case has been made in the balancing of public interest and private loss, the ExA has also taken into account the representations received from APs, the evidence provided by the Applicant and the information provided by APs and IPs both orally at the CAHs and in writing. In addition, there are a number of general considerations which the ExA needs to conclude on first before it is able to conclude on the relevant sections of the PA2008.

WHETHER ALL REASONABLE ALTERNATIVES TO COMPULSORY ACQUISITION HAVE BEEN EXPLORED

- 6.10.2. Part 8 of the CA Guidance requires that the Applicant should be able to demonstrate to the satisfaction of the SoS that all reasonable alternatives to CA (including modifications to the scheme) have been explored.
- 6.10.3. The Applicant [[AS-026](#)] set out the various alternatives considered by the Applicant in terms of both an alternative location for Terminal 2 and internal layouts of the Main Application Site.
- 6.10.4. The ExA has reported on its findings with regards to alternatives in Chapter 3 of this Report. The ExA does not intend to repeat it here, only to report that the ExA is satisfied that at a strategic level the Applicant has adequately considered alternatives to the Proposed Development and that there are no matters relating to alternatives that would weigh for nor against the Order being made.
- 6.10.5. In terms of whether there were any alternatives specific to land rights, two APs suggested alternative solutions in relation to the acquisition of land in which they had an interest.
- 6.10.6. Mr Pleydell- Bouviere [[REP1-036](#)] objected to the acquisition of plot 6-06 as he felt that the access route could be accommodated through the existing right of way on the adjacent plots 6-05 and 6-07. By using the pre-existing track he felt that the additional field parcel would not need to be adversely effected and his plot would not be required. However, at D7 Mr Pleydell- Bouviere's Agent advised that he had reached a voluntary agreement with the Applicant and withdrew his objection [[REP7-097](#)].
- 6.10.7. The Eldridge's [[RR-0410](#)] objected to the CA of rights in their woodland (plot 6-04) advising that they considered that the proposed fuel pipeline could be routed on land that the Applicant already owned. As set out above whilst the ExA has concluded that the pipeline would need to route through the plot, with the removal of the need to use the woodland for BNG the ExA does not agree that the whole of this plot would be required and has recommended that the amount of land being sought be reduced.
- 6.10.8. The Applicant advised that its preference would be that all land and rights (CA and TP) would be acquired through negotiation and agreement and that CA powers would only be exercised when it appeared that negotiations would be unlikely to be completed. Throughout the Examination the Applicant provided updates on the progress of negotiations in the CA Schedule. Oral updates were also provided at both CAH1 and CAH2. At D11 the Applicant provided a status of negotiations/ CA Schedule [[REP11-042](#)] which contained the status of negotiations as of February 2024.

ExA's conclusion

- 6.10.9. The ExA is satisfied that the Applicant has been actively seeking to achieve voluntary agreements with APs, and as set out in the final CA schedule [\[REP11-042\]](#) and Closing Submission [\[REP11-049\]](#), Table 7-1] would continue to do so after the close of the Examination.
- 6.10.10. The ExA has taken into account the points made by APs in relation to alternatives and with the exception of the plot 6-04 is satisfied that the Applicant has explored all reasonable alternatives to CA, including those that have formed the basis of CA objections. Subject to plot 6-04 being reduced in size to reflect that it is no longer required for BNG, the ExA is satisfied that there are no alternatives to the CA powers sought which ought to be preferred.

DILIGENT INQUIRY AND CLARITY ON USE OF THE LAND

- 6.10.11. The Applicant is required to undertake diligent inquiry to identify the categories of persons set out in s44 and s57 as Categories 1, 2 and 3. The Applicant explained that it employed a professional land referencing firm to undertake diligent inquiry to identify these land interests. All interests within the Order were identified, including owners, lessees, tenants and occupiers, as well as persons who have an interest in land or who have power to sell and convey, or to release land.
- 6.10.12. Regarding potential Category 3 persons who may have a relevant claim pursuant to s10 of the Compulsory Purchase Act 1965 and/ or Part 1 of the Land Compensation Act 1973 and/ or s152(3) of the PA2008 these were identified following an assessment of the noise impacts of the Proposed Development. The Applicant also took advice from valuation consultants regarding the appropriate continuous equivalent sound level (L_{Aeq}) noise contour that should be used to define when a landowner could make a "*relevant claim*".
- 6.10.13. The advice received [\[AS-071\]](#), paragraph 7.2.3] was that the Applicant should apply the levels at which government guidance suggests airport operators should offer to subsidise sound insulation for affected properties as well as the threshold at which property valuation would be affected. The Category 3 boundary was based on a noise contour of 51dBL $_{Aeq,8h}$ which is significantly wider than the 60dB $L_{Aeq,16h}$ recommended by "Aviation 2050: The future of UK aviation". Furthermore, the Applicant took the precautionary approach of including a further 200m buffer. Full details of the land referencing methodology can be found in [\[AS-071\]](#), Appendix C].
- 6.10.14. The result of this assessment was a "*wider referencing zone*" which the Applicant [\[AS-071\]](#), paragraph 7.2.4] considered was sufficiently wide to incorporate those parties who might be entitled to make a "*relevant claim*" in relation to effects from noise, as well as vibration, smell, fumes, smoke, artificial lighting and discharge, and those that could make a claim under s10 of the Compulsory Purchase Act 1965.
- 6.10.15. The Applicant then undertook desk-based assessments, sent letters and postal questionnaires and made site visits. In the case of unregistered land, site notices were affixed on or adjacent to the land inviting those with an interest in the land to contact the Applicant.
- 6.10.16. This [\[AS-071\]](#), paragraph 7.4.7] produced a list of interest holders for statutory consultation under the PA2008. Several rounds of consultation were undertaken, and as new interests were identified these were added to the next round of consultation. Full details of this can be found in the Consultation Report [\[AS-048\]](#).

- 6.10.17. In response to a request from the ExA [\[PD-002\]](#) the Applicant provided a map identifying the boundary for Category 3 interests [\[AS-025\]](#). The ExA also asked [\[PD-010, CA.1.3\]](#) what steps the Applicant had taken to identify unknown interests during the Examination. The Applicant explained that it undertook regular reviews to identify updates in the Land Registry, through discussions with landowners and Agents and where information arose through the Examination process. The BoR was updated twice during the Examination at D5 [\[REP5-007\]](#) and at D9 [\[REP9-007\]](#).

ExA's conclusion

- 6.10.18. The ExA is satisfied that the Applicant has undertaken land enquiries in a diligent fashion. It is satisfied that the precautionary approach to the identification of Category 3 parties is robust. As a result, the ExA considers that the requirements under s44 and s57 regarding categories of APs have been applied.

EXTENT OF LAND AND RIGHTS FOR COMPULSORY ACQUISITION AND TEMPORARY POSSESSION

Land for CA

- 6.10.19. In the SoR [\[AS-071, Section 9.4\]](#) the Applicant set out that without the CA of the necessary interests in the land, the delivery of the Proposed Development could not be guaranteed. The Applicant took steps to ensure that the land and interests required would be proportionate and where appropriate the Applicant sought to TP rather than CA the land or rights. The Applicant considered that it included within the Order limits no more land than was reasonably required for the construction and operation of the Proposed Development. As a result, the Applicant considered (paragraph 9.4.3) that the proposed use of land for the purposes of delivering the Proposed Development would be proportionate and justifiable.
- 6.10.20. The Applicant's SoR [\[AS-071, Appendix A\]](#) sets out each plot of land and the purpose for which it would be acquired in a table.

Land for TP

- 6.10.21. In relation to the TP powers sought pursuant to articles 33 and 34 of the draft DCO. Article 33 is for land that would be required during construction but would not be required permanently. Article 33 would also allow for the temporary occupation of any of the land for permanent acquisition that the Applicant had not yet taken possession of.
- 6.10.22. Article 34 would allow the Applicant to take TP of certain land at any time during the maintenance period. It is subject to a time limit with the Applicant only allowed to remain on the land for as long as reasonably necessary to carry out the maintenance works. Before giving up possession there is a requirement for the land to be restored to the landowners' reasonable satisfaction.
- 6.10.23. These TP powers are not CA powers and accordingly the tests under s122 and s123 of the PA2008 would not apply. However, the request for the powers must be justified, the interference with human rights must be justified and there must be adequate compensation in place for those whose land is affected.
- 6.10.24. In considering the submissions made by APs who would be affected by CA the ExA has taken all relevant objections into account in reaching its conclusions on the application of TP and rights in the same way as for permanent acquisition but set against the relevant tests.

ExA conclusions

- 6.10.25. The ExA is satisfied that the CA and TP powers sought would be needed to facilitate the implementation and operation of the Proposed Development and that the recommended DCO contains adequate compensation provisions.
- 6.10.26. The ExA is satisfied that the Applicant has demonstrated how it intends to use the land rights which it proposes to acquire and the land for which it seeks CA and TP. The ExA find that for both CA and TP, the SoR [\[AS-071\]](#) is comprehensive and when read with the BoR [\[REP9-007\]](#) and the articles of the recommended DCO it is clear why the plot would be required and the purpose for which it would be used.

THE AVAILABILITY AND ADEQUACY OF FUNDING

- 6.10.27. Under Regulation 5 2(h) of the Infrastructure Planning (Applications: Prescribed forms and Procedure) Regulations 2009 if a proposed order would authorise the CA of land or an interest or right over land a SoR and a statement to indicate how an Order that contains the authorisation of CA is proposed to be funded are required.
- 6.10.28. The Applicant provided a Funding Statement [\[APP-012\]](#) which set out that it considered that adequate funding would be available. Following CAH1 the Funding Statement was updated at D5 [\[REP5-009\]](#). The Funding Statement should be read in conjunction with the SoR [\[AS-071\]](#).
- 6.10.29. Under the DCLG Guidance an applicant must demonstrate that there is a reasonable prospect of the requisite funds for acquisition being available (paragraph 9) and the funding statement should provide as much information about the implications of both acquiring the land and implementing the project for which the land is required (paragraph 17).
- 6.10.30. The Funding Statement indicated that the cost of implementing the Proposed Development (excluding land acquisition costs) would be £2.6 billion at 2022/23 prices or approximately £3.4 billion in forecast outturn prices. This estimate included development costs, construction costs, supervision costs and risk contingencies of approximately 20% on all cost categories [\[REP5-009\]](#), paragraph 3.1.4]. The Applicant anticipated that the capital costs of Phase 1 would be incurred between 2025-2027 and for Phase 2 over the period 2033-2040. In response to a written question [\[EV13-006\]](#), questions 1 and 2] the Applicant provided a further detailed breakdown of all the capital costs in the two phases [\[REP7-048\]](#) which explained that sensitivities of higher inflation rates had been tested in the financial model and would not adversely affect the viability of the Proposed Development.
- 6.10.31. The land acquisition cost estimate for the Proposed Development would be £108 million at 2022/23 prices. With £10 million allocated to assessment Phase 1 and £98 million allocated to assessment Phase 2. The £108 million included a 20% allowance for risk [\[REP5-009\]](#), paragraph 2.2.2].
- 6.10.32. The Applicant intended that the project would be wholly financed by the private sector without any contributions from LBC [\[REP7-048\]](#). For Phase 1 there were three financial models that could be used individually or in combination. These were:
- **Approach 1 (concession extension):** This is where the concession agreement between the Applicant and the current airport operator would be extended so that the airport operator would finance the delivery of the expansion works to create the infrastructure and capacity to enable Phase 1 growth. Such an

approach has been previously used to deliver the expansion of LLA from 12mppa to 18mppa. The construction costs for this were in the region of £250 million which the Applicant considered to be of a comparable scale to the proposed Phase 1 expansion and demonstrates a track record of deliverability. This approach would not require the Applicant to seek funds to meet the financing of the Phase 1 works.

- **Approach 2 (no concession extension, with repayment of outstanding financing at existing concession end):** The Applicant would seek to agree terms with the airport operator for it to raise commercial finance to pay for the cost of Phase 1. The cost of such borrowing and an agreed commercial return would be partially offset against the net additional revenue generated by the expansion of the airport. Any borrowing that was outstanding at the end of the current concession period would be repaid in accordance with the agreement.
- **Approach 3 (LBC or the Applicant financing):** The concession agreement also allows, subject to a shareholder agreement, for LBC or the Applicant to invest in the airport, either of whom may choose to raise funds through the commercial routes available to them. Such finance would be repaid through the net additional revenue that would be generated by the airport.

6.10.33. The Applicant's preferred approach would be Approach 1 and this is the subject of on-going negotiations between the Applicant and the current airport operator. The Applicant advised [\[REP5-009, paragraph 4.3.1\]](#) that these were well advanced, the terms remain subject to contract and the financial selection of approach would depend on the prevailing market and macro-economic conditions at the time of implementation and the commercial agreement reached. The airport operator confirmed [\[REP5-009, Appendix C\]](#) that it was supportive of the expansion proposals and subject to commercial arrangements being settled, was committed to the development of the airport through the implementation of powers contained within the DCO.

6.10.34. The majority of Phase 2 would commence from 2032 onwards when the current concession would end. The Applicant advised that this investment phase would be financed with capital raised from private and commercial markets in a similar way to Phase 1. The Applicant stated that there was no intention for LBC to finance Phase 2 [\[REP5-009, paragraph 4.4.1\]](#). Delivery would be through new arrangements either for a long-term concession, joint venture or other commercial arrangement being put in place following the expiry of the current concession.

6.10.35. The Applicant gave three possible options for Phase 2:

- A future successor concessionaire being appointed under a new procurement process to finance and deliver the expansion works, raising capital in the financial markets and retaining the risks and rewards of expanding the airport.
- Establishing a joint venture between the Applicant and an experienced airport operator with aligned interests and commitments to deliver the expanded capacity. The joint venture would be responsible for raising the finances to deliver Phase 2.
- In the absence of either of the above, the Applicant post concession would become responsible for the on-going operation of the airport. The Applicant would raise money from private markets through commercial agreements determined by LBC as shareholder to pay for the construction of Phase 2 and make repayments from the commercial returns of the airport.

6.10.36. The Applicant's final choice of option would be based on the macro-economic commercial and financing market conditions closer to the implementation of Phase 2 at or around 2032.

- 6.10.37. The Funding Statement included a letter from Arup [\[REP5-009\]](#), Appendix A] stating that in its professional opinions the Proposed Development would be financially viable, capable of obtaining the necessary levels of finance and would be capable of being funded over time from the net revenues generated by the airport. Albeit this was given with the caveat “*where market and economic conditions are consistent with those observed today*”.
- 6.10.38. The updated Funding Statement [\[REP5-009\]](#) also provided details of the £22 billion of surplus cash flow that the Proposed Development was projected to make over 50 years to meet the financing costs of the expansion and pay the Applicant concession fees. It also provided evidence that a live and active investor market exists for expansion projects. The Applicant therefore considered that the SoS could be satisfied that all aspects of the Proposed Development would be fully funded, including the finance that needed for the acquisition of any land and other land interests, for compensation or blight claims and for the costs of implementing the Proposed Development.
- 6.10.39. The matter was discussed further at CAH2 [\[EV13-001\]](#) and was the subject of a number of further written questions [\[PD-015\]](#).
- 6.10.40. LADACAN [\[REP4-183\]](#) raised a concern regarding the potential funding implications arising as a result of the Terminal 2 car park fire. The Applicant [\[REP5-046\]](#), 2] advised that the fire would not affect funding as the Proposed Development is based on Work Plans and parameters. Detailed design would be in accordance with the Design Principles which include a requirement for the Proposed Development to be compliant with all relevant fire standards.
- 6.10.41. At D6 the Harpenden Society [\[REP6-130\]](#) submitted a detailed critique on the adequacy of the Applicants Funding Statement. It set out concerns that the Applicant was proposing to underwrite the CA costs for both phases via its concession income but that most of the concession income was pre-allocated which meant that free cash flow would be very limited and that this would be exacerbated due to current budgetary issues that LBC was experiencing. Consequently it considered that future concession fees would be unlikely to fund the costs of CA.
- 6.10.42. It highlighted that unlike a number of other NSIP applications the Applicant did not currently have the money to fund the project and was not part of a larger parent company which could provide assurances for the funding. The funding options proposed by the Applicant were all predicated on cashflows which amongst other things were undiscounted and following detailed analysis did not stand up to scrutiny. Consequently, it considered that there was a very high risk that the Proposed development, particularly Phase 2, could not proceed as the Applicant would not be able to attract investors to underwrite the capital costs due to the poor returns. It considered that the analysis of the airport financing market could not be given any weight as the airports used were not comparable and that a more nuanced look at the UK expansion market would reveal projects where the costs were much lower for greater capacity increases than at LLA. It advised that no weight could be given to the Arup letter due to it being heavily caveated.
- 6.10.43. The Applicant responded at D7 [\[REP7-063, 2.1\]](#), highlighting that it had made a provision for the £10 million required for Phase 1 CA in its 2023/24 accounts. Free cash flow was defined as the concession fee income, DART income and the Applicants property income less operating costs, DART operating costs, charitable donations, debenture interest to LBC and tax. It advocated that free cash flow for the next 5 years would be more than £100 million which would be more than

sufficient to cover the costs of CA in Phase 2. Finally it reiterated that LBC financial position had no direct bearing on that of the Applicant, which is a separate legal entity.

ExA's conclusion

- 6.10.44. The ExA is aware that a significant number of IPs have raised concerns regarding the finances of LBC and the financial implications for the Council if it proceeded with the Proposed Development. However, the ExA is of the opinion that the decision as to whether it would be prudent for LBC to proceed with investing in the Proposed Development, and the financial ramifications if it did, would be a decision for LBC and its elected members rather than the ExA or SoS. The ExA can only consider whether there would be a 'reasonable prospect' that the funds needed to cover the costs of the Proposed Development, including the amount of money needed to cover the cost of acquiring the land, would be available.
- 6.10.45. It is clear to the ExA that currently the Applicant does not have access to the necessary funds to finance the Proposed Development, including the costs of CA. What the ExA has been provided with are a number of possible funding routes that the Applicant could progress all of which are predicated on future revenues generated by an expanded facility covering the costs.
- 6.10.46. However, the ExA notes that one of these options, the concession extension, has been successfully used to fund a previous expansion. Furthermore, there is evidence from the current concessionaire that it would be amenable to doing the same again and the Applicant has confirmed [\[REP6-064\]](#) that the £10 million required for CA has already been provided for in the current financial year. Nevertheless, the ExA accept this would only provide the funds to cover the costs of Phase 1, which would be less than 15% of the overall costs.
- 6.10.47. With regards to the greater cost for the funding of Phase 2 the ExA accept that given that commencement of this phase is unlikely occur until 2033 it would be unreasonable to expect these to be secured in full at this point in the process. In terms of the funding for the CA of Phase 2 the Applicant has indicated that this would be paid from the Applicant's anticipated concession receipts [\[REP7-063\]](#). Furthermore, whilst the ExA notes the Harpenden Society's concerns, this is supported by the professional opinion provided by Arup which gives confidence that the proposed funding routes would be appropriate and would likely to be successful.
- 6.10.48. However, to address this uncertainty the ExA suggested [\[PD-018\]](#) the inclusion of a new article in the DCO which would ensure that CA powers would not to be exercised for a phase of the Proposed Development until such time as a guarantee in respect of the compensation payable for that Phase is approved by the SoS. The Applicant agreed this request and this is now included as article 53 in the recommended DCO.
- 6.10.49. The ExA is therefore satisfied that in accordance with the Guidance the SoS can be satisfied that there would be a 'reasonable prospect' of the funds becoming available to finance the project, including CA if the Order is made.

THE NEED TO OBTAIN OPERATIONAL AND OTHER CONSENTS

- 6.10.50. The ExA's consideration of other consents and licences that would be required to implement the Proposed Development is covered in Section 1 of this Report and is not repeated here. The SoR [\[AS-071\]](#), paragraph 11.1.2] indicates that the Applicant is in discussion with all the relevant bodies and is not aware of anything that is likely

to prevent the grant of consent. This is confirmed by the ExA's findings in Section 1. The ExA is therefore satisfied that there should be no impediment to obtaining any operational or other consents which may be necessary to construct and operate the Proposed Development. Consequently, the ExA is satisfied that paragraph 19 of the CA Guidance would be met.

6.11. SECTION 122(2) PA2008 THE SCOPE AND PURPOSE FOR WHICH COMPULSORY ACQUISITION IS SOUGHT

- 6.11.1. The SoR [\[AS-071\]](#) set out the considerations that the SoS would need to take into account in deciding whether the conditions in s122(2) of the PA2008 has been met. Paragraph 7 of the CA Guidance expands on s122 of the Act, stating that applicants must be prepared to justify their proposals for CA of any land to the satisfaction of the SoS and paragraphs 8 to 22 of the CA Guidance provide several general considerations that applicant should demonstrate to the satisfaction of the decision-maker.
- 6.11.2. For s122(2)(a) to be met, the Applicant should be able to demonstrate that the land in question is needed for the development for which consent is sought or is land required to facilitate or is incidental to that development. The SoS needs to be satisfied that land to be acquired is no more than is reasonably required for the purposes of the development. Further guidance is also provided in relation to compliance with s122(2)(b).
- 6.11.3. The ExA explored this at CAH1 [\[EV5-001\]](#) and through written questions [\[PD-010\]](#) and [\[PD-015\]](#). The ExA is content, with the exception of plot 6-04, with the responses and explanations it received and is satisfied that the powers contained in the Applicant's final draft DCO [\[REP11-091\]](#) with regards to land associated with these matters would be necessary.
- 6.11.4. For the reasons set out earlier the ExA is satisfied that the requirements of Section 122(2)(c) would be met as the Applicant is proposing to provide replacement land in exchange for Order land.

6.12. Associated development s115(2)

- 6.12.1. Section 115(2) of the PA2008 provides that, in addition to the development for which consent is required under Part 3 (the principal development), consent may also be granted for associated development. The PA2008 defines associated development as development which is associated with the principal development.
- 6.12.2. The ExA raised a number of queries as to why some works listed were not associated development, what was meant by ancillary works and their legal status.
- 6.12.3. The Applicant advised [\[REP10-005\]](#), paragraph 2.10] that the Proposed Development did include associated development as defined by s115(2). However, because in some cases there might be an overlap or the absence of a clear boundary between associated development and the works which would form part of the Nationally Significant Infrastructure Project (NSIP) the Applicant considered that there was a risk in separating the two out in the Order that it could give rise to an error in the way they were defined.
- 6.12.4. For this reason, and as there is no requirement for a DCO to differentiate between these two categories the Applicant chose not to differentiate the NSIP and associated development works in Schedule 1 of the draft DCO. The Applicant

advised [\[REP10-005\]](#), paragraph 2.13] that ultimately all elements of the ‘authorised development’ in Schedule 1 would either constitute part of the NSIP or would be ‘associated development’ to the NSIP within the meaning of s115(2) of the PA2008 and could therefore be authorised by the Order.

6.12.5. The Applicant explained [\[REP10-005\]](#), paragraph 2.15] that in order to ensure that the numbered works comprising the authorised development in Schedule 1 could be constructed efficiently and without impediment, it had included ‘ancillary works’ listed (a) to (n) in Schedule 1. The Applicant advised that this was widely precedented and had been approved by the SoS in a number of made Orders.

6.12.6. The Applicant concluded that the associated development listed within the works of Schedule 1 of the recommended DCO comprised development for which development consent would be sought. The land for this associated development could therefore in principle be compulsorily acquired pursuant to s122(2) of the PA2008.

EXA’S CONCLUSION

6.12.7. The ExA is satisfied that the CA rights sought in all the plots of land, save for plot 6-04, included in the updated BoR [\[REP9-007\]](#) and shown on the land plans [\[AS-011\]](#) would be required for, or to facilitate or would be incidental to the Proposed Development to which the development consent relates. The principal and associated development identified by the Application would be needed for that purpose. The ExA therefore considers that the requirements of s122(2)(a), (b) and (c) of the PA2008 would be satisfied.

6.13. SECTION 122 (3) PA2008 WHETHER THERE IS A COMPELLING CASE IN THE PUBLIC INTEREST

6.13.1. Section 122(3) of the PA2008 requires that where an Order includes a provision authorising the CA of land, this can only be included if the SoS is satisfied that there is a compelling case in the public interest for the land to be acquired compulsorily.

6.13.2. Paragraph 13 of the DCLG Guidance states:

“For this condition to be met the SoS will need to be persuaded that there is compelling evidence that the public benefits that would be derived from CA will outweigh the private loss that would be suffered by those whose land is being acquired. Parliament has always taken the view that land should only be taken compulsorily where there is clear evidence that the public benefit will outweigh the private loss.”

6.13.3. The Applicant considered that the public interest was based on the needs and benefits case that was set out in its need case [\[AS-125\]](#) and summarised in the SoR [\[AS-071\]](#), section 4.3]. In summary the Applicant considered that the Proposed Development would make best use of the existing runway, consistent with policy as set out in the ANPS and MBU. The Applicant provided projections that demonstrated that any expanded capacity at LLA would be needed to keep pace with demand. It would support the the Arc initiative and would deliver a range of socio-economic benefits to Luton and the surrounding areas.

6.13.4. The ExA has considered the need and socio-economic case in detail in Section 3 of this Report, concluding that there was a need for the Proposed Development and that it would deliver a range of socio-economic interests. However, the ExA had to

balance these public benefits against other economic, consumer and environmental considerations. As set out in Section 5 of this Report the ExA has concluded that the adverse environmental impacts of the Proposed Development outweigh the economic consumer benefits including the need for the Proposed Development. As a result, the ExA does not consider that there is a compelling case in the public interest for the land to be acquired compulsorily and therefore does not recommend the requests for CA to be granted.

- 6.13.5. In coming to this conclusion, the ExA has considered whether this would render the Proposed Development unimplementable should the SoS conclude that the Order should be made.
- 6.13.6. The ExA is aware that the Applicant owns or has acquired voluntarily over 80% of the land that would be needed. The ExA is also aware from the comments in the CA Schedule that the Applicant would continue to seek to acquire all land and rights by voluntary agreement.
- 6.13.7. For these reasons, the ExA concludes that the lack of a compelling case in the public interest for the lands and rights over land to be acquired compulsorily does not, in itself, necessarily render the Proposed Development unimplementable albeit that amendments might be required where the land or rights needed would not be available.
- 6.13.8. For the reasons already stated the ExA is not recommending that the requests for CA of land and/ or rights over land be granted. However, in order to aid decision making by the SoS, should the SoS take a different view on the public benefits for the development, the ExA has considered, as set out above, the need for individual plots where APs have raised an objection and the funding mechanisms.

6.14. Section 120(5) and s126 – The incorporation of other statutory powers

- 6.14.1. The recommended DCO seeks, in a number of instances, to apply s120(5)(a) of the PA2008 and apply, modify or exclude a statutory provision. Since the recommended DCO is in the form of a statutory instrument, the ExA considers it would comply with s117(4) of the PA2008. Furthermore, no provision would contravene the provisions of s126 of the PA2008 which relate to the modification or exclusion of compensation provision.

6.15. HUMAN RIGHTS

- 6.15.1. The European Convention on Human Rights was applied within UK domestic law by the Human Rights Act 1998. The CA Guidance, paragraph 10 states that the SoS must be persuaded that the purposes for which an order authorises the CA of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected. Therefore, in assessing whether there is a case in the public interest for the land to be acquired compulsorily, it is also necessary to consider the interference with human rights which would occur, if CA and TP powers were granted.
- 6.15.2. The Applicant acknowledged that the draft DCO would engage a number of Articles of the Human Rights Act:
- Article 1 of the First Protocol (the right to those whose property would be compulsorily acquired to the peaceful enjoyment of their possessions);

- Article 6 of the First Protocol (which entitles those affected by the powers sought to a fair and public hearing); and
- Article 8 of the First Protocol (which seeks to protect private and family life, home and correspondence).

6.15.3. No public authority is allowed to interfere with these rights except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well-being of the country. The Applicant set out in the SoR [AS-071, Section 13] the considerations that arise in relation to this application and advised that it had carefully considered the balance to be struck between individual rights and the wider public interest. For the reasons set out in section 13.2 of the SoR the Applicant concluded that the inclusion of powers for CA would not breach the Convention rights of those who would be affected and that it would be appropriate and proportionate to make the DCO, including the grant of powers of CA.

EXA CONCLUSION

6.15.4. For the reasons set out in Section 5 of this Report the ExA does not consider that there is a compelling case in the public interest for the Order to be made. As a result, the ExA cannot conclude that the purposes for which an order authorises the CA of land are legitimate and would justify interfering with the human rights of those with an interest in the land affected.

6.16. EQUALITY ACT 2010

6.16.1. Section 149 of the Equality Act 2010 requires a public authority, in the exercise of its function to:

- Have a due regard to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who do share it.

6.16.2. The Applicant is not a public body as listed in s149 of the Equality Act, nevertheless it stated that it had had regard to the principles of the public sector equality duty (PSED). To help the SoS in discharging their duties the Applicant carried out an Equality Impact Assessment (EqIA) [AS-129] to ensure that the Proposed Development would not discriminate against any disadvantaged or vulnerable people and this included a recommendation for on-going monitoring. The EqIA identified groups with protected characteristics and examined in detail the effects that the Proposed Development might have on them. Table 10.1 of the EqIA summarised the key findings.

EXA CONCLUSION

6.16.3. The ExA is satisfied that the Applicant has had due regard to the duties under s149 of the Equality Act 2010. In exercising its functions, the ExA has also had due regard to its duties under s149. The ExA has considered the potential effect of the Proposed Development on persons with protected characteristics in the relevant sections of Section 3 of this Report and concluded that there is no evidence that implementation of the Proposed Development would disproportionately affect persons who have a protected characteristic, nor would there be any adverse effect on the relationship between such persons and persons who do not share a protected characteristic.

6.17. ExA RECOMMENDATION

- 6.17.1. On the request for CA, the ExA concludes that the public benefits when considered against other economic, consumer and environmental considerations, would not outweigh the harms identified in Section 3 of this Report and therefore the ExA is not satisfied that there is a compelling case in the public interest for land and rights over land to be acquired compulsorily.
- 6.17.2. Given that the ExA is not satisfied that there is a compelling case in the public interest for the lands and rights over land to be acquired compulsorily, the ExA is not recommending that the request for CA of land and/ or rights over land be granted.
- 6.17.3. However, to aid decision making by the SoS should the SoS take a different view on the public benefits, the ExA has considered the position in relation to funding and requests for CA as if the ExA had come to an alternate view and concluded that the public benefits outweighed the harms identified in Section 3 of this Report.
- 6.17.4. Therefore, in the event that the SoS is minded to grant development consent for the Proposed Development, the ExA recommends that:
- With the exception of plot 6-04, that the CA of land and rights included in the recommended DCO be granted subject to matters set out below in relation to Crown land;
 - With the exception of plot 6-04, that the TP of land and rights included in the recommended DCO be granted, subject to the matters set out below in relation to Crown land;
 - In relation to plot 6-04 the SoS goes back to the Applicant and requests that the amount of land in which rights are being sought be reduced to reflect that the plot would no longer be required for BNG;
 - The CA and TP sought in relation to Crown land should not be granted until the necessary consent from the appropriate Crown Authority has been obtained;
 - The CA of SU land and rights over land, subject to the matters set out above and included in the recommended DCO be granted;
 - The powers authorising the extinguishment of rights and removal of apparatus of SUs included in the recommended DCO, subject to the matters set out above be granted;
 - The CA of rights over open space included in the recommended DCO, subject to the matters set out above be granted;
 - The SoS can be satisfied that the Order land, in relation to open space replacement land, would be not less in area than the Order land and would be no less advantageous to the persons, if any, entitled to rights of common or other rights and to the public; and
 - The powers included in the recommended DCO to apply, modify or exclude a statutory provision, subject to the matters set out above be granted.

7. THE DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

7.1. INTRODUCTION

- 7.1.1. The Applicant submitted a draft Development Consent Order (DCO) [\[APP-006\]](#) and Explanatory Memorandum (EM) [\[APP-007\]](#) with the application. Both the draft DCO and EM were updated throughout the Examination with the latest version of the draft DCO [\[REP11-091\]](#) and EM [\[REP10-005\]](#) being submitted at deadline (D) 10 and D11 respectively. The EM explains the purpose and effect of each article of, and schedules to, the DCO and why the Applicant considers that they are required.
- 7.1.2. The EM also identifies and explains departures from the (now withdrawn) Infrastructure Planning (Model Provisions) (England and Wales) Order 2009. It also refers to where the drafting has been taken from wording in other orders made under the Planning Act 2008 (PA2008). Each of the draft DCOs submitted were in the form of a statutory instrument as required by section (s) 117(4) of the PA2008.
- 7.1.3. During the Examination the draft DCO was updated and revised to incorporate changes arising from the Examining Authority's (ExA's) written questions [\[PD-010\]](#) and [\[PD-015\]](#), points made by Interested Parties (IP's) and from the various Issue Specific Hearings (ISH) including ISH1 [\[EV6-001\]](#) and ISH10 [\[EV17-001\]](#) which were held to specifically examine the draft DCO.
- 7.1.4. This chapter provides a summary of the main changes made to the draft DCO during the Examination. It only covers the main discussion points and the contentious matters. It does not report on every change made. This is because many amendments were made as a result of typographical or referencing errors; slight revisions to the drafting as a result of discussions between the Applicant and IPs; as a result of discussions at ISH or following written questions [\[PD-010\]](#) and [\[PD-015\]](#). The recommended DCO in Appendix X of this Report incorporates these minor changes.
- 7.1.5. The Applicant's final DCO [\[REP11-091\]](#) was accepted as a late submission to D11. As a result, a number of the comments made by IPs in previous submissions such as the Statements of Common Grounds (SoCG) refer to earlier versions of the draft DCO and to previous numbering or referencing. To aid comprehension the ExA has quoted comments as originally submitted but provided the new number or reference in bold.

7.2. THE ORDER AS APPLIED FOR

- 7.2.1. The DCO is structured as follows:
- Part 1, Articles 1 and 2 deal with preliminary matters including how the Order may be cited, when it comes into force and the meaning of various terms used in the Order.
 - Part 2, Articles 3 to 8 provide development consent for the Proposed Development and allow it to be constructed, maintained and operated. Article 6 sets out the Limits of Deviation. Articles 7 and 8 set out who has the benefit of the powers of the Order and how those powers can be transferred.
 - Part 3, Articles 9 to 18 provide for the Undertaker (the Applicant) to be able to carry out works to and within streets, alter layouts, to create and maintain new,

altered or diverted streets, to temporarily and permanently close streets, create and improve accesses, and to undertake agreements with street authorities.

- Part 4, Articles 19 to 23 concern supplemental powers relating to the discharge of water, undertake protective works to buildings and give the authority to survey and investigate land, fell, lop and remove trees and remove human remains.
- Part 5, Articles 24 to 41 provide for the Undertaker to be able to compulsorily acquire the Order land and rights over/ within it, and to temporarily use parts of the Order land for the construction or maintenance of the Proposed Development. The provisions provide for compensation to be payable to Affected Persons (AP) in respect of these powers, where that is not already secured elsewhere. These articles also provide for powers in relation to land and equipment owned by Statutory Undertakers (SU).
- Part 6, Article 42 provides the Undertaker with the power to operate the Proposed Development.
- Part 7, Articles 43 to 53 deals with a variety of miscellaneous and general matters including the disapplication of other legislative provisions; how the Order would interact with other planning consents; the application of the Town and Country Planning Act 1990 (TCPA90); application of landlord and tenant law; defence to proceedings in respect of statutory notice; certification of documents; service of notices; arbitration and funding.

7.2.2. There are nine schedules to the Order.

- Schedule 1 provides the description of the Authorised Development;
- Schedule 2 sets out the requirements which apply to it;
- Schedules 3 and 4 relate to matters in relation to streets, access and rights of way;
- Schedules 5 to 7 concern land rights, Temporary Possession (TP) and compensation;
- Schedule 8 provides protective provisions for SU's and their apparatus; and
- Schedule 9 lists the documents and plans to be certified.

7.2.3. The structure of the draft DCO is set out in the Contents and listed on its face. The ExA is content that the structure is fit for purpose and does not recommend any changes to it.

7.3. EXAMINATION AND ITERATIONS OF THE DRAFT DCO

7.3.1. The ExA held two ISHs, ISH1 [\[EV6-001\]](#) and ISH10 [\[EV17-001\]](#) to examine the draft DCO. The agenda for ISH1 was accompanied by a supplementary agenda [\[EV6-002\]](#) which included a number of questions which the ExA considered required relatively straightforward responses, clarification and/ or submission of additional information/ evidence responses for which were submitted at D3. In addition, the ExA asked 24 first written questions (ExQ1) [\[PD-010\]](#) and 9 further written questions (ExQ2) [\[PD-015\]](#) on this matter.

7.3.2. The Applicant submitted an updated draft DCO at every deadline apart from D6. The changes made to the draft DCO and the reasons for these changes can be found in the summary of changes to the draft DCO that was submitted by the Applicant alongside each new version of the DCO.

7.3.3. The Applicant [\[REP11-049\]](#), Paragraph 10.1.4] has provided a useful summary of the more significant changes that they made to the draft DCO throughout the course of the Examination.

- 7.3.4. On the 16 January 2024 the ExA [\[PD-018\]](#) issued a schedule of recommended amendments to the Applicant's draft DCO. These amendments were drafted in light of responses from IPs, matters arising out of the ISHs, ExQ1 and ExQ2.
- 7.3.5. Responses to these recommendations were received at D8 from the Applicant [\[REP8-036\]](#), South Cambridgeshire District Council (Caldecote Ward) [\[REP8-049\]](#), the Joint Host Authorities (JHA) [\[REP8-052\]](#), Luton Borough Council (LBC) [\[REP8-059\]](#), Luton and District Association for the Control of Aircraft Noise (LADACAN) [\[REP8-076\]](#), St Albans Aircraft Noise Defence (STAND) [\[REP8-083\]](#), St Albans Quieter Skies (STAQS) [\[REP8-084\]](#), Stop Low Flights from Luton [\[REP8-085\]](#), and the Wheathampstead and District Preservation Society [\[REP8-089\]](#). These along with the ExA's schedule of recommended amendments will be considered at the relevant section of this Report.
- 7.3.6. The Applicant submitted a final version of the draft DCO at D11 [\[REP11-091\]](#).

7.4. MAIN RAISED DURING THE EXAMINATION WHICH REMAINED OUTSTANDING AT THE CLOSE

- 7.4.1. To list each change made to the draft DCO in response to issues that were raised during the Examination would make this section of the Report unnecessarily lengthy. Many of the changes were either in response to concerns raised by IPs, did not raise any concerns from the IPs or the ExA was satisfied with the changes such that it was not necessary to examine them further. The Secretary of State (SoS) can refer to ExQ1 [\[PD-010\]](#), ExQ2 [\[PD-015\]](#) together with the agendas for ISH1 [\[EV6-001\]](#) and [\[EV6-002\]](#) and ISH10 [\[EV17-001\]](#) for a full list of questions and concerns raised by the ExA during the Examination.
- 7.4.2. If not reported below, the ExA considers that the SoS can be satisfied those matters raised in ExQ1 [\[PD-010\]](#), ExQ2 [\[PD-015\]](#) together with clarification matters discussed at ISH1 [\[EV6-001\]](#) and ISH10 [\[EV17-001\]](#) were minor in nature and/ or have been satisfactorily addressed by the Applicant during the Examination.
- 7.4.3. Concerns regarding the drafting of the DCO were included in all the Local Impact Reports (LIR's):
- Buckinghamshire Council (BC)[\[REP1A-001\]](#), Section 3.11];
 - Central Bedfordshire Council (CBC) [\[REP1A-002\]](#), Section 7];
 - Hertfordshire County Council (HCC), Dacorum Borough Council (DBC) and North Herts District Council (NHDC) [\[REP1A-003\]](#), Section 9 and 10]; and
 - LBC [\[REP1A-004\]](#), Section 4.15].
- 7.4.4. At the close of the Examination the signed SoCGs with these Councils recorded that, whilst most matters had been agreed, there were a number of matters relating to the draft DCO that were not agreed. These are set out in the table below:

Table 18: Matters in relation to the draft DCO that were not agreed with the Councils

Matter not agreed	Commentary
BC [REP11-101]	
Membership of the Environmental Steering Group (ESG)	BC wanted to be a member of the ESG to allow it to represent its communities' best interests effectively.

Schedule 2, Part 5, requirement 35 (now requirement 36)	BC considered that a minimum consultation period, akin to the period defined in Requirement 18, should be defined. This should include an appropriate mechanism for extending it should further issues arise or if insufficient information is provided.
CBC [REP11-035]	
Highways Mitigation works – scheme delivery via the DCO	The wording within the DCO specifies how land would be acquired to undertake the necessary mitigation works. It also specified the ability to extend beyond the red line boundary into highway land to modify the proposed mitigation scheme if required by the local authority. It also allowed for highway works to provide for a maintenance bay. CBC accepted the revised wording subject to signing of a side agreement. However, if the side agreement was not signed then CBC advised that the matter would not be agreed. The ExA note that by the close of the Examination the side agreement was signed [REP11-058].
Off-site landscape mitigation	Work No 5e would include soft landscaping and boundary treatment. CBC considered that there was insufficient information to assess the impact of these works along the northern edge of Hyde Foot Path (FP) 4, Hyde FP5 and Hyde Bridleway 3 and how these would impact on the function of the Public Rights of Way (PRoW) network and the rural landscape character of the area to be assessed. CBC considered it was unclear as to whether off-site hedgerow maintenance was captured in the Outline Landscape and Biodiversity Management Plan. CBC acknowledged that the detail would be secured through Requirement 9 but was concerned that the proposed work to include boundary treatment would be inappropriate in these locations which may cause harm to the character of the area. CBC therefore requested Requirements that secure this information prior to commencement of off-site hedgerow restoration be included in the DCO.
Additional noise controls	CBC considered that the following noise controls, as recommended by the Noise Envelope Design Group (NEDG) should be included in the DCO: • A future Quota Count (QC) limit below that of the extant, including QC limit of 3,500 acting in the core night period (23:30-06:00). • An Air Traffic Movement (ATM) movement cap (or QC limit) applying to the early morning shoulder period (06:00-07:00). • An annual 24-hour ATM movement cap.

Total Movement Cap	CBC confirmed it agreed with the ExA's suggestion for a Requirement imposing a total movement cap of 209,410 cap [REP8-052] .
Green Controlled Growth (GCG) Thresholds and Limits- Sanctions for continued breaches	CBC maintained its concern that the only Requirement in GCG if a Mitigation Plan failed was to produce a new Mitigation Plan. CBC proposed that there should be financial sanctions imposed alongside the requirement to produce a new Mitigation Plan.
HCC [REP11-095]	
Additional noise controls	HCC repeated the request made by CBC regarding additional noise controls being included in the DCO.
Total Movement Cap	HCC confirmed it agreed with the ExA's suggestion for a Requirement imposing a total movement cap of 209,410 cap [REP8-052] .
GCG Thresholds and Limits- Sanctions for continued breaches	HCC repeated the request made by CBC regarding failure of Mitigation Plans.
DBC [REP11-099]	
Membership of the ESG	DBC wanted to be a member of the ESG to allow it to represent its communities' best interests effectively.
Additional noise controls	DBC repeated the request made by CBC and HCC regarding additional noise controls being included in the DCO.
Total Movement Cap	DBC confirmed it agreed with the ExA's suggestion for a Requirement imposing a total movement cap of 209,410 cap [REP8-052] .
GCG Thresholds and Limits- Sanctions for continued breaches	DBC repeated the request made by CBC and HCC regarding failure of Mitigation Plans.
NHDC [REP11-097]	
Additional noise controls	NHDC repeated the request made by CBC, HCC and DBC regarding additional noise controls being included in the DCO.
Total Movement Cap	NHDC confirmed it agreed with the ExA's suggestion for a Requirement imposing a total movement cap of 209,410 cap [REP8-052] .
GCG Thresholds and Limits- Sanctions for continued breaches	NHDC repeated the request made by CBC, HCC and DBC regarding failure of Mitigation Plans.
LBC [REP11-033]	
Additional noise controls	LBC repeated the request made by CBC, HCC, DBC and NHDC regarding additional noise controls being included in the DCO.
Total Movement Cap	LBC confirmed it agreed with the ExA's suggestion for a Requirement imposing a total movement cap of 209,410 cap [REP8-052] .

Schedule, Part 2, Requirement 12 (now Requirement 13)	LBC were concerned that the risk of flooding from groundwater (that is hydrologically connected to the Proposed Development) might materialise at locations outside of the administrative boundary of Luton, they proposed that the respective Lead Local Flood Authority's (LLFA's) – that is CB LLFA and HCC LLFA, were explicitly listed as requiring separate consultation for Requirement 12.
GCG Thresholds and Limits- Sanctions for continued breaches	LBC repeated the request made by CBC, HCC, DBC and NHDC regarding failure of Mitigation Plans.

7.4.5. In addition, at D11 the JHA submitted a separate statement on DCO matters [REP11-061]. It highlighted the following four key points of concern remaining at the close of the Examination:

- deemed consent;
- Article 45 (Application of the 1990 Act);
- GCG – Part 3 of Schedule 2; and
- the proposed Protective Provisions for the benefit of the Local Highway Authority.

7.4.6. Except for the proposed protective provisions for the benefit of the Local Highway Authority which are considered in the Compulsory Acquisition section of this Report, these matters will be considered in more detail later in this section.

7.4.7. At the close of the Examination the Statement of Commonality of SoCG [REP11-103] records that the East of England Ambulance Service had outstanding concerns with regard to the drafting of the DCO.

7.4.8. With the exception of BC and Affinity Water, the draft DCO was not a matter covered in the remaining SoCGs.

STATUTORY BODIES/ ORGANISATIONS

7.4.9. Historic England did not object to the drafting of the DCO [REP1-070]. Instead it sought mitigation measures through a s106 legal agreement. This is considered in Section 3.14 of this Report.

7.4.10. Natural England [REP1-112, Part 3], NATS (Services) Ltd, NATS (En Route) PLC, the Civil Aviation Authority, Bedfordshire Fire and Rescue, Prax Downstream Ltd, World Fuel Services and Bedfordshire Police did not raise any concerns with regards to the drafting of the draft DCO.

7.4.11. The Environment Agency (EA) [EVHy17-002] requested that they be a named consultee in Requirement 7 (now Requirement 8); that 'may' should be replaced with 'must' in Requirement 35(1)(a) (now Requirement 37(1)(a)); and the following wording added to Requirement 37(3) (now Requirement 37(1)) – "if there are comments from a consultee body that considers it likely that the subject matter of the application is to give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement, then the application should be taken to have been refused by the discharging authority at the end of that period" to address a concern that the current drafting was a disproportionate outcome to a delay in response times. The

Applicant amended the drafting of Requirement 8 as requested. The other two concerns remained outstanding at the close of the Examination.

7.4.12. The UK Health Security Agency and Office for Health Improvement and Disparities (UKHSA-OHID)) [\[RR-1546\]](#), [\[REP4-219\]](#), [\[REP6-147\]](#), [\[REP7-117\]](#) and [\[REP10-066\]](#) requested that the DCO should include a commitment for monitoring the health and quality of life of local communities in order to inform future mitigation requirements. This is discussed in Section 3.13 of this Report.

7.4.13. Royal Mail [\[RR-1313\]](#), which has six operational sites within 12 miles of the airport, sought to secure mitigation to protect its road based operations during the Proposed Development's construction and operation phase. To do this, it requested, amongst other things, that the DCO should include specific requirements to ensure that Royal Mail was consulted by the Applicant at least one month in advance on any proposed road closures/ diversions/ alternative access arrangements, hours of working and the content of the final Construction Traffic Management Plan (CTMP). The Applicant responded [\[REP1-024\]](#) that it had agreed to enter into a separate agreement to meet the concerns raised by Royal Mail. Once agreement was reached the Applicant expected Royal Mail to withdraw its concern. However, no further correspondence was received from either party on this matter. Therefore, this request remained outstanding at the close of the Examination.

STATUTORY UNDERTAKERS

7.4.14. A number of SU's (Affinity Water (AW)[\[REP1-030\]](#), Thames Water Utilities Ltd (TWUL) [\[REP1-163\]](#), Cadent Gas [\[RR-0171\]](#), Network Rail Infrastructure Ltd [\[REP1-113\]](#), National Highways [\[RR-1076\]](#) and Eastern Power Network Plc/ UK Power Networks Operation Ltd [\[RR-0402\]](#)) raised concerns in relation to the proposed protective provisions or the lack thereof contained within Schedule 8 of the draft DCO. These are considered in Section 6 of this Report. At the close of the Examination three SU had outstanding concerns regarding the drafting of the protective provisions included in the final draft DCO [\[REP11-091\]](#), Schedule 8].

PART 5 – FOR THE PROTECTION OF NATIONAL HIGHWAYS LIMITED

7.4.15. At the close of the Examination National Highways (NH) [\[REP11-073\]](#) who are responsible for the strategic road network (SRN) maintained its concerns with the provisions as drafted by the Applicant [\[REP11-091\]](#), Schedule 8, Part 5]. The ExA considers the substantive areas of dispute on the drafting of these provisions in Table 22.

PART 6 – FOR THE PROTECTION OF LOCAL HIGHWAY AUTHORITIES

7.4.16. At the close of the Examination the Joint Host Authorities (JHA) [\[REP11-061\]](#) who are responsible for the local road network raised concerns with the provisions as drafted by the Applicant [\[REP11-091\]](#), Schedule 8, Part 6]. The ExA consider the substantive areas of dispute on the drafting of these provisions in Table 22.

PART 7 – FOR THE PROTECTION OF NETWORK RAIL INFRASTRUCTURE LIMITED

7.4.17. At the close of the Examination Network Rail (NR) [\[REP11-075\]](#) who are responsible for maintaining and managing the rail network raised concerns with the

provisions as drafted by the Applicant [[REP11-091](#), Schedule 8, Part 7]. The ExA consider the substantive areas of dispute on the drafting of these provisions in table 19.

7.4.18. Table 19 sets out in detail the remaining substantive areas of dispute between NH, the JHA and NR and the Applicant. After considering the matters raised the ExA has set out its recommended changes which will be included in the recommended DCO.

7.4.19. As set out in Section 6 of this Report there are currently no bespoke protective provisions included in Schedule 8 for the benefit of Affinity Water (AW). AW have indicated that it is close to agreement with the Applicant in terms of modified protective provisions and a side agreement [[REP11-070](#)]. The ExA have not been provided with a set of the preferred provisions or the detail of why AW considered the generic provision (Part 1 of Schedule 8) included in the draft DCO are considered unsatisfactory. The generic provision for water undertakers would afford AW some protection but the ExA cannot be satisfied that the protections it would provide would, given the concerns it has raised, enable AW to continue to carry out its statutory functions. The ExA therefore recommend that the SoS ask the Applicant and AW for an update as to the progress that has been made since the close of the Examination. AW advised that if agreement hasn't been reached it would provide the SoS with its preferred drafting and therefore, if the SoS decides to make the Order they will be able to address this outstanding concern.

7.4.20. In addition, the following general drafting concerns were outstanding at the close of the Examination:

Table 19: SU outstanding concerns with the draft DCO

Affinity Water [REP6-120] and [REP9-070]	
Schedule 2, Part 2, Requirement 7 (2)(C) (now Requirement 8 (2)(C))	Request to be included as a consultee for the approval of the construction surface water management strategy.
Schedule 2, Part 2, Requirement 7 (2)(g) (now Requirement 8 (2)(g))	Request to be included as a consultee for the approval of the pollution incident control plan.
Schedule 2, Part 2, Requirement 7 (2)(h) (now Requirement 8 (2)(h))	Request to be included as a consultee for the approval of the dust management plan.
Schedule 2, Part 5, Requirement 36 (3) (now Requirement 37 (3))	Request to remove Requirement 36 (3) or for it to be redrafted to include an exception that excludes discharge applications where AW needs to be consulted from deemed approval.
Additional Requirement that would control water demand	Request to include a Requirement that would control water demand and a commitment that the Applicant would not seek additional water above the '2019 baseline'.
National Highways [REP11-073]	

Inclusion of a Grampian Requirement in Schedule 2, Part 4 regarding works to M1 Junction 10 – Schedule 1 works	Request to include the following drafting: <i>(1) Notwithstanding the effect of Requirement 30, no part of the authorised development may commence until a scheme providing for the design and delivery of Work No 6e (n), (o) and (p) has been submitted to and approved in writing by National Highways;</i> <i>(2) The authorised development must be constructed in accordance with the scheme approved under subparagraph (1).</i> <i>(3) The authorised development must not be operated unless and until the works provided for in the scheme approved under sub-paragraph (1) have been commissioned and completed.</i> <i>(4) This requirement may be enforced by National Highways as if it was a relevant planning authority.</i>
Inclusion of a Grampian Requirement in Schedule 2, Part 4 regarding works to M1 Junction 10 – modelling and monitoring	Request to include the following drafting: <i>(1) No part of the authorised development may commence until a report containing updated highway modelling for the potential impacts of the authorised development on the M1 Motorway including M1 Junction 10 and the M1 itself has been submitted to and approved by the relevant planning authority and National Highways. The modelling will address the baseline, the opening year and the design year ten years after opening of the authorised development or phases of the authorised development described in the report;</i>

	<i>(2) Where the results of the updated highway modelling identify a potential material cumulative impact on the operation of the strategic road network as a result of the authorised development, no part of the authorised development may commence until a scheme of monitoring the impacts of the authorised development on the M1 Motorway has been submitted to and approved by the relevant planning authority and National Highways.</i> <i>(3) The approved monitoring scheme will set out the intended triggers for the implementation of mitigation to the M1 Motorway and the constraints upon development that will apply until the relevant mitigation works are complete and open to traffic.</i> <i>(4) The approved monitoring scheme will be implemented by the undertaker in carrying out the authorised development and the constraints upon the authorised development will apply in accordance with those contained in the approved report.</i> <i>(5) This requirement may be enforced by National Highways as if it was a relevant planning authority.</i>
Inclusion of a Grampian Requirement in Schedule 2, Part 4 regarding works to M1 Junction 10 – mitigation	Request to include the following drafting: <i>(1) Without prejudice to the general provisions of requirement 34, any mitigation identified in a monitoring scheme shall include provision whereby:</i> <i>(a) If an intended trigger for implementation of works is reached on either the southbound merge and/or northbound diverge to the M1 Junction 10, no authorised development may continue until a scheme of mitigation works is approved by National Highways.</i>

	<i>(b) The throughput of the authorised development must not exceed 21.5 million passengers per annum until the mitigation comprised of works to the M1 Junction 10 southbound merge are complete and open to traffic.</i> <i>(c) The throughput of the authorised development must not exceed 27 million passengers per annum until the mitigation comprised of works to the M1 Junction 10 northbound diverge are complete and open to traffic.</i> <i>(2) Any scheme of works to the southbound merge must include changing the merge layout type from 'Layout B – parallel merge' to a higher capacity 'Layout C – ghost island merge' or any alternative scheme approved by National Highways.</i> <i>(3) Any scheme of works to the northbound merge must include changing the diverge layout type from 'Layout B option 2 – Two-lane auxiliary diverge' to a higher capacity 'Layout B option 1 – ghost island lane drop' which would be facilitated by an extension of the 4th lane from the lane-drop location to the north of M1 Junction 9 to form a new lane-drop at the Junction 10 diverge, or any alternative scheme approved by National Highways.</i> <i>(5) This requirement may be enforced by National Highways as if it was a relevant planning authority.</i>
Schedule 2, Part 3, Requirement 20 (2)	Request to be included as a member of the Environmental Scrutiny Group (ESG).

OTHER OUTSTANDING CONCERNS IN RELATION TO THE DRAFTING OF THE DCO

- 7.4.21. LADACAN [REP4-182] requested that enforcement provisions within the DCO were at least as adequate as those imposed by the 19mppa permission. In [\[REP10-078\]](#) they advised that, to ensure that the noise compensation programme would be

rolled out in a timely way parallel with growth, the key milestones and spending targets of the roll out programme would need to be part of the DCO, with growth being paused if adequate progress was not being made.

- 7.4.22. Mr Reddington requested [\[REP10-083\]](#) that the development of a formal document setting out several items in relation to the Noise Insulation Sub-Committee (NISC), should be secured through the DCO.

7.5. EXA'S SCHEDULE OF RECOMMENDED CHANGES TO THE DRAFT DCO

- 7.5.1. Following the discussions at the hearings held in November/ December 2023 and the responses received at D7, the ExA issued a schedule of recommended amendments to the draft DCO [\[PD-018\]](#).
- 7.5.2. The schedule set out matters where the ExA considered continued concerns arose. Therefore, the SoS can take it as read that the ExA was satisfied that other matters discussed at the Hearings, unless highlighted elsewhere in this Report, have been adequately explained or addressed.
- 7.5.3. The Applicant responded to the ExA's suggestions at D8 [\[REP8-036\]](#) along with an updated draft DCO [\[REP8-003\]](#). At D8 the ExA also received comments on its schedule of recommended amendments from the JHA [\[REP8-052\]](#), LBC [\[REP8-059\]](#), LADACAN [\[REP8-076\]](#), STAND [\[REP8-083\]](#), STAQS [\[REP8-084\]](#), Stop Low Flights from Luton [\[REP8-085\]](#), and the Wheathampstead and District Preservation Society [\[REP8-089\]](#).
- 7.5.4. The ExA also received a response from South Cambridgeshire District Council (Caldecote Ward) [\[REP8-049\]](#) in response to the recommended changes. However, this was a general objection to the Proposed Development rather than specific comments on the draft DCO.
- 7.5.5. The Applicant provided comments on these responses at D9 [\[REP9-051\]](#) along with a more detailed response to the ExA's proposed amendments to Schedule 1 Offsite Highway Work No.6E [\[REP9-054\]](#). The draft DCO [\[REP10-003\]](#) continued to be amended up to the submission of the final version [\[REP11-091\]](#) at the close of the Examination.
- 7.5.6. Table 20 below sets out the changes that the ExA is recommending be made to the DCO. Where appropriate these include those changes the ExA suggested in [\[PD-018\]](#) where the Applicant declined to make the change [\[REP8-036\]](#); those suggested by the JHA [\[REP8-052\]](#) and [\[REP11-061\]](#); those suggested by other IPs or those that have arisen through the drafting of this Report. The table below does not include changes that were suggested by the ExA where it was satisfied with the reasoning provided by the Applicant for retaining the original drafting. The numbering of articles and requirements in the table references those in the draft DCO as submitted at D11 [\[REP11-091\]](#). As a result, comments submitted before this deadline may refer to previous numbering for a requirement or article.

Table 20: ExA's recommended changes to the draft DCO [\[REP11-091\]](#)

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
Articles			
Part 2, Article 8, Consent to transfer the benefit if Order	(4)(j) in relation to a transfer or a grant of any works within a highway, a highway authority (including National Highways) responsible for the highways within the Order land.	The Applicant amended the definition of 'relevant highway authority' in article 2 to provide greater clarity in relation to National Highways being consulted on matters affecting roads where it was the highways authority. Whilst it differs from what the ExA proposed it would achieve the same result.	The ExA suggested the change to ensure that National Highways were consulted on matters that would affect the strategic road network. The JHA [REP8-052], 3.1] suggested that article 8(4)(1) could be further clarified to remove the need to directly reference National Highways by amending as follows: "in relation to a transfer or a grant of any works within a highway, the relevant highway authority responsible for those works within the highway".
ExA recommendation: The ExA is satisfied that the changes made by the Applicant to the definition of relevant highway authority in article 2 are sufficient to ensure that National Highways would be consulted on matters that would affect the strategic road network. The ExA therefore agrees that the proposed change would not be required.			
Part 3, Article 11, Power to alter layout , etc., of streets	(a) increase the width of the carriageway of the street by reducing the width of any ~~kerb~~, footpath, footway, cycle track or verge within the street; (b) alter the level or increase the width of such ~~kerb~~,	The Applicant advised that they considered that there is no 'set dimension' for a kerb stone as the width, height and length of such a stone varies depending upon the intended use of the kerb stone.	The ExA noted the Applicant's response [REP3-073] to the previous request to delete this wording. However, the ExA maintained its opinion that a kerb was a physical object of set dimensions and so could not be changed in the same way that a width of a verge or footpath could be changed and therefore continued to advocate that it should be omitted from the list.] to the previous request to delete this wording. However, the ExA maintained its opinion that a kerb was a physical object of set dimensions and so could not be changed in the same way that

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	footpath, footway, cycle track or verge	Consequently, it considered that there was scope for the width and height of a kerb stone to be altered or changed and that such a reference was commonly applied and is well preceded.	a width of a verge or footpath could be changed and therefore continued to advocate that it should be omitted from the list. The JHA [REP8-052, 4.1] did not have any objection to the ExA's suggested amendment.
ExA recommendation: Whilst the ExA accept that a kerb dimension could change (albeit within set standard values), a kerb is an element of all the other items mentioned in the list within the article, so it is unnecessary to list it as a separate item. The ExA therefore recommends that the reference to kerb should be deleted: (a) increase the width of the carriageway of the street by reducing the width of any footpath, footway, cycle track or verge within the street; (b) alter the level or increase the width of such footpath, footway, cycle track or verge;			
Part 4, Article 22, Felling lopping and removal of trees, shrubs and hedgerows	Subject to paragraph 9 and 10 of Schedule 2 to this Order, the undertaker may fell, lop or remove any tree, shrub or hedgerow within or overhanging land within the Order limits...	The Applicant agreed to this change [REP8-036, 22] however it was not included in the D11 version of the draft DCO [REP11-091]	The ExA consider that reference to paragraph 9 (Landscaping design) should be included to ensure consistency with the landscaping scheme. The JHA [REP8-052, 7] suggested that the originally suggested and should be changed to or .
ExA recommendation: The ExA agree with the JHA suggestion and recommend that the drafting be amended to: Subject to paragraph 9 or 10 of Schedule 2....			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
Part 5, Article 35, Special category land	Special category land (1) On the exercise by the undertaker of the Order rights, the special category land is not to vest in the undertaker (or any specified person), and the undertaker may not acquire any rights over the special category land, until the replacement land has been acquired in the undertaker's name or is otherwise in the name of persons who owned the special category land on the date those powers are exercised and the relevant planning authority has certified that a scheme for the provision of replacement land including a timetable for the implementation of the scheme has been received from the undertaker. The timetable must include a clear statement of when the replacement land will have been laid out to the extent that it is no less advantageous to the public.	The Applicant did not consider the change necessary because: 1. They felt there were other provisions in the draft DCO that would ensure the provision of 'no less advantageous' eg Requirements 6, 9 and 10. Furthermore the Code of Construction Practice (CoCP) secured by Requirement 8 would provide a commitment (paragraph 12.1.1)(f) to maintain access to, and not commence works on, the existing WVP until the replacement open space was accessible to the public 2. The 'no less advantageous test' would be engaged by a matter of law under s131 of the PA2008 at the point that the SoS made an Order. This mirrors the long-established position under s19 of the Acquisition of Land Act 1981.	The ExA suggested the change as a number of IPs raised concerns regarding when the replacement land would not only be provided but when that land would be no less advantageous to the public than Wigmore Valley Park (WVP) which it would replace. The JHA [REP8-052, section 8] were broadly supportive of what the ExA was seeking to achieve. However, their concern was that, as drafted, the article would only require the 'receipt' of a scheme rather than ensuring the scheme was appropriate and as a matter of fact has been laid out so that it is no less advantageous. As such the JHA suggested that the article should be amended such that the relevant planning authority was 'satisfied' with the replacement land scheme. Whilst the ExA notes that the Applicant has amended the drafting to include 'satisfied', it notes that the remainder of the drafting suggested by the JHA (in bold below) was not accepted: "On the exercise by the undertaker of the Order rights, the special category land is not to vest in the undertaker (or any specified person), and the undertaker may not acquire any rights over the special category land, until the replacement land has been acquired in the undertaker's name or is otherwise in the name of persons who owned the special category land on the date those powers are exercised and the relevant planning authority has certified that a satisfactory scheme for the provision in a manner that is no less advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, of the replacement land including a

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	(3) the undertaker must implement the scheme certified by the relevant planning authority under paragraph (1) and on the date on which the replacement land is laid out to the extent that it is no less advantageous to the public and provided in accordance with that scheme, the replacement land is to vest in the persons in whom the special category land was vested on the date of the exercise of the Order powers (if the replacement land is not already owned by those persons) and is to be subject to the same rights, trusts and incidents as attached to the special category land.	3. There was no precedent for the use of such wording and the Applicant felt that no features of the Proposed Development gave rise to the need for the proposed wording. 4. The drafting was amended so that the article now referred to certification of a 'satisfactory' scheme to address the concerns from the JHA.	timetable for the implementation of the scheme has been received from the undertaker". The ExA also notes the reasons why the Applicant [REP8-036] did not accept the ExA's suggestion.
ExA recommendation: The ExA agrees that s131 including the 'no less advantageous' requirement would in this instance be engaged as a matter of law if and when the DCO was made and therefore does not need to be made explicit within the article. The ExA notes that as drafted the article would require the submission of a timetable for the provision of the replacement land and is therefore satisfied that it would be provided within an appropriate time frame so that current users would not be disadvantaged.			
The ExA therefore recommends that the article does not need to be amended.			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
Part 7, Article 45, Application of the 1990 Act	Application of the 1990 Act (4) Development consent granted by this Order— (a) which applies to land forming part of the airport; or (b) which authorises works to apparatus of statutory undertakers on, under or over land, is to be treated as specific planning permission for the purposes of section 264(3) (cases in which land is to be treated as operational land for the purposes of that Act) of the 1990 Act provided development which comprises the airport or apparatus belonging to a statutory undertaker is authorised under this Order and has been carried out on the land in question. ~~(2) To the extent that the LLAOL planning permission or the Green Horizons Park permission or compliance with any conditions or either of these permissions is inconsistent with authorised~~	The Applicant considered that the removal of 45 (2) to (6) would be detrimental to all parties and lead to uncertainty and ambiguity about the relevant enforcement regime. The Applicant considered that the ES for the Proposed Development contained all the relevant mitigation in connection with the Proposed Development, including those which might arise because of an inconsistency between it and the Green Horizons Park (GHP) planning permission. The Applicant considered that it would be perverse to allow enforcement action to be taken under the TCPA90 in connection with works that have been authorised under a DCO.	The ExA made the suggested change after extensive examination of the article [PD-007, Annex F], [EV6-001], [PD-010], [EV17-001] and [PD-015] due to a concern that the article would allow parts of the GHP and the LLAOL planning permissions to potentially be built out without the requisite mitigation to address harm identified by the relevant ES. The ExA also considered that the removal of the ability for the Council to take appropriate enforcement action would be inappropriate.] due to a concern that the article would allow parts of the GHP and the LLAOL planning permissions to potentially be built out without the requisite mitigation to address harm identified by the relevant ES. The ExA also considered that the removal of the ability for the Council to take appropriate enforcement action would be inappropriate. The ExA considered that deletion of these subparagraphs would not prevent the implementation of either of the permissions as the Applicant would have the ability to amend or vary the consents through the TCPA90 to enable them to be capable of being lawfully implemented in conjunction with the Proposed Development. In respect of 45(3), the ExA did not consider that attempting to control the implementation and enforcement of any potential future development granted planning permission under the 1990 Act was relevant to the development to be permitted. The ExA considered that at the point that a future planning application was submitted any interaction with the current land use situation could be assessed as part of that application process.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	~~development which is carried out under this Order, or any power or right exercised under this Order, then from the point at which that inconsistency arises—~~ ~~(a) that inconsistency is to be disregarded for the purposes of establishing whether any~~ ~~development which is the subject matter of that planning permission is capable of~~ ~~physical implementation;~~ ~~(b) no enforcement action under the 1990 Act may be taken against development carried out in accordance with that planning permission by reason of such inconsistency, whether inside or outside the Order limits; and~~ ~~(c) any conditions on that planning permission that are inconsistent with this Order or the authorised~~	The provisions were not novel and unprecedented and had been included in a number of DCOs and the Applicant did not feel that it should be placed in a materially worse position compared to the promoters of those DCOs. The Applicant considered the provision would be necessary from the fact that the works authorised under a DCO should not be subject to enforcement action. The absence of this provision would result in gross uncertainty for the Proposed Development. The Applicant recognised the JHA had raised concerns about the scope and effect of article 45 and this resulted in a number of drafting changes including the deletion of 'any power or right exercised under this order' and insertion of a definition of inconsistency.	Finally, the ExA did not consider that the Applicant had satisfactorily demonstrated the need for their preferred drafting. The JHA [REP11-061, 11] welcomed the post D8 changes to 45(1) and (2)(c). They considered that (5) could be improved by requiring that notice to expressly set out the undertaker's view as to which consenting regime ought to apply in the circumstances. The JHA however, did continue to have some reservations with the drafting, namely that the technical term 'inconsistent' was not clearly defined with the risk that it would apply to a wider range of circumstances that would be the case if the <i>Hillside</i> rule was applied. As a result, they considered it should be defined in more narrow terms. The second remaining area of concern for the JHA was the breadth of the 'yardstick' by which inconsistency would be measured ie the references to 'any power or right exercised under this Order'. Given that the rule in <i>Hillside</i> was concerned with overlapping planning permissions, applying the provisions of article 45 to the far wider 'any power or right under this Order' which could include the exercise of general powers or the acquisition of rights, should not factor in the determination of inconsistency. The JHA considered that the article should be restricted to interaction between the 'authorised development' and another planning permission. The JHA acknowledged that whilst the ExA's suggested changes would resolve the above concerns, it might give rise to other issues. In particular they considered that it would give a degree of uncertainty in terms of how the authorised

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	~~development cease to have effect.~~ ~~(3) To the extent that development granted planning permission under the 1990 Act is inconsistent with authorised development which is carried out under this Order or the exercise of any power or right under this Order, the development which is the subject matter of the planning permission may be carried out or used notwithstanding that inconsistency and is deemed not to be a breach of this Order and may not be enforced against under the 1990 Act by reason of such inconsistency.~~ ~~(4) Notwithstanding the terms of paragraph (3) or any other part of the Order, development carried out, operated or used in accordance with the grant of planning permission under the 1990 Act that is inconsistent with the~~	The JHA sought confirmation in relation to paragraphs (2) to (4) that the relevant consent (be it an existing planning permission, another relevant planning permission, or the DCO) relied upon would remain enforceable in relation to all other aspects beyond the Hillside inconsistency. The Applicant considered such a request unfounded as if development was permitted under the relevant planning permission, and the DCO did not provide authorisation for that development, the condition in the planning permission must be complied with. It would only be where there was an authorised work under the DCO that the conditions which might apply would be disapplied. The JHA's new suggestion for an approval mechanism to address their residual	development and other planning permission, in particular the GHP permission, were to co-exist. In [REP11-061] the JHA advised that in principle they were supportive of a provision that seeks to clarify and reconcile the interaction of the draft Order with the existing planning permissions. The JHA welcomed the amendments made by the Applicant in response to their D10 concerns [REP10-053]. However, some concerns remained in relation to the potential for sub-paragraphs (2), (3) and (4) to operate such that a particular aspect of inconsistent development becomes effectively immune from enforcement action under both the PA2008 and the TCPA90. To address this the JHA suggested a new requirement that would in effect allow the Applicant to indicate in the case of such an inconsistency which parts of a given aspect of development are relying on which regime, and for the proposal to be submitted to the relevant planning authority. The approval would have the effect of applying paragraphs (2) to (4) to the relevant aspects of the inconsistent development. The JHA considered this would strike the right balance between allowing development to come forward alongside the Order whilst providing clarity to all parties as to which regime applied. The JHA [REP10-053, paragraphs 5.2 and 5.3] requested the words "and cognate expressions" be added after inconsistency" to ensure that the definition is applied to the use of the word "inconsistent".

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	~~authorised development under this Order is deemed not to constitute a breach of this Order, and does not prevent the undertaker carrying out the authorised development granted development consent under this Order or exercising any other power or right under this Order.~~ ~~(5) Where the undertaker identifies an inconsistency between a planning permission and this Order which engages the provisions of paragraphs (2), (3) or (4) as the case may be, it must notify the relevant planning authority as soon as reasonably practicable about the existence of the inconsistency, and how the undertaker is proceeding in view of that inconsistency in accordance with this article.~~ ~~(6) In this article—~~ ~~(a) “Green Horizon Park permission” means planning permission reference~~	concern was considered disproportionate by the Applicant and the requirement to provide notification of the conflicts was unprecedented.	

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	~~17/02300/EIA or any variation of this permission granted under section 96A or section 73 of the 1990 Act; and~~ ~~(b) "planning permission" means planning permission granted under the 1990 Act including planning permission deemed to be granted under article 3 (permitted development) and Classes F, G, I, J, K, L, M and N of Part 8 (Transport related development) of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015(a).~~		
ExA recommendation: The ExA has carefully considered the Applicant's responses in [REP8-036] and [REP7-053, DCO.2.1] and agrees that similar provision has been made in other Orders, notwithstanding that they are applicable to those specific schemes. The ExA therefore agrees that article 45(2) does not need to be deleted., DCO.2.1] and agrees that similar provision has been made in other Orders, notwithstanding that they are applicable to those specific schemes. The ExA therefore agrees that article 45(2) does not need to be deleted. The ExA does not consider that the Applicant's response in [REP8-036] addressed its comments regarding sub-paragraph 45(3). The ExA maintains that attempting to control the implementation and enforcement of other potential planning permissions granted under the 1990 Act would not be relevant to the development to be permitted and would not meet the tests in the NPPF (paragraph 56). In the event of any future planning application, the ExA considers that any interaction with the land use situation at that time having regard to any existing permissions or consents could be reasonably assessed and considered as part of that application process. The ExA therefore recommends that 45(3) be removed:			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
~~(3) To the extent that development granted planning permission under the 1990 Act is inconsistent with authorised development which is carried out under this Order, the development which is the subject matter of the planning permission may be carried out or used notwithstanding that inconsistency and is deemed not to be a breach of this Order and may not be enforced against under the 1990 Act by reason of such inconsistency.~~ Noting that article 45(2) deals specifically with the LLAOL and Green Horizons Park planning permissions, the ExA accepts that 45(4) would not prevent development authorised by the Order being carried out in the event that any other planning permission would be inconsistent with the Order. The ExA accepts this provision although with the recommended deletion of 45(3), recommends that 45(4) should be moved to 45(3) and amended as follows: ~~(43) Notwithstanding the terms of paragraph (3) or any other part of the Order,~~ To the extent that development carried out, operated or used in accordance with the grant of planning permission under the 1990 Act that is inconsistent with the authorised development under this Order, it is deemed not to constitute a breach of this Order, and does not prevent the undertaker carrying out the authorised development granted development consent under this Order. The ExA notes that Article 45(2) was inserted at the request of the JHA and agrees that this provision would provide any clarification to the relevant planning authority of an inconsistency arising. The ExA therefore agrees that article 45(5) should remain but altered to reflect the deletion of 45(3) as follows: ~~(54) Where the undertaker identifies an inconsistency between a planning permission and this Order which engages the provisions of paragraphs (2), or (3) or (4) as the case may be, it must notify the relevant planning authority as soon as reasonably practicable about the existence of the inconsistency, and how the undertaker is proceeding in view of that inconsistency in accordance with this article.~~ The Applicant [REP11-050] did not object to the JHA suggestion of adding “ and cognate expressions”. The ExA considers that making this addition would help to add clarity and accepts this suggestion. The ExA therefore recommends that 45(6)(b) be altered as follows: “inconsistency” and cognate expressions means a...			
Part 7, Article 52, Arbitration	Deletion of wording as drafted and replacement with the following alternative wording:	The Applicant did not consider that the proposed amendment was necessary or proportionate.	The ExA suggested the alternative drafting as it considered that to explicitly set out how the arbitration process would work before it was needed would provide clarity for all parties in the event that any differences arose.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	Arbitration Any difference under any provision of this Order, unless otherwise provided for, must be referred to and settled in arbitration in accordance with the rules at Schedule [] (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.	It considered that it would result in a level of fixity and prescription no matter how simple or complex a dispute might be and as a result could prolong disputes rather than expedite and provide certainty contrary to the Governments aspiration to further speed up the planning system. Furthermore, the original drafting reflected equivalent articles on other Transport DCO's.	The JHA [REP8-052, 13 and 58] agreed with the Applicant that such a provision would not be necessary and that it was preferable not to prescribe procedural details.
ExA recommendation: The ExA notes the Applicant and JHA responses and for the reasons provided agree that in this instance that a more detailed schedule setting out the arbitration rules would not be required. The ExA therefore agrees that the proposed change would not be required.			
Schedule 1 – Authorised Development			
Offsite Highway Works No. 6e	The ExA suggested the deletion of the Offsite Highways works No 6e (d), (e), (f) and (j)	The Applicant considered that the need for the works had been demonstrated	The ExA suggested the change due to the significant number of RR expressing concerns regarding the extent of the proposed works to Eaton Green Road, Wigmore Lane and

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		through the traffic modelling including within the Transport Assessment [APP-205] and the updated transport modelling [AS-159] which showed that the package of measures proposed would be required to mitigate the impacts of the Proposed Development. AS-159] which showed that the package of measures proposed would be required to mitigate the impacts of the Proposed Development. The Applicant noted that these measures had been developed in consultation with the relevant highway authority over several years and that they were supported by the highway authority as necessary in mitigating the impacts of the Proposed Development. The Applicant considered its submission at D7 [REP7-061] showed the need for measures on Wigmore	Crawley Green Road and the lack of sufficient justification for these works. The matter is covered in detail in Section 3 of this Report. LBC [REP8-059] disagreed with the ExA's suggestion. It highlighted that its initial response to the need for these works had been provided at D6 [REP6-107]. LBC considered that the need for this mitigation had been supported by the COVID-19 traffic modelling which demonstrated an increase in traffic in the Crawley Green Road, Park Street/ Osborne Road areas in 2027 because of the removal of the Vauxhall Way. LBC felt that the removal of this mitigation would have a similar effect, resulting in wider displacement of traffic creating congestion around the town and potentially into the rural roads of North Hertfordshire. LBC advised that the volume of concerns over the proposed works should not be considered in determining whether the works would be required in mitigation of the Proposed Development. The JHA [REP8-052, 16] were concerned about the deletion of these works as they considered that the Proposed Development would require some form of works to mitigate its effect on the highway network. The JHA suggested (paragraph 16.3) that the works should be retained but ensure that they would be subject to a closer degree of oversight from the relevant planning and highway authorities, together with stronger provision in the outline transport related impacts monitoring and mitigation approach (TRIMMA) that would ensure that the works were brought forward/ funded when required.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		Lane, Crawley Green Road and Eaton Green Road as it showed that the Proposed Development would add up to 30% more trips to the Wigmore Lane corridor in Assessment Phase 2a. The response also set out the rationale for the extent of works with the need to ensure acceptable junction operation and queuing capacity given the relatively close proximity of the junctions.] showed the need for measures on Wigmore Lane, Crawley Green Road and Eaton Green Road as it showed that the Proposed Development would add up to 30% more trips to the Wigmore Lane corridor in Assessment Phase 2a. The response also set out the rationale for the extent of works with the need to ensure acceptable junction operation and queuing capacity given the relatively close proximity of the junctions.	

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		The response also showed the additional airport related traffic expected to use Eaton Green Road and Crawley Green Road. Although the increases would be more modest, this would be reflected in the more modest proposals along these corridors in the signalisation of the junctions with Lalleford Road which benefit existing users from accessing/ egressing the minor arm. The Applicant advocated that the removal of these measures would not only have significant adverse impacts on traffic movements in and around Luton but would also be detrimental to non-motorised users who benefit from the proposed signalisation of the junctions which would provide safer crossing opportunities. Further information was submitted at D9 [REP9-054]	

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		to further evidence these views.	
ExA recommendation: The ExA considers that if the proposed off-site highway mitigation for this area remains in the DCO then more stringent controls would be required to ensure that only works which were designed solely to mitigate airport related traffic should proceed. To ensure that this is the case the ExA proposes the insertion of a new requirement in the recommended DCO which would require the submission of further evidence to demonstrate that these works would be needed to mitigate traffic generated by the Proposed Development. With the insertion of the new requirement, the ExA is satisfied that scale and extent of any works undertaken in this area would be proportionate and appropriate to mitigate the impacts from airport related traffic and therefore agree that these works would not need to be deleted from the recommended DCO. The ExA therefore agrees that the proposed change, subject to the insertion of a new requirement, would not be required.			
Schedule 2 - Requirements			
Part 1 - General			
Requirement 2 (amendments to approved details)	(1) The undertaker may apply to the relevant planning authority for approval to amend the following— (a) ~~the air noise management plan;~~ (b) ~~the design principles;~~ (c) ~~the code of construction practice;~~ (d) ~~the cultural heritage management plan;~~	The Applicant considered that the ExA was incorrect as the plans listed in (a) to (e) were not outline plans requiring secondary approval post decision. However, due to the envisaged long delivery period the Applicant considered there would be the need for these documents to be amended which is why they were specifically itemised as they would not be captured by sub-paragraph (f). On this	To improve the precision of the drafting, the ExA considered that the plans listed in (a) to (e) were plans or details which would require approval by the relevant planning authority in accordance with any paragraph in Part 2 or Part 4 of the Schedule and so would be captured by (f). The JHA [REP8-052, 19] welcomed the ExA's proposed changes.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	~~(e) the fixed plant noise management plan;~~ ~~(f) any other~~ (a) all plans, details or scheme which require approval by the relevant planning authority in accordance with any paragraph in Part 2 or Part 4 of this Schedule; and ~~(g)~~ (b) the parameters specified in paragraph 6 (parameters of authorised development) of this Schedule.	basis the Applicant declined to make the ExA's suggested change. However, the Applicant did make a number of changes to the drafting of Requirement 2 including the addition of the airport boundary plan (expanded), the parameters specified in requirement 7 of the draft DCO and the Sustainable Transport Fund (STF) to the list and the insertion of two new sub-paragraphs. (2) would require LBC to consult with the specified authorities prior to approving an amendment to any of the plans listed in (1). (3) would allow for the amendment of final plans that had been required to be submitted for approval by a requirement.	
ExA recommendation: The ExA is aware that for a scheme of this scale which would be constructed over an extended timeframe, circumstances will change and there is a need for documents to be amended to reflect this without the need to undertake the lengthier process of having to apply to the SoS to vary the consent. However, the ExA disagrees with the addition of the airport boundary plan (expanded) and the parameters specified in requirement 7 to the list of plans that could be amended. The purpose of the airport boundary plan (expanded) is to identify the 'airport' in relation to article 2. This was in response to a concern from the ExA that parts of the Main Application Site that were to be used for non-airport functions such as providing the replacement open space, in the			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
future, could be viewed as 'operational land' and used for airport related activities. The ExA therefore considers that the ability to amend the airport boundary should only rest with the SoS. The parameters specified in requirement 7 are maximums. The assessment contained within the ES is based on these maximum thresholds and therefore the ExA considers the ability to decide whether it would be appropriate to build in excess of these thresholds should remain with the SoS. The ExA notes that there is nothing in the wording of requirement 7 that would prevent the elements being built below these maximums. The ExA therefore recommends that (b) the airport boundary plan (expanded) and (g) the parameters specified in paragraph 7 (parameters of authorised development) of this Schedule should be deleted from the requirement. Whilst the inclusion of the STF is acceptable to the ExA, it notes that the STF is linked to the oTRIMMA and Travel Plans where both NH and BC would be consultees. As currently drafted LBC would only need to consult the 'specified authorities' which would not include NH or BC. However, the ExA consider that this could be addressed by the inclusion of additional drafting in subparagraph (2). Similarly, the ExA notes that within the Design Principles there is a need to consult with amongst others the EA, TWUL and AW. As with NH these organisations do not fall within the definition of 'specified authorities'. The ExA considers that it is important for these organisations to be consulted on any amendments that would affect their interests. As with the STF, the ExA considers that this could be addressed by the inclusion of additional drafting in subparagraph (2). The ExA therefore recommends the following amendments: 2 (1) The undertaker may apply to Luton Borough council for approval to amend – (a) the air noise management plan; (b) the design principles; (c) the code of construction practice; (d) the cultural heritage management plan; (e) the fixed plant noise management plan; and the sustainable transport fund. (2) Prior to approving an application under sub-paragraph (1), Luton Borough Council must consult the specified authorities on the proposed amendment of a plan, document or parameters referred to under sub-paragraph (1) and in relation to (b) the Environment Agency and water and sewage undertakers and (f) National Highways and Buckinghamshire Council.			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
Part 2 – Requirements pertaining to construction			
Requirement 5 (Phasing of the authorised development)	(1) The authorised development must not commence until a written scheme setting out the phases of construction for the authorised project has been submitted to and approved by Luton Borough Council in consultation with the specified authorities, Buckinghamshire Council and the relevant highway authority. (2) The scheme submitted under sub-paragraph (1) must be substantially in accordance with the phases on the scheme layout plans and shall be accompanied by a layout plan detailing the location of the work numbers specified in Schedule 1. (3) The undertaker must undertake a review of the written scheme and layout plan no later than three years, or sooner where a substantial change to the stages of construction is anticipated, from	The Applicant accepted the ExA's request to include a phasing requirement but made some changes to the ExA's suggested drafting which it considered to be reasonable and that would allow proportionate flexibility to deliver the authorised development in parts which might be increments of a phase: (1) The authorised development must not commence until a written scheme setting out the planned phases for construction of the authorised development has been submitted to the specified authorities, Buckinghamshire Council and National Highways. (2) The written scheme submitted under sub-paragraph (1) must be substantially in accordance with the phases shown on	The JHA [REP8-052, paragraph 44] welcomed the insertion of a phasing requirement and agreed that it would be appropriate to retain a degree of flexibility to adjust to the prevailing circumstances. They considered (paragraph 44.2) that 'from the date the development is commenced' in (3) should be 'from the date the authorised development begins' because it is the act of the authorised development 'beginning' that would stop the clock on the 5-year time limit in Requirement 4, not the commencement. The JHA considered that the change would ensure that once the authorised development began the undertaker would be under an ongoing obligation to keep the relevant planning authority up to date in relation to its proposals to implement the development consent. The HHA requested the requirement to be triggered once the authorised development 'begins' rather than when it 'commenced'.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	the date the development is commenced and every three years thereafter until the authorised development is completed. (4) The review under sub-paragraphs (3) must be submitted to and approved in writing by Luton Borough Council, following consultation with the specified authorities, Buckinghamshire Council and the relevant highway authority. (5) The authorised development must be carried out in accordance with the details approved unless otherwise agreed by the relevant planning authority under sub-paragraph (1).	the scheme layout plans, except that this does not prevent the incremental delivery of parts of the authorised development within those phases nor require the delivery of a part within in a specific phase, provided this does not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement. (3) The undertaker must undertake a review of, and make any necessary updates to, the written scheme no later than five years from the date the development is commenced, or sooner where a substantial change to the stages of construction is anticipated, and no later than every five years thereafter until construction of the authorised development is completed.	

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		(4) The updated written scheme under sub-paragraph (3) must be submitted to the specified authorities, Buckinghamshire Council and National Highways. (5) In this paragraph "written scheme" means a scheme which— (a) identifies, with reference to the Schedule 1 works, the parts of the authorised development that are planned to be constructed within each phase; (b) includes a layout plan showing the location of the works to be delivered in each phase; and (c) includes an indicative construction programme for the next five-year period, and provides	

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		indicative timings for later phases.	
ExA recommendation: The ExA welcomes the insertion of a phasing requirement. However, there are a number of concerns regarding the Applicants preferred drafting. The ExA has carefully considered the arguments put forward by the Applicant [REP8-036] but considers that the proposed phasing of the authorised development should require the approval by Luton Borough Council in consultation with key stakeholders. This is to ensure that the future implementation of the Proposed Development, which contains a number of different components over a wide area, is properly planned to the satisfaction of key stakeholders. Importantly, it is required to ensure that the necessary infrastructure improvements (such as any off-site highway works) and mitigation measures set out in the ES would be proposed at the appropriate timescales where input from stakeholders would provide greater certainty of this being delivered. The ExA has considered the suggestion from the JHA [REP8-052, paragraph 44.2] that “commence” should be replaced with “begins”. However, the ExA agrees with the Applicant’s comments in [REP9-051, page 15] that use of “commence” would allow the Applicant flexibility to begin any necessary site preparation works whilst requirements are being discharged and that undertaking these works would be unlikely to have a material impact on the details required as part of the phasing scheme. It would also ensure consistency with other drafting elsewhere in the DCO. The ExA therefore does not recommend the change suggested by the JHA. The ExA therefore recommends that 5(1) should be amended as follows: (1) The authorised development must not commence until a written scheme setting out the planned phases for construction of the authorised development has been submitted to and approved in writing by Luton Borough Council, in consultation with the specified authorities, Buckinghamshire Council and National Highways. The ExA acknowledges the commercial flexibility sought but the Applicant and understands that different parts of a specified phased would be implemented at different timescales. The ExA also accepts the amended timescale to 5 years. The ExA accepts the Applicant’s changes to sub-paragraphs (2) and (3). In respect of sub-paragraph (4), the ExA considers that the updated written scheme should be subject to consultation with stakeholders and approval by LBC. This would allow stakeholders the opportunity to provide input to the proposed future phases of the authorised development for the following 5 year period and ensure that necessary infrastructure improvements and mitigation measures were proposed at the appropriate timescales.			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
The ExA therefore recommends that 5(4) should be amended as follows: (4) The updated written scheme under sub-paragraph (3) must be submitted to and approved in writing by Luton Borough Council, in consultation with the specified authorities, Buckinghamshire Council and National Highways. The ExA added recommended sub-paragraph (5) to ensure that the authorised development would be carried out in accordance with the approved details. The ExA has considered the Applicant's comments [REP8-036] but disagrees that the sub-paragraph places an obligation on the Applicant to carry out the overall phasing scheme. Rather that the phasing of works are carried out in accordance with the approved scheme but with no obligation for these to be completed. The ExA consider that sub-paragraph (5) would be consistent with wording used in other requirements in the recommended DCO requiring compliance with an approved scheme. The ExA does not consider that there would be duplication with Requirement 6 as the two requirements are considering separate matters whereby the detailed design elements would come forward responding to the agreed phasing plan. In the absence of this sub-paragraph, the ExA is concerned that the Applicant would be under no obligation to comply with any phasing plan approved by LBC. The ExA considers that this provision is required to ensure compliance with the approved scheme and the caveat allowing any potential deviation from the approved scheme to be agreed with the Luton Borough Council would provide proportionate flexibility to the Applicant. The ExA therefore recommends that a sub-paragraph (5) should be inserted: (5) The authorised development shall be carried out in accordance with the details approved unless otherwise agreed in writing by Luton Borough Council.			
Requirement 6 (Detailed design)	That the design review should be secured on the face of the Order	The Applicant accepted most of the ExA's changes, but it did not agree that the design review process should be set out in a schedule of the DCO because:	The ExA suggested the change to improve precision. The JHA [REP8-052, 20.3] advised they would support the inclusion of the design review on the face Order if the s106 agreement was not concluded before the close of the Examination. The JHA raised a lack of a 'link' between parts of the authorised development approved under this requirement and

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		The Design Principles document, which would secure a design review, would be secured by the DCO and this Requirement contains design principles which apply to all of the Proposed Development as well as those that would be subject to design review. The Applicant wanted proportionate flexibility for design principles to be refined in later years, which would be secured in Requirement 2, and this would not be possible without a change to the DCO if this was secured in a schedule which could delay implementation/ work. The Applicant considered that the design principles and design review process would be better in one document as it would mean a single reference point for the relevant planning authorities.	pre-commencement requirements that correspond to that approved detailed design. The Applicant stated the approach to drafting schedule 2 is well precedented and does not consider further drafting required because: Requirement 39 would deliver a register setting out live and approved applications – meaning information about the status of requirements would be readily accessible.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		The design review is secured by the s106 [REP11-108] and none of the relevant planning authorities have asked for it to be on the face of the Order	
ExA recommendation: The ExA notes that the section106 (s106) agreement [REP11-108, Schedule 9] would ensure that a design review process in accordance with the Design Principles [REP9-030] is established. Requirement 6(2)(e) also requires a report to be submitted for the works subject to the design review process to set out how the output of the design review process has been taken into account in the final design. The ExA is therefore satisfied that a separate schedule is not required.] is established. Requirement 6(2)(e) also requires a report to be submitted for the works subject to the design review process to set out how the output of the design review process has been taken into account in the final design. The ExA is therefore satisfied that a separate schedule is not required. The ExA also agrees with the Applicant that Requirement 39 would provide a 'live' register to enable all parties to be able to track which requirements had been discharged and which remained outstanding. Therefore, the ExA does not consider it necessary to amend the requirement to address the JHA concern regarding about the lack of a link between this requirement and other pre-commencement requirements that have design elements which would also be approved under Requirement 6. The ExA therefore agrees that the proposed change would not be required.			
Requirement 8 (Code of Construction Practice)	(2) No part of the authorised development may commence until the following management plans have been developed for that part, substantially in accordance with the outlines of those plans provided in the code of construction practice and have been approved in	The Applicant did not agree with LBC being listed as the approving authority as it considered that some of the elements to be approved would take place in areas where the 'relevant planning authority' is not LBC.	The ExA suggested the changes as the CoCP would manage the construction process and as such the effects would not be confined to a single relevant planning authority. As drafted, the DCO did not include a mechanism for submitting and approving the details of the outline strategy for groundwater, ground gas and leachate monitoring.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	writing by the relevant planning authority Luton Borough Council following consultation with the specified authorities, relevant highway authority and other relevant consultees on matters related to its functions— (a) framework materials management plan; (b) carbon efficiency plan; (c) construction surface water management strategy; (d) construction noise and vibration management plan; (e) community engagement plan; (f) emergency plan; (g) pollution incident control plan; and (h) dust management plan; (3) No part of the authorised development may commence until the following management plans have been developed for that part,	The Applicant adjusted the definition of 'relevant planning authority' at D8 so that it left no doubt that it referred to the planning authority for the area in which the part of the Proposed Development, to which the provision relates, was situated. In the rare circumstances where an application under this requirement straddles a local authority boundary then each authority would need to 'sign off' the plan in relation to the work in their area. A blanket obligation to consult all host authorities on every draft management plan would result in disproportionate consultation obligations. Because parts of the development would vary considerably in size it would not be proportionate to list specific consultees for management plans in the	The JHA [REP8-052, paragraph 21.1] welcomed the proposal to make LBC the discharging authority. In regard to 'and other relevant consultees' the JHA considered (paragraph 21.2) that it would be preferable to either name the 'other relevant consultees on the face of the provision to make it clear who should be consulted or delete 'other relevant consultees' such that it would remain at LBC discretion. With regard to the outline strategy for groundwater, ground gas and leachate monitoring the JHA (21.3) suggested that this should be added to the list in sub-paragraph 2. The EA [EV17-002] requested that they should be a named consultee on this requirement. AW [REP9-070] requested that they should be a named consultee for the surface water strategy, pollution incident control plan and dust management plan.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	substantially in accordance with the outlines of those plans and been approved in writing by Luton Borough Council following consultation with the specified authorities, relevant highway authority and other relevant consultees – (a) site waste management plan (to be substantially in accordance with the outline site waste management plan); ~~and~~ (b) soil management plan (to be substantially in accordance with the outline soil management plan); and (c) outline strategy report for groundwater, ground gas and leachate monitoring.	requirement. Instead, the relevant planning authority will be best placed to work out what would be necessary and given a D8 change to 'discharging authority' under Part 5 the relevant planning authority is under a duty to consult the relevant bodies listed under Part 5 of Schedule 2.	
ExA recommendation: The ExA had suggested that LBC should be the main discharging authority to prevent the situation whereby the same application would need to be submitted to more than one discharging authority who could potentially reach different conclusions which could cause delay. The ExA notes that the Applicant is content with the original drafting and so accepts that the change to the discharging authority would not be required. However, the ExA considers that a number of the plans listed would need input from other consultees such as the relevant highways authorities, the EA and the relevant water authorities. The ExA therefore considers that reference to other consultees would be required. However, the ExA realise that 'other consultees' is undefined and therefore suggests that 'in consultation with other consultees that the relevant planning authority consider appropriate' would be more appropriate. The ExA considers that this would also address the EA and AW requests to be consulted on a number of the plans.			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
The Applicant also declined to include the outline strategy report for groundwater, ground gas and leachate monitoring but did not provide an explanation for this omission. As this is an outline document it will need to be approved. However the ExA considers that this could be secured through an amendment to Requirement 17. The ExA also notes that the Applicant made a number of other amendments to the original drafting of this requirement including (3) requiring the submission and approval of a construction lighting plan. The ExA agree with this additional drafting but is of the view that it should include consultation with the relevant planning authority and relevant highway authority as one of the proposed construction compounds would be in CBC and the replacement open space works would be in NHDC. Furthermore, light spillage and light pollution have implications for highway safety and the residents of other authorities that border the Main Application Site. The ExA therefore recommends that the drafting of 8(2) should be amended as follows: No part of the authorised development may commence until the following management plans have been developed for that part, substantially in accordance with the outlines of those plans referred to or provided in the code of construction practice, and approved in writing by the relevant planning authority in consultation with other consultees that the relevant planning authority consider appropriate – The ExA therefore recommends that 8(3) should be amended as follows: No part of the authorised development may commence until a construction lighting plan for that part, substantially in accordance with the lighting measures contained in the code of construction practice, and including detailed measures to minimise light spillage, has been submitted to and approved in writing by the relevant planning authority in consultation with the specified authorities and the relevant highway authority.			
Requirement 9 (Landscaping design)	(2) The landscaping scheme approved under sub-paragraph (1) must be in accordance with the principles set out in the strategic landscape masterplan and the design principles, and must include details of –	The Applicant accepted all the changes except (g) for the reasons set out in Article 35	The ExA suggested the insertion of (g) to address concerns about how to secure that the replacement land for WVP would be no less advantageous. The JHA considered [REP8-052, paragraph 22.2] that it would be more appropriate to amend article 35 to require the relevant planning authorities <i>satisfaction</i> at the replacement land scheme and its timetable. This would remove the potential for

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	(d) hard landscaping and materials, including colour, boundary treatment, minor structures and street furniture; and (e) a timetable for the implementation of the landscaping works; (f) change to existing land levels, including cross sections showing slope profiles and gradients of any permanent earthworks; and (g) for Work No. 5b(02) a statement setting out how the landscape design would ensure that the replacement land would be no less advantageous to that which it is replacing.		two 'schemes' (one under article 35 and one under this requirement) to differ from one another.
ExA recommendation: The ExA accepts, subject to the proposed changes to the drafting of article 35, that the suggested change would not be needed. The ExA therefore agrees that the proposed change would not be required.			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
Requirement 10 (Landscape and biodiversity management plan)	(2) The landscape and biodiversity management plan approved under sub-paragraph (1) must be substantially in accordance with the outline landscape and biodiversity management plan. The plan must include proposals to achieve a minimum of 10% biodiversity net gain for habitats and a minimum of 10% biodiversity net gain for hedgerows during the operation of the authorised development.	The Applicant advised that there is no legal requirement to secure a commitment to 10% biodiversity net gain (BNG) on an NSIP until 2025. As a result the proposed change is not supported by existing law or policy and therefore is not appropriate on that basis. The Applicant reiterated that it was committed to delivering an overall 10% BNG [AS-027] but this should not be a legal requirement.	The ExA had suggested the change to secure on the face of the Order the benefit of 10% BNG proposed by the Applicant in the ES [AS-027]. The JHA [REP8-052, paragraph 23.3] welcomed the suggested amendments.
ExA recommendation: The ExA accepts the Applicants explanation as to why the suggested change would not be required. The ExA therefore agrees that the proposed change would not be required.			
Requirement 10 (5)	(5) In this paragraph, "specified period" means: (a) a period of 30 years in respect of the works implemented under Work No. 5b(01), Work No. 5c(01), Work No. 5c(02), Work No. 5d(01), Work No. 5d(02) and	The Applicant did not consider that the drafting was necessary as it would be secured by the framework proposed by the Applicant. 5 years relates to the recognised period of for	The ExA suggested the change given the importance of the landscaping proposals to reduce significant visual effects. The suggestion of a 30-year period was due to the fact that planting would occur in early phases of the development, but the visual effects have been considered at the design year (2056). The JHA [REP8-052, paragraph 23.3] welcomed the suggested change.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	Work No.5e in Schedule 1 to this Order; and (b) a period of 5 years in all other respects, or such other period as may be specified in accordance with the landscaping and biodiversity management plan.	replacement of trees/ shrubs planted as part of the landscaping scheme secured by Requirement 10(4). Article 34 would provide the Applicant with the ability to take temporary possession of land to remove/ replace failed planting. However, in the outline Landscape and Biodiversity Management Plan (LBMP) [AS-029] secured by Requirement 9, the maintenance period means any such period as approved by the local planning authority in the final LBMP. The outline plan commits to a 50-year period of management [AS-029, section 1.4]. The Applicant therefore does not consider that the change would be proportionate., section 1.4]. The Applicant therefore does not consider that the change would be proportionate.	

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		The Applicant is concerned that the proposed drafting would place the Applicant under an obligation to replace each and every single failed tree/ shrub for a period of 30 years from the point of planting. This might not be necessary depending on how the planting has matured as a whole. Finally, this could prevent the active and adaptive management of sites through the use of specimens with a 'normal' lifespan of less than 30 years which the Applicant may choose to include in an initial planting scheme with a view to replacing them with an alternative as planting matures	
ExA recommendation: The ExA notes the Applicant's response but, for the reasons previously provided the ExA consider that it would be necessary to secure a longer period than five years. With regards to the concern about active and adaptive management this could be dealt with through the LBMP, which would enable the application of a different period. The ExA therefore recommends that the drafting of 10(5) should be amended as follows: (5) In this paragraph, "specified period" means:			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
(a) a period of 30 years in respect of the works implemented under Work No. 5b(01), Work No. 5c(01), Work No. 5c(02), Work No. 5d(01), Work No. 5d(02) and Work No.5e in Schedule 1 to this Order; and (b) a period of 5 years in all other respects, or such other period as may be specified in accordance with the landscaping and biodiversity management plan.			
Requirement 13 (Surface and foul water drainage)	(2) The details submitted under sub-paragraph (1) must be in accordance with the drainage principles ~~set out in the design principles~~, and must include— (a) ~~the specification for the surface and foul water drainage plant, including performance specifications for discharge levels in accordance with paragraph 7.5-7.7 of the drainage design statement; compliance with the drainage design statement unless otherwise agreed;~~ (b) details on the means of long term monitoring to be carried out; and	The Applicant did not accept the change as it considered that reference to the Drainage Design Strategy (DDS) as a whole was not necessary as the design principles which would guide drainage design were added to the Design Principles [REP9-030] to ensure that all relevant design principles were in one document. The Applicant highlighted that the ExA's suggestion would leave the term 'drainage principles' in the requirement but undefined and deletions in (a) would not align with the retained (c).	The ExA suggested the changes to improve precision and to secure compliance with the drainage statement as a whole. In deleting 2(a), (4) would become unnecessary and therefore should be deleted. The JHA [REP8-052, paragraph 26] were supportive of the approach but considered that it would be better achieved by substituting 'drainage principles' with 'drainage design statement' which would then enable deletion of the suggested new 2(a). LBC [REP11-033] was concerned that the risk of flooding from groundwater (that is hydrologically connected to the Proposed Development) might materialise at locations outside of the administrative boundary of Luton. As a result LBC proposed that the respective Lead Local Flood Authority's (LLFA) – that is CBC LLFA and HCCC LLFA were explicitly listed as requiring separate consultation.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	(c) details on the mitigation measures to be implemented if the performance specifications referred to in sub-paragraph (a) are not met. (3) The authorised development must be carried out in accordance with the details approved under sub-paragraph (1). (4) In paragraph 12(2), surface and foul water drainage plant" means the surface and foul water drainage plant to be constructed under Work Nos. 4d and 4v, or any other water treatment plant, drainage system and its treatment and discharge, and any other related works to be constructed under the terms of this Order.		
ExA recommendation: The ExA accepts the Applicant's explanation as to why the suggested change would not be required. Furthermore, the ExA note that at D11 the drafting of this requirement had been amended to require the relevant planning authority to consult the EA, the LLFA and the relevant water and sewerage undertakers. The ExA is therefore satisfied that it would be unnecessary to name CBC LLFA and HCC LLFA as requested by LBC because they would be captured by the reference to LLFA. The ExA therefore agrees that the proposed change would not be required.			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
Requirement 14 (Construction traffic management)	(1) No part of the authorised development may commence until a construction traffic management plan for the construction of that part has been submitted to and approved in writing by ~~the relevant planning authority~~ Luton Borough Council, following consultation with the specified authorities, Buckinghamshire Council and relevant highway authority ~~on matters related to its function.~~	The Applicant did not agree the change as this would not align with the flexibility to deliver the project in 'parts' nor recognise that some of these 'parts' would occur in places where the relevant planning authority was not LBC.	The ExA suggested the drafting as the effects of construction traffic would not be confined to a single relevant planning authority. As currently drafted the use of relevant planning authority could result in the construction traffic management plan needing to be submitted to and approved by each of the host authorities. To streamline the process, the ExA considered that the discharge of this requirement should rest with LBC as the main host authority but in consultation with the other host authorities and BC. The JHA [REP8-052, paragraph 27.1] welcomed the ExA's suggestion.
ExA recommendation: The ExA accepts the Applicants explanation as to why the suggested change would not be required. The ExA therefore agrees that the proposed change would not be required .			
Requirement 15 (Construction workers)	No part of the authorised development may commence until a construction workers travel plan for the construction of that part has been submitted to and approved in writing by ~~the relevant planning authority~~ Luton Borough Council, following consultation	The Applicant provided the same explanation as for Requirement 14.	The ExA provided the same reason for the suggested change as for Requirement 14. The JHA [REP8-052, paragraph 28.1] welcomed the ExA's suggestion.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	with the specified authorities, Buckinghamshire Council and relevant highway authority on matters related to its function.		
ExA recommendation: The ExA accepts the Applicants explanation as to why the suggested change would not be required. The ExA therefore agrees that the proposed change would not be required.			
Part 3 – Requirements pertaining to green controlled growth (GCG)			
Requirement 19 (Exceedance of air quality Level 2 Threshold or Limit)	The ExA suggested that this requirement should be deleted because it would duplicate controls in Requirements 22, 23 and 24 and that the '5% greater than modelled' would simply raise the threshold before the GCG process would be triggered and therefore should not be applied.	The Applicant declined to make the change. The Applicant advised that the contribution of the airport to air quality issues was a key factor to be addressed within the GCG provisions, specifically the application of a two-stage approach to monitor air quality. The Applicant considered that the removal of this requirement would in effect remove this two-stage process and would have the practical effect of holding the airport responsible for any exceedance of the limit, regardless of the extent to	The JHA [REP8-052, paragraph 32.1] considered that the deletion of this Requirement would increase the likelihood that emissions to air would trigger exceedances of the Level 2 Threshold or Limit.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		which the Airport had contributed to that exceedance. If Requirement 19 was removed the Applicant considered the airport growth would be halted, even when the airport had not contributed at all to an exceedance of the Limit.	
ExA recommendation: The ExA has considered the arguments put forward by the Applicant [REP8-036] and the JHA observations, and is satisfied that the requirement is necessary and should be retained. The ExA therefore agrees that the deletion of this requirement would not be required.			
Requirement 20(2) (Environmental Scrutiny Group)	Amend list in (2) to include DBC as they are one of the host authorities which are likely to experience the greatest effects from the Proposed Development.	The Applicant did not agree, contesting that only local authorities that are subject to relevant impacts because of the scheme should be included. Whilst the Applicant acknowledged that DBC would fall within the forecast noise contours that form the basis of GCG Noise Limits, none of the locations for air quality monitoring would be within Dacorum as the air quality impacts are forecast to be	The ExA had suggested the change as DBC is one of the host authorities that would be affected by the Proposed Development it was therefore considered important for them to be part of the ESG which would have oversight of GCG. The JHA [REP8-052, 33.1] welcomed the addition of DBC as they considered that it would enhance the Host Authorities ability to represent the interests of the communities that the Host Authorities represent The JHA [REP11-061, paragraph 4.2] confirmed that they continued to consider that DBC should be part of the ESG.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		negligible. Similarly, none of the locations for off-site highway mitigation would be within Dacorum. As a result, the Applicant considers that DBC would not experience impacts across the range of environmental topics within the scope of GCG and therefore it would not be appropriate for DBC to have a role on the ESG. Albeit the Applicant would welcome them to attend the Noise Technical Panel	
ExA recommendation: The ExA considers that as a host authority DBC would be directly affected by the Proposed Development. Furthermore, the ExA does not consider that the argument that Dacorum is only affected by one issue is robust, because greenhouse gas emissions, which would also be controlled under GCG would have a global effect. The ExA notes that BC [REP11-101] and NH [REP11-072] also requested to be members of the ESG. NH's request is considered at the end of this section alongside the requests that it made for additional requirements. Whilst BC has an interest in aircraft noise, surface access and greenhouse gases it is not a host authority and therefore accepting the Applicant's point about the need for the ESG to be manageable, the ExA does not agree that BC should be made a member of the ESG.] also requested to be members of the ESG. NH's request is considered at the end of this section alongside the requests that it made for additional requirements. Whilst BC has an interest in aircraft noise, surface access and greenhouse gases it is not a host authority and therefore accepting the Applicant's point about the need for the ESG to be manageable, the ExA does not agree that BC should be made a member of the ESG. The ExA therefore recommends that the drafting of 20 (2) should be amended to: (2) The undertaker will request the attendance of the following individuals and competent officers of the following authorities to a meeting held by the ESG –			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	(a) Central Bedfordshire Council; (b) Dacorum Borough Council; (c) Hertfordshire County Council; (d) Luton Borough Council; (e) North Hertfordshire District Council; (f) representation from a slot allocation expert; (g) an independent chairperson appointed in accordance with the terms of reference; and (h) an independent aviation specialist appointed in accordance with the terms of reference.		
Requirement 20(3)	(3) The individual and officers in sub-paragraph (2) constitute the members of the ESG for the purposes of this Order from— (a) in the case of the independent chairperson and, the independent aviation specialist and the slot allocation expert the date of their appointment in accordance with the terms of reference; and ~~(b) in the case of any other individual or officer, the date~~	The Applicant accepted the suggested changes to (a). In relation to (3) (b) the Applicant disagreed with the ExA that local authorities would be able to act autonomously in making staffing decisions relating to attendance. It considered that the ESG must have representatives who were technically competent, non-politically appointed and who could ensure decisions were made objectively and within the parameters set	The ExA suggested the proposed redrafting of (b) to ensure that the local authorities would be able to act autonomously in making staffing decisions relating to attendance. The JHA did not comment on this at D8.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	approval is provided by the independent chairperson in accordance with the terms of reference, and the membership of the ESG may include such additional individuals or bodies as agreed by the ESG and the undertaker. (b) the Councils who are the members of the ESG to notify the independent chairperson of who their representative is and the appointment will be from that date; and (c) the membership of the ESG may include such additional individuals or bodies as agreed by the ESG and the undertaker.	out in the Terms of Reference. The Applicant was concerned that allowing unfettered discretion would lead to a situation in which representatives would not be able to fulfil those requirements. The Applicant considered that the ExA's suggestion went beyond what was requested by the JHA to merely extend the pool of membership to any person. In addition, as suggested there would be no requirement for the representative to be a competent person thereby exacerbating risk to the decision-making process. The Applicant considered that the potential introduction of persons who would not be technically capable into the decision-making process undermined their confidence that GCG would deliver a framework which appropriately	

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		balanced the safe and commercial operation of the airport whilst making that operation subject to environmental limits.	
ExA recommendation: Whilst the ExA notes the Applicant's concerns, it considers that for there to be confidence that the ESG is an independent body whose main purpose is to ensure that the Airport is accountable, then the ExA considers it necessary that those organisations that constitute the ESG have the autonomy to choose their own representatives. The ExA notes that the terms of reference [REP11-015, A.2.14] now state that the nominee needs to be a competent officer working for the relevant authority who is not an elected representative, and therefore considers that the addition of this drafting would no longer need to be included., A.2.14] now state that the nominee needs to be a competent officer working for the relevant authority who is not an elected representative, and therefore considers that the addition of this drafting would no longer need to be included. The ExA therefore recommends that the wording of (3)(b) be changed as follows: (b) in the case of the Councils the date on which they notify the independent chairperson of who their individual competent officer is and their appointment will be from that date; Alternatively, the following amendments of Paragraph A2.1.15 of the GCG Framework Appendix A [REP11-015] would negate the need for the amendment to the requirement: ~~The final decision as to whether a nominated officer meets the criteria in paragraph A2.1.14 rests with the chair of the ESG. Alternative competent officers will be allowed as substitutes if, for any reason, the nominated representative of a local authority is unable to attend a particular ESG meeting, subject to prior approval of the nominated substitute by the chair of the ESG.~~			
Requirement 20 (4) and (5)	The ESG is quorate for the purposes of decision making where the independent chair, independent aviation	The Applicant is concerned that requiring 50% of the local authorities to be in attendance may lead to the	The ExA suggested this change to ensure that decisions reflected the views of Local Authority members. The JHA [REP8-052, paragraph 33.2] welcomed the suggested change.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	specialist, slot allocation expert (or a substitute agreed) and at least 50% of local authority representatives are present.	risk that the GCG process is frustrated by deliberate or non-attendance which could lead to a situation where decisions are not capable of being taken within the necessary timeframes and therefore actions that might otherwise be required to be secured through the slot allocation process could not be taken. In recognition of the ExA's concern the Applicant did amend the terms of reference [REP11-015] to: 1. Require at least two local authority representatives to be in attendance. The Applicant considers that with the attendance of three independents, and at least two local authorities, sufficient technically competent persons as well as those representing local communities would be present without increasing the risk of the GCG process being frustrated.	

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		2. In the event that quorum could not be achieved at the first scheduled meeting, then a further meeting would be held within seven days with a reduced quorate requirement. Both meetings would be subject to the requirement to use reasonable endeavours to ensure 100% attendance but given the timely operation of GCG is, in the Applicant's view, imperative in ensuring Mitigation Plans or Level 2 Plans are implemented as soon as possible, there would be a reduced quorate requirement (ie all three independents and one local authority). In the Applicant's view this would also ensure there is an incentive to ensure that the GCG process is not frustrated whilst at all times ensuring local communities are represented.	

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
ExA recommendation: The ExA welcomes the amendments to the terms of reference and is satisfied that the requirement for at least two representatives from two local authorities to be present for the ESG to be quorate ensures that there can be confidence that the ESG would be an independent body whose main purpose is to ensure that the Airport was accountable. Furthermore, the ExA agrees that, in order to ensure that decisions were made in a timely manner the opportunity for a further meeting in the event that quorum could not be achieved would be appropriate. However, this is with the caveat that to ensure confidence in the independence of any decision the only Local Authority could not be LBC. In order to achieve this the ExA recommends the insertion of one of the following either a new sub-paragraph after sub-paragraph (4); (5) The ESG is quorate for the purposes of decision making where the independent chair, independent aviation specialist, slot allocation expert (or an agreed substitute) and a minimum of two local authority representatives are present. In the event that quorum cannot be achieved at the scheduled meeting held under the provisions of sub-paragraph (2), then a further meeting may be held within seven days of such a meeting where as a minimum the independent chair, independent aviation specialist, slot allocation expert (or a substitute agreed) and at least one local authority representative who is not from Luton Borough Council are present. OR Paragraph A2.2.2 of the GCG Framework Appendix A [REP11-015] should be amended as follows: In the event that quorum cannot be achieved at the first scheduled meeting, then a further meeting will be held within 7 days with a quorate requirement of the independent chair, independent aviation specialist, slot allocation expert (or a substitute agreed as per paragraph A2.1.12) and a minimum of one representative from a local authority who is not Luton Borough Council (or a substitute as agreed as per paragraph A2.1.14).			
Requirement 20 (7)	(7) The bodies invited to nominate a technical representative, and the appointment of an independent expert, to each Technical Panel will be determined in accordance with its terms of reference. In the case of representatives from the	The Applicant considered that the independent chairperson, who would be independent of the Applicant and the operator, would be the appropriate person to determine whether an individual would meet the competency requirements.	The ExA requested this change to ensure that the local authorities would be able to act autonomously in making staffing decisions relating to attendance. The JHA didn't provide any comments on this. .

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	Councils, the relevant Council is to identify a suitably qualified person, who is not an elected representative, to represent them on each Technical Panel.	The Applicant notes that the definition of “technical representative” under paragraph 19 already covers: <i>“a representative that is suitably qualified or has significant technical experience in either air quality, greenhouse gas emissions, noise or surface access and excludes elected representatives”.</i>	
ExA recommendation: Whilst the ExA notes the Applicants response it considers that it would be appropriate for the Council to determine who would be best to represent them and the competencies of that person to do so. Furthermore, the ExA considers it appropriate to ensure the independence of the technical panels. The ExA agrees with the Applicant that it would not be necessary to define ‘technical representative’ as this is adequately defined within the Framework. The ExA recommends that (7) should be amended as follows: The bodies invited to nominate a technical representative, and the appointment of an independent expert, to each Technical Panel will be determined in accordance with its terms of reference. The local authority nominated representative, subject to being a competent person, is not subject to approval by the chairperson of the relevant Technical Panel. Alternatively, paragraph B2.1.19 of GCG Framework Appendix B [REP11-015] could be amended as follows and this would negate the need to amend the requirement. With the exception of the representatives from the local authorities the final decision as to whether a nominated representative meets the criteria in paragraph B2.1.8 rests with the chairperson of the relevant Technical Panel. Suitably qualified alternative representatives will be allowed			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
as substitutes if for any reason the nominated representative of a local authority is unable to attend a particular Technical Panel meeting, subject to prior approval of the nominated substitute by the chairperson of the relevant Technical Panel in consultation with the airport operator.			
Requirement 20 (9)/ (10)	Technical panels are considered to be quorate for the purposes of decision making where the independent technical expert and at least 50% of other technical representatives are present.	The Applicant provided the same response as it did to similar suggested changes to 20 (4)/ (5).	The ExA suggested this change to ensure that decisions reflected the views of the local authority members. The JHA [REP8-052, paragraph 33.3] welcomed the proposed change. However, they highlighted that the role of the technical panels is to provide advice to the ESG and so it would not be appropriate to use the phrase 'for the purpose of decision making' in the new drafting.
ExA recommendation: The updated terms of reference [REP11-015, B2.2] now state that a Technical Panel would be quorate where the chairperson of that panel and at least 50% of other approved members are present. Paragraph B2.2.2 states that if a meeting is not quorate then, to ensure that decisions are made in a timely manner, there would be the opportunity for a further meeting. The ExA agrees that this would be appropriate but, as the technical panel is not a decision-making body, does not consider the caveat suggested for the ESG would be reasonable in this instance. The ExA therefore considers that the suggested addition would not be required.			
Requirement 21 (Monitoring of permitted operations) (1) and (2) rest remains	(1) The undertaker must, in accordance with the Monitoring Plans, monitor— (a) noise, air quality, greenhouse gas emissions and surface access from at least 1 year prior to the date that notice is served under article 44(1) (interaction with	The Applicant had significant concerns that the suggested changes could delay implementation of the Proposed Development. The Applicant advised that GCG is a process that would require the airport operator to implement and	The ExA suggested that the proposed change would be necessary to address concerns that the lag time between monitoring reporting could coincide with an increase in flights post serving the notice under article 44 (1) meaning that the baseline position would not be accurately characterised for monitoring and control processes in the GCG Framework. The JHA [REP8-052, paragraph 34.1] welcomed the proposed change.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	the LLAOL planning permission).; ~~and~~ ~~(b) air quality, greenhouse gas emissions and surface access from 1 January following the end of the calendar year in which that notice is served.~~ (2) The undertaker must prepare and submit to the ESG— ~~(a) in respect of noise, the first Monitoring Report no later than 31 July following the end of the calendar year in which the notice is served in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order; and~~ ~~(b) in respect of air quality, greenhouse gas emissions and surface access, the first Monitoring Report no later than 31 July following the end of the first full calendar year after the date that notice is served; (a) in respect of all monitoring themes, 31 July~~	undertake a number of actions, processes and monitoring activities that were not yet established, including undertaking new air quality monitoring at 15 off-airport locations, each of which would require the installation of new air quality monitoring equipment, as well as revised approaches to monitoring and reporting of greenhouse gas emissions and staff travel. Implementing the new processes and installing new monitoring equipment would in itself take considerable time and the requirement to do these 12 months in advance of the service of a notice under article 44(1) would cause further delay. The Applicant considered that there was no requirement in GCG for baseline monitoring. Furthermore, the Applicant considered that the basis for	

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	~~following the end of the first full calendar year of monitoring; and (c)(b) then~~ thereafter a Monitoring Report on or before 31 July is required to be submitted each year.	seeking the change was unclear. The JHA only had an outstanding concern with regards to the timing of air quality monitoring. Amongst other things the Applicant was concerned that data collected could relate to the existing airport operations whereas the GCG Framework had always been developed to apply to the Proposed Development only. Notwithstanding this the Applicant advised that there would only be a very short period between service of the notice and all elements of GCG commencing during which time there would be little scope for material growth at the airport and during which the GHG Action Plan and the Travel Plan would be in operation. The Applicant therefore considered that there was	

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		no reason to believe that a new or unexpected adverse impact would arise that would need to be controlled through GCG.	
ExA recommendation: The ExA acknowledges that the Applicant committed to using reasonable endeavours to undertake air quality monitoring 6 months ahead of serving the notice under article 44(1), noting that this would require installation of monitoring equipment outside the red line boundary [REP11-095], [REP11-097] and [REP11-099]. The ExA considers that in order to understand whether, Thresholds or Limits could be exceeded during the first year following serving of the notice under article 44(1), the Applicant needs an awareness of the baseline noise, air quality, GHG and surface access conditions. Without knowledge of the baseline, the ExA is concerned that it would theoretically be possible to increase aircraft movements at the airport through capacity declarations and slot allocations during the first year that would exceed GCG Limits before monitoring data were available to understand whether there was a problem. As set out in Section 3 of this Report once such slots were allocated it would be extremely difficult or impossible to remove slots due to grandparenting rights in the Slot Allocation Regulations. This could mean that a prolonged breach of limits could occur that would not be able to be reversed, or only reversed over a period of years. On this basis the ExA maintains that its revised wording, including a requirement for a year of monitoring to be obtained prior to serving the notice under article 44(1), should be adopted. If the SoS were to disagree with this provision the ExA considers that there would be potential for limits to be breached for a number of years before they could be remedied. The ExA therefore recommends the drafting should be amended as follows: (1) The undertaker must, in accordance with the Monitoring Plans, monitor noise, air quality, greenhouse gas emissions and surface access from at least 1 year prior to the date that notice is served under article 44(1) (interaction with the LLAOL planning permission). (2) The undertaker must prepare and submit to the ESG on the anniversary of the commencement of the monitoring and annually thereafter, a Monitoring Report.			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
Requirement 23 (Exceedance of a Level 2 threshold)	~~(6) A Level 2 Plan may only be refused by the ESG under subparagraph (5)(b) where it reasonably concludes that—~~ ~~(a) the proposed actions will not avoid or prevent exceedances of a Limit; or~~ ~~(b) the proposed programme for the implementation of those actions will not avoid or prevent exceedances of a Limit.~~	The Applicant strongly disagreed with the deletion of these provisions as it would result in unfettered considerations playing a role in decision making. Whilst there would be an appeal process the Applicant considers that this would be disproportionate. This would introduce substantial uncertainty in realising the growth that would be authorised by the DCO and would create the risk that the DCO is simply not implemented due to that risk.	The ExA recommend the change as it considered the drafting unnecessary and, in any event, did not consider that the ESG should be restricted in its ability to consider matters. The JHA [REP8-052, 35] welcomed the removal of these provisions that would limit the grounds on which the ESG could refuse a Level 2 Plan.
ExA recommendation: The ExA notes the Applicant's response. However, it continues to consider the drafting unnecessary. To ensure confidence in the independence of the ESG the ExA considers it important that it should not be restricted in its ability to consider matters. Furthermore, the ExA notes that under the terms of reference, members of the ESG are required to be competent and in the case of a local authority representative must not be an elected member. As a result, the ExA considers that it unlikely that unfettered considerations would be made during decision making. The ExA therefore recommends that 23 (6) be deleted and that the following sub-paragraphs be renumbered.			
Requirement 23 (7) and (8)	(7) Where the ESG has refused or failed to determine a Level 2 Plan, the undertaker must no	The Applicant did not accept the change on the basis that the timescales were set in	Whilst the ExA noted the Applicants aspiration for the ESG to make decisions in a timely manner it was concerned that a deemed approval would be inappropriate and could give rise to

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	later than 42 days starting the day after the decision or the date that the decision was due to be made by of the ESG— (a) lodge an appeal under paragraph 38 (appeals to the Secretary of State); or (b) resubmit a revised Mitigation Plan to the ESG. ~~(8) Where the ESG has failed to make a decision under subparagraph (5)(b) within the time period specified in that subparagraph, it is deemed to have approved the Level 2 Plan.~~	accordance with the process for slot availability. Without deemed consent this process could be frustrated and the implementation of a Level 2 or mitigation plan delayed preventing airport growth. The Applicant advised that deemed consent provisions are well precedented. In [REP11-089] the Applicant reiterated this concern highlighting that if the ESG could not make a decision on a Mitigation Plan in the timescales set out in the GCG process then there would be a risk that a mitigation through the slot allocation process would be needed, but that the plan was not approved in time. The mitigation for the breach would then be lost until the deadline for declaring the next seasons capacity was reached. This would mean that legitimate growth could be lost for that period which would have	the approval of details that the ESG may have considered unsatisfactory. The JHA [REP8-052, paragraph 35.2] welcomed the removal of the deemed consent provisions.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		commercial implications for the airport and also for the community fund.	
ExA recommendation: The ExA notes the Applicant's concern about the need for timeliness in decision making and the impact that delay could cause. However, the ExA remains concerned that a deemed approval would be inappropriate as it could give rise to the approval of details that the ESG might have found unsatisfactory. The ExA note that Requirement 40 sets out an appeal process available to the Applicant in the event of the ESG refusing a plan and that the timeframe for a decision through this process is relatively short. Consequently, to prevent delay but overcome the concerns attached to a deemed approval, the ExA considers that the solution would be to change the drafting to a deemed refusal. The ExA therefore recommends that the drafting be changed as follows: (8) Where the ESG has failed to make a decision under subparagraph (5)(b) within the time period specified in that subparagraph, it is deemed to have refused the Level 2 Plan.			
Requirement 24 (Exceedance of a Limit)	(7) Where the ESG has refused or failed to determine a Mitigation Plan, the undertaker must no later than 42 days starting the day after the decision or the date that the decision was due to be made by of the ESG— (a) lodge an appeal under paragraph 38 (appeals to the Secretary of State); or (b) resubmit a revised Mitigation Plan to the ESG. (8) Where the ESG has failed to make a decision under	The Applicant provided the same response as they gave for 23 (7) and (8)	The ExA provided the same reason for the proposed change as for 23 (7) and (8). The JHA [REP8-052, paragraph 36.1] welcomed the deletion of deemed consent.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	~~subparagraph (5)(b) within the time period specified in that subparagraph, it is deemed to have approved the Mitigation Plan.~~		
ExA recommendation: For the same reasons provided for Requirement 23 (7) and (8) the ExA considers that the drafting should be amended so that a failure to determine a mitigation plan within the specified time frame would result in a deemed refusal rather than a deemed approval. The ExA therefore recommends that the drafting be changed as follows: (8) Where the ESG has failed to make a decision under subparagraph (5)(b) within the time period specified in that subparagraph, it is deemed to have refused the Mitigation Plan.			
Requirement 24 (10)	(a) the undertaker submits a Monitoring Report ~~2 years~~ 1 year from the adoption of a Mitigation Plan under subparagraph (5)(b) which shows an exceedance of a Limit;	The Applicant did not accept the change as paragraph (a) would provide a 'backstop' and that the intention and effect of 24 (10) (a) and (b) would be to require a Mitigation Plan to be effective as soon as practicable or a maximum of two years before the revised Mitigation Plan would be required. Given that the requirement for a Mitigation Plan would be to require measures to remove an exceedance as soon as reasonably practicable, and	The ExA considered the change necessary to ensure the timely delivery of mitigation by reducing the period for updating the mitigation plan to 1 year. The JHA [REP8-052, paragraph 36.1] welcomed the shortening of the time period for a monitoring report to be submitted as they considered that this would assist in giving confidence that the mitigation plan was having the desired effect or, where it was not doing so, provide a timely opportunity for further intervention.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		such a plan must be approved by the ESG, the Applicant did not consider it appropriate or necessary to require a revision to be submitted in 12 months. At D11 the Applicant maintained their position but requested that if the ExA or SoS considered the change necessary to change the drafting to include "<i>unless the ESG agrees to a longer period</i>" after "<i>1 year</i>" so that the ESG would not be fettered to approve a plan which – whilst containing all reasonably practicable measures – anticipated a longer period.	
ExA recommendation: The ExA continues to consider, for the reasons set out above, that it would be reasonable to report on the performance of mitigation after 1 year but accepts that the Applicant's proposed wording "<i>unless the ESG agrees to a longer period</i>" after "<i>1 year</i>" to allow necessary flexibility where it can be justified to ESG. The ExA therefore recommends that the drafting be changed as follows: (a) the undertaker submits a Monitoring Report 1 year, unless the ESG agrees to a longer period, from the adoption of a Mitigation Plan under sub-paragraph (5)(b) which shows an exceedance of a Limit;			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
Requirement 24 (13)	~~(13) Where the ESG has failed to make a decision under sub paragraph (12) within the time period specified in that subparagraph, it is deemed to have approved the updated Mitigation Plan.~~	The Applicant referred to its previous response on 23 (7) and (8) as to why they declined the change.	The ExA provided the same reason for the proposed drafting as for 24 (7) and (8). The JHA [REP8-052, paragraph 36. 2] welcomed the deletion of deemed consent.
ExA recommendation: For the same reasons provided for Requirement 23 (7) and (8) the ExA consider that the drafting should be amended so that a failure to determine a mitigation plan within the specified time frame would result in a deemed refusal rather than a deemed approval. The ExA therefore recommends that the drafting be amended as follows: (13) Where the ESG has failed to make a decision under sub paragraph (12) within the time period specified in that subparagraph, it is deemed to have refused the updated Mitigation Plan.			
Requirement 24 (15)	Where a Mitigation Plan has not been effective in removing a breach of a limit within 12 months of its implementation (or within an agreed alternative timetable contained within that plan), the Operator shall be required to pay a financial penalty for each day that the exceedance continues to occur beyond the 12 month period, unless otherwise agreed with the ESG. The	The Applicant did not consider the imposition of financial penalties appropriate, necessary or proportionate. It considered that the GCG Framework would be a significant enhancement when compared to the historic approach of securing binary planning conditions as it would provide early warnings and actions to prevent Limits from being	The ExA suggested the change as it considered that where a prolonged or repeated exceedance of the consented limit occurred a financial penalty should be imposed to ensure that the breach would be addressed in a timely manner and that the Operator would be disincentivised from continuing to breach limits. The JHA [REP8-052, paragraph 36.3] welcomed the change as they considered that it was important that there was a sanction available where Limits were not being observed. Payment to the Community First Fund was considered appropriate so that the affected community would be compensated.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	scale of financial penalty shall be determined by the Secretary of State and shall be paid into the Community First Fund.	exceeded as well as transparency around when a Limit had been exceeded. The GCG Framework already included an explicit link between environmental Limits and commercial benefit as if a Limit was exceeded the airport would not be able to grow. The Applicant considered that the proposed drafting was entirely unprecedented and would put Luton Airport at a disadvantageous position. It would leave the operator liable for potentially unlimited financial penalties which would be a sanction well beyond that which could be applied under any existing planning regime. The Applicant considered that this would in effect penalise it for proposing a more ambitious approach to management of environmental impacts. The Applicant felt that the proposed drafting would not meet the tests of necessity or being required in	The JHA (paragraph 36.4) considered that the Order ought to contain on its face some guidance as to the level of payment that would be required to ensure that the provisions would operate as a disincentive to operating in breach and provide the SoS with some guidance if they were ever called upon to make a determination under the provision. They suggested by way of example the inclusion of a 'starting point' by reference to an appropriate percentage of annual turnover. Finally, the JHA (36.5) noted that the term 'airport operator' was defined in article 2(1) and considered that this term should be used in preference to 'Operator'.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		connection with the authorised development under s120 or the PA2008.	
ExA recommendation: The ExA concluded that to provide certainty to local communities regarding noise controls, noise contour limits should be placed on the face of the Order and has recommended a new Requirement (Noise contour limits and quota count point limits) which would secure this. The ExA considers that if the noise contour limits and quota count point limits Requirement were imposed, it would be enforceable, negating the need for a separate financial sanction to be imposed. If the SoS were to disagree, the ExA considers that there would be a risk that continued breaches of limits would not be subject to control, which would attract great weight against the making of the Order. The ExA therefore recommends that subject to the imposition of a new requirement controlling the noise contours, the Applicant's proposed wording for Requirement 24(15) is retained rather than the ExA's revised wording. The ExA therefore agrees that the proposed change would not be required.			
Requirement 25 (Review of implementation of this Part)	1 (a)The undertaker must undertake a review of the implementation of this Part, including the review of any Monitoring Plans and arrangements for funding, no later than 3 years from the date the notice is served under article 44(1) (interaction with LLAOL planning permission), and every 5 years following this initial review, and produce and submit to the ESG a report which sets out whether any improvements to the operation of this Part are considered	The Applicant sought further clarity on what the ExA was seeking to secure. If the intention was to secure 'actions' pursuant to future policy changes a requirement to do so was already included within section 4.5 of the Outline Greenhouse Gas Action Plan [APP-081] and would be carried forward into any GHG Action Plans produced under Requirement 34.] and would be carried forward into any GHG Action Plans	The ExA suggested the change to ensure that the GCG Framework remains up to date in terms of rapidly evolving policy on greenhouse gas emissions. The JHA [REP8-052, paragraph 37.1] welcomed the additional drafting requiring a review of GHG policies to ensure that the Proposed Development would continue to operate in accordance with policy that is frequently evolving.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	necessary to ensure the efficient and effective operation of authorised development within the Limit. (b)The review must include an analysis of extant policies in relation to the control of greenhouse gas emissions and an outline of appropriate actions to ensure that the development is compliant with these.	produced under Requirement 34. If the Intention was to secure amendments to GCG Thresholds and Limits that reflected future changes the Applicant was concerned that the proposed drafting could be interpreted as an absolute requirement which would be unlawful and fail to meet the tests for Requirements as there was no policy basis for seeking to reassess carbon emissions in light of future changes. The Applicant felt that such a requirement would seriously undermine the certainty that a DCO should provide that the development could be fully implemented.	
ExA recommendation: The ExA accepts the Applicants explanation as to why the suggested change would not be required. The ExA therefore agrees that the proposed change would not be required.			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
Requirement 25 (6)	~~(6) Where the ESG has failed to make a decision under subparagraph (4) within the time period specified, it is deemed to have approved the application.~~	The Applicant referred to its previous response on deemed consent.	The ExA's reason for the proposed drafting was the same as previously set out in relation to deemed consent. The JHA [REP8-052, paragraph 37.1] welcomed the removal of the deemed consent provision.
ExA recommendation: For the same reasons provided for Requirement 23 (7) and (8) the ExA considers that the drafting should be amended so that a failure to make a decision within the specified time frame would result in a deemed refusal rather than a deemed approval. The ExA therefore recommends that the drafting be amended as follows: (13) Where the ESG has failed to make a decision under sub paragraph (4) within the time period specified, it is deemed to have refused the application.			
Part 4 - Requirements pertaining to other operational matters			
Insert new Requirement after Requirement 26 (Passenger cap for the authorised development)	In PD-018 this erroneously appeared as a suggested replacement to Requirement 26. The ExA was satisfied with requirement 26 as drafted and proposed the insertion of this wording as a new requirement following Requirement 26. Night quota period scheduled movements cap The undertaker must not operate under this Order the airport so that it permits in	The Applicant did not agree to the change as it considered that the controls were secured through the requirement as originally drafted and that the terms of that Requirement were clear that the airport must be operated in accordance with the Air Noise Management Plan (ANMP). Any action taken in a way which would conflict with	The ExA considered that for the purposes of precision, enforceability and clarity, the scheduled night quota period movements cap needed to be on the face of the Order. The ExA also considered that the ANMP should be retained as it provided important detail regarding the control processes, this is now secured by Requirement 27. JHA [REP8-052, paragraph 38.1] welcomed the proposed changes.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	excess of 9,650 scheduled movements by aircraft in the night quota period per 12-month period.	those controls would be capable of enforcement action, and the presence of the control on the face of the Order rather than in a document secured under the DCO would not affect that principle. Furthermore, the Applicant considered that transposing selective controls in this manner runs the risk of not including all elements of the process which was secured and set out in the core document and separately, in the absence of an amendment of the ANMP, would create uncertainty and confusion about which provision required and secured the relevant measures. If the drafting was changed then the Applicant considered that to aid clarity "significant change" would need defining. The Applicant updated the Air Noise Management Plan	

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		at D9 to require a review no later than 3 years from the date of the service of notice under article 44(1) and to incorporate the language in paragraph 4 of the ExA's suggested drafting. The Applicant advised that the P19 planning permission included a noise management plan on which the ANMP was based and that management plan was secured in the same way as proposed by the Applicant ie not on the face of the Order. The ANMP would be capable of revision under Requirement 2 which the Applicant considered important given potential futures changes eg the Quota Count management system. This was why the Applicant considered that it should not be secured on the face of the DCO as it would render them more difficult to evolve and adapt.	

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
ExA recommendation: The ExA was not persuaded by the Applicant's arguments and considers that the night time movement cap would be necessary to provide certainty to local communities regarding the total night period movements. Furthermore, the ExA notes that the Applicant proposed a night quota cap in the original draft DCO [APP-006, Requirement 27], although that Requirement permitted variation of the quota through discussions with the relevant planning authority and ESG. The ANMP [REP9-047, paragraph 2.4] included a night quota period cap but amended this to apply only to aircraft with a quota count of between 0.125 and 1. It also allowed a 10% carry over between years. The ExA considers that the proposed control would be a continuation of the current noise quota controls for LLA and supports the LLP Policy LLP6(B)(v) ambition to achieve no material increase in night time noise. The ExA has expanded the original suggested drafting to include specific time periods for clarity and added the ability for this provision to be varied with agreement from the SoS subject to demonstrating that effects would not give rise to materially new or materially different environmental effects. If the SoS were to disagree with the insertion of this requirement the ExA considers that there would be potential for increases in night noise effects to arise over and above those assessed in the ES and would attract great weight against the making of the Order. The ExA therefore recommends that the drafting be included as a new Requirement following Requirement 26: Night quota period scheduled movements cap (1) The undertaker must not operate under this Order the airport so that it permits in excess of 9,650 scheduled movements by aircraft in the night quota period (23:30-06:00) per 12 month period, unless a request to vary this limit has been submitted to and approved in writing by the Secretary of State following consultation with the specified authorities and, where appointed the ESG. (2) Any request to vary the limits under sub-paragraph (1) shall only be approved where it has been demonstrated to the satisfaction of the Secretary of State that such changes would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement. Paragraph 2.4 of the ANMP [REP9-047] would need to be deleted.			
Requirement 27 (Air noise management plan)	(1) From the date that notice is served in accordance with article 44(1) (interaction with LLAOL planning permission) of	As set out above.	The ExA considered that the proposed additions to the Requirement were necessary to provide clarity regarding the management plan review cycles.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	this Order, the airport must be operated in accordance with the air noise management plan. (2) The undertaker must undertake a review of the air noise management plan no later than 3 years from the date the notice is served under article 44(1) (interaction with LLAOL planning permission). (3) Thereafter, the air noise management plan shall be reviewed every 5 years, or sooner where a substantial change in operational conditions is anticipated, following this initial review. (4) the review under subparagraphs (2) and (3) shall be submitted and approved in writing to Luton Borough Council in consultation with the specified authorities and shall set out any improvements to the operation management plan that are necessary to ensure the efficient and effective of		The JHA [REP8-052, paragraph 38.1] welcomed the proposed changes. The Applicant's DCO did not include the proposed amendments. However, the ANMP [REP9-047] was updated to include the 3- and 5-year review cycles, aligned with the Environmental Noise (England) 2006 Regulations review cycles.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	the operation of authorised development within the Limit.		
ExA recommendation: The ExA welcomed the updated review cycle details within the ANMP but notes that the provision for review 'or sooner where a substantial change in operational conditions is anticipated' was not included in the updated drafting The ExA therefore considers that the updates to the Requirement are not necessary. However, paragraph 1.14 of [REP9-047] should be updated as follows: Thereafter, the ANMP shall be reviewed every 5 years in line with the five-year Noise Action Plan cycle or sooner where a substantial change in operational conditions is anticipated.			
Requirements 30 (Offsite highway works) and 31 (Travel plans)	(1) Notice in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order must not be served until a transport related impacts monitoring and mitigation approach for the operation of the airport above the passenger cap permitted by the LLAOL planning permission has been submitted to and approved in writing by ~~the relevant planning authority~~ Luton Borough Council, following consultation with ~~the specified authorities,~~ Buckinghamshire Council and the relevant highway	The Applicant accepted the change	The ExA considered that the effects of traffic movements would not be confined to a single relevant planning authority. As originally drafted the use of relevant planning authority could result in the transport related impacts monitoring and mitigation approach needing to be submitted to and approved by each of the host authorities. To streamline the process, the ExA considered that the discharge of this requirement should rest with LBC as the main host authority but in consultation with the other host authorities and Buckinghamshire Council. The JHA [REP8-052, paragraph 39] did not agree the proposed change as they considered that ultimately the relevant highway authority would become responsible for operating and maintain works to their network and so felt it was important that any discharge approval remained with the standard TCPA approach namely with the relevant planning authority.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	authority ~~on matters related to its function.~~		
ExA recommendation: The ExA notes the JHA comment. However, the TRIMMA and Travel Plans would be one document, not individual ones for each local authority area, and therefore the ExA considers that to streamline the process that LBC should be the discharging authority. As drafted LBC would be required to consult with the relevant local and highway authorities and therefore the ExA considers that the JHA would still have the opportunity to input into the decision. The ExA therefore recommends that no change to drafting is required.			
Part 6 - Appeals			
Requirement 36 (Interpretation)	n/a	n/a	The JHA [REP8-052, paragraph 40.1] remained concerned regarding the overall brevity of the determination periods for everything apart from those relating to approval under Requirement 6. BC [REP11-101] considered that a minimum consultation period akin to the period defined in Requirement 18 should be defined and should include a mechanism for extending it should further issues arise or insufficient information be provided.
ExA recommendation: The ExA notes the JHA and BC concerns. However, it considers that the time frames would be appropriate and as drafted there would be the ability for the discharging authority to seek an extension to the determination periods, albeit with the agreement of the Undertaker. Furthermore, the ExA considers that the amendment to requirements 23, 24 and 25 amending a deemed approval to a deemed refusal also addresses this concern. The ExA therefore considers that an amendment to this requirement would not be required.			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
Requirement 37 (Applications made under requirements)	(1) Where an application has been made to the discharging authority for any consent, agreement or approval referred to in Part 1, Part 2 or Part 4 of this Schedule the discharging authority— (a) may must consult a discretionary consultee where it appears to the discharging authority, acting reasonably, that such consultation is appropriate having regard to— (i) the nature and spatial extent of the consent, agreement or approval being sought; and (ii) the functions of the discretionary consultee; (b) must give notice to the undertaker of the decision on the application within the specified period which begins on— (i) the day immediately following that on which the application is received deemed valid by the discharging authority; or (ii) the day immediately following that on which valid	The Applicant agreed to change the drafting of 'may' to 'must' but also reinserted "...necessary and appropriate...". The Applicant disagreed with the insertion of "deemed valid" as it considered it unnecessary because if the discharging authority required further information for an application to be considered properly it could request this under Requirement 38 and the clock would restart again for the approval period once that information has been satisfactorily received.	The ExA suggested the change to implement the recommendations of the Environment Agency [EV17-002]. These would ensure that the appropriate consultees are consulted when discharging requirements and that the specified period cannot begin until the submitted reports are deemed valid.]. These would ensure that the appropriate consultees are consulted when discharging requirements and that the specified period cannot begin until the submitted reports are deemed valid. The JHA [REP8-052, paragraph 41.1] and [REP6-095] do not consider the proposed changes to be appropriate as it would change a discretion to consult into a mandatory consultation. The JHA were of the view that the discharging authority would be best placed to determine whether it would or would not be appropriate to consult. Making the consultation mandatory would only impose further burdens on the discharging authority and exacerbate concerns regarding the period of time available to determine such applications before deemed consent would kick in. The JHA (paragraph 41.3) welcomed the addition of valid to the drafting.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	further information has been supplied by the undertaker in response to a request from the discharging authority or consultee (as the case may be) in accordance with paragraph 36 (further information).		
ExA recommendation: The ExA notes the JHA concern. However, it considers that the change in drafting would still allow discretion on the part of the discharging authority through the inclusion of the phrases ‘acting reasonably’ and ‘such consultation is necessary and appropriate’. Furthermore, the ExA considers the change from deemed approval to deemed refusal addresses the concerns over timeframes. The ExA notes that the Applicant does not consider that the insertion of ‘valid’ is necessary. However, the ExA is aware that applications would need to go through a validation process with the relevant local authority before they could be considered. Therefore, given the timeframes involved, the ExA considers that it would be reasonable that the time period for determination starts at the point the application was available to the relevant officer to determine. The ExA therefore recommends that the Requirement should be amended as follows: (1) Where an application has been made to the discharging authority for any consent, agreement or approval referred to in Part 1, Part 2 or Part 4 of this Schedule the discharging authority— (a) must consult a Part 5 consultee where it appears to the discharging authority, acting reasonably, that such consultation is necessary and appropriate having regard to— (i) the nature and spatial extent of the consent, agreement or approval being sought; and (ii) the functions of the Part 5 consultee; (b) must give notice to the undertaker of the decision on the application within the specified period which begins on— (i) the day immediately following that on which the application is deemed valid by the discharging authority; or (ii) the day immediately following that on which valid further information has been supplied by the undertaker in response to a request from the discharging authority or consultee (as the case may be) in accordance with paragraph 38 (further information).			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
Requirement 37 (2)/ (3)	(3) In determining any application made to the discharging authority for any consent, agreement or approval required by a requirement contained in Part 1, Part 2 or Part 4 of this Schedule, the discharging authority may— (a) give or refuse its consent, agreement or approval; or (b) give its consent, agreement or approval either subject to reasonable conditions, or unconditionally; and (c) where consent, agreement or approval is refused or granted subject to conditions the discharging authority must provide its reasons for that decision with the notice of the decision.	The Applicant accepted a modified version of (c) but considered (a) was not necessary and strongly disagreed with the provision under (b) that would allow conditions to be imposed. The Applicant considered that the application has been rigorously examined during which the draft DCO has been refined. If approval is obtained the Applicant considers it would be disproportionate to allow discharging authorities to add new “conditions” which would not have been examined and could frustrate delivery.	The ExA suggested the change to provide clarity as to what a discharging authority can do with the application. The JHA [REP8-052, paragraph 41.3] welcomed the insertion of this sub-paragraph which would give them the ability to approve subject to conditions or refuse and application.
ExA recommendation: The ExA notes the Applicant's concern regarding the ability of the determining authority to impose conditions when discharging a requirement. However, the ExA considers that this would be appropriate as conditions may be necessary to secure information/ detail that wasn't available to the ExA. Furthermore, any conditions would need to meet the test for conditions as set out in paragraph 56 of the			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
NPPF which amongst other things requires them to be reasonable and necessary. The ExA notes that Requirement 25 (3) of the Manston Airport DCO (2022) contains similar drafting. The ExA therefore recommends that the following sub-paragraph should be inserted after sub-paragraph (2): (3) In determining any application made to the discharging authority for any consent, agreement or approval required by a requirement contained in Part 1, Part 2 or Part 4 of this Schedule, the discharging authority may— (a) give or refuse its consent, agreement or approval; or (b) give its consent, agreement or approval either subject to reasonable conditions, or unconditionally; and (c) where consent, agreement or approval is refused or granted subject to conditions the discharging authority must provide its reasons for that decision with the notice of the decision.			
Requirement 37 (3)	(3) In the event that the discharging authority does not determine an application within the period set out in subparagraph ~~(4), the discharging authority is taken to have granted all parts of the application (without any condition or qualification at the end of that period),~~ the undertaker may lodge an appeal for non-determination under paragraph 38 (appeals to the Secretary of State) no later than 42 days starting the day after the decision or the date	The Applicant did not agree with this amendment considering that such provisions were well preceded and justified in DCO's. The Applicant considered the drafting necessary to prevent delivery of the project simply failing due to the lack of a decision. The provision would not prevent an authority refusing an application.	The ExA notes the Applicant's aspiration for the discharging authority to make decisions in a timely manner and is aware of the provisions of articles 27 to 30 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 where article 28 provides similar 'deemed discharge' powers in the event of an authority failing to give notice of their decision when discharging a planning condition. However, the ExA also noted that Schedule 6 of that Order contained exemptions for EIA development and development orders benefiting from such powers. The ExA therefore considered that the current drafting needed to be replaced with that proposed to reflect this. The JHA [REP8-052, paragraph 41.4] welcomed the removal of deemed consent.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	that the decision was due to be made by the discharging authority.		AW [REP9-070] requested that Requirement 37(3) be removed or redrafted to include an exception that excludes discharge applications where AW needs to be consulted for deemed approval. At D11 AW [REP11-070, paragraph 7] maintained its objection to this.
ExA recommendation: Whilst the ExA notes the Applicant's reference to such provisions being precedent, for the reasons originally set out it considers that, for this application a deemed approval would be unacceptable. However, to be consistent with the other requirements in the Order the ExA suggests that the drafting should be amended to a deemed refusal rather than the ability to appeal for non-determination as originally suggested. The ExA considers that this amendment would address the concerns of AW. The ExA recommends that requirement 37(3) should be amended as follows: (3) In the event that the discharging authority does not determine an application within the period set out in subparagraph (1), the discharging authority is taken to have refused all parts of the application (without any condition or qualification at the end of that period).			
Requirement 37 (6)	(6) Any fee paid under this Schedule must be refunded to the undertaker within four weeks of— (a) the ~~application being rejected as invalidly made~~ the date any application is rejected as being invalid by the discharging authority; or	The Applicant provided the same explanation for declining the change as it did for 37 (1).	The ExA suggested the change to replicate wording used in the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012. The JHA [REP8-052, paragraph 41.4] were satisfied with the ExA's proposed change to bring the language on refund of application fees in line with the Regulations.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	(b) the discharging authority failing to determine the application within the specified period.		
ExA recommendation: The ExA notes the Applicants response. However, for the reasons it originally cited it considers that the proposed change should be made. The ExA recommends that requirement 37(6) should be amended as follows: (6) Any fee paid under this Schedule must be refunded to the undertaker within four weeks of— (a) the date any application is rejected as being invalid by the discharging authority; or (b) the discharging authority failing to determine the application within the specified period.			
Requirement 38 (Further information)	(3) If the paragraph concerned specifies that consultation with a consultee is required, or the discharging authority elects to consult a discretionary consultee under paragraph 35(1), then the discharging authority must— (a) issue the application to the consultee within five business days of receipt of the application; (b) allow the consultee the following period of time, as	The Applicant did not agree the change as it considered the timeframes as drafted were fair, reasonable and appropriate in the context that the proposal would already have obtained DCO approval. Furthermore, the Applicant considered that the provision was not prescribing a consultation period, it merely allowed a period of time within which a consultee was to notify the discharging authority	The ExA suggested the change in response to concerns raised by the Environment Agency [EV17-002]. The ExA considered the timeframes as amended would allow the consultees an appropriate amount of time to respond. The JHA [REP8-052, paragraph 42.1] welcomed the extension to the time periods.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	relevant, to notify the discharging authority whether, acting reasonably, the consultee requires further information to consider the application— (i) ~~ten~~ fifteen business days from the date on which the views of consultees are sought, for an application under paragraph 5 of this Schedule for detailed design approval of Works Nos. 3b(01), 3b(02), 3f and 4a; and (ii) ~~five~~ ten business days from the date on which the views of consultees are sought for any other application under Part 1, Part 2 or Part 4 of this Schedule; and (c) notify the undertaker in writing specifying any further information reasonably requested by the discharging authority or any consultee (as the case may be) within— (i) ~~20~~ twenty five business days of receipt of a an application under paragraph 5	whether they required further information and therefore the timescales were reasonable.	

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	of this Schedule for detailed design approval of Works Nos. 3b(01), 3b(02), 3f and 4a; and (ii) 15 twenty business days of receipt of any other application under Part 1, Part 2 or Part 4 of this Schedule.		
ExA recommendation: The ExA notes the Applicant's response. However, for the reasons originally stated consider that the proposed amendments are appropriate. The ExA therefore recommends that the Requirement be amended as follows: (3) If the paragraph concerned specifies that consultation with a consultee is required, or the discharging authority elects to consult a Part 5 consultee under paragraph 37(1), then the discharging authority must— (a) issue the application to the consultee within five business days of receipt of the application; (b) allow the consultee the following period of time, as relevant, to notify the discharging authority whether, acting reasonably, the consultee requires further information to consider the application— (i) 15 business days from the date on which the views of consultees are sought, for an application under paragraph 6 of this Schedule for detailed design approval of Works Nos. 3b(01), 3b(02), 3f and 4a; and (ii) 10 business days from the date on which the views of consultees are sought for any other application under Part 1, Part 2 or Part 4 of this Schedule; and (c) notify the undertaker in writing specifying any further information reasonably requested by the discharging authority or any consultee (as the case may be) within— (i) 25 business days of receipt of an application under paragraph 6 of this Schedule for detailed design approval of Works Nos. 3b(01), 3b(02), 3f and 4a; and (ii) 20 business days of receipt of any other application under Part 1, Part 2 or Part 4 of this Schedule.			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
Requirement 38 (4)	n/a	n/a	The JHA [REP8-052, paragraph 42.2] voiced a concern regarding the drafting of sub-paragraph 4 and the use of 'is deemed to have sufficient information' as they considered that it could have cost implications where the discharging authority is deemed to have information that it does not in fact possess. To address this they sought to delete 'is deemed to have sufficient information'.
ExA recommendation: The ExA notes the JHA's request. However, it considers the proposed change unnecessary due to the increase to the time periods in (3). The ExA therefore considers that the deletion of this wording would not be required.			
New Requirements suggested by the ExA in [PD-018]			
1	Water consumption (1) The undertaker must not increase the demand for water resources from the 2019 consumption baseline, unless otherwise agreed with the utility undertaker. '2019 consumption baseline' means 4.2 litres per second in respect of water demand for the airport terminals and 3.3 litres per second in respect of water demand for the airport non-	The Applicant considered that agreement with Affinity Water (AW) would be reached before the close of the Examination, sufficient to address AW's concerns and therefore the requirement would not be necessary. In any event the Applicant considered that the requirement would be unnecessary as the	The ExA suggested the insertion of this Requirement in light of a request made by AW [REP9-070] to manage water consumption for the Proposed Development in the absence of protective provisions and/ or a side agreement with AW. The JHA [REP8-052, paragraph 43.1] did not have a substantive concern with proposed new requirement but noted that the Applicant's draft DCO included a definition for 'relevant water undertaker' which they felt should be used in preference for the undefined term 'utility undertaker'. At D9 [REP9-070] AW advised that the Applicants response at D8 did not resolve its concerns. At the close of the Examination agreement had not been reached with AW [REP11-070].

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	terminals, as defined in the Water Cycle Strategy. (2) A monitoring report detailing water consumption in respect of water demand for the airport terminals and non-terminals must be submitted annually from the date of commencement to the relevant planning authority in consultation with Affinity Water.	management of consumption of water to an agreed baseline was substantially addressed through the Design Principles (SUS.15) which would be secured by the draft DCO. The CoCP (paragraph 17.6.7) also contains further provisions controlling water construction during the construction phase. The Applicant also considered that (2) would be more satisfactorily addressed by existing Design Principle (DDS.10) as it provides for the monitoring of water consumption during operation in agreement with AW rather than requiring the submission of a report to be cleared in consultation with AW.	
ExA recommendation: The ExA is aware that this is an area where water resources are under significant pressure and concerns have been expressed by both AW and the EA regarding future demand. Furthermore, by the close of the Examination the Applicant had not completed a side agreement with AW.			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
			SUS.15 of the Design Principles states that '<i>Detailed design will include such water efficiency measures as are necessary, so far as reasonably practicable, to maintain water demand (excluding construction water demand) at the 2019 consumption baseline.</i>' DDS.10 states '<i>The detailed design will include specification of operation and maintenance of drainage forming part of the Proposed Development, including the monitoring of water consumption during operation in agreement with Affinity Water as the regulatory local water supplier.</i>' The ExA is of the opinion that use of 'so far as reasonably practicable' in SUS.15 does not reflect the level of AW's concerns and their request to be involved in any consumption above this. Furthermore, it appears to the ExA that DDS.10 would only require the Applicant to agree the monitoring of water consumption during operations with AW. Given the severe constraints that AW is operating under due to the pressure on water resources in the area, and given the above, the ExA concludes that controls on water consumption during both operation and construction are necessary and should be secured through the DCO. The ExA has reviewed the suggested drafting and consider that reference to the water cycle strategy would be unnecessary. However, they agree with the JHA that relevant water undertaker should be used as this is defined. The ExA therefore recommends that the following Requirement be inserted in Part 4 of Schedule 2: Water consumption (1) There must not be an increase in the demand for water resources from the 2019 consumption baseline, unless otherwise agreed in writing by the relevant water undertaker. (2) Where additional water is required during construction, a water use profile must be submitted to and agreed in writing by the relevant water undertaker in advance of works. (3) A monitoring report detailing water consumption in respect of water demand for the airport terminals and non-terminals must be submitted annually, unless otherwise agreed, from the date of commencement to the relevant planning authority and the relevant water undertaker. (4) In this sub-paragraph "2019 consumption baseline" means 4.2 litres per second in respect of water demand for the airport terminals and 3.3 litres per second in respect of water-demand for the airport non-terminals.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
2	Lighting plan (1) No part of the authorised development may commence until details of site lighting to be installed in connection with the construction of that part, including detailed measures to prevent light spillage, have been submitted to and approved by Luton Borough Council in consultation with the specified authorities. Thereafter, the site lighting must be installed in accordance with the approved details and retained for the duration of the construction period in accordance with the measures stated in section 5.5 of the Code of Construction Practice. (2) Any means of construction lighting approved under sub-paragraph (1) must be operated in accordance with the scheme approved under sub-paragraph (1) and removed on completion of the relevant stage.	The Applicant agreed the principle but suggested that rather than a standalone requirement it would be more appropriate to amend Requirement 8 as the construction lighting plan was addressed in the CoCP. This would substantively replicate the effects of the ExA's proposed drafting and would ensure that the lighting plan would contain all the relevant measures already included in the CoCP. The Applicant also added operational lighting to Requirement 6 (detailed design), albeit that it excludes highway works on the basis that approval of highway lighting would be dealt with by Requirement 6(3).	The ExA suggested the new requirement in response to concerns raised by IPs. It would allow other design elements of the Proposed Development to be discharged under Requirement 6 and a lighting scheme to respond to any approved site layout of that part or external appearance of any building or structure. The JHA [REP8-052, paragraph 45] welcomed the requirement and were content for LBC, in consultation with the host authorities, to be the discharging authority.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	(3) No part of the authorised development may come into operation until a scheme of the proposed operational lighting to be provided to any building, structure or other works for that part of the authorised development, accompanied by detailed measures to prevent light spillage, has been submitted to and approved in writing by Luton Borough Council in consultation with the specified authorities. (4) The scheme submitted under subparagraph (3) must be in accordance with the Exterior Lighting Strategy contained in part B of the Light Obtrusion Assessment and incorporate the principles and mitigation measures contained in the Design Principles and part A of the Light Obtrusion Assessment. (5) The operational lighting must be installed and thereafter operated in accordance with		

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	the scheme approved under sub-paragraph (3).		
ExA recommendation: The ExA is satisfied that the Applicant's amendments to Requirements 6 and 8 would ensure that lighting at the site during construction and operation would be appropriately managed. The ExA therefore considers that this requirement would not be required.			
3	Noise contour limits and quota count point limits The area enclosed by the 54dB LAeq(16hr) (0700-2300 hrs) and the 48dB LAeq(8hr) (2300-0700 hrs) contours shall not exceed the limit values for the time periods set out in Table x. The Applicant shall apply the contour limit values set out for the time periods indicated. The contours shall be calculated using the Federal Aviation Authority (FAA) Aviation Environmental Design Tool (AEDT) noise model version 3e prepared to support the DCO submission or periodic updates to that model, subject to written agreement from the ESG. Table x: DCO noise contour thresholds and limits	The Applicant maintained its position that the Limits in Green Controlled Growth process, secured by the DCO, would ensure that the noise outcomes were no worse than those identified in the Environmental Statement. Without prejudice to this position, the Applicant noted that the ExA suggested alternative limits to those provided by the Applicant in response to Written Question GCG2.4 in the period up to 2028 [REP7-054]. These alternative limits are not compatible with the growth sought by the DCO, even for the Core case forecast. This is	The ExA considered that for the purposes of precision, enforceability and clarity, noise contour limits needed to be on the face of the Order. The purpose was to safeguard the living conditions of residents and the character of the surrounding area and to provide certainty in respect of the noise controls for the proposed development, ensuring that changes to thresholds and limits would be subject to appropriate scrutiny by the Secretary of State. The ExA derived the recommended Limits and Thresholds from the core growth predictions in Tables 7.40, 7.43, 7.46, 7.49, 7.52 and 7.55 in ES Appendix 16.1 Noise and vibration information [REP7-013] and these differed slightly from those presented in the Applicant's response to the ExA's further written question GCG2.4 [REP7-054]. The ExA was unable to establish precisely how the 2029- 2033 contour was set, therefore the 2034-2038 period value was used. Use of the core growth scenario limits was intended to avoid additional effects above SOAEL for the local community that are otherwise predicted to arise.]. The ExA was unable to establish precisely how the 2029- 2033 contour was set, therefore the 2034-2038 period value was used. Use of the core growth

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs																		
	<table><tr><th>Limit</th><th>Up to 2028</th><th>2029 – 2033</th><th>2034 – 2038</th><th>2039 – 2043*</th><th>2044 onwards (in 5 year cycles)*</th></tr><tr><td>Average summer day-time noise levels, as measured by size (km2) of 54 dB L_{50,100} noise contour</td><td>Limit 30.6</td><td>28.8</td><td>28.8</td><td>32.6</td><td>32.6</td></tr><tr><td>Average summer night-time noise levels, as measured by size (km2) of 48 dB L_{50,100} noise contour</td><td>Limit 42.2</td><td>37.8</td><td>37.8</td><td>43.2</td><td>43.2</td></tr></table> The contour area limit values shall be converted to day and night quota count budgets, supported by threshold value day and night quota count budgets as set out in the GCG framework, using a regression analysis approach to be agreed with Luton Borough Council in consultation with the councils listed in requirement 19(2). The Applicant may make a written request to the Secretary of State to change the contour limits, following consultation on such changes with Luton Borough Council and where appointed, the ESG. The Secretary of State may approve changes to contour limits where the Applicant has demonstrated that such changes would not result in materially worse noise effects than those assessed in the Environmental Statement	Limit	Up to 2028	2029 – 2033	2034 – 2038	2039 – 2043*	2044 onwards (in 5 year cycles)*	Average summer day-time noise levels, as measured by size (km2) of 54 dB L _{50,100} noise contour	Limit 30.6	28.8	28.8	32.6	32.6	Average summer night-time noise levels, as measured by size (km2) of 48 dB L _{50,100} noise contour	Limit 42.2	37.8	37.8	43.2	43.2	because the Limits have been set based on individual peak years in each assessment phase without considering the interpolation between these years. Additionally, as the ExA noted, the 2029 – 2033 Limit has been copied across from the 2034 – 2038 Limit without consideration of the Core case forecast in these years. The implications of this are that the airport would be in breach of the ExA's proposed daytime and night-time Limits in nearly every year up until 2040. [REP7-054] also argued that the delivery of economic benefits is slower with core case noise limits.	scenario limits was intended to avoid additional effects above SOAEL for the local community that are otherwise predicted to arise. The ExA recommended that the GCG framework should be updated to reflect the fact that values in Table x would now be transposed into the DCO. It also suggested that the approach to calculating quota count budgets presented in the Applicant's Response to Issue Specific Hearing 9 Actions 8, 19 and 20: Quota Count Noise Controls [REP7-077] should be incorporated into the GCG framework and used to prepare core growth quota count budgets. The JHA [REP8-052, paragraph 46] welcomed the inclusion of the noise contour limits on the face of the Order noting that from 2039 the noise contours should not be any greater than preceding years and in fact should reduce. In relation to the provision that would allow the SoS to approve changes they suggested that in addition to LBC 'specified authorities' they should be named as a consultee. The JHA also suggested that night time quota count budgets should reduce from 2039.
Limit	Up to 2028	2029 – 2033	2034 – 2038	2039 – 2043*	2044 onwards (in 5 year cycles)*																
Average summer day-time noise levels, as measured by size (km2) of 54 dB L _{50,100} noise contour	Limit 30.6	28.8	28.8	32.6	32.6																
Average summer night-time noise levels, as measured by size (km2) of 48 dB L _{50,100} noise contour	Limit 42.2	37.8	37.8	43.2	43.2																

Provision in the
draft DCO
[REP11-091]

ExA's suggested Change [PD-
018]

Applicant's response
[REP8-036] and [REP11-
049]

ExA's initial comments and responses from IPs

ExA recommendation: The ExA remains of the view that the noise contour limits should be secured on the face of the Order for the reasons stated. The ExA has considered the Applicant's comments on the limits in the 2034-2038 period and acknowledges their limitations. The ExA has provided an amended table (Table 1) of limits based on the Applicant's core growth contour limits (not in brackets) and their updated faster growth contour limits (in brackets). For the reasons set out in Section 3 of this Report, the ExA considers that core growth limits should be secured to align more closely with the national policy drivers in the OANPS to limit, and where possible reduce, total adverse effects on health and quality of life, the NPPF (paragraph 180e) requirement to help to improve local environmental conditions and the LLP Policy LLP6(B)(v) requirement to achieve no material increase in day or night time noise. If the SoS considered that the updated faster growth noise contour limits were more appropriate, the ExA considers that the larger contour areas would attract moderate negative weight against the making of the order.

The ExA notes the JHA concerns regarding the proposed increase in contour area limits from 2039 onwards and finds that these are not consistent with policy requirements to reduce total adverse effects but can be consistent with mitigating "*as much as it is realistic and practicable to do so*" given the proposed increases in flights.

If the SoS were to disagree with the insertion of this Requirement then the ExA considers that there would be potential for increases in noise contour limits, undermining certainty in the noise controls for local communities. This would attract great weight against the making of the Order.

The ExA therefore recommend the insertion of the following requirement into Part 4 of Schedule 2 of the DCO. This should be inserted after the Ground noise management requirement (requirement 29 in the D11 draft DCO) and would require amendment of the GCG framework to accommodate the new limits.

Noise contour limits and quota count point limits

The area enclosed by the 54dB LAeq(16hr) (0700-2300 hrs) and the 48dB LAeq(8hr) (2300-0700 hrs) contours shall not exceed the limit values for the time periods set out in Table 1. The Applicant shall apply the contour limit values set out for the time periods indicated. The contours shall be calculated using the Federal Aviation Authority (FAA) Aviation Environmental Design Tool (AEDT) noise model version 3e prepared to support the DCO submission or periodic updates to that model, subject to written agreement from the ESG.

Table 1: DCO noise contour Thresholds and Limits.*

Limit	Up to 2028	2029 – 2033	2034 – 2038	2039 - 2043*	2044 onwards (in

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]			ExA's initial comments and responses from IPs
					5 year cycles)*
Average summer day-time noise levels, as measured by size (km2) of 54 dB LAeq,16hr noise contour	31.3 (33.0)	30.4 (32.0)	29.6 (30.4)	32.6 (32.6)	32.6 (32.6)
Average summer night-time noise levels, as measured by size (km2) of 48 dB LAeq,8hr noise contour	42.6 (43.3)	41.5 (42.1)	39.7 (39.8)	43.2 (43.2)	43.2 (43.2)
<i>*Limits without brackets are based on core growth forecasts [REP7-056] and limits in brackets are based on updated faster growth forecasts [REP9-055]. The ExA recommends that the limits in brackets should be deleted in the Order but only one set of contours should be deleted.</i> The contour area limit values shall be converted to day and night quota count budgets, supported by threshold value day and night quota count budgets as set out in the GCG framework, using a regression analysis approach to be agreed with Luton Borough Council in consultation with the specified authorities. The undertaker may make a written request to the Secretary of State to change the contour limits, following consultation on such changes with Luton Borough Council and where appointed, the ESG. The Secretary of State may approve changes to contour limits where it has been demonstrated that such changes would not result in materially new or materially different noise effects than those assessed in the Environmental Statement. The GCG framework [REP11-013, Table 3.1] would need to be updated to cross reference this new requirement and to reflect the selected contour Limits in Table 1 (above). New Level1 and Level 2 Thresholds would need to be calculated at 85 and 95% of the Limit values respectively.					

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
4	Restrictions on aircraft quota count (1) Any aircraft which has a quota count of 2, 4, 8 or 16 may not take-off or land during the period 23:00-07:00, unless the circumstances in (a) to (g) apply: (a) an aircraft taking off or landing in order to avoid serious congestion at the airport or serious hardship or suffering to passengers or animals; (b) an aircraft delayed in taking off or landing as a result of widespread and prolonged disruption of air traffic; (c) an aircraft taking off or landing in an emergency consisting of an immediate danger to life or health, whether human or animal; (d) take-off or landing of any light propeller-driven aircraft with a maximum certificated take-off weight not exceeding 8,618kg, and which is being	The Applicant's in principle objection to transposing controls from the ANMP [REP7-044] is set out in relation to requirement 26 above. In relation to the specific amendments suggested here, the Applicant noted that the list of exemptions did not align, and is wider, than the dispensations in Section 2.6 of the ANMP submitted at D7 [REP7-044] which were specifically chosen to align with the relevant DfT guidance. The Applicant noted that transposing selective controls in this manner would run the risk of not including all elements of the process which is secured and set out in the Air Noise Management Plan, and separately, in the absence of an amendment of the Air Noise Management Plan, would create uncertainty and confusion about which	The ExA considered that for the purposes of precision, enforceability and clarity this needed to be on the face of the Order. The JHA [REP8-052, paragraph 47] advised that they were content for restrictions on aircraft quota count to be in the ANMP.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	utilised to undertake essential airport safety checks; (e) flights operated by relief organisations for humanitarian reasons; (f) flights operated by the armed forces for military purposes; or (g) a particular occasion or series of occasions which are to be disregarded pursuant to a notice published by the Secretary of State under section 78(4) or 78(5)(f) of the Civil Aviation Act 1982 or set out in guidance published by the Secretary of State in connection with those provisions. (2) Unless the circumstances in paragraph (1) apply, an aircraft may not take-off or be scheduled to land during the night period where: (a) the operator of that aircraft has not provided (prior to its take-off or scheduled landing time as appropriate) sufficient	provision required and secured the relevant measures. Inclusion of these measures on the 'face' of the DCO would also removes the proportionate flexibility provided by a management plan, which would be capable of being amended under Requirement 2 to reflect potential changes to e.g. Quota Count systems in the long term. The Applicant was merely seeking to repeat the same principle that has been accepted for noise management plans under the consented P19 scheme.	

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	information to enable the airport operator to verify its noise classification and thereby its quota count; or (b) the operator claims that the aircraft is an exempt aircraft but the aircraft is not indicated to be such within Part 2 of the Schedule to the UK AIP supplement. (3) In sub-paragraph 1, the definitions of 'serious congestion' and 'widespread and prolonged disruption of air traffic' are the same as the definitions provided in Annex F: Guidelines on Dispensations of Department for Transport's Night Flight Restrictions, March 2023.		
ExA recommendation: Having reviewed the Applicant and JHA comments the ExA is satisfied that quota count restrictions may be addressed in the ANMP. The ExA therefore considers that this requirement would not be required.			
5	Annual air traffic movement (ATM) cap for the authorised development	As set out in response to Written Questions NO.2.5 and NO.2.6 [REP7-056], the Applicant's position remains	The ExA considered that an ATM cap was required to provide certainty regarding the maximum number of flights that could operate. This was intended to address resident's concerns that experience of aviation noise impact related to number of

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	Subject to, and without prejudice to, the provisions of this Order, the undertaker may operate the airport under this Order so that it permits up to 209,410 commercial and non-commercial ATM annually. Of this limit, no more than 13,000 ATM annually shall be permitted in the shoulder periods 23:00-23:30 and 06:00-07:00.	that movement limits are not an effective control in limiting noise generation, noise exposure and noise impacts, a view shared by the Civil Aviation Authority (Ref 1). The Applicant noted again that the robust and comprehensive combination of noise controls in the ANMP [REP7-044] (which already includes a movement limit in the 23:30 – 06:00 period) and the night-time noise contour area limits in the Green Controlled Growth Framework [REP7-020] would mean that the adverse effects of aircraft noise were fully controlled and limited to the effects reported in Chapter 16 of the ES [REP1-003]. The Applicant's view was that the additional controls of annual and shoulder period movement limits were not necessary or appropriate. [REP1-003]. The Applicant's view was that the additional controls of annual and	overpasses rather than average noise levels, which inform the main contour-based controls. The Applicant had suggested an ATM cap of not less than 225,000 movements [REP7-077], however the ExA adopted 209,410 as suggested by a number of local authorities (CBC, JHA and LBC eg [REP7-084], [REP7-087] and [REP7-090]) on the basis that this number of movements informed the Applicant's assessment of effects in the ES. [REP7-090]) on the basis that this number of movements informed the Applicant's assessment of effects in the ES. In the absence of alternative proposals, the Applicant's suggested annual shoulder period ATM cap [REP7-077] was included to provide certainty regarding number of movements during this period. The JHA [REP8-052, paragraph 48] were content for the ATM cap to be on the face of the Order, in particular the suggested annual movement cap of 209,410. The JHA did not recognise how the 13,000 ATM cap for the shoulder period had been derived. Michael Reddington [REP8-078] objected to any increase in the day or night shoulder periods. LADACAN [REP8-076] undertook a survey of its members for their views on the proposed annual flight caps for the early morning/ late evening shoulder periods. Based on this feedback they considered that the Applicant should limit the total cap on shoulder period movements annually to a value of 10,000 at most, by finding alternative space for additional flights in the proposed daytime schedule. This was on the basis

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		shoulder period movement limits were not necessary or appropriate. The Applicant further noted that there was no 23:00 – 23:30 movement limit in the current planning permission controls, and that the Host Authorities were not seeking such a limit in the list of additionally sought controls in the SoCG to be submitted at D9. Such a limit, if imposed, could have the unintended consequence of pushing more movements into the 23:30 – 06:00 period in instances where the 9,650 annual movement limit in this period had not been used up. The Applicant therefore strongly opposed a movement limit being imposed in the 23:00 – 23:30 period. Without prejudice to the above position, the Applicant maintained its position that any total annual movement limit	of limiting health harms but without prejudice to their overall position that the Proposed Development should be refused. STAND [REP8-083] strongly opposed the proposed increase in environmental noise impacts during the night and believed that a cap of 7,000 in a wider early morning period (05:00-07:00) and a cap of 2,500 in the evening shoulder period (23:00- 23:30) should be applied. STAQS [REP8-084, paragraph 2.4] considered the limit of 13,000 movements too high. It too surveyed its members who felt that any increase in overflights during the night period would be unacceptable. They felt this view was justified by the argument that the current limits would run to 2028, revised to 2031 with the 19mppa permission and that night time was 23:00 to 07:00. Finally, the A321 neo was delivering smaller than forecast reductions to the noise contour area and was not quieter than its predecessor the A321. Stop Low Flights From Luton [REP8-085] reiterated the concerns raised by STAND and STAQS and requested that the total number of flights during the two shoulder periods should be less than was the case in 2019. The Wheathampstead and District Preservation Society [REP8-089] found the proposed increase in flights during these hours unacceptable due to impacts on health. The Applicant [REP9-055] proposed a limit of 12,460 movements in the shoulder period, whilst maintaining that no limit should be imposed.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		should not be less than 225,000 and any annual movement limit for the 06:00 – 07:00 period should not be less than 13,000 in order to ensure that the economic benefits of growth could be realised in circumstances where there was a variance in the fleet mix. Noise would remain controlled by the overarching Limits. The Applicant advised that it was continuing to undertake technical work to determine whether it would be viable for the limits to be lowered whilst still allowing the growth sought by the DCO to be realised without undue constraint.	
ExA recommendation: The ExA remains of the view that to provide certainty to local communities regarding the number of overflights that would be permitted, a movement limit should be secured on the face of the Order. The ExA considers that such limits should be no greater than those assessed within the ES in order to ensure that effects remain within the Rochdale Envelope. The ExA accepts that there is currently no 23:00-23:30 movement limit and has therefore modified the timing provisions consistent with the current consent. The ExA considered the alternative shoulder period figures proposed by IPs and the Applicant and did not find that robust justification had been provided for an alternative movement limit to the 12,460 movements suggested by the Applicant in [REP9-055].			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
If the SoS were to disagree with the insertion of this requirement the ExA considers that there would be potential for unconstrained overflights during the shoulder period (part of the night period), which would increase effects on local communities and would attract great weight against the making of the Order. The ExA therefore recommends the insertion of this requirement into Part 4 of Schedule 2 of the DCO. This should be inserted after the new requirement that would impose a night quota period scheduled movements cap. Annual air traffic movement (ATM) cap for the authorised development (1) Subject to, and without prejudice to, the provisions of this Order, the undertaker may operate the airport under this Order so that it permits up to 209,410 commercial and non-commercial ATM annually. Of this limit, no more than 12,460 ATM annually shall be permitted in the early morning shoulder period (06:00-07:00). (2) In this paragraph – “air traffic movement” means a landing or take-off of an aircraft operating a scheduled or non-scheduled service.			
6	Noise insulation plan and programme (1) No increase in passenger capacity may occur until a detailed plan and programme for the delivery of noise insulation has been submitted to and approved in writing by the relevant planning authority. (2) The programme will set out the total number of eligible properties remaining to be insulated and the numbers of eligible properties that it is	The Applicant accepted the broad principle of this provision, subject to some drafting amendments. The Applicant was also exploring the best “home” for this commitment and considers it may sit best either alongside the commitment in the draft section 106 agreement which secures the Compensation Policies, Measures and Community First [REP7-036] document,	The ExA considered that for the purposes of precision, enforceability and clarity a plan to deliver noise compensation needs to be on the face of the Order. To ensure that the timely delivery of noise insulation is consistent with the approach set out in the Applicant's submission Noise Insulation Delivery Programme [REP4- 079] and in response to the ExA's further written question NO.2.15 [REP7-056] the ExA considered that a mechanism to ensure appropriate scrutiny of the delivery programme was required.] the ExA considered that a mechanism to ensure appropriate scrutiny of the delivery programme was required. The JHA [REP8-052, 50] welcomed the proposal to secure the noise insulation proposals on the face of the DCO. For clarification they requested that (1) was amended to read

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	intended to insulate in the following year and each subsequent calendar year. (3) Two months before the end of the calendar year, an update report will be submitted to and approved in writing by the relevant planning authority. The update report will include a summary of the completion and survey rates, explaining the cause and remedy for any delays and setting out the programme for the next year. (4) The noise insulation programme will be carried out in accordance with the plans approved under sub-paragraphs (2) and (3) and will continue until such time that the relevant planning authority has confirmed in writing that it is satisfied that all eligible properties have been insulated to a satisfactory level.	or alternatively within that document itself.	"Notice in accordance with article 44(1) (Interaction LLAOL planning permission) of this Order must not be served until..." in order to be consistent with other requirements that relate to increases in airport capacity. LADACAN [REP10-078] advised that to ensure the noise compensation programme would be rolled out in a timely way parallel with growth, the key milestones and spending targets of the roll out programme should be included in the DCO, with growth being paused if adequate progress was not being made.made. Michael Reddington [REP8-078] and [REP10-083] stated that the current insulation scheme at the airport did not provide any deadline for insulation and considered that this was required. The Applicant [REP11-049] relied on its rollout plan secured by s106 to ensure delivery of noise insulation.
ExA recommendation: At Deadline 11, a s106 [REP11-108] was executed, which secured the Compensation Policies, Measures and Community First, including a four-year delivery programme [REP11-025, paragraph 6.1.37]. , paragraph 6.1.37]. The Compensation Policies (paragraph 6.1.39) included the provision that <i>"At any time, the Applicant will be able to apply to Luton Borough Council to update or vary the roll out plan, following consultation with the Noise Insulation Sub-Committee of LLACC."</i> The ExA considers that given the			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
potential complexity of rollout of mitigation, some flexibility is reasonable and has made provision for this in a new sub-paragraph (5). However, it also considers that the delivery timescale for noise insulation directly affects conclusions regarding the significant effects of the Proposed Development and should be subject to robust controls. Changes to the duration of roll out could result in a longer period where local communities were exposed to significant effects from noise, therefore such a change is proposed to be subject to agreement with the SoS. If the SoS were to disagree with the insertion of this requirement the ExA considers that there would be potential for a change in the programme to result in a longer duration of significant noise effects. This would be inconsistent with ANPS (paragraph 5.251) to <i>"put the works in place quickly"</i> and would attract great weight against the making of the Order. The ExA therefore recommends the insertion of this requirement into Part 4 of Schedule 2 of the DCO. This should be inserted after the new requirement for noise contour limits: Noise insulation plan and programme (1) No increase in passenger capacity may occur until a detailed plan and programme for the four-year delivery of noise insulation has been submitted to and approved in writing by the relevant planning authority. (2) The programme will set out the total number of eligible properties remaining to be insulated and the numbers of eligible properties that it is intended to insulate in the following year and each subsequent calendar year. (3) No later than two months before the end of the calendar year, an update report will be submitted to the relevant planning authority for written approval. The update report will include a summary of the completion and survey rates, explaining the cause and remedy for any delays and setting out the programme for the next year. (4) The noise insulation programme will be carried out in accordance with the plans approved under sub-paragraphs (1) and (3) and will continue until such time that the relevant planning authority has confirmed in writing that it is satisfied that all eligible properties have been insulated to a satisfactory level. (5) Changes to the delivery programme may be agreed by the Secretary of State, subject to demonstrating that such changes would not result in materially new or materially different effects." The Applicant will need to update the delivery process section of the Compensation Policies, Measures and Community First document to ensure that it is consistent with the Requirement.			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
7	Noise violation limits (1) Noise levels of departing aircraft will be measured at the airport's three permanent noise monitors at 6.5km from the start of roll on the runway. Any aircraft departure exceeding the Noise Violation Limits at these monitors will be subject to a fine as set out in the air noise management plan. (2) The Departure Noise Violation Limits until 1 January 2028 will be: (i) 80dBLAMax during the daytime (07:00 – 23:00); and (ii) 79dBLAMax during the night-time (23:00 – 07:00). (3) On the 1 January 2028 the daytime and night-time Departure Noise Violation Limits will be reduced to 77dBLAMax and 77dBLAMax respectively.	The Applicant's in principle objection to transposing controls from the ANMP [REP7-044] is set out in relation to Requirement 26 above. In relation to the specific amendments suggested here, the Applicant noted that having this drafting on the 'face' of the Order limited the ability for aspects of the Noise Violation Limits other than their numerical value to be amended, for example following an airspace change where the position of the permanent noise monitors may need to change due to a change in flightpaths. The Applicant noted that transposing selective controls in this manner runs the risk of not including all elements of the process which are secured and set out in the ANMP, and separately, in the absence of an amendment of the	The ExA considered that for the purposes of precision, enforceability and clarity noise violation limits needed to be on the face of the Order. To incentivise use of the quietest aircraft and to minimise effects on the local population the requirement included a mechanism to ensure that the potential to reduce limits would be reviewed after 2028. The JHA [REP8-052, 51] welcomed the inclusion of the noise violation limits on the face of the Order. For clarity they felt that it should refer to article 44(1) to make it clear that it would only apply following service of the notice in the same way as suggested for the previous requirement.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
	(4) Noise violations shall be managed in accordance with the procedures set out in the Air Noise Management Plan. (5) The operator will produce a report to ESG on departure noise violation limits every 5 years. Where the report identifies that a reduction is possible, the operator shall implement the revised violation limits and operate the airport accordingly.	ANMP, would create uncertainty and confusion about which provision requires and secures the relevant measures. The Applicant updated the ANMP at D9 to incorporate the language suggested in (5) as part of the five yearly review but replaced ESG with the LBC in line with other review aspects of the Air Noise Management Plan and because the ESG's role is in relation to Green Controlled Growth and not the separate limits in the Air Noise Management Plan.	
ExA recommendation: At D11 the JHA signed SoCG [REP11-033], [REP11-035], [REP11-095], [REP11-097], [REP11-099] accepted the inclusion of the noise violation limits in the ANMP and payment of fines into the Community Fund was secured in the s106 [REP11-108]. The ExA therefore considers that a noise violation limit would be secured by the ANMP and therefore a separate requirement would not be necessary. However, the ExA notes that the proposed daytime noise violation limit secured from 1 January 2028 would be 2dB higher than in the current consented noise limits for LLA and suggests that the ANMP [REP9-047, paragraph 2.8.3] should be amended to 77dB_{L_{Amax}} to ensure that the Proposed Development would be consistent with the LLP Policy LLP6(B)(v) requirement to further reductions in noise or no material increase in day or night time noise and LLP policy LLP6(B)(vii) to include proposals that will over time, result in a significant diminution and betterment of the effects of aircraft operations on the amenity of local residents. If the SoS were to disagree with this amendment the ExA considers that there would be potential for greater noise levels to arise from individual overflights and this would attract moderate weight against the making of the Order			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
The ExA therefore recommends that the paragraph 2.8.3 of the ANMP [REP9-047] be amended as follows: 2.8.3 The daytime and night-time Departure Noise Violation Limits will be reduced to 77dBLAmax ~~and 77dBLAmax respectively~~ from 1st January 2028.			
8	Track violation A track keeping system shall be maintained by the airport. Track violation and track violation penalties shall be managed in accordance with the procedures set out in the air noise management plan.	The Applicant's in principle objection to transposing controls from the ANMP [REP7-044] is set out in relation to Requirement 26 above.] is set out in relation to Requirement 26 above. The Applicant considered that inclusion of these measures on the 'face' of the DCO also removed the proportionate flexibility provided by a management plan, which was capable of being amended under Requirement 2 to reflect potential changes to e.g. Quota Count systems in the long term. The Applicant was merely seeking to repeat the same principle that has been accepted for noise management plans	The ExA suggested this change for the purposes of precision, enforceability and clarity. The JHA [REP8-052, 52] welcomed the securing of the track violation regime on the face of the Order albeit they considered it could be combined with Requirement 27 to ensure that provisions addressing aircraft noise would be in the same place in the Order.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		under the consented P19 scheme.	
ExA recommendation: At D11 the JHA signed SoCG [REP11-033], [REP11-035], [REP11-095], [REP11-097], [REP11-099] accepted the inclusion of the track violation system in the ANMP and payment of fines into the Community Fund secured through the s106 [REP11-108]. The ExA therefore considers that a track violation system would be satisfactorily secured and it would not be necessary to secure it through a separate Requirement. The ExA therefore consider that this requirement would not be required.			
9	Air Quality Monitoring Plan No increase in passenger capacity may occur until the Green Controlled Growth Appendix D Air Quality Monitoring Plan setting out the location, monitoring standards, calibration and reporting process for monitoring and details of the ANPR or equivalent means of evaluating traffic movements to assess proportional contributions has been submitted to and approved in writing by Luton Borough Council in consultation with the councils listed in requirement 19(2).	The Applicant declined to make the change as it considered that the mechanism for approval of Appendix D of the GCG Framework was the same as for the other parts of the Framework, as a certified document through the DCO. It can be reviewed and amended where agreed through the process set out at Requirement 24(3). As reflected in the Applicant's response to D7 Submissions and the updated SoCG submitted at D9, it was not considered that there are any outstanding issues	In light of discussions regarding air quality monitoring standards the ExA suggested that this requirement would be necessary to ensure that appropriate standards were achieved through consultation with the relevant local authorities. It is noted that Appendix D of the GCG framework [REP7-028] is intended to be the monitoring plan but this does not currently have the required detail or a mechanism for it to be agreed/ approved.oes not currently have the required detail or a mechanism for it to be agreed/ approved. The JHA [REP8-052, paragraph 53] welcomed the inclusion of this requirement to address the ongoing uncertainties in relation to how such technical details would be managed. The JHA considered that such a requirement should be with the other GCG requirements and that the trigger wording '<i>No increase in passenger capacity may occur until...</i>' ought to be replaced with wording that would ensure that the detail of monitoring is to be approved prior to that monitoring being carried out and that it is clarified that the air quality monitoring in question is that required to be carried out under Requirement 21.

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
		regarding the location, monitoring standards, calibration and reporting process for air quality monitoring. The Applicant has submitted its position on the requirement to prescribe a system of ANPR in response to Written Question GCG.2.10 [REP7-054]. Notwithstanding this, the Applicant also noted that LBC, who under the proposed drafting would be responsible for approving any such plan, have also confirmed in their response to the same Written Question [REP7-090] that they do not consider such a requirement necessary.	LBC signed SoCG [REP11-033] stated that it was satisfied with the proposed air quality monitoring. CBC [REP11-035] flagged residual concerns with the impact of the fire training ground and air quality on Someries Castle and Luton Hoo RPG but noted that additional measures had been included in the Cultural Heritage Management Plan. CBC found that its residents were underrepresented in the description of impacts and that concerns would be assuaged by helpful information in the EIA, which it said that the Applicant had concluded was not necessary technically or legally. The HHA signed SoCGs [REP11-095], [REP11-097], [REP11-099] remained in disagreement regarding the approach to short term monitoring, although the Applicant agreed to consider short term monitoring for environmental management rather than GCG purposes.
ExA recommendation: The ExA has considered the arguments put forward and the position of the local authorities. Although there are some outstanding concerns regarding presentation of information, short term emissions, emissions inventories and impacts on cultural heritage assets, in the absence of identifying likely significant air quality effects in relation to these matters, the ExA considers that the imposition of a Requirement in relation to Appendix D is not necessary. Furthermore the ExA notes that LBC is satisfied with the proposed approach.			

Provision in the draft DCO [REP11-091]	ExA's suggested Change [PD-018]	Applicant's response [REP8-036] and [REP11-049]	ExA's initial comments and responses from IPs
The ExA therefore consider that this requirement would not be required .			
Schedule 9 – Documents to be certified			
	Water Cycle Strategy [REP4-033]	The Applicant disagreed with the ExA's water resource requirement for the reasons set out above, and so the Water Cycle Strategy was not added to Schedule 9.	The ExA considered that this should be added to certified documents to support the new water resource requirement. The JHA [REP8-052, 57.1] were unclear why the water cycle strategy ought to be a certified document as it does not appear to be referenced explicitly in the ExA's proposed changes to the DCO.
ExA recommendation: The reference to water cycle strategy has been deleted from the requirement requested by AW and therefore the ExA agree that this document would not need to be certified.			

Table 21: Suggested minor change to the DCO to correct errors or for consistency

Provision in the draft DCO [REP11-091]	ExA's Suggested Change	Explanation
Schedule 1		
Ancillary Works	Deletion of reference to kerb	For consistency with previous request to remove kerb
Schedule 2		

Requirement 18	“competent person” or “ competent officer ” means a person that has sufficient training and experience or knowledge to undertake monitoring and reporting;	A number of the GCG requirements refer to ‘competent officer’ as well as ‘competent person’ and the ExA consider that for clarity this should also be defined
Requirement 20 (4)(b)	Where the ESG has not been established in accordance with sub-paragraph (1), otherwise agreed by the bodies listed in sub-paragraph ~~(2)~~ (4) (a) to ~~(d)~~ (e) and the undertaker.	To reflect the fact that the list in sub paragraph (2) has been expanded and to refer to sub-paragraph (2) as opposed to (4).
Requirement 20	All sub-paragraphs after (4) to be renumbered	To reflect the fact that the ExA has inserted a new sub-paragraph (5)
Requirement 20 (13)	(13) In this ~~article~~ paragraph -	To reflect the fact that Requirement 20 is a paragraph not an article.
Schedule 9		
	Bus and Coach Study [REP10-041]	The ExA considers that this should be added to the certified documents because it is referred to in Requirement 31 (2).
	Sustainable Transport Fund Revision ~~3~~ -2	The STF in schedule 9 refers to ‘Revision 3’. However, the last version of the STF that was submitted into the Examination [REP10-039] was Revision 2. Schedule 9 therefore needs to be amended to refer to the correct document.

Table 22: Schedule 8, Protective Provisions

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
Part 5 for the protection of National Highways Limited [REP11-073]			
36(2)	(2) An agreement for the purpose of sub-paragraph (1) includes, but is not limited to, an agreement made under article 17 of this Order, or under the 1980 Act provided that the agreement expressly refers to this paragraph 36 of this Schedule.	(2) An agreement for the purpose of sub-paragraph (1) includes, but is not limited to, an agreement made under article 17 of this Order, or under the 1980 Act provided that the paragraph	NH have not provided any explanation as to why ‘paragraph’ needed to be added to this drafting.

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
		agreement expressly refers to this paragraph 1 of this schedule.	
The ExA does not consider that the insertion of 'paragraph' adds anything to the drafting and therefore the proposed change would not be required .			
37(2)	n/a	Add definition: "national highways mitigation works" means additional mitigation works not comprised in work no. 6(e) of Schedule 1 of the Order, namely; (a) works to the M1 Junction 10 southbound merge including changing the merge layout type from 'Layout B – parallel merge' to a higher capacity 'Layout C -ghost island merge'; and (b) works to the M1 Junction 10 northbound diverge including changing the diverge layout type from 'Layout B option 2 – Two-lane auxiliary diverge' to a higher capacity 'Layout D option 1 – ghost island lane drop'.	NH advised that this additional definition was required to tie in with the proposed changes to paragraphs 40(12) and 40(13). The Applicant did not agree to the inclusion of this definition because it considered that the TRIMMA would secure delivery of mitigation works at the appropriate time.
As set out in Section 3 of this Report the ExA is satisfied that TRIMMA would be the appropriate method to monitor when works to J1 of the M1 would be needed and as the ExA does not agree with insertion of proposed paragraphs 40(12) and 40(13) the insertion of this definition would not be required .			
38/39	n/a	Insertion of new paragraph between 38 and 39:	The Applicant [REP11-050 , Appendix 4] objected strongly to the use of Grampian conditions and in any event

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
		Requirements 33-35 of Schedule 2 of this Order shall be enforceable by National Highways.	did not consider that there was a requirement for an enforcement provision.
The ExA declined National Highways request to insert its three suggested new requirements into the recommended DCO and therefore the ExA considers that the proposed insertion would not be required .			
39(1)	(1) The specified works must not commence until—	(1) The authorised development must not commence until—	NH sought the change because it was concerned that it would be the impact of the authorised development (ie not just the specified works which are limited to the SRN) which would lead to pressure on the SRN. The Applicant has not confirmed when the schedule 1 M1 J10 works would be delivered. NH considered that the amended drafting would give it sufficient control to ensure the Applicant's engagement and provide certainty over timescales and delivery. The Applicant [REP11-050, Appendix 4] considered the request unreasonable, infeasible and undeliverable as it would delay the implementation of the Proposed Development and require works that were not required until much later in the project.
The ExA notes NH concerns regarding timely delivery of the works to the SRN. However, under the TRIMMA, J10 of the M1 would be monitored and, when the monitoring indicated that they were required, the offsite highways works, which would include the proposed works to J10 would be implemented. Furthermore, two of the works, Work Nos. 6e(o) and (p) would be delivered in Phases 2a and 2b whereas the 'authorised development' would commence operation as soon as notice was served under article 44(1). Recognising NH's concern the ExA			

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
has recommended later in this section of the Report that the drafting of Requirement 30 be amended to require the submission of details and a timetable for the implementation of work No 6e (n). The ExA therefore considers that the proposed change would not be required.			
39(1)(c)(iv)	(iv) to the extent that this is not provided for in the Construction and Traffic Management Plan, a process for stakeholder liaison, with key stakeholders to be identified and agreed between National Highways and the undertaker;	(iv) to the extent that this is not provided for in the Construction and Traffic Management Plan in a form that is acceptable to National Highways , a process for stakeholder liaison, with key stakeholders to be identified and agreed between National Highways and the undertaker;	NH considered that being a consultee was not the same as having an effective control over the process. As a consultee NH felt it could be ignored. It considered that the required drafting would ensure that NH can be satisfied that the stakeholder liaison would be appropriate and in line with its guidance. The Applicant [REP11-050], Appendix 4] considered that the CTMP would provide a process for stakeholder liaison for which NH would be a consultee.
The ExA notes the points made by both the Applicant and NH. However, the purpose of 5(c) is to require the submission to and approval by NH of a variety of details, including (iv). As a result, if the details submitted were not in a form acceptable to NH it would have the ability to withhold its approval. The ExA therefore considers that the additional wording would not be required.			
39(1)(d)	(d) to the extent that this is not provided for in the Construction and Traffic Management Plan, a scheme of traffic management relating to traffic management on the strategic road network has (where relevant) been submitted by the undertaker and approved	(d) to the extent that this is not provided for in the Construction and Traffic Management Plan in a form that is acceptable to National Highways , a scheme of traffic management relating to traffic management on the strategic road network has (where relevant) been	NH considered that as the CTMP would provide a scheme of traffic management, the second half of the paragraph relating to approval by NH would not be engaged. Meaning that NH would be a consultee and not a controlling party and could be

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
	by National Highways such scheme to be capable of amendment by agreement between the undertaker and National Highways from time to time;	submitted by the undertaker and approved by National Highways such scheme to be capable of amendment by agreement between the undertaker and National Highways from time to time;	disregarded which goes to safety and reputational impacts, and would not be acceptable. NH considered it must act reasonably in giving its approvals so it considered that there would be no reason why it should not be given the right to approve matters of traffic management that impacted its network. The Applicant [REP11-050] , Appendix 4] considered that the CTMP would provide a scheme of traffic management for which NH would be a consultee.
The ExA notes NH comments. However, the paragraph as drafted requires to the extent that it is not provided for by the CTMP a scheme of traffic management for traffic on the SRN to be submitted to and approved by NH. The ExA therefore considers that as the scheme would need to be submitted to NH for approval the proposed wording would be unnecessary as, if the information was not submitted in an acceptable form, NH could refuse the application. The ExA considers that the additional wording would not be required.			
39(5)(d)	(d) if deemed to have been refused if neither given nor refused within 2 months of the receipt of the information for approval or, where further particulars are requested by National Highways within 2 months of receipt of the information to which the request for further particulars relates; and	(d) shall be deemed to have been refused if neither given nor refused within 2 months of the receipt of the information for approval or, where further particulars are requested by National Highways within 2 months of receipt of the information to which the request for further particulars relates; and	No comments were provided by NH as to why it had amended the drafting.
The ExA considers that the amended drafting is more appropriate and therefore recommends that the drafting be changed.			

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
40(1)(a)	(a) as soon as reasonably practicable following service of notice under article 44(1), inform National Highways that such notice has been served;	(a) give National Highways 28 days' notice in writing of the date on which the authorised development will start unless otherwise agreed by National Highways;	The Applicant [REP11-050] , Appendix 4] advised that this was consistent with the drafting for the notification process for other organisations.
The ExA notes that 'as soon as reasonably practicable following service of notice under article 44(1)' is used a number of times throughout the DCO and, whilst the wording suggested by NH would be more precise, it considers that for consistency the original drafting should be retained. The ExA therefore consider the proposed change would not be required.			
40(12)	n/a	(12) Where in the opinion of National Highways the operation of the airport following construction of any authorised development is leading to or may lead to an increase in traffic on the strategic road network beyond tolerable limits, National Highways may serve on the undertaker written notice to cease the operation of all or any part of such specified works until either the national highways mitigation works have been completed or capacity on the strategic road network is otherwise increased.	NH does not consider the TRIMMA goes sufficiently far in protecting the SRN from the impacts of traffic growth at this critical location on the network. The Applicant considers that this would provide an unacceptable control on the ability to deliver the Project.
The ExA notes NH comments. However, for the reasons set out in Section 3 of this Report the ExA is satisfied the TRIMMA would be a suitable mechanism to protect the SRN. The ExA therefore consider that the proposed change would not be required.			

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
40(13)	n/a	(13) In the event of a notice being served pursuant to paragraph 12, the undertaker will suspend the operation of all authorised development stated in the notice until either the National Highways mitigation works have been completed or National Highways serves written notice on the undertaker confirming that capacity on the strategic road network has increased.	As for 40(12)
The ExA notes NH comments. However, for the reasons set out in Section 3 of this Report the ExA is satisfied the TRIMMA would be a suitable mechanism to protect the SRN. The ExA therefore consider that the proposed change would not be required.			
41(1)(d)	(d) all reasonable legal, technical and administrative costs and disbursements incurred by National Highways in connection with sub-paragraphs (a)-(c); and	(d) all reasonable legal, technical and administrative costs and disbursements incurred by National Highways in connection with the Order and sub-paragraphs (a)-(c); and	NH advised that it had expended resources in the form of technical consultation on the Project, legal advice and redirecting staff from other projects. It considered that the Applicant had benefitted from NH's input throughout the preapplication consultation stage and throughout the examination. NH does not have a budget for this and despite asking for a contribution towards funding its costs (which is a usual approach for projects of this size – including Gatwick), the request was refused by Luton. NH cited the inclusion of such a provision in the recent Drax Power

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
			Station Bioenergy with Carbon Capture and Storage Extension Order and it has been requested/ included in a number of NSIPs that are in examination or awaiting determination. NH considered that the provision simply mirrored the intended effect of section 54A of the Levelling Up and Regeneration Act 2023, which creates the framework for statutory consultees (including NH) recovering expenditure incurred throughout the preapplication consultation phases and into the examination. Regulations to bring s54A into force have been drafted by the Department for Levelling Up, Housing and Communities and will come into force 1 April 2024. This means that this provision would be the default position at law by the time any Order for the Project is granted. The Applicant [REP11-050], Appendix 4] considered that the wording was imprecise and unclear in effect. In addition, it had made what it considered to be a proportionate and reasonable commitment to cover NH costs under the provision as drafted.
The ExA note NH's justification, the potential precedent set by Drax, and that from the 1 April 2024 some statutory consultees will be able to recoup the costs incurred through pre-application, consultation and examination. However, core funding, whilst the ExA appreciate the			

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
	contributions that NH made to the Examination, the ExA consider it would be inappropriate to retrospectively attempt to recover costs through the DCO.		
	As a result, the ExA consider that the proposed change would not be required .		
Part 6 for the protection of Local Highway Authorities [REP11-061]			
55	Before commencing any specified works, the undertaker must—	Before beginning any specified works, the undertaker must—	The JHA consider that the “commence” triggers ought to be replaced with “begin” and cognate terms wherever they appear. This is to ensure that important works of relevance to highway works that are excluded from the Applicant’s definition of “commence” in paragraph 1 of Schedule 2, such as the diversion or laying of services (i.e. utilities), cannot take place outside the scope of the local highway authority protective provisions regime. While the Applicant may suggest that such works are unlikely to take place without the prior exercise of the temporary closure power in article 13 (temporary closure and restriction of use of streets) which is subject to the consent of the street authority, this fails to recognise the different functions that article 13 serves. An article 13 determination would be concerned with the appropriateness of the temporary closure and is subject to a 28 day determination period and deemed consent, which makes it an unsuitable vehicle for approving the

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
			design of interventions to the highway authorities' assets. The Applicant's preferred form of the Local Highway Authority protective provisions does not expressly apply the definition of "commence" in paragraph 1 of Schedule 2. However there clearly is a risk that such an interpretation would be applied to the term, which is why the JHA consider it is important that "begin" is used to avoid this risk. The Applicant [REP11-050, Appendix 1] did not agree with replacing "commence" with "begin". The use of the term "commencement" aligns with the provisions of Schedule 2 to the draft DCO and the Applicant considers that this would be beneficial to all parties as it provides a mechanism to expedite works and reduce disruption. Furthermore, under Article 13 the Applicant cannot restrict highways etc. without local authority permission in any event.
The ExA notes the JHA. However, the term "commence" is interpreted in Schedule 2 and applies to parties other than the JHA. The ExA note that NH as the SRN operator has not objected to the definition of "commence". The ExA also note that the JHA did not supply a suggested definition for "beginning". As a result, the ExA consider that the proposed change would not be required.			

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
59(6)	(6) In circumstances where any relevant work carried out by the undertaker is tested by the relevant highway authority pursuant to the provisions of this Part and that test resulted in works being undone at the undertaker's expense (acting reasonably) and found to be satisfactory then that expense must forthwith be reimbursed by the relevant highway authority provided that the relevant highway authority was given a reasonable opportunity by the undertaker to inspect the works at a time when the works could have been inspected without the need to incur the expense.	~~(6) In circumstances where any relevant work carried out by the undertaker is tested by the relevant highway authority pursuant to the provisions of this Part and that test resulted in works being undone at the undertaker's expense (acting reasonably) and found to be satisfactory then that expense must forthwith be reimbursed by the relevant highway authority provided that the relevant highway authority was given a reasonable opportunity by the undertaker to inspect the works at a time when the works could have been inspected without the need to incur the expense.~~	The JHA considered that it was not clear what it was that paragraph 58(6) was intended to achieve or why it was the case that the local highway authority ought to be responsible for reimbursing the undertaker its expenses related to the undoing of works that had been tested and found to be unsatisfactory. The JHA considered that it was for the undertaker to ensure that it carried out works to the local highway network to a satisfactory standard. The Applicant [REP11-050, Appendix 1] considered the provision to be reasonable. Its purpose was to reimburse the undertaker's cost of "undoing" works for a requested inspection, which then found that the works were satisfactory in the first place. The Applicant notes that this scenario would be avoidable if inspections were carried out at a point that does not require reversal of works.
The ExA notes the JHA's comments. However, the paragraph as drafted deals with the reimbursement of costs for works where a request for testing resulted in the undoing of satisfactory works. Furthermore, the ExA notes that this is subject to the caveat that the relevant highway authority would have had the opportunity to inspect the works at a time before requiring them to be undone. The ExA considers that the paragraph as drafted is reasonable and the proposed deletion would not be required.			
68	Prior to the commencement of specified works the undertaker must ensure that	Prior to beginning the specified works the undertaker must ensure that such	The JHA considered that a minimum sum insured of £10 million would be

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
	such public liability insurance as the local highway authority may reasonably require for the specified works in question is in place with an insurer against any legal liability for damage loss or injury to any property or any person as a direct result of the execution of specified works.	public liability insurance in the minimum sum of £10,000,000 as the local highway authority may reasonably require for the specified works in question is in place with an insurer against any legal liability for damage loss or injury to any property or any person as a direct result of the execution of specified works.	appropriate and reflected the risks that might arise, particularly in relation to third parties, from works in the highway and that those risks would not directly correlate to the value of the works being carried out. The JHA considered that while it was evident that the greater the magnitude of works the greater the magnitude of claims that might arise, any works in the highway carry a minimum baseline risk unrelated to the value of the works. The minimum sum insured reflected this baseline level of risk. The Applicant [REP11-050], Appendix 1] advised that given that the scale of local highway works could vary considerably, it considered that a minimum insurance sum should not be listed. The resultant drafting would allow proportionate flexibility whilst still being in the control of the local highway authority.
The ExA notes the response from the Applicant explaining that the scale of the highway works could vary considerably. However, it considers that even minor works to the highway could result in damage loss or injury to any property or any person where the claim would be significantly higher than the cost of the works in question. The ExA therefore considers the £10 million minimum sum for public liability insurance would be reasonable. As a result, the ExA consider that the proposed change would be required.			
Part 7 for the protection of Network Rail Infrastructure Limited [REP11-075]			

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
Network Rail (NR) considered that to ensure the safe and efficient operation of the railway its standard form of protective provisions should be included in the DCO [REP10-064], paragraph 1.1]. In addition to a number of ‘in-principle’ requests to which the Applicant has responded, NR have also included a significant number of minor drafting points on which there is no commentary from either party. For completeness these are set out below. To aid understanding the ExA has used bold or highlighting so it is clear to the reader what changes to the drafting have been requested. Finally, to minimise repetition, unless otherwise stated, the Applicant’s comments on NR’s preferred protective provisions are taken from [REP11-050], Appendix 3].			
	FOR THE PROTECTION OF NETWORK RAIL INFRASTRUCTURE LIMITED	FOR THE PROTECTION OF RAILWAY INTERESTS	No comments
The ExA considers that as the suggested change has been made by NR this would be the correct form of drafting. The ExA therefore recommends that the change should be made.			
70	The provisions of this Part of this Schedule have effect for the protection of Network Rail Infrastructure Limited unless otherwise agreed in writing between the undertaker and Network Rail Infrastructure Limited.	The provisions of this Part of this Schedule have effect unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 83 of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.	The Applicant considered the drafting unnecessary following an amendment to the paragraph dealing with indemnity
The ExA consider the additional drafting suggested by NR would be unnecessary and therefore considers the additional drafting would not be required			
71	n/a	Insert:	The Applicant did not agree with an obligation in the provisions to enter into

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
		“asset protection agreement” means an agreement to regulate the construction and maintenance of the specified work in the form prescribed by Network Rail;	an “asset protection agreement” prior to carrying out works. It considered that the provisions provided adequate protection for NR. The Applicant also highlighted that to include a direct reference to asset protection agreements within railway provisions was unusual.
As the ExA has declined the insertion of the drafting that refers to an ‘asset protection agreement’ (see 72/ 73 below) a definition for it would not need to be included. The ExA therefore considers that the insertion would not be required.			
71	“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act 1993(a);	“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act 1993;	No comments were provided by either party.
The (a) relates to a footnote and it is unclear to the ExA why NR consider that this should be deleted given it provides further clarity as to the legislation. The ExA therefore considers that the deletion would not be required.			
71	“Network Rail” means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at Waterloo General Office, London, England SE1 8SW) and any associated company of Network Rail Infrastructure Limited which holds property for railway	“Network Rail” means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at Waterloo General Office, London, England SE1 8SW) and any associated company of Network Rail Infrastructure Limited which holds	No comments were provided by either party.

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
	purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006 (b)) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited’s railway;	property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited’s railway undertaking ;	
The ExA considers that the proposed additional drafting is sensible as it would futureproof the paragraph for any future changes to NR undertaking. The ExA agree that the change should be made.			
71	“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway;	“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property ;	No comments were provided by either party.
The ExA considers that proposed change would provide further clarity to the drafting and therefore agree that the change should be made.			

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
71	“specified work” means so much of any of the authorised development as is situated upon across, under, over or within 15 metres of, or may in any way adversely affect railway property.	“specified work” means so much of any of the authorised development as is situated upon across, under, over or within 15 metres of, or may in any way adversely affect railway property and includes the maintenance of such works under the powers conferred by article 3 (maintenance of authorised development).	No comments were provided by either party.
The ExA considers that proposed change would provide further clarity to the drafting and therefore agree that the change should be made.			
72/73	n/a	Insertion of new paragraph: (1) The undertaker must not exercise powers conferred by – (a) article 3 (development consent etc. granted by the Order); (b) article 4 (maintenance of authorised development); (c) article 10 (street works); (d) article 11 (power to alter layout etc., of streets); (e) article 12 (construction and maintenance of new, altered or diverted streets); (f) article 15 (access to works); (g) article 19 (discharge of water);	NR requested the insertion of (1) because it remained unclear as to the extent of the impact of the Proposed Development on its network and assets and therefore it considered it important that these work powers could not be exercised without NR consent. The Applicant considered that requiring consent from NR before exercising powers under articles and legislation would cause unnecessary delay and would be disproportionate. The Applicant advised that it had agreed to supply NR with plans for approval prior to the commencement of any ‘specified works’; this would provide NR with effective means of controlling aspects of the authorised development that would interact with its interests.

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
		(h) article 20 (protective works to buildings); (l) article 21 (authority to survey and investigate the land); (j) article 22 (felling, lopping and removal of trees, shrubs and hedgerows); (k) article 24 (compulsory acquisition of land); (l) article 27 (compulsory acquisition of rights and imposition of restrictive covenants); (m) article 28 (private rights over land); (n) article 31 (acquisition of subsoil or airspace only); (o) article 32 (rights under or over streets); (p) article 33 (temporary use of land for the carrying out of the authorised development); (q) article 34 (temporary use of land for maintain the authorised development); (r) article 36 (statutory undertakers); (s) the powers conferred by section 11(3) (power of entry) of the 1965 Act;	The Applicant considered that restrictions on CA powers would be unnecessary as the CA process already allows for any disagreements on commercial matters to be resolved in a tried and tested way, through the referral of compensation disputes to the Upper Tribunal to be determined in accordance with the compensation code. The Applicant advised that it must retain CA powers in respect of land where voluntary agreement had not yet been obtained or in the circumstance where voluntary agreement might later prove to have granted insufficient rights. Moreover, the Applicant considered that compulsory powers would be more readily enforceable so reducing additional risk, cost and delay. There was no provision within the PA2008 which required an Applicant to secure NR consent to the exercise of Order powers and the Applicant was not persuaded of any basis on which such consent ought to be required. (7) would require the undertaker to enter into an asset protection agreement prior to the carrying out of a specified work. The Applicant considered the drafting unnecessary as it considered there

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
		(t) the powers conferred by section 203 (power to override easements and rights) of the Housing and Planning Act 2016; (u) the powers conferred by section 172 (right to enter and survey land) of the Housing and Planning Act 2016; (v) any powers conferred under section 18 (power to take temporary possession of land) under the Neighbourhood Planning Act 2017; In respect of any railway property unless the exercise of such powers is with the consent of Network Rail. (2) The undertaker must not in the exercise of powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail. (3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 36 (<i>statutory undertakers</i>), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.	would be minimal or no impact on NRs land and assets. Due to limited information NR consider that this resulted in uncertainty and therefore it required the reassurance that an asset protection agreement would be entered into if NR consider it necessary having had regard to the impacts.

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
		(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail. (5) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway (6) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but maybe given subject to reasonable conditions but it shall never be unreasonable to withhold consent for reasons of operational or railway safety (such matters to be in Network Rail's absolute discretion). (7) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified works.	
With regards to (1) the ExA notes NR's reasons but agrees with the Applicant that there would be alternative mechanisms in place that would give NR the input and control that they are seeking. The ExA also agrees for the reasons stated by the Applicant that it would not be necessary to carve out the articles in relation to CA and TP and this is covered in more detail in Section 6 of this Report.			

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
With regards to (7) the ExA agrees with the Applicant that an asset protection agreement would be unnecessary as this would duplicate the protective provisions. The ExA considers that the insertion of this new paragraph would not be necessary.			
73(2)	(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their approval or disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker, and if by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer is deemed to have approved the plans as submitted.	(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer is deemed to have approved the plans as submitted.	The Applicant advised that this wording had been inserted for clarity.
The ExA considers that the deletion of 'approval of' would be unnecessary and inconsistent with the drafting of the remainder of the sub-paragraph. The ExA considers that the deletion would not be required.			

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
74(1)(c)	(c) in such a manner as to cause as little damage as is possible to railway property; and	(c) in such manner as to cause as little damage as is possible to railway property; and	No comments were provided by either party.
The ExA considers that the deletion of 'a' proposed by NR does not enhance the drafting and therefore the deletion would not be required .			
74(2)	(2) If any damage to railway property or any such interference or obstruction is caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any direct loss which it may sustain by reason of any such damage, interference or obstruction.	(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.	The Applicant had amended 'loss' to 'direct loss', as it did not agree that it should take responsibility for consequential loss. Furthermore, the Applicant advised that NR would have the option to pursue such claims under common law. NR considered that it was unacceptable for the Applicant to attempt to limit the definition. In line with NR standard wording the sums payable should, if relevant, include a sum equivalent to the relevant costs.
The ExA considers that the deletion of 'direct' provides ambiguity to the drafting and agrees that the Applicant should not be responsible for consequential loss. The ExA therefore considers that the deletion would not be required.			
77(1)	(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction or completion of a specified work in order to ensure the safety of railway property or the continued	(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction or completion of a specified work in order to ensure the safety of railway property	The Applicant advised that the deleted drafting was included for clarity in terms of the notice procedure.

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
	safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker reasonable notice which is no later than 56 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice including details of the reasonable cost of carrying out – and in the case of any permanent alterations or additions, maintaining, working and, when necessary, renewing – those alterations or additions in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.	or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker 56 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.	
The ExA considers that the drafting deleted by NR would provide clarity as to what NR could expect when it received a notice. Furthermore, the Applicant's use 'of at least' in terms of the notice period would enable the Applicant to give NR earlier notification of its intentions. The ExA therefore consider that the proposed deletions would not be required.			

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
77(2)	(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the reasonable opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 73(3), pay to Network Rail all reasonable and proper expenses incurred by Network Rail and compensation for any direct loss which Network Rail suffers by reason of the execution by Network Rail of that specified work.	(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 73(3), pay to Network Rail all reasonable and proper expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.	No comments were provided by either party.
The ExA considers that the additional drafting provided by NR would enhance the clarity and precision of the drafting and therefore it recommends that the proposed change should be made .			
78	The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses properly and reasonably incurred by Network Rail—	The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—	The Applicant considered that the amendments were necessary to make clear that the engineer's opinion must be reasonable, in line with the original

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
78(b)	in respect of the reasonable approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;	in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;	drafting for paragraph 73(1) and to clarify that the Applicant would only be responsible for compensating for reasonable and proper expenses incurred by NR.
78(d)	in respect of any special traffic working resulting from any speed restrictions which may in the reasonable opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and	in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and	
The ExA considers that the insertion of ‘properly’ in 78 would be unnecessary. It also considers that the insertion of ‘reasonable’ in relation to the engineer’s approval or opinion as the engineer would be a professional governed by a code of conduct that would require them to act reasonably and provide a professional opinion. The ExA therefore determines that the deletion of properly and reasonable would be required.			
With regards to Paragraph (79) as a whole NR advise that its drafting is very standard and has been used on a number of Orders and that the Applicant has not provided an explanation for why it seeks to deviate from the standard drafting.			
79(3)	Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all reasonable measures necessary to prevent EMI and must establish with Network Rail (both	Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate	Th Applicant advised that it had made the amendment made to make clear that it was only under an obligation to take all "reasonable" measures.

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
	parties acting reasonably) appropriate arrangements to verify their effectiveness.	arrangements to verify their effectiveness.	
The ExA notes NR request to delete 'reasonable' and agrees that given the impacts EMI could have on its undertakings that the provision should reflect the requirement to take all measures necessary. The ExA therefore considers that 'reasonable' should be deleted and that the change should be made.			
79(6)	(6) If at any time prior to the completion of a specified work and regardless of any measures adopted under sub-paragraph (3), the testing or commissioning of that specified work causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) cease to use (or procure the cessation of use of) the undertaker's works causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to the Network Rail's apparatus.	(6) Prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorised development in a manner that shall first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to	NR considered that the difference between commissioning and completion was unclear. It considered that it would only be at the point that the development was operational that EMI would be likely to arise. NR considered that if the scope for it to require the use to cease was limited to the pre-completion period, then the protection afforded to NR would be minimal. To provide any meaningful protection the testing would need to be carried out prior to the commencement of operation and this would be secured by the changes to the drafting that it had proposed. The Applicant advised that its drafting replaced NR drafting submitted at D7 because it considered that there was already an obligation on the Applicant to make appropriate arrangements to verify the effectiveness of measures preventing EMI under sub-paragraph 10(3).

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
		the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.	
The ExA considers that for NR to have the protection it would require, the paragraph would need to include the drafting NR had provided. However, the ExA considers that this should be limited to the 'specified work' rather than the 'authorised development' as there are many elements of the Proposed Development which would not affect NR or its assets. The ExA therefore consider that the change should be made as follows: (6) Prior to the commencement of operation of the specified work the undertaker shall test the use of the specified work in a manner that shall first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the specified work causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.			
79(7)(a)	the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's works in the investigation of such EMI;	the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;	The Applicant considered that 'works' would provide for greater clarity and drafting precision.
The ExA considers that not all of the undertakers works would include apparatus and therefore agree with the Applicant 'works' provides greater clarity and precision. The ExA considers that the change would not be required.			
79(7)(c)	(c) Network Rail must make available to the undertaker any additional information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI.	(c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI; and	The Applicant had deleted the reference to avoid ambiguity and considered that it was not required as NR would only be under an obligation to provide the information if reasonable.
The ExA notes the Applicants explanation however it considers that the insertion of 'material' would provide precision to the drafting. The ExA considers that the change should be made.			

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
79(7)	n/a	(d) the undertaker shall not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.	The Applicant explained that it had deleted this paragraph as it considered it was too wide ranging as drafted. The Applicant advised that it was already under a duty to provide preventative measures with regard to EMI under paragraph 79.
Whilst the ExA notes the Applicant's explanation, this is NR standard drafting to ensure the protection of its undertaking from EMI and therefore considers that the additional drafting would be necessary to secure the safety of NR undertaking. The ExA consider that the change should be made.			
79 (8)/(9)	n/a	Insert new sub-paragraph after (8): (9) To the extent that it would not otherwise do so, the indemnity in paragraph X(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies;	The Applicant advised that it did not agree to this new sub-paragraph, as it considered that it provided adequate assurances with regard to compensation to NR reasonable and properly incurred costs, charges, damages and expenses within the protective provisions, and more specifically within the 'catch all' paragraph 83. The inclusion of an additional indemnity paragraph would be overly onerous.
The ExA agrees with the Applicant that a specific indemnity for this paragraph would be unnecessary as it would be captured by paragraph 83.			

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
The ExA therefore consider that the insertion would not be required .			
80	If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives reasonable notice to the undertaker informing it that the state of maintenance of any part of the specified work reasonably appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such reasonable notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.	If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.	The Applicant considered the insertions necessary to ensure reasonable notice would be given and reasonable conclusions on adverse effects formed.
The ExA agrees with the Applicant and considers the addition of 'reasonable' and 'reasonably' improve the precision of the drafting. The ExA therefore consider that the change would not be required .			
82	Any additional expenses which Network Rail has properly and reasonably incurred in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that a minimum of 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been	Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the	The Applicant made the amendment to make clear that it would only be responsible for expenses properly and reasonably incurred by NR, which provides adequate protection for NR. The insertion of 'a minimum' was to provide clarity in terms of the notice procedure.

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
	given to the undertaker, be repaid by the undertaker to Network Rail.	undertaker, be repaid by the undertaker to Network Rail.	
The ExA considers that the insertion of properly would be unnecessary as the use of the word ‘reasonable’ would ensure that the additional expenses would not be improper because they would then be unreasonable. The ExA therefore agrees that the ‘properly and’ should be deleted and the alternative drafting provided by NR should be included. This change should be made. As set out previously the ExA considers that the setting of a minimum notice period would be appropriate and therefore consider that the change would not be required. For clarity the drafting should be as follows: Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that a minimum of 56 days’ previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.			
83(1)	The undertaker must pay to Network Rail all reasonable and properly incurred costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (subject to article 48 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail—	The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (subject to article 48 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail—	Same comment from the Applicant as for paragraph 82.
For the reasons set out for paragraph 82 the ExA considers that the change to NR’s preferred drafting should be made .			
83(1)(b)	by reason of any act or omission of the undertaker or of any person in the undertaker’s employ or of the undertaker’s contractors or others whilst engaged upon a specified work;	by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;	No comments were provided by either party.

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
The ExA considers that the Applicant's drafting is satisfactory and the change would not be required .			
83(1)(c)	by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from a specified work;	by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from the authorised development ;	The reasons for authorised development versus specified works have been set out previously.
83(1)(d)	in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from a specified work by the undertaker or any person in its employ or of its contractors or others; or	in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others;	
83(1)(e)	in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of a specified work,	in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development ;	
For the reasons previously provided the ExA considers that the use of 'specified work' rather than NR preferred 'authorised development' is appropriate and therefore the change would not be required .			

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
83(2)	(2) Network Rail must— (a) give the undertaker written notice of any such claims or demands as soon as reasonably possible after Network Rail becomes aware of any such claim or demand; (b) not admit liability or make any settlement or compromise of such a claim or demand without the prior consent of the undertaker (which, if it withholds such consent, has the joint conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand); (c) take all reasonable steps to mitigate any liabilities relating to such claims or demands; and (d) keep the undertaker informed in relation to the progress of any such claims and demands and pay due regard to the undertaker's reasonable representations in relation to them.	(2) Network Rail must— (a) give the undertaker reasonable written notice of any such claims or demands; (b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker; and (c) take such steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands.	The Applicant has advised that it considers that the amendments would be needed to ensure that it is provided with reasonable notice and information, and an opportunity to provide representations that NR should consider, with regard to a claim or demand, or potential claim or demand, that the Applicant would be responsible for paying. The amendments to (2)(b) were considered necessary to ensure NR did not conduct itself in a way that could exacerbate any claim or demand.
The ExA notes the reasons why the Applicant considers the alternative drafting would be necessary. However, NR is under a duty to act fairly and reasonably and therefore the ExA considers that some of the Applicant's proposed drafting would be unreasonable and could prevent NR from carrying out its duties. The ExA therefore considers that the alternative drafting proposed by NR should be used, albeit with the inclusion of (d) which the ExA considers a fair request given that it would be the Applicant who must keep NR indemnified. The ExA agree that the proposed change would be required.			

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
	For clarity the drafting should be as follows: (2) Network Rail must— (a) give the undertaker reasonable written notice of any such claims or demands; (b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker; (c) take such steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands; and (d) keep the undertaker informed in relation to the progress of any such claims and demands and pay due regard to the undertaker's reasonable representations in relation to them.		
83(3)	(3) In no circumstances is the undertaker liable to Network Rail under sub-paragraph (1) for any indirect or consequential loss or loss of profits, except that the sums payable by the undertaker under that sub-paragraph include a sum equivalent to the relevant costs in circumstances where— (a) Network Rail is liable to make payment of the relevant costs pursuant to the terms of an agreement between the Network Rail and a train operator; and (b) the existence of that agreement and the extent of Network Rail's liability to make payment of the relevant costs pursuant to its terms has previously been disclosed in writing to the undertaker, but not otherwise.	(3) The sums payable by the undertaker under sub-paragraph (1) shall if relevant include a sum equivalent to the relevant costs.	New sub-paragraph inserted at (3) reiterates that the Applicant would not be responsible for any indirect or consequential loss or loss of profits save in the circumstances noted at sub-paragraph (3). The Applicant considered that the inclusion of a requirement to provide it with operator agreements would provide it with transparency and providing them with the knowledge of any potential costs that could arise. The Applicant did not consider that the proposed drafting would be overly onerous, considering only two train operating companies would be caught under the Proposed Development. This proposed paragraph was of particular concern to NR. It advised that the SoS has had to consider the same

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
			wording in respect of the A1 Birtley to Coal House DCO. The SoS concluded in that case there was no reason to deviate from NR standard indemnity. NR consider that the same was true in this case.
The ExA notes the Applicant's reasoning for the proposed drafting. However, it can see no reason to deviate from NR standard drafting, noting the precedent set by the A1 Birtley to Coal House DCO. The ExA therefore agree that the change proposed by NR would be required.			
83(5)	(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs, in the event of default, is to be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).	(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall , in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).	No comments were provided by either party.
The ExA considers that the suggested replacement of 'is to' with 'shall' provides clarity to the drafting and concludes that the proposed change should be made.			
83(6)	"the relevant costs" means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a	"the relevant costs" means the costs, losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or any such act or	NR were concerned that the Applicant had sought to limit the definition of 'relevant costs' to direct losses which it considered unreasonable.

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
	specified work or any such act or omission as mentioned in sub-paragraph (1);	omission as mentioned in subparagraph (1);	
The ExA considers the use of 'direct' would be reasonable and provides clarity. As a result the ExA concludes that the deletion suggested by NR would not be required .			
88	The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent, under article 8 (consent to transfer benefit of Order) of this Order in relation to a specified work , and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—	The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent, under article 8 (consent to transfer benefit of Order) of this Order, and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—	The Applicant advised that this paragraph had been reinserted at D10 at NR's request except that the notification provision has been limited to a transfer of powers in relation to a specified work. The Applicant considered this to be a reasonable and proportionate compromise.
The ExA notes that the Applicant considers that limiting this notification to a specified work would be reasonable and proportionate. However, the ExA considers that due to the potential need for NR to liaise with the undertaker on matters other than just in relation to specified works it would be appropriate for NR to remain informed of any transfer of benefit. The ExA therefore considers that 'in relation to a specified work' should be deleted.			
88(b)	(b) the specified works to which the application relates; and	(b) the extent of the geographical area to which the application relates; and	No comments were provided by either party.
The ExA notes NR suggested wording but consider it to be ambiguous. The ExA considers the Applicant's proposed drafting, which would link it to the specified works, would be more appropriate noting that this includes a 15m buffer. The ExA therefore consider that the change would not be required .			

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
89	The undertaker must no later than 28 days from the date that the documents referred to in article 50 (certification of documents, etc.) are submitted to and certified by the Secretary of State in accordance with article 50 (certification of documents etc.), provide an electronic set of those documents to Network Rail in a form to be agreed with the undertaker.	The undertaker must no later than 28 days from the date that the plans submitted to the Secretary of State in accordance with article 50(certification of document etc.) are certified by the Secretary of State in accordance with that article, provide a set of those plans to Network Rail in a format specified by Network Rail .	No comments?
The ExA notes that NR have replaced documents with plans. The ExA consider that this might be an oversight by NR as there are a large number of 'documents' that would be certified and a very limited number of plans. To ensure that NR has access to the documents and plans it would need the ExA considers that the drafting should be amended to refer to 'plans and documents. The ExA notes that NR has replaced 'electronic set' with 'format specified by NR'. The ExA appreciates that NR would need to have the documents in an appropriate form for them. Therefore, the ExA agrees that this drafting should be changed. The ExA therefore recommends that paragraph 89 be amended as follows: The undertaker must no later than 28 days from the date that the plans and documents submitted to and certified by the Secretary of State in accordance with article 50 (certification of documents etc.) are certified by the Secretary of State in accordance with that article, provide a set of those plans and documents to Network Rail in a format specified by Network Rail.			
90	In relation to any dispute arising under this Part of this Schedule (except for those disputes referred to in paragraph 79(10)) the reference in article 52 (arbitration) to the Secretary of State is to be read as a reference to the President of the Institution of Civil Engineers.	In relation to any dispute arising under this part of this Part of this Schedule (except for those disputes referred to in paragraph 79(10)) the provisions of article 52 (arbitration) shall not apply and any such dispute, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of	Amendment has been made as a result of further engagement with NR, to align with their preferred arbitration process.

Paragraph	Provision in draft DCO [REP11-091]	Suggested change	Comments
		either party (after giving notice in writing to the other) to the President of the Institution of Civil Engineers.	
The DCO as drafted includes article 52 which deals with arbitration and therefore the ExA considers that it would be unnecessary to have a different arbitration process for the benefit of NR. The ExA therefore considers the additional drafting would not be required.			

Table 23: Requirements or amendments to requirements suggested by IPs

Suggested Requirement	Explanation/ Commentary
Requirement suggested by JHA [REP11-061]	
Compensation payments into the community fund for persistent breach of Limits (1) Where the undertaker operates the airport persistently in excess of a Limit the Secretary of State may, at the request of the ESG and in accordance with the provisions of this paragraph, require the undertaker to make compensation payments into a community fund until such time as the Secretary of State is satisfied that the Limit in question is no longer being exceeded. (2) For the purposes of this paragraph the undertaker is deemed to be operating the airport persistently in excess of a Limit in the circumstances where it is required by paragraph 24(10) to submit an updated Mitigation Plan for a second or subsequent occasion in relation to an exceedance of the same Limit.	The JHA [REP11-061, Section 4] remained seriously concerned that under the GCG Framework the undertaker would be able to continue to operate the airport in exceedance of the Limits set by the Framework and that, provided the undertaker otherwise complied with the procedures set out in Part 3 of Schedule 2, the continued exceedance of Limits would not breach the terms of the DCO and so no enforcement action could be taken. While the Applicant may not be able to further expand capacity while Limits were being exceeded, the JHA considered that this would be of no comfort to communities and businesses that would be suffering from the persistent adverse effects (paragraph 4.3). The JHA (paragraph 4.4) considered that the a ‘back stop’ position which sought to disincentivise a development from operating in exceedance of the Limits established by the Applicants own environmental assessment and which seeks to provide

Suggested Requirement	Explanation/ Commentary
(3) A request to the Secretary of State by the ESG under sub-paragraph (1) must include— (a) a summary of the circumstances giving rise to the undertaker operating the airport persistently in excess of a Limit; (b) a copy of any approved Mitigation Plan having effect in relation to the Limit in question; and (c) a statement setting out the ESG’s recommendations, taking into account the relevant factors, in relation to— (i) the reasons why it is appropriate to require the undertaker to make compensation payments into a community fund; (ii) details of the identity of the community fund to receive those payments; and (iii) the quantum, frequency and nature of compensation payments. (4) The Secretary of State must consult the undertaker and the ESG before determining whether to require the undertaker to make compensation payments into a community fund following receipt of a request by the ESG and must have regard to the relevant factors and any consultation responses received when determining— (a) whether to require the undertaker to make compensation payments into a community fund; and (b) where the undertaker is required to make compensation payments into a community fund— (i) the quantum, frequency and nature of the compensation payments; and (ii) the identity of the community fund to receive those payments.	compensation when other efforts at mitigation have proven unsuccessful would be relevant to that development, necessary and justified. The proposed requirement would give the ESG a discretion to request that the SoS require the undertaker to make payments to the Community Fund where there was a persistent exceedance of a Limit. The JHA (paragraph 4.6) considered that this would provide two important procedural safeguards: the ESG would have to be satisfied that making such a request was warranted and the SoS must be satisfied that it was appropriate in the circumstances. The JHA highlighted that a persistent exceedance of a Limit would only arise where: i. a Monitoring Report showed a limit was being exceeded; ii. a Mitigation Plan had been approved and implemented; iii. a Monitoring Report showed that after 2 years the limit was still being exceeded or the Mitigation Plan was not being met; iv. as a consequence an updated Mitigation Plan was approved; and v. after 2 years a Monitoring Report showed that there remained an exceedance or the programme in the Mitigation Plan was not being met. As such the JHA (paragraph 4.6) considered that it would remain very much a ‘backstop’ to provide a disincentive to persistent exceedance of the Limits and to compensate the communities affected. The Applicant [REP9-058], [REP11-050] and [REP11-089] considered that the proposed penalty was:

Suggested Requirement	Explanation/ Commentary
(5) The Secretary of State's decision in relation to the ESG's request must be issued to the undertaker and the ESG in writing and include— (a) a statement of reasons; and (b) where the undertaker is required to make compensation payments— (i) the quantum, frequency and nature of compensation payments; and (ii) the identity of the community fund to receive those payments. (6) The undertaker must make the payments required by the Secretary of State in accordance with the Secretary of State's decision issued under sub-paragraph (5) until such time as the Secretary of State has certified in writing that the undertaker has demonstrated to the Secretary of State's satisfaction, following consultation with the ESG, that the undertaker is no longer operating the airport in excess of the Limit in question. (7) The undertaker cannot be required under the provisions of this paragraph to make compensation payments to a community fund that exceed in a calendar year the sum of [] (index-linked) but for the purposes of determining whether this annual cap is exceeded any payments into a community fund required by a development consent obligation are to be disregarded. (8) In this paragraph— “community fund” means a fund established pursuant to a development consent obligation, or such other fund that has as its object the funding of community projects in the vicinity of the authorised development that the Secretary of State may approve under this paragraph;	• unnecessary and wholly unjustified in light of the robust and comprehensive GCG Framework, which includes an implicit financial cost for failing to meet Limits through the direct linkage that GCG creates between environmental performance and ongoing growth until a breach has been resolved, irrespective of how many years it would take to address the root cause; • inappropriate given the existing enforcement mechanism endorsed by Parliament in the context of breaches of the DCO; • would not meet the planning policy tests and would not meet the specific tests which are relevant to the imposition of conditions; • being proposed without clear legal basis; • unprecedented; • being sought to be justified by reference to precedents which were wholly irrelevant; • assumes a function for DfT which it has hitherto not accepted or been consulted on; and • would not be appropriate in the context of a single decision on a DCO application. The Applicant considered that the JHA had not substantiated nor provided an argument for why financial penalties should be imposed, merely presupposing that there was a case for such a requirement. The Applicant reiterated that the principle of the provision was unnecessary, inappropriate and disproportionate. In terms of the specific drafting it highlighted that subparagraph (7) included a blank space in relation to the maximum quantum. Subparagraph (5) assumed that the SoS would take on a function which has not been subject to agreement. The attempt to define the

Suggested Requirement	Explanation/ Commentary
“development consent obligation” means a development consent obligation under section 106 of the 1990 Act related to the authorised development; “index-linked” means that the sum in question is to be increased annually on the month that is the anniversary of the month when this Order came into force (“the anniversary month”), by an amount equal to the percentage increase in the All Items Index of Retail Prices (“RPI Index”) issued by the Office for National Statistics (or, if the RPI Index ceases to exist, such other index as is specified by the ESG) from the month when this Order came into force to the month immediately before the anniversary month; “quantum, frequency and nature of compensation payments” means the amount the undertaker is to pay into a community fund in any calendar year and the frequency it is due to be paid within a calendar year; and “the relevant factors” are the following— (a) the measures that have been taken by the undertaker with a view to ensuring that the operation of the airport no longer exceeds a Limit; (b) the nature and magnitude of the exceedance of a Limit; (c) the impacts on local communities arising from the exceedance of a Limit; (d) the current annual passenger throughput of the airport; (e) the frequency of monitoring results relevant to the Limit becoming available; and (f) any other matters that the Secretary of State considers to be relevant.	‘relevant factors’ to be taken into account in determining an undetermined and undefined quantum would provide no concrete contextualisation of considerations which would be relevant and therefore the provision would remain imprecise. The Applicant highlighted that the terms of reference for the ESG contain no provision in relation to an application to the SoS in connection with financial penalties, nor was there a funding mechanism in place for the making of such an application. The Applicant therefore considered that the provision would be undeliverable. The Applicant considered, due to its submission at D11, that the proposed drafting had not been subject to appropriate consultation. Furthermore, it considered that the HHA had sought to add an entirely new process and set out other factors.

Suggested Requirement	Explanation/ Commentary
ExA recommendation: The ExA has considered the need for financial sanctions for breaches of Limits in the section above and concluded that a financial sanction would not be required as it is recommending that the noise contours are secured through a Requirement and therefore would be enforceable. The ExA therefore considers that this requirement would not be required.	
None provided.	The JHA were concerned that paragraphs (2), (3) and (4) of Article 45 could operate such that a particular aspect of an inconsistent development would effectively become immune from enforcement under both the PA2008 and the TACPA90. The JHA suggested that such a lacuna could be addressed by means of a new requirement that would in effect allow the Applicant to indicate in the case of such an inconsistency which parts of a given aspect of a development were relying on which regime, and for that proposal to be submitted for the approval of the relevant planning authority. That approval would have the effect of applying paragraphs (2) to (4) to the relevant aspects of the inconsistent development. The JHA considered that such a requirement would strike an appropriate balance between allowing development to come forward alongside the Order whilst giving clarity to all parties as to which regime applies. No suggested drafting was provided.
ExA recommendation: The ExA notes the suggestion, and it considers that an agreed method for clarification as to whether an element of a scheme was relying on a particular permission or consent would be useful and would help to address some of the concerns it has raised throughout the Examination in relation to article 45. However, without the benefit of detailed drafting it is unclear how this would meet the tests for requirements. Of concern to the ExA is a lack of clarity as to how such a requirement would work in practice and particularly the ability of the relevant planning authority to be able to approve or refuse details on a requirement where the main purpose would appear to be to confirm whether a proposal would be immune from enforcement action. The SoS may wish to request a form of preferred drafting from the JHA, but as currently suggested the ExA cannot agree that such a requirement should be included.	

Suggested Requirement	Explanation/ Commentary
Requirements suggested by National Highways [REP11-073]	
Amendment to Schedule 2, Part 3, Requirement 20 (2) National Highways requested to be included in the membership of the ESG	NH advocated [REP11-073], paragraph 1.2] that without the inclusion of this requirement on the Order, the safe and efficient operation of the Strategic Road Network (SRN) would be severely impacted which would cause serious detriment to NH.
ExA recommendation: The ExA notes [REP11-017], Table 2.1] that NH would be a member of the technical panel that would advise the ESG in matters in relation to surface access. Furthermore, they would be on the Airport Transport Forum which is the body that has oversight of both the TRIMMA and the STF. The ExA therefore considers that NH, through membership of these two groups would be able to ensure the safe and efficient operation of the SRN and therefore would not need to be a member of the ESG., Table 2.1] that NH would be a member of the technical panel that would advise the ESG in matters in relation to surface access. Furthermore, they would be on the Airport Transport Forum which is the body that has oversight of both the TRIMMA and the STF. The ExA therefore considers that NH, through membership of these two groups would be able to ensure the safe and efficient operation of the SRN and therefore would not need to be a member of the ESG. The ExA therefore considers that this amendment would not be required.	
Suggested new requirement: M1 Junction 10- Schedule 1 works <i>(1) Notwithstanding the effect of Requirement 30, no part of the authorised development may commence until a scheme providing for the design and delivery of Work No 6e (n), (o) and (p) has been submitted to and approved in writing by National Highways;</i> <i>(2) The authorised development must be constructed in accordance with the scheme approved under subparagraph (1).</i>	NH advocated [REP11-073], paragraph 1.2] that without the inclusion of this requirement on the Order, the safe and efficient operation of the SRN would be severely impacted which would cause serious detriment to NH.

Suggested Requirement	Explanation/ Commentary
<i>(3) The authorised development must not be operated unless and until the works provided for in the scheme approved under sub-paragraph (1) have been commissioned and completed.</i> <i>(4) This requirement may be enforced by National Highways as if it was a relevant planning authority.</i>	
ExA recommendation: Under the TRIMMA, J10 of the M1 would be monitored and, when the monitoring indicated that they were required, the offsite highways works, which include Work Nos. 6e (n), (o) and (p) would be implemented. Furthermore, the ExA consider that (3) would be unreasonable as works (o) and (p) are proposed to be delivered in phases 2a and 2b whereas the ‘authorised development’ would commence operation as soon as notice is served under article 44(1). However, the ExA considers that in order to ensure the safe and efficient operation of the SRN it would be reasonable to amend the drafting of requirement 30 to require the submission of details of/ and a timetable for the implementation of Work No 6e (n) for approval in consultation with NH. The ExA therefore recommends that the sub-paragraph (2) of Requirement 30 (Offsite highways works) be amended to include the following additional wording: (2) The TRIMMA submitted under sub-paragraph (1) must be substantially in accordance with the outline TRIMMA. It must include the details of Work No 6e(n) including a timetable for implementation at the point that the threshold is met that would require the works.	
Suggested new requirement: <i>M1 Junction 10 – Modelling and monitoring</i> <i>(1) No part of the authorised development may commence until a report containing updated highway modelling for the potential impacts of the authorised development on the M1 Motorway including M1 Junction 10 and the M1 itself has been submitted to and approved by the relevant planning authority and National Highways. The modelling will address the baseline, the opening year and the design year ten years after opening of the authorised development or phases of the authorised development described in the report;</i>	NH advocated [REP11-073], paragraph 1.2] that without the inclusion of this requirement on the Order, the safe and efficient operation of the SRN would be severely impacted which would cause serious detriment to NH.

Suggested Requirement	Explanation/ Commentary
<i>(2) Where the results of the updated highway modelling identify a potential material cumulative impact on the operation of the strategic road network as a result of the authorised development, no part of the authorised development may commence until a scheme of monitoring the impacts of the authorised development on the M1 Motorway has been submitted to and approved by the relevant planning authority and National Highways.</i> <i>(3) The approved monitoring scheme will set out the intended triggers for the implementation of mitigation to the M1 Motorway and the constraints upon development that will apply until the relevant mitigation works are complete and open to traffic.</i> <i>(4) The approved monitoring scheme will be implemented by the undertaker in carrying out the authorised development and the constraints upon the authorised development will apply in accordance with those contained in the approved report.</i> <i>(5) This requirement may be enforced by National Highways as if it was a relevant planning authority.</i>	
ExA recommendation: The ExA notes NH's request however it considers that this would duplicate the work of the TRIMMA and therefore would be unnecessary. The ExA therefore considers that this requirement would not be required.	
Suggested new requirement: <i>M1 Junction 10 – Mitigation</i> <i>(1) Without prejudice to the general provisions of requirement 34, any mitigation identified in a monitoring scheme shall include provision whereby:</i>	NH advocated [REP11-073], paragraph 1.2] that without the inclusion of this requirement on the Order, the safe and efficient operation of the SRN would be severely impacted which would cause serious detriment to NH.

Suggested Requirement	Explanation/ Commentary
<i>(a) If an intended trigger for implementation of works is reached on either the southbound merge and/or northbound diverge to the M1 Junction 10, no authorised development may continue until a scheme of mitigation works is approved by National Highways.</i> <i>(b) The throughput of the authorised development must not exceed 21.5 million passengers per annum until the mitigation comprised of works to the M1 Junction 10 southbound merge are complete and open to traffic.</i> <i>(c) The throughput of the authorised development must not exceed 27 million passengers per annum until the mitigation comprised of works to the M1 Junction 10 northbound diverge are complete and open to traffic.</i> <i>(2) Any scheme of works to the southbound merge must include changing the merge layout type from 'Layout B – parallel merge' to a higher capacity 'Layout C – ghost island merge' or any alternative scheme approved by National Highways.</i> <i>(3) Any scheme of works to the northbound merge must include changing the diverge layout type from 'Layout B option 2 – Two-lane auxiliary diverge' to a higher capacity 'Layout B option 1 – ghost island lane drop' which would be facilitated by an extension of the 4 the lane from the lane-drop location to the north of M1 Junction 9 to form a new lane-drop at the Junction 10 diverge, or any alternative scheme approved by National Highways.</i> <i>(4) This requirement may be enforced by National Highways as if it was a relevant planning authority.</i>	
ExA recommendation: The ExA notes the NH request. Furthermore, it notes that the works referred to in the drafting are similar to those set out in NH technical note [REP3-129]. However, at the close of the Examination there was no agreement between the parties as to whether these works would be required as a direct result of traffic generated by the Proposed Development. However, to address this outstanding concern the Applicant added a paragraph to the oTRIMMA [REP10-036], paragraph 4.2.3] that it would provide further funds in	

Suggested Requirement	Explanation/ Commentary
addition to the STF that could be used for additional works on the SRN., paragraph 4.2.3] that it would provide further funds in addition to the STF that could be used for additional works on the SRN. The ExA therefore considers that this requirement would not be required.	
Mr Reddington [REP10-083, Table 3]	
Request for a requirement Mr Reddington requested that development of a formal document be secured as part of the DCO setting out the following in relation to the Noise Insulation Sub-Committee (NISC): • terms of reference; • attendees; • responsibilities; • authority; • funding; • performance indicators; • remedies; and • handover from current scheme(s) to the development.	Mr Reddington had a number of concerns regarding the responsibilities and accountability of the noise insulation programme which would be overseen by the NISC. One of the suggestions to address these concerns was that how the NISC operated and who it was made up of should be secured through the DCO.
ExA recommendation: The ExA notes that the Compensation Measures, Policies and Community First document is secured through the s106 agreement [REP11-108]. Appendix C sets out the draft terms of reference for the NISC. This includes attendees (paragraphs C1.1.2 and C1.1.3), responsibilities and authority (paragraph C1.1.1), funding, annual reporting and handover from the current scheme (section 6). As a result, the ExA does not consider that it would be necessary to include a requirement in the DCO.	
LADACAN [REP11-082]	
Request for a requirement to lower noise contours should the Applicant undertake further validation of the noise model.	At the close of the Examination LADACAN continued to have concerns about the noise model. To address this, if the SoS is minded to make the Order it requested that a requirement be added

Suggested Requirement	Explanation/ Commentary
	that should in the future the Applicant undertake a more accurate validation of the model and as a result of this the ESG accepted that the contours calculated by the model should be applied in GCG then the requirement would enable a process to reduce Limits to happen. LADACAN advised that this had been discussed with the Applicant's noise expert and agreed in principle.
ExA recommendation: The ExA notes LADACAN's request. However, as the ExA has recommended the insertion of a requirement that secures core growth noise contours these would be fixed and any change would need to be agreed with the SoS. Should future modelling identify a need to vary the contours it could be done through this process and therefore the ExA do not consider that it would be necessary to include the requirement requested in the DCO.	

Table 24: Table of amendments and new Requirements suggested as a result of writing this Report

Location	Suggested drafting	Explanation
Requirement 17 (Remediation of Former Eaton Green Landfill)	(1) No part of the authorised development comprising work No. 1b may commence until – (a) a remediation strategy; (b) a foundation works risk assessment; and (c) a groundwater, ground gas and leachate monitoring strategy, for the former Eaton Green landfill has been submitted to and approved in writing by the relevant planning authority, following consultation with the Environment Agency and the relevant water undertaker and add	As currently drafted the DCO does not include a requirement for the outline strategy report for the groundwater, ground gas and leachate monitoring strategy [APP-127] to be submitted and approved. The ExA considers that insertion of this wording would resolve that.

	(4) The groundwater, ground gas and leachate monitoring strategy to be approved under sub-paragraph (1) above must be substantially in accordance with the outline strategy report for groundwater, ground gas and leachate monitoring strategy. (5) Work No. 1b must be carried out in accordance with the remediation strategy, foundation works risk assessment and groundwater, ground gas and leachate monitoring strategy approved under sub-paragraph (1).	
Requirement 31 (Travel plans)	Amendment to sub-paragraph (2) The travel plan submitted under sub-paragraph (1) must be substantially in accordance with the framework travel plan and the bus and coach study, and prepared in accordance with the process set out in Figure 7.1 of the framework travel plan	The ExA considers that for the reasons set out in section 3 of this Report that the Bus and Coach Study [REP10-041] needs to be used when preparing the travel plan. To ensure this the ExA recommends that Requirement 31 should be amended to include a reference to it.] needs to be used when preparing the travel plan. To ensure this the ExA recommends that Requirement 31 should be amended to include a reference to it. The Bus and Coach Study [REP10-041] will then need to be added to the certified list of documents (Schedule 9).
Requirement 31 (Travel plans)	Insertion after sub-paragraph (2) a new sub-paragraph (3) (3) The travel plan submitted under sub-paragraph (1) must include non-sustainable mode share targets, for passengers and staff, that are no higher than the equivalent surface access limit values within the green controlled growth framework and maximises the use of sustainable transport modes in agreement with the airport transport forum. Following sub-paragraphs to be re-numbered	The ExA considers that to secure maximisation of the sustainable transport mode share, Requirement 31 should be amended to include a sub-paragraph to ensure that the non-sustainable mode shares are no higher than those in GCG framework and set as low as possible through agreement with the ATF. With the addition of this wording, the ExA is satisfied that the Travel Plan mode share targets would be more ambitious than those within GCG and maximised as much as possible. If the SoS considers that the additional wording is not necessary, then the ExA takes the view that, for the reasons set

		out above, there is a risk that the Travel Plan mode shares would not be set at a level which would maximise the use of sustainable modes of transport to the airport and could be contrary to the ANPS.
Requirement 32 (Sustainable transport fund)	From the date that notice is served in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order, the undertaker must implement and operate the sustainable transport fund in accordance with the certified sustainable transport fund document listed in Schedule 9.	The ExA has suggested the additional wording as the STF document [REP10-039] would not otherwise be secured. In addition, the ExA notes that the STF listed in Schedule 9 refers to Revision 3. However, the version submitted into the Examination [REP10-039] is Revision 2. Therefore Schedule 9 will need to be amended to refer to Revision 2 which is the version that the ExA has considered.
New Requirement (Off-site Highway Works, Work No 6e (d), (e), (f), (j) and (q))	Off-site Highway Works, Work No 6e (d), (e), (f), (j) and (q) (1) No part of the Off-site Highway Works Nos. 6e(d), 6e(e), 6e(f), 6e(j) and 6e(q) may commence, until a report which provides evidence, including recent monitoring data, that the works would be required to mitigate airport-related traffic has been submitted to and approved by the Secretary of State in writing. (2) If the Secretary of State confirms that the works would be required to mitigate airport-related traffic then the detailed design of the works shall be submitted and thereafter carried out under the provisions of paragraph 6 of this schedule.	For the reasons set out in Section 3 of this Report the ExA does not consider that the evidence demonstrates that these offsite highways works would be required to mitigate airport related traffic. However, the ExA acknowledge the concerns raised by LBC [REP8-059], HHA [REP8-052], CBC [REP8-051] and NH [REP8-063] when it suggested that these works be removed from the DCO. To address this the ExA proposes insertion of this new requirement which would require the submission of further evidence to justify whether the works would be required as a result of the Proposed Development and if they were required their scale and extent. Subject to the inclusion of this Requirement the ExA is satisfied that the proposed works can remain in the DCO. REP8-063] when it suggested that these works be removed from the DCO. To address this the ExA proposes insertion of this new requirement which would require the submission of further evidence to justify whether the works would be required as a result of the Proposed Development and if they were required their scale and extent. Subject to the inclusion of this Requirement the ExA is satisfied that the proposed works can remain in the DCO.

		The ExA recommends that this requirement should be inserted into Part 2 of Schedule 4 after Requirement 30 (Offsite highways works).

OUTSTANDING CONCERNS NOT CONSIDERED ABOVE

- 7.5.7. The ExA recommends that the SoS consult with the Applicant and Royal Mail to see if the side agreement referred to by the Applicant [REP1-024] has been agreed and if Royal Mail are therefore prepared to withdraw their objection. Alternatively, the ExA suggests that Requirement 14 (Construction traffic management) be amended to include in sub-paragraph (1) consultation with Royal Mail as the ExA consider that the construction traffic management plan required under this requirement could address the concerns and requests made by Royal Mail.

SECTION 106 AGREEMENT

- 7.5.8. At the close of the Examination the Applicant submitted a signed s106 agreement. [REP11-108] The s106 would deliver the following:
- Schedule 2 – would deliver the re-provision of sports pitches which were required under the GHP s106 agreement.
 - Schedule 3 – sets out how the Applicant commits to establishing a community trust for the management and maintenance of WVP including an annual payment of £250,000 in perpetuity.
 - Schedule 4 – requires the operation of the Proposed Development in accordance with the ETS [REP8-020].
 - Schedule 5 – secures the funding elements for GCG namely the ability to pay for people to attend the ESG or Technical Panels.
 - Schedule 6 – commits the Applicant to undertaking an assessment 18 months before the site is acquired of whether the nursery places provided at Prospect House Day Nursery would still be needed.
 - Schedule 7 - secures the compensation policies, measures and community first document [REP11-025] which would deliver the noise insulation programme and donations through the community first fund.
 - Schedule 8 – secures the retention of the existing community fund with a minimum payment of £100,000 a year paid in perpetuity. In addition, any monies received from the Track Violation Penalty System and Departure Noise Violation Scheme payable under the Air Noise Management Plan [REP9-047] would be paid into this fund.
 - Schedule 9 – secures that LBC would establish a Design Review Panel in accordance with the DP [REP9-030] and that the Applicant would pay the participation costs of the Design Review Panel, including LBC's attendance.
- 7.5.9. The s106 and what it delivers is discussed in the relevant topics in Section 3 of this Report.

7.6. CONCLUSION

- 7.6.1. The SoS can be satisfied that the ExA has considered all iterations of the draft DCO as provided by the Applicant and is satisfied that it has addressed all outstanding matters.
- 7.6.2. The recommended DCO in Appendix E of this Report reflects the final draft DCO [REP11-091] submitted by the Applicant at D11 with the addition of those changes listed above. The ExA therefore recommends that, should the SoS concluded that the Proposed Development should be consented, the recommended DCO should be used.

8. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

8.1. FINDINGS AND CONCLUSIONS

- 8.1.1. Section 105(2) of the PA2008 requires the SoS to have regard to any LIR, any matters prescribed in relation to development of the description to which the application relates, and any other matters which the SoS thinks are both important and relevant to their decision.
- 8.1.2. In making its recommendation the ExA has had regard to the LIRs produced by BC, CBC, LBC and the HHA, which consists of HCC, DBC and NHDC, and the national and local policies listed in Appendix B.
- 8.1.3. There are no prescribed matters for this type of development. The ExA has had regard to the local and national policies set out in Appendix B and has assessed the benefits and disbenefits of the Proposed Development in accordance with the Infrastructure Planning (Environmental Assessment) Regulations (2017) and the Infrastructure Planning (Decision) Regulations (2010).
- 8.1.4. The ExA has found that the Proposed Development would contribute to meeting the need to address airport capacity in the South East of England, increase connectivity, and provide socio-economic benefits such as job creation, including the health benefits from employment, and levelling up opportunities.
- 8.1.5. However, these would not be outweighed by the harms, including those from additional noise, increase in traffic, the effects on the Chilterns NL, the release of additional greenhouse gas emissions, landscape and visual effects and the effect on heritage assets.
- 8.1.6. In addition, having concluded that the public benefits do not outweigh the environmental harms, there would also be less than substantial harm to the setting of heritage assets, harm to the openness of the GB, health and community harms, harm from loss or deterioration of an ancient and veteran tree, harm to species and habitats of principal importance, and from landscape and visual effects.
- 8.1.7. The ExA agrees with the Applicant that there would be no likely significant effects on European Sites within 30km of the Proposed Development, alone or in combination with other projects. The ExA considers that there is sufficient information before the SoS to enable them to fulfil their duty as the Competent Authority under the Habitat Regulations and that the need for an Appropriate Assessment can be ruled out.
- 8.1.8. With regards to the CA and TP powers requested by the Applicant, the ExA is satisfied that, except for plot 6-04, they are necessary to implement the Proposed Development and the Applicant has a clear idea of how it intends to use the land. The private loss to those affected would be mitigated by the Applicant's approach of acquiring the minimum rights and interests needed to construct, operate and maintain the Proposed Development.
- 8.1.9. The ExA is satisfied that the Applicant has explored reasonable alternatives to the CA of land, rights and interests sought and that there would be no alternatives that ought to be preferred. The ExA is also satisfied that adequate funding could be secured to enable CA within the relevant timeframe following the Order being made.

By the close of the Examination the Applicant had not obtained consent from the relevant Crown Authorities, albeit the Applicant indicated that this was imminent. With regard to all other matters and representations received, the ExA has found no important and relevant matters that would individually or collectively lead to a different recommendation to that below.

- 8.1.10. Given these findings on the weighting of the planning balance, the ExA recommends to the SoS that the application for the Proposed Development should not be consented. As such, the case for CA and TP powers would also not be made out.
- 8.1.11. At the close of the Examination there were outstanding objections from a number of SU and as a consequence s127 and s138 of the PA2008 were engaged. The ExA is satisfied that, except for AW, the Protective Provisions contained within the recommended DCO would afford the SU with the protection that they require and ensure that they could continue to carry out their statutory functions without any serious detriment. As a result, the ExA considers that the Proposed Development would comply with s127 and s138 of the PA2008.
- 8.1.12. In the case of AW, the Applicant and AW indicated that these would be resolved after the close of the Examination. .

8.2. IN THE EVENT THAT THE SOS DIFFERS FROM THE EXA RECOMMENDATION IN THE DCO

- 8.2.1. If the SoS disagrees with the ExA recommendation, a Recommended DCO is included in Appendix E for consideration. As noted above, this includes a number of amended and new Requirements beyond the final version of the Applicants draft DCO at the close of examination, but which were considered during the course of the examination. The finding and conclusions in the report are on the basis that these changes were incorporated into the Recommended DCO. If the SoS does not consider that these changes are necessary, then that would change some of the elements of the findings and conclusions of the ExA and would be a matter for the SoS to reassess.
- 8.2.2. After the close of the examination the High Court issued a judgement in the case of R (Friends of the Earth Ltd) v Secretary of State for Business, Energy and Industrial Strategy [2024] EWHC 995 (Admin)) in relation to the compliance of the sectoral assessments for the 6th Carbon Budget made in accordance with the CCA. The consideration of GHG emissions in the examination was on the basis of that the relevant policies referred to were in compliance with the CCA for the 6th Carbon Budget. Any revision to the basis of the policies referred to in these findings and conclusions would be a matter for the SoS at the time of the final decision.
- 8.2.3. If the SoS concludes that there is a need for the Proposed Development, it is concluded that any proposed interference with the human rights of individuals would be for legitimate purposes that would justify such interference in the public interest and to a proportionate degree. Furthermore, throughout the Examination the ExA has had due regard to its PSED.
- 8.2.4. Considering all of the above factors together, if the SoS concludes that the public benefits of the scheme outweigh the harms identified by the ExA then there would be a compelling case in the public interest for the CA and TP powers sought in respect of the plots listed in the Book of Reference [\[REP9-007\]](#) and the Proposed Development would then comply with s122(2) and s122(3) of the PA2008.

- 8.2.5. There are a number of matters which were outstanding at the close of the examination which the SoS may wish to give further consideration to.

Table 25: Outstanding matters on which the SoS may wish to obtain further information if they are minded to make the Order

Interested Party	Reason	Reference in Report
Green Horizons Park		
The Applicant and LBC	Status of GHP consent The GHP consent (LBC ref: 17/023000/EIA) [REP1-007] is due to expire after this Report has been written (29 June 2024). This Report has been written on the basis that the permission was extant and would remain extant as the Applicant was intending to implement the permission and submit the necessary Reserved Matters applications.	Paragraph 3.3.69
Air quality		
The Applicant, NHDC and HCC	Hitchin Junction designs The NHDC and HCC signed SoCG highlighted that there was potential for junction designs to change in Hitchin. Given that the junctions are located within an AQMA, the SoS may wish to obtain further information on the final designs and their effect on air quality to ensure that there would be no impact on the AQMA designation.	Paragraph 3.6.58
Chilterns NL		
The Applicant, NE, NHDC, CBC	Chilterns NL boundary review In light of the ongoing boundary review, the SoS should review whether any change to the boundary of the NL occurs during the decision-making period. Should this arise, the SoS may wish to request an updated landscape and visual impact assessment that takes into account any change in the sensitivity of receptors and the implications for the conclusions of likely significant effects.	Paragraph 3.8.76
Traffic and Transport		
The Applicant and HHA	Traffic Calming in Hertfordshire At the close of the Examination the ExA was made aware that the Applicant was proposing a side agreement with HHA to cover additional monitoring areas in North Hertfordshire and discussions were ongoing about other monitoring sites near Harpenden [REP9-067] . The HHA closing	Paragraphs 3.8.76

	statement [REP11-063] explained that they had remaining outstanding concerns on the transport modelling underpinning the application and that this and the longevity of the proposal brought medium to long term uncertainty and risk to the Hertfordshire highway network that HHA found unacceptable. The HHA requested additional monitoring of the network to monitor that risk and act as a basis for consideration of mitigation proposals. The ExA agrees with the HHA that suitable monitoring should be provided. The ExA has not had sight of any side agreement and notes that in the SoCG between HCC and the Applicant [REP11-095] these issues were still outstanding at the close of Examination.	
The Applicant and CBC	Off-site Highway works to A1081 New Airport Way/Gypsy Lane Junction CBC were not confident that the highway works proposed could be fully delivered within the Order limits when the recommendations of the RSA and the need to meet relevant design standards [REP8-053] were taken into account. The Applicant and CBC agreed a side agreement securing the proposed works to the satisfaction of both CBC and the Applicant [REP11-058]. Whilst the ExA has not had sight of any side agreement it sees no reason to disagree with CBC that it is sufficient.	Paragraphs 3.20.77
The Applicant and HHA	Off-site Highway works in Hitchin The HHA were concerned that the design of the proposed works did not appear to consider vertical buildability and that the proposed mitigation did not sufficiently address the airport related traffic impact. The HHA also considered that active travel and public transport had not been sufficiently accounted for and therefore the proposed mitigation at the three junctions would not be in accordance with the Hertfordshire Local Transport Plan 4 (LTP4) [REP1A-003]. The Applicant produced and shared with the HHA plans which showed how the proposed mitigation could be amended at the detailed design stage, within the Order limits, to improve provision for other road users. The ExA understands that these alternative proposals have been discussed and an offer was made to fund the alternatives schemes, but no agreement was reached with the HHA by the end of the Examination [REP11-049].	Paragraphs 3.20.94

	The HHA confirmed that they were content that the alternative junction layouts were more consistent with policy and therefore agreed to them forming the basis of a side agreement but no side agreement existed at the close of the Examination.	
The Applicant and NR	Rail capacity The ExA considers that it is vital that confirmation that there would be sufficient capacity in the rail network to accommodate the increased passengers as generated by the Proposed Development is obtained before a DCO could be granted. The SoS may also wish to satisfy themselves that there has been appropriate engagement between the Applicant, Govia Thameslink Railway and East Midlands Railway.	Paragraphs 3.20.131
Requirements		
The Applicant	Updating Application Documents In Section 7 of this Report the ExA have recommended a number of changes that would require the application documents to be updated to reflect the change. Where these are certified documents Schedule 9 of the DCO would need to be updated to reflect this.	Table 20
Compulsory Acquisition		
The Applicant and AW	Protective provisions Protective provisions were not agreed with AW by the close of the Examination. AW advised [REP11-070] that it had reached a substantive agreement with the Applicant to modify the protective provisions to avoid serious detriment to its undertakings. However, due to the governance procedure, AW was unable to obtain final sign off for the side agreement and modified protective provisions before the end of the Examination. AW anticipated receiving the requisite approvals and executing the side agreement by 1 March 2024 and intended to report completion and withdraw its objection direct to the SoS. Alternatively, if the side agreement had not been executed then AW proposed to provide the SoS with AW's preferred form of protective provisions. As a result the ExA has not been able to make a recommendation on the disputed matters.	Table 22
The Applicant and the Crown Estate	Consent from the Crown The Applicant indicated [REP11-089] that agreement was close to being agreed. The SoS	Section 6.9

	would need to obtain the consent of the Crown Estate before the Order could be made. .	
The Applicant and various landowners	Voluntary Agreements The final CA Schedule [REP11-041] listed that the Applicant and a number of landowners were still in negotiations over the possibility of acquiring land or rights in land voluntarily. The CA schedule recorded that if these negotiations were completed then the various landowners would notify the SoS direct after the close of the Examination. .	Various paragraphs within Section 6
The Applicant and the Eldridge's	Plot 6-04 For the reasons set on Section 7 of this Report the ExA consider that the amount of land that the Applicant is seeking to acquire rights in is disproportionate to what would be required to deliver the proposed work and that the relevant documents should be amended accordingly. .	Paragraphs 6.6.16 to 6.6.24

8.3. RECOMMENDATION

- 8.3.1. For the above reasons, the Examining Authority recommends that the Secretary of State for Transport should withhold consent.
- 8.3.2. If the Secretary of State disagrees with the ExA's findings and consequently decides to make the London Luton Airport Expansion Order, then the ExA recommends that the Secretary of State should make the Order in the form recommended in Appendix C of this Report and subject to the actions set out in Table 24 above.

APPENDIX A: REFERENCE TABLE FOR THE ENVIRONMENTAL STATEMENT

ES Chapter/figure/appendix	Examination Library (EL) References
Non-technical Summary	[APP-165]
Chapter 1 – Introduction	[APP-029]
Appendices	[APP-166], [APP-167], [APP-168], [APP-047]
Figures	[APP-143]
Chapter 2 – Site and Surroundings	[APP-030]
Appendices	n/a
Figures	[APP-144]
Chapter 3 – Alternatives and Design Evolution	[AS-026]
Appendices	n/a
Figures	n/a
Chapter 4 – The Proposed Development	[REP5-012]
Appendices	[REP8-011], [REP8-013], [APP-050]
Figures	[AS-042]
Chapter 5 – Approach to the Assessment	[AS-075]
Appendices	[APP-051], [APP-052], [APP-053], [APP-054]
Figures	n/a
Chapter 6 – Agricultural Land Quality and Farm Holdings	[REP9-009]
Appendices	[APP-055], [APP-056], [APP-057], [APP-058], [APP-059], [APP-060]
Figures	[APP-146]
Chapter 7 – Air Quality	[AS-076]
Appendices	[AS-028], [AS-062], [REP4-013], [REP4-015], [REP9-013]
Figures	[AS-098], [AS-099], [AS-100]
Other information	Interim target for PM _{2.5} commentary [REP1-017], breakdown of non-surface access emissions [REP3-076], effects in relation to pollution climate mapping locations [REP4-088], green controlled growth scope monitoring [REP4-070], odour reporting process [REP8-034], Hitchin AQMA impact assessment summary note [REP6-074], air quality monitoring [REP6-076], response to ExQ1 air quality and odour [REP4-053] and GCG [REP5-090], response to ExQ2 air quality and odour [REP7-050] and GCG [REP5-090], Applicant's position on noise contour and movement limits [REP9-054], additional traffic noise modelling data and clarification of air quality criteria [REP8-040] worked example of the GCG air quality criteria [REP9-057, Appendix B]; cumulative air quality effects with a solar farm south of the runway [REP11-047] and fuel dumping information [REP11-051].
Chapter 8 – Biodiversity	[AS-027]
Appendices (*confidential appendices)	[AS-033], [AS-029], [AS-034], [AS-035], [APP-066], [APP-067], [APP-068], [APP-069]*, [APP-070], [APP-071], [APP-171]
Figures	[AS-043]

Chapter 9 – Climate Change Resilience	[APP-035]
Appendices	n/a
Figures	n/a
Chapter 10 – Cultural Heritage	[AS-077]
Appendices	[APP-072], [REP4-017], [APP-074], [APP-075], [REP4-019], [REP8-015], [REP4-022]
Figures	[APP-150]
Chapter 11 – Economics and Employment	[APP-037]
Appendices	[APP-079]
Figures	[APP-080]
Chapter 12 – Greenhouse Gases	[REP3-007]
Appendices	[APP-081], [APP-082]
Figures	n/a
Chapter 13 – Health and Community	[REP10-009]
Appendices	[APP-083], [APP-084], [APP-085], [APP-086], [AS-084]
Figures	[AS-101]
Chapter 14 – Landscape and Visual	[AS-079]
Appendices (including SQA)	[AS-036], [APP-089], [REP9-015], [AS-086], [AS-139], [AS-088], [AS-089], [AS-090], [AS-091], [AS-092], [AS-093], [AS-094], [AS-140], [REP10-013], [REP10-014], [REP10-015], [REP10-016], [REP10-017], [REP10-018], [APP-106], [APP-107], [APP-108], [REP7-046]
Figures	[REP4-037]
Other information	Glint and glare assessment [REP11-007] and Visual Receptors Plan [REP4-091]
Chapter 15 – Major Accidents and Disasters	[APP-041]
Appendices	[APP-109]
Figures	
Chapter 16 – Noise and Vibration	[REP9-011]
Appendices	[REP9-017], [REP10-019], [REP4-025]
Figures	[AS-103], [AS-104], [AS-105], [AS-106], [AS-107], [AS-108], [AS-109], [AS-110], [AS-111], [AS-112], [AS-113], [AS-114], [AS-115], [AS-116], [AS-117]
Other information	Ambient noise monitoring data and survey sheets [AS-120], comparison of consented and proposed operational noise controls [REP5-014], response to Issue Specific Hearing (ISH) questions [REP4-070], Surface access noise modelling addition information [REP3-045], noise envelope improvements and worked example [REP2-032], response to ExQ1 noise [REP4-060] and GCG [REP5-090], transition period and slot allocation process [REP4-072], noise insulation delivery programme [REP4-079], assessment of night time construction noise [REP4-080], non-residential receptors and screening criteria [REP4-081], additional ground noise modelling information [REP5-

	045], response to ExQ2 noise [REP7-056] and GCG [REP7-054], response to Suono's note on noise controls [REP6-052], Quota count noise controls and benchmarking [REP7-077], position on noise contour and movement limits [REP9-055]. Responses to procedural decisions request date 17 January 2024 updated by request of 6 February 2024 cumulative noise effects with a solar farm south of the runway [REP11-047]; request date 17 January 2024 cultural heritage noise effects, category three interests and additional traffic noise modelling data [REP8-040]; request date 25 January 2024 updated information on noise envelope limits and compensation and noise insulation [REP9-057]; request date 31 January 2024 commentary on the noise insulation delivery programme [REP10-047]; and request date 6 February 2024 on noise quota counts [REP11-051].
Chapter 17 – Soils and Geology	[REP7-011]
Appendices	[APP-113], [APP-114], [APP-115], [APP-116], [APP-117], [APP-118], [APP-119], [APP-120], [APP-121], [APP-122], [APP-123], [APP-124], [REP6-005], [REP-007], [APP-127]
Figures	[REP7-015]
Chapter 18 – Traffic and Transport	[REP8-009]
Appendices	[APP-128], [APP-129], [REP11-005], [REP8-018], [APP-132]
Figures	[REP9-019]
Chapter 19 – Waste and Resources	[AS-081]
Appendices	[AS-097], [APP-134]
Figures	[APP-162]
Chapter 20 – Water Resources and Flood Risk	[REP4-009]
Appendices	[REP4-038], [REP4-027], [REP4-029], [REP5-096], [REP4-033], [REP4-035]
Figures	[REP9-019]
Other information	Drainage strategy [AS-152]
Chapter 21 – In-combination and Cumulative Effects	[REP10-011]
Appendices	[APP-140], [APP-141], [APP-142]
Figures	[AS-164]
Errata	[REP5-036]
Other mitigation and control documents	
Mitigation Route Map	[REP10-023]
Air noise management plan	[REP9-047]
Outline ground noise management plan	[REP11-043]
Employment and training strategy	[REP8-020]
Strategic Landscape Masterplan	[APP-172]
GCG Framework	[REP11-013]
GCG Explanatory Note	[REP11-011]
GCG appendices	A – Draft ESG terms of reference [REP11-015], B – ESG Technical Panels draft terms of reference [REP11-017], C – Aircraft Noise

	Monitoring Plan [REP11-019], D – Air Quality Monitoring Plan [REP11-021], E – GCG Monitoring Plan [REP11-022], F – Surface Access Monitoring Plan [REP11-024]
Compensation Policies, Measures and Community First	[REP11-025]
Accounting for Covid-19 in transport modelling - environmental appraisal	[REP7-079]
Design Principles	[REP9-030]
Other documents supporting the EIA	
Statement of Statutory Nuisance	[APP-169]
Transport Assessment	[APP-203], [AS-123], [APP-205], [APP-206], [APP-200], [APP-201], [APP-202]
Accounting for Covid-19 in transport modelling final report	[AS-159]
Framework Travel Plan	[REP11-027]
Outline Transport Related Impacts Monitoring and Mitigation Approach (oTRIMMA)	[REP10-036]
Sustainable transport fund	[REP10-039]
Surface access strategy	[APP-228]
Design and Access Statement	[AS-049], [AS-124], [APP-209], [APP-210], [APP-211], [APP-212]

Change requests

Change request	Examination Library (EL) References
Drainage strategy	[AS-151], [AS-152]
Acoustic barrier	[REP3-047]

APPENDIX B: KEY LEGISLATION AND POLICY

*Local Policy identified in Local Impact Report (LIR) for that specific topic

International Policy	National Policy and Legislation	Local Policy
Need		
	Aviation Policy Framework (March 2013) The Airports National Policy Statement (June 2018) Beyond the horizon, The future of UK aviation: Making best use of existing runways (June 2018) Flightpath to the Future: a strategic framework for the aviation sector (May 2022) Jet Zero Strategy: Delivering net zero aviation by 2050 (2022) Jet Zero Strategy: One Year On (2023)	Luton Local Plan 2011-2031 (November 2017) Policy LLP6*
Alternatives		
	The Infrastructure Planning (EIA) Regulations 2017 (Regulation 14(d) and Schedule 4) The Airports National Policy Statement (June 2018) paragraph 4.28	
Air Quality		
UNECE Gothenburg Protocol Prior to EU withdrawal the following were transposed into national legislation in England by the Air Quality Standards Regulations 2010:	The Environment Act 1995 and 2021 The Air Quality (England) Regulations 2000 The Air Quality Standards Regulations 2010	Luton Local Plan 2011-2031 (November 2017) Policies LLP6*, LLP25* and LLP38* Luton Local Transport Plan 4 (April 2021) Policy 12 and Luton Local Transport Plan 3 (2011-2026) (March 2011) Policy 19.

International Policy	National Policy and Legislation	Local Policy
• Air Quality Framework Directive on ambient air quality assessment and management (96/62/EC) • Daughter Directives, including Directive 1999/30/EC relating to nitrogen dioxide (NO₂), oxides of nitrogen (NO_x) and particulate matter (amongst other pollutants), Directive 2000/69/EC relates to benzene and carbon monoxide, Directive 2002/3/EC for ozone, Directive 2004/107/EC relates to toxic heavy metals and polycyclic aromatic hydrocarbons, and Directive 2008/50/EC relates to NO₂, NO_x, particulate matter, sulphur dioxide, lead, benzene and carbon monoxide • Directive 2008/50/EC on ambient air quality and cleaner air for Europe	The National Emission Ceilings Regulations 2018 Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018 Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2019 The Environment (Miscellaneous Amendments) (EU Exit) Regulations 2020 The Environmental Targets (Fine Particulate matter) Regulations 2023 The Infrastructure Planning (EIA) Regulations 2017 (Regulation 5(2)(c), Schedule 4) Environmental Improvement Plan 2023 The Clean Air Strategy (2019) The air quality strategy: framework for local authority delivery (2023) The Aviation Policy Framework (2013) UK Airspace Policy: A framework for balanced decisions: on the design and use of airspace, February 2017 and Government's Consultation Response (October 2017)	Central Bedfordshire Local Plan 2015-2035 (July 2021) Policies HQ1*, CC8* and SO13 North Hertfordshire Local Plan 2011-2031 (November 2022) Strategic Objective ECON7* and Policies D3 and D4* Hertfordshire Local Transport Plan 2018- 2031 (May 2018) Policies 19, 20 and 21 Dacorum Borough Local Plan 1991 – 2011 (April 2004) Saved Policy 51 Dacorum Borough Council Core Strategy 2006-2031 (September 2013) Strategic objective 12* and Policies CS8*, CS23, CS30 and CS32* Vale of Aylesbury Local Plan 2013-2033 (September 2021) Policies S1 and NE5* Welwyn Hatfield Borough Council Local Plan 2016-2036 (October 2023) Policy SADM 18 City and District of St Albans District Local Plan Review 1994 – Saved and Deleted Policies Version (July 2020) Policy Intention 9 Harpenden Neighbourhood Plan 2018 – 2033 (November 2018) Policy ESD20

International Policy	National Policy and Legislation	Local Policy
	The Airports National Policy Statement (2018) paragraphs 5.23 to 5.43, 5.233 to 5.238 Beyond the horizon, The future of UK aviation: Making best use of existing runways (June 2018) Aviation 2050: The Future of UK Aviation (2018) Flightpath to the Future: a strategic framework for the aviation sector (May 2022) National Policy Statement for National Networks (December 2014) paragraphs 5.3-5.15 National Planning Policy Framework (2023) paragraphs 8c, 109, 180e, 191 and 192, 194. <i>NB: policies relating to climate change emissions have not been identified as this issue was addressed in the GHG chapter.</i>	
Biodiversity		
	European Union (Withdrawal Agreement) Act 2020 Environmental Act 2021 The Conservation of Habitats and Species Regulations 2017 (as amended)	Luton Local Plan 2011-2031 (November 2017) Policies LLP25* and LLP28*) Central Bedfordshire Local Plan 2015-2035 (July 2021) Policies EE2*, EE3*, and EE4* North Hertfordshire Local Plan 2011-2031 (November 2022) Policies ENV3*, SP1*, SP12*, NE1 and NE4*

International Policy	National Policy and Legislation	Local Policy
	Natural Environment and Rural Communities Act 2006 Countryside and Rights of Way Act 2000 (Section 77 and Schedules 9 and 12) Hedgerows Regulations 1997 Protection of Badgers Act 1992 Wildlife and Countryside Act 1981 The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 Invasive Alien species (Permitting and Enforcement) Order 2019 The Infrastructure Planning (EIA) Regulations 2017 (Regulation 5(b)(c), Schedule 4) National Planning Policy Framework (2023) (paragraphs 179 to 182) National Policy Statement for National Networks (December 2014) Biodiversity 2020: A strategy for England's wildlife and ecosystem services. (Section 8.12)	Dacorum Borough Council Core Strategy 2006-2031 (September 2013) Strategic Objective No.12* and Policy CS26* Bedfordshire and Luton Local Biodiversity Action Plan Hertfordshire Local Biodiversity Action Plan

International Policy	National Policy and Legislation	Local Policy
	The Airports National Policy Statement (June 2018) paragraphs 5.89 to 5.104	
Chilterns National Landscape		
	Countryside and Rights of Way (CROW) Act 2000 (Section 85) The Infrastructure Planning (EIA) Regulations 2017 (Regulation 5(b)(d), Schedule 4) The Airports National Policy Statement (June 2018) paragraph 5.222 National Planning Policy Framework (2023): paragraphs 180, 182 and 183	Luton Local Plan 2011-2031 (November 2017) Policy LLP29* Central Bedfordshire Local Plan 2015-2035 (July 2021) Policy EE7* Dacorum Borough Council Core Strategy 2006-2031 (25 September 2013) Strategic Objective 12* and Policy CS24* North Hertfordshire Local Plan 2011-2031 (November 2022) Strategic Objective ENV2* and Policy NE3* The Vale of Aylesbury Local Plan (VALP) (September 2021) (NE3*)
Climate Change Resilience		
	The National Planning Policy Framework (2023) National Policy Statement for National Networks (December 2014) National Planning Policy Guidance: Flood Risk and Coastal Change A Green Future: Our 25 Year Plan to Improve the Environment, 2018, updated 2019	Luton Local Plan 2011-2031 (November 2017) LBC Climate Change Action Plan 'My climate action plan. Becoming a carbon neutral borough by 2040' Central Bedfordshire Local Plan 2015-2035 (July 2021) North Hertfordshire Local Plan 2011-2031 (November 2022) Dacorum Borough Council Core Strategy 2006-2031 (25 September 2013)

International Policy	National Policy and Legislation	Local Policy
	The Airports National Policy Statement (June 2018) paragraphs 4.45 to 4.52	
Design		
	The Airports National Policy Statement (June 2018) paragraphs 4.29 to 4.35	Luton Local Plan 2011-2031 (November 2017) Policies LLP6 and LLP25
	The National Planning Policy Framework (2023) Chapter 12	Central Bedfordshire Local Plan 2015-2035 (July 2021) Policy HQ1
Geology and Land Contamination		
	The Environmental Protection Act 1990: Part IIA	Luton Local Plan 2011-2031 (November 2017) Policy LLP38
	Waste (England and Wales) Regulations 2011	Central Bedfordshire Local Plan 2015-2035 (July 2021) Policy CC8
	Environmental Permitting (England and Wales) Regulations 2016	North Hertfordshire Local Plan 2011-2031 (November 2022) Policies SP11, NE4 and NE11
	The National Planning Policy Framework (2023)	Dacorum Borough Council Core Strategy 2006-2031 (September 2013) Policy CS32
	National Policy Statement for National Networks (December 2014)	Bedford Borough Council, Central Bedfordshire Council and Luton Borough Councils Minerals and Waste Local Plan: Strategic Sites and Policies (January 2014)
	The Airports National Policy Statement (June 2018) paragraphs 5.109 to 5.127 and 5.226 to 5.229	Bedfordshire and Luton Minerals and Waste Local Plan 2000-2015 – saved policies (Adopted 2005)
		Hertfordshire County Council Minerals Local Plan Review, 2002 - 2016 (Adopted March 2007)
Greenhouse Gases and Climate		

International Policy	National Policy and Legislation	Local Policy
	The Paris Agreement (adopted 2015) UK Nationally Determined Contribution (2020) The Climate Change Act 2008 and Climate Change Act 2008 (2050 Target Amendment) Order 2019 The Carbon Budget Order 2021 The Greenhouse Gas Emissions Trading Scheme Order 2020 (as amended by the Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2022) The Air Navigation (Carbon Offsetting and Reduction Scheme for International Aviation) Order 2021 The Infrastructure Planning (EIA) Regulations 2017 (Regulation 5(2)(c), Schedule 4) The National Planning Policy Framework (2023) (paragraphs 154, 155 and 157) Jet Zero Strategy: Delivering net zero aviation by 2050 (2022)	Luton Local Plan 2011-2031 (November 2017) Policies LLP25*, LLP31 and LLP37* Luton Borough Council (LBC) Climate Change Action Plan 'My climate action plan. Becoming a carbon neutral borough by 2040' (2021) Central Bedfordshire Local Plan 2015-2035 (July 2021) Policy CC1* North Hertfordshire Local Plan 2011-2031 (November 2022) Policy SP11 Dacorum Borough Council Core Strategy 2006-2031 (September 2013) Strategic Objective No.2* The Vale of Aylesbury Local Plan 2013 - 2033 (September 2021 Objective Number 7* and Policies C3* and Action 48*

International Policy	National Policy and Legislation	Local Policy
	A Green Future: Our 25 Year Plan to Improve the Environment, (2018), updated 2019 The UK Aviation Policy Framework (2013) Beyond the horizon, The future of UK aviation: Making best use of existing runways (June 2018) The Airports National Policy Statement (June 2018) Aviation 2050: the future of UK aviation (2018) Flightpath to the Future: a strategic framework for the aviation sector (May 2022) The Transport Decarbonisation Plan, Decarbonising Transport: a better, greener Britain (2021) National Policy Statement for National Networks (December 2014) (paragraphs 5.15 to 5.19) The Clean Growth Strategy: Leading the way to a Low Carbon Future (2017) The Ten Point Plan for a Green Industrial Revolution (2020)	

International Policy	National Policy and Legislation	Local Policy
	The Airports National Policy Statement (June 2018) paragraphs 5.74, 5.76 to 5.78, 5.82 and 5.83)	
Health and Community		
	The Infrastructure Planning (EIA) Regulations 2017 (Regulation 5(2)(a), Schedule 4) Health and Social Care Act 2012 Equality Act 2010 The Aviation Policy Framework, 2013 UK Airspace Policy: A framework for balanced decisions: on the design and use of airspace, February 2017 and Government's Consultation Response October 2017 Flightpath to the Future: a strategic framework for the aviation sector (May 2022) Beyond the horizon, The future of UK aviation: Making best use of existing runways, June 2018 The Airports National Policy Statement (June 2018) paragraphs 1.35, 1.37, 4.70, 4.71, 4.73, 5.106, 5.112, 5.213, 5.216, 5.239, 5.240, 5.241 and 5.251 to 5.253	Luton Local Plan 2011-2031 (November 2017) Policies LLP1*, LLP6, LLP25*, LLP27 and LLP38 Luton's Population Wellbeing Strategy 2019-2024, January 2020 Luton 2020 – 2040 A Place to Thrive, October 2020 Luton Local Transport Plan 4 (April 2021) Policies 2, 3, 12 and 13 and Luton Local Transport Plan 3 (2011-2026) (March 2011) Policies 20 and 21. Luton Green Spaces Strategy Review, October 2015 Central Bedfordshire Local Plan 2015-2035 (July 2021) Strategic Objective SO11 and Policies CC8, HQ1, EE7, EE12 and T2 Dacorum Borough Local Plan 1991 – 2011 (April 2004) Saved Policies CS8 and CS32, Dacorum Borough Council's Equal Opportunity Policy Statement, September 2013 Delivering for Dacorum, Corporate Plan (2020-2025) Priority 2 Hertfordshire Rights of Way Improvement Plan

International Policy	National Policy and Legislation	Local Policy
	National Policy Statement for National Networks, December 2014 paragraphs: 4.79-4.82 National Planning Policy Framework, December 2023 (section 8 and paragraphs: 8b, 34,102, 109, 135, 180 and 191. Planning Practice Guidance – Healthy and Safe Communities Fair Society, Healthy Lives, The Marmot Review 2010 Public Health Outcomes Framework 2013 Transport, health and wellbeing: An evidence review for the Department for Transport, 2019 Department for Transport (DfT), Transport Analysis Guidance (TAG) UNIT A4.1, Social Impact Appraisal, 2019 NB: policy relating to air quality, noise and vibration, traffic and transport and land use has also been considered in relation to health and community.	Hertfordshire County Council's Sustainable Hertfordshire Strategy 2022 North Hertfordshire Local Plan 2011-2031 (November 2022) Policies CS8, SP6, SP10, SP12, NE3 and D3 Stevenage Borough Local Plan 2011-2031 (May 2019) Policies SP2, SP11 and FP7 Welwyn Hatfield Borough Council Local Plan 2016-2036 (October 2023) Policy SADM 18 City and District of St Albans District Local Plan Review 1994 – Saved and Deleted Policies Version (July 2020) Policy Intention 9 Vale of Aylesbury Local Plan (VALP) 2013-2033 Adopted 2021: S1*, S5*, BE3*, NE3, NE4* NE5 and NE6 Buckinghamshire Local Plan (BLP) draft vision and objectives: Objective 5 Buckinghamshire Joint Local Health and Wellbeing Strategy 2022 to 2025* Ivinghoe Neighbourhood Plan: TRA2*, BUS1* Hertfordshire Local Transport Plan (LTP4 2018- 2031), May 2018: Environmental Policy 19, 20 and 21
Heritage		
	The Ancient Monuments and Archaeological Areas Act 1979	Central Bedfordshire Local Plan 2015-2035 (July 2021) Policies HE1*, HE2* and HE3*

International Policy	National Policy and Legislation	Local Policy
	The Infrastructure Planning (Decisions) Regulations 2010 The Infrastructure Planning (EIA) Regulations 2017 (Regulation 5(2)(d), Schedule 4) National Planning Policy Framework (2023) (Chapter 16) The Airports National Policy Statement (June 2018) paragraphs 5.187 to 5.212	Dacorum Borough Council Core Strategy 2006-2031 (September 2013) Policy CS27* North Hertfordshire Local Plan 2011-2031 (November 2022) Policies SP13*, HE1*, HE2*, HE3* and HE4* Luton Local Plan 2011-2031 (November 2017) Policies LLP6* and LLP30* Vale of Aylesbury Local Plan (VALP) 2013-2033 Adopted 2021 (BE1*, BE2* and BE3*)
Landscape and Visual		
	Countryside and Rights of Way Act 2000 The Infrastructure Planning (EIA) Regulations 2017 (Regulation 5(2)(d), Schedule 4) National Planning Policy Framework (2023) (paragraphs 135 and 180) The Airports National Policy Statement (June 2018) paragraphs 5.213 to 5.225	Luton Local Plan 2011-2031 (November 2017) Policies LLP6*, LLP25*, LLP27* and LLP29* Central Bedfordshire Local Plan 2015-2035 (July 2021) Policies EE4*, EE5*, EE12 and HQ1* North Hertfordshire Local Plan 2011-2031 (November 2022) Strategic Objective ENV2* and Policies SP12*, NE1 and NE2* Dacorum Borough Council Core Strategy 2006-2031 (September 2013) Strategic Objective 12* and Policies CS25* and CS26* <i>NB: policy relating to Chilterns National Landscape has been separately listed in that section above.</i>
Land Use		
	The Infrastructure Planning (EIA) Regulations 2017 (Regulation 5(2)(c), Schedule 4)	Luton Local Plan 2011-2031 (November 2017) Policies LLP4*, LLP27, and GE6

International Policy	National Policy and Legislation	Local Policy
	The Town and Country Planning (Development Management (England) Order) (DMPO) 2015 (Schedule 4(y)) National Planning Policy Framework (2023) (paragraphs 84 and 174) National Policy Statement for National Networks (December 2014) Safeguarding our soils: A strategy for England A Green Future: Our 25 Year Plan to Improve the Environment The Airports National Policy Statement (June 2018) paragraphs 5.108, 5.109, 5.115, 5.118, 5.122 and 5.126	Central Bedfordshire Local Plan 2015-2035 (July 2021) Policies SP4 and EE12 North Hertfordshire District Council (NHDC) Local Plan 2011-2031 Policy CGB1 and SP5
Major Accidents and Disasters		
European Union Aviation Safety Agency (EASA) Easy Access Rules for Aerodromes (Regulation (EU) No 139/2014)	The Infrastructure Planning Environmental Impact Assessment) Regulations 2017 Air Navigation Order 2016 (as amended) Health and Safety at Work etc. Act 1974 (HSWA) (as amended) Lifting Operations and Lifting Equipment Regulations 1998 Construction (Design and Management) (CDM) Regulations 2015	Luton Local Plan 2011-2031 (November 2017) Policies LLP36 A(ii), LLP6* and LLP34* Luton Local Transport Plan 2011-2026 – Policies 11 and 12. Central Bedfordshire Local Plan 2015-2035 (July 2021) Policies T2, CC3 and CC8 North Hertfordshire Local Plan 2011-2031 (November 2022) Policies SP6, ETC2 and T1

International Policy	National Policy and Legislation	Local Policy
	The Management of Health and Safety at Work Regulations 1999 The Workplace (Health, Safety and Welfare) Regulations 1992 Control of Major Accident Hazards Regulations 2015 Planning (Hazardous Substances) Regulations 2015 Pipeline Safety Regulations 1996 Control of Asbestos Regulations 2012 Control of Substances Hazardous to Health Regulations 2002 The Regulatory Reform (Fire Safety) Order 2005 The Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005 The Building Regulations 2010 National Planning Policy Framework (2023) National Policy Statement for National Networks (December 2014) The emerging Aviation Strategy	Dacorum Borough Council Core Strategy 2006-2031 (September 2013) Policies CS8, CS9, CS31 and CS32

International Policy	National Policy and Legislation	Local Policy
	(published for consultation in December 2018) Aviation Policy Framework–March 2013 Flightpath to the Future: a strategic framework for the aviation sector (May 2022) Control of Development in Airport Public Safety Zones (Department for Transport (DfT)) The Airports National Policy Statement (June 2018) paragraphs 4.5, 4.35, 4.47, 4.63 to 4.69 and Section 5.	
Noise and Vibration		
The International Civil Aviation Organisation (ICAO) balanced approach to noise mitigation and EU 598/2014 ‘balanced approach’ The European Convention on Human Rights World Health Organisation Guidelines for Community Noise, 1999 World Health Organisation Night Noise Guidelines for Europe, 2009 World Health Organisation Environmental Noise Guidelines for the European Region, 2018	Control of Pollution Act 1974 Environmental Protection Act 1990 Civil Aviation Act 1982 Civil Aviation Act 2006 Civil Aviation Act 2012 The Airports (Noise-related Operating Restrictions) (England and Wales) Regulations 2018 The Environmental Noise (England) Regulations 2006	Luton Local Plan 2011-2031 (November 2017) Policies LLP6* and LLP38* Luton Local Transport Plan 4 (April 2021) Policy 13 and Luton Local Transport Plan 3 (2011-2026) (March 2011) Policy 21 North Hertfordshire Local Plan 2011-2031 (November 2022) Policies ENV3*, SP1*, D3, NE3 Central Bedfordshire Local Plan 2015-2035 (July 2021) Policies HQ1*, CC8*, EE5 and EE7 Dacorum Borough Local Plan Adopted 2004 (saved policies Policy: 97 Dacorum Borough Council Core Strategy 2006-2031 (September 2013) Policy CS32*

International Policy	National Policy and Legislation	Local Policy
	The Noise Insulation Regulations 1975, as amended 1988 The Land Compensation Act 1973 The Human Rights Act 1998 Equality Act 2010 The Infrastructure Planning (EIA) Regulations 2017 (Regulation 5(2)(a), Schedule 4) The Aviation Policy Framework 2013 UK Airspace Policy: A framework for balanced decisions: on the design and use of airspace, February 2017 and Government's Consultation Response October 2017 Aviation 2050: The Future of UK Aviation (2018) Beyond the horizon, The future of UK aviation: Making best use of existing runways, June 2018 Flightpath to the Future: a strategic framework for the aviation sector (May 2022) The Overarching Aviation Noise Policy Statement, March 2023	Welwyn Hatfield Borough Council Local Plan 2016-2036 (October 2023) Policy SADM 18 Stevenage Borough Local Plan 2011-2031 (May 2019) Policies SP2*, SP11*. City and District of St Albans District Local Plan Review 1994 – Saved and Deleted Policies Version (July 2020) Policy Intention 9* Wheathampstead Neighbourhood Plan (NP) Redbourn NP St Stephen Parish NP Policy s6 Sandridge Parish NP Vale of Aylesbury Local Plan (VALP) 2013-2033 Policies S1*, NE3 and NE5 Buckinghamshire Local Plan (BLP) draft vision and objectives Hertfordshire Local Transport Plan (2018- 2031) Policy LTP4 and Environmental Policy 21

International Policy	National Policy and Legislation	Local Policy
	The Noise Policy Statement for England, 2010 The Airports National Policy Statement (June 2018) National Policy Statement for National Networks (December 2014) National Planning Policy Framework, 2023 paragraphs: 180e, 182, 191 and 191a, 191b, 194. Planning Practice Guidance for Noise CAA Guidance: • CAP1129: Noise Envelopes • CAP1498: Definition of overflight • CAP1616: Airspace change • CAP 1616a: Airspace Design: Environmental Requirements Technical Annex, 2021 • CAP 1731 Aviation Strategy: Noise Forecast and Analyses • CAP 2091: CAA Policy on Minimum Standards for Noise Modelling, 2021 • CAP 2161: Survey of Noise Attitudes 2014: Aircraft Noise and Sleep Disturbance • CAP 2250: Survey of Noise Attitudes 2014: Aircraft Noise and Annoyance, Further Analysis, 2022	
Socio Economic		

International Policy	National Policy and Legislation	Local Policy
	National Planning Policy Framework (2023) National Policy Statement for National Networks (December 2014) Aviation Policy Framework Aviation 2050 the Future of UK Aviation: A consultation, October 2019 Beyond the horizon, The future of UK aviation: Making best use of existing runways (June 2018) Flightpath to the Future: a strategic framework for the aviation sector (May 2022) UK Transport Vision 2050: investing in the future of mobility, August 2021 UK Industrial Strategy: a leading destination to invest and grow, December 2017 Build Back Better: Our Plan for Growth (March 2021) The Airports National Policy Statement (June 2018) paragraph 4.4	Luton Local Plan 2011-2031 (November 2017) Strategic Objectives 1, 2 and 6 and Policies LLP6* and LLP13* Luton Borough Council, Luton 2020-2040, October 2020 Central Bedfordshire Local Plan 2015-2035 (July 2021) Strategic Objectives 1*, 5* and 7* and Policy SP1* Central Bedfordshire Council All Age Skills Strategy Refresh 2016-2020, September 2016 (Objective 1 and 2) Central Bedfordshire Council Economic Insight 2016, September 2016 North Hertfordshire Local Plan 2011-2031 (November 2022) Strategic Objectives ECON1, ECON3, ECON5, and SOC2 Dacorum Borough Council Core Strategy 2006-2031 (September 2013) Policy CS14
Traffic and Transport		
	National Planning Policy Framework, 2021 (Chapter 9) Aviation Policy Framework - paragraphs 5.11 to 5.13.	Luton Local Plan 2011-2031 (November 2017) Policies LLP6*, LLP31* and LLP32* Luton Local Transport Plan 2011-2026 (basis for LLP31)

International Policy	National Policy and Legislation	Local Policy
	National Policy Statement for National Networks (December 2014) (paragraphs 5.203 to 5.205) Beyond the horizon, The future of UK aviation: Making best use of existing runways (June 2018) The Airports National Policy Statement (June 2018) paragraphs 5.9, 5.10, 5.13 and 5.14 Department for Transport policy paper: Strategic road network and the delivery of sustainable development (2023) The Transport Decarbonisation Plan, Decarbonising Transport: a better, greener Britain (2021)	Hertfordshire Local Transport Plan 4 (LTP4) (2018-2031) (Policy 1*, Policy 2*, Policy 3*, Policy 9*, Policy 10*, Policy 11*, Policy 19*, Policy 20* and Policy 21*) Central Bedfordshire Local Plan 2015-2035 (July 2021) Policies T1* and T2* North Hertfordshire Local Plan 2011-2031 (November 2022) Policies SP6* and T1* Dacorum Borough Council Core Strategy 2006-2031 (September 2013) Policy CS8* and CS9* City and District of St Albans District Local Plan Review 1994 – Saved and Deleted Policies Version (July 2020) Saved Policy 34* Buckinghamshire Council's Local Transport Plan (LTP) 4 (2016-2036) Policy 6*
Waste and Resources		
	National Planning Policy Framework, 2021 National Policy Statement for National Networks (December 2014) National Planning Policy Guidance for Minerals and Waste Emerging Aviation Strategy National Planning Policy for Waste	Luton Local Plan 2011-2031 (November 2017) Policy LLP37 Hertfordshire County Council Waste and Development Framework Waste Care Strategy and Development Management Policies Development Plan Document 2011-2026 Bedford Borough Council, CBC and LBC's Minerals and Waste Local Plan: Strategic Sites and Policies January 2014 – Policies M4, W5 and W22

International Policy	National Policy and Legislation	Local Policy
	Waste management Plan for England A Green Future: Our 25 Year Plan to Improve the Environment 2018 Our Waste, Our Resource: A Strategy for England 2018 The Airports National Policy Statement (June 2018) paragraphs 5.137, 5.141 and 5.143	North Hertfordshire Local Plan 2011-2031 (November 2022) Policies SP11 and NE11 Dacorum Borough Council Core Strategy 2006-2031 (September 2013)
Water Resources		
	Environment Act 2021 The Water Framework Directives (Standards and Classification) Directions (England and Wales) 2015 The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 The Flood Risk Regulations 2009 The Flood and Water Management Act 2010 The Water Act 2014, amending the Water Industry Act 1991 Environment Act 1995 Water Resources Act 1991	Luton Local Plan 2011-2031 (November 2017) Policies LLP6, LLP36*, LLP37 and LLP38 Central Bedfordshire Local Plan 2015-2035 (July 2021) Policies CC3*, CC4, CC5, CC6, CC7 and CC8 North Hertfordshire Local Plan 2011-2031 (November 2022) Policies SP11, NE7*, NE8, NE9* and NE10* Dacorum Borough Council Core Strategy 2006-2031 (September 2013) Policy CS32

International Policy	National Policy and Legislation	Local Policy
	Water Industry Act (Amendment) (England and Wales) Regulations 2009 Water Act 2003 Water Resources (EIA) Regulations 2003 Water Resources (EIA) (England and Wales) Regulations 2006 The Infrastructure Planning (EIA) Regulations 2017 (Regulation 5(2)(c), Schedule 4) Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019 Environment (Amendment etc.) (EU Exit) Regulations 2019: Part 2 Groundwater WFD (England) Direction 2016 Groundwater Regulations 2009 The Contaminated Land (England) Regulations (Amendment) 2012 National Planning Policy Framework, July 2021 (Section 14) National Policy Statement for National Networks – December 2014	

International Policy	National Policy and Legislation	Local Policy
	The Airports National Policy Statement (June 2018) paragraphs 5.152 to 5.165, 5.172 to 5.186	
In-Combination and Cumulative Effects		
	Infrastructure Planning (EIA) Regulations 2017 (Regulation 5(2)(e) and Schedule 4) The Airports National Policy Statement (June 2018) paragraphs 4.14 and 4.15	

Summary of National Policy Statements (NPS)

NPS
Airports National Policy Statement: new runway capacity and infrastructure at airports in the South East of England (June 2018) The ANPS paragraph 1.39 states that following a call for evidence on a new Aviation Strategy, the Government confirmed that it was “<i>supportive of airports beyond Heathrow making best use of their existing runways</i>”. Recognising that airports can have positive and negative impacts, paragraph 1.39 goes on to say that proposals “<i>should be judged on their individual merits, taking careful consideration of all relevant considerations, particularly economic and environmental</i>”. The ANPS paragraph 1.41 states that “<i>The Airports NPS does not have effect in relation to an application for development consent for an airport development not comprised in an application relating to the Heathrow Northwest Runway, and proposals for new terminal capacity located between the Northwest Runway at Heathrow Airport and the existing Northern Runway and reconfiguration of terminal facilities between the two existing runways at Heathrow Airport.</i>” Therefore, as stated above, the ANPS does not have effect in relation to the proposed Luton Airport expansion proposals. Paragraph 1.41 goes on to say that “<i>Nevertheless, the Secretary of State considers that the contents of the Airports NPS will be both important and relevant considerations in the determination of such an application, particularly where it relates to London or the South East of England. Among the considerations that will be important and relevant are the findings in the Airports NPS as to the need for new airport capacity and that the preferred scheme is the most appropriate means of meeting that need.</i>” The ANPS states at paragraph 1.12 that “<i>The Airports NPS provides the primary basis for decision making on development consent applications for a Northwest Runway at Heathrow Airport, and will be an important and relevant consideration</i>

in respect of applications for new runway capacity and other airport infrastructure in London and the South East of England.” Therefore, the ANPS is an important and relevant consideration under s105(2) of the PA2008.

- Part 1 sets out the broad scope and purposes of the ANPS;
- Part 2 sets out the need for additional aviation capacity, the importance of aviation to the UK economy and details of the Airports Commission’s work;
- Part 3 explains why government believes that need is best met by a north-west runway at Heathrow Airport; and
- Parts 4 and 5 set out general and detailed principles for assessment, mitigation and compensation, criteria for ‘good design’ as well as common law and statutory nuisance considerations.

National Policy Statement for National Networks December 2014

The NPSNN was designated on 14 January 2015 and remains in force for applications submitted prior to It sets out the national policy for highways-related development and is only relevant to the M1 J10 components of this application, which do not constitute a separate NSIP. The NPSNN sets out the need for Government’s policies to deliver development of NSIPs on the national road network in England. It states that the Government has concluded that at a strategic level there is a compelling need for the development of the national road network. It makes clear that subject to the detailed policies and protections within it, and the legal constraints set out in the PA2008, there is a presumption in favour of granting development consent for national network NSIPs that fall within the need for infrastructure established in the NPSNN. Parts 4 and 5 of the NPSNN set out the assessment and mitigation principles that are required to be addressed by development proposals.

The National Networks NPS (2024) was designated following submission of the application and based on the transitional provisions in paragraph 1.16, the NPSNN remains the relevant NPS in respect of this application.

Summary of other relevant National Policies for the Proposed Development

Relevant Policies

The National Planning Policy Framework

- The National Planning Policy Framework (NPPF) was adopted in September 2023. The NPPF, and the accompanying Planning Practice Guidance (PPG), set out the Government’s planning policies for England and how these are expected to be applied.
- Paragraph 5 of the NPPF states that it does not contain specific policies for NSIPs as these are determined in accordance with the decision-making framework set out in the PA2008 and the relevant NPSs, but the NPPF is a relevant consideration on decision-making for the Application. Paragraphs 7 and 8 state that the Government’s approach to achieving sustainable development means that the planning system has three

overarching objectives, these being economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. Both the NPPF and the PPG are capable of being important and relevant considerations in decisions on NSIPs, but only to the extent where it is relevant to that project.
The Aviation Policy Framework (March 2013) The aviation policy framework sets out the government’s policy to allow the aviation sector to continue to make a significant contribution to economic growth across the country. It provides the baseline for the Airports Commission to take into account on important issues such as aircraft noise and climate change. It sets out government’s objectives on the issues which will challenge and support the development of aviation across the UK. The APF recognises that the negative impact of airport noise is a key issue for local communities and emphasises that need for a <i>“a fair balance between the negative impacts of noise (on health, amenity (quality of life) and productivity) and the positive economic impacts of flights”</i> and that future growth in aviation should ensure that benefits are <i>“shared between the aviation industry and local communities”</i>.
UK Airspace Policy: a framework for balanced decisions: on the design and use of airspace (February 2017) and Government’s Consultation Response (October 2017) The consultation set out the policy principles for the government's approach to support modernisation of the way UK airspace is managed. The consultation response explained that the government would implement proposals, including: - a new Secretary of State call in power on airspace changes of national importance; - changes to aviation noise compensation policy; - the creation of the Independent Commission on Civil Aviation Noise (ICCAN) as a new non-departmental public body; - a new requirement for options analysis in airspace change; and - new metrics and appraisal guidance to assess noise impacts and their impacts on health and quality of life.
Beyond the Horizon: The future of UK aviation – Making best use of existing runways (June 2018) As a result of the Aviation strategy call for evidence and further analysis, government set out its support for airports beyond Heathrow making best use of their existing runways, subject to related economic and environmental considerations being considered. MBU forms part of the government’s wider Aviation strategy and sets out the detail of the policy. MBU is supportive of airports beyond Heathrow making best use of their existing runways. It recognises that the development of airports can have negative as well as positive local impacts, including on noise levels. It explains 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 and does not prejudge the decision of those authorities.
Aviation 2050: The Future of UK Aviation (2018) The Aviation 2050 green paper consultation formed part of the government’s final consultation on policy proposals for an updated Aviation Strategy. It is structured around the original objectives of the strategy, updated to reflect consultation feedback. It is divided into thematic chapters, such as ensuring aviation can grow sustainably, and contains specific policy proposals. Further detail on some of the policy issues are presented in the annexes.

The Government published a response on one area of the consultation, in 2019, relating to legislation for enforcing the development of airspace change proposals. Given the unprecedented challenges aviation has faced as a result of the coronavirus (COVID-19) pandemic, the government decided not to publish a further formal response to the remaining parts of that consultation. Instead, it published the FTFF strategic framework, which built on the responses received to Aviation 2050 and establishes its ambitions and commitments for aviation over the following 10 years.

The Noise Policy Statement for England (2010)

The Noise Policy Statement for England was published on 15 March 2010. It sets out the long term vision of government noise policy, to promote good health and a good quality of life through the management of noise.

Build Back Better: Our Plan for Growth (March 2021)

BBB sets out the government's plan to support growth through significant investment in infrastructure, skills and innovation, and to pursue growth that levels up every part of the UK, enables the transition to net zero, and supports its vision for Global Britain.

Flightpath to the Future: a strategic framework for the aviation sector (2022)

Flightpath to the future' is a strategic framework for the aviation sector that supports the DfT's vision for a modern, innovative and efficient sector over the following 10 years. It comprises a 10-point plan focusing on how Government and industry can work together to deliver a successful future aviation sector.

Jet Zero Strategy: delivering net zero aviation by 2050 (July 2022)

The Jet Zero strategy sets out how the government proposes to achieve net zero aviation by 2050. It focuses on the rapid development of technologies in a way that maintains the benefits of air travel whilst maximising the opportunities that decarbonisation can bring to the UK. The Jet Zero strategy includes a 5-year delivery plan, setting out the actions that would need to be taken to support the delivery of net zero aviation by 2050. The strategy states that government will be monitoring progress and reviewing and updating its strategy every 5 years. The strategy was informed by over 1,500 responses to the Jet Zero consultation and the Jet Zero further technical consultation.

Jet Zero Strategy: one year on (2023) (JZSOYO)

This report sets out government's progress against the strategic framework for decarbonising aviation, as well as the latest aviation emissions data and updated Jet Zero analysis. It highlights significant milestones achieved since the Jet Zero strategy launch:

- agreement at the International Civil Aviation Organization for a long-term aspirational goal for aviation of net zero 2050 carbon dioxide (CO2) emissions for international aviation;
- publication of the 2040 zero emissions airport target call for evidence;
- significant progress on sustainable aviation fuels (SAF) including:
 - publishing the second SAF mandate consultation;
 - launching a second round of the Advanced Fuels Fund;
 - publishing the Philip New report and the government response on how to develop a UK SAF industry;
- publication of the government response to the UK ETS consultation, setting out a range of commitments that will enhance the effectiveness of the UK Emissions Trading Scheme (ETS) for aviation; and
- launch of the expressions of interest for 2 DfT- funded research projects into aviation's non-CO2 impacts.

The report also acknowledges that big challenges remain and we need to continue to work across the aviation sector, and with experts across the economy, to ensure we continue to make progress on our path to decarbonise aviation.

The Overarching Aviation Noise Policy Statement (March 2023) (OANPS)

In FTTF, the government stated that it would set out next steps on noise policy in 2022 to 2023. In advance of publishing a detailed noise policy paper it provided an overall policy on aviation noise to frame its night-time noise abatement objective consultation and to provide clarity for airports and their stakeholders preparing or responding to noise action plan consultations. *“The government’s overall policy on aviation noise is to balance the economic and consumer benefits of aviation against their social and health implications in line with the International Civil Aviation Organisation’s Balanced Approach to Aircraft Noise Management. This should take into account the local and national context of both passenger and freight operations, and recognise the additional health impacts of night flights. The impact of aviation noise must be mitigated as much as is practicable and realistic to do so, limiting, and where possible reducing, the total adverse impacts on health and quality of life from aviation noise.”*

APPENDIX C: MADE DCOs

Other made DCOs identified by the Applicant

- Manston Airport Development Consent Order 2022
- Sizewell C (Nuclear Generating Station) Order 2022
- M25 Junction 10/A3 Wisley Interchange Development Consent Order 2022
- M25 Junction 28 Development Consent Order 2022
- A1 Birtley to Coal House Development Consent Order 2021
- M42 Junction 6 Development Consent Order 2020
- Southampton to London Pipeline Development Consent Order 2020
- A63 (Castle Street Improvement, Hull) Development Consent Order 2020
- Great Yarmouth Third River Crossing Development Consent Order 2020
- Lake Lothing (Lowestoft) Third Crossing Order 2020
- A30 Chiverton to Carland Cross Development Consent Order 2020
- Reinforcement to the North Shropshire Electricity Distribution Network Order 2020
- Cleve Hill Solar Park Order 2020
- Riverside Energy Park Order 2020
- Silvertown Tunnel Development Consent Order 2018
- National Grid (Richborough Connection Project) Development Consent Order 2017
- M20 Junction 10a Development Consent Order 2017
- National Grid (Hinkley Point C Connection Project) Order 2016
- Cornwall Council (A30 Temple to Higher Carblake Improvement) Order 2015
- Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014

APPENDIX D: ABBREVIATIONS

Abbreviations	
AAR	Airport Access Road
ACP	Airspace Change Process
ADMS	Atmospheric Dispersion Modelling System
AEDT	Aviation Environmental Design Tool
AGI	Above Ground Installation (Work No. 4c(02))
AGLV	Area of Great Landscape Value
ALC	Agricultural Land Classification
ALLV	Areas of Local Landscape Value
ALR	All Lane Running
AMP	Asset Management Plan
ANMP	Air Noise Management Plan
ANPR	Automatic Number Plate Recognition
ANPS	Airports National Policy Statement: new runway capacity and infrastructure of airports in the South East of England (June 2018)
AONB	Area of Outstanding Natural Beauty now known as National Landscapes
AP	Affected Person
APF	Aviation Policy Framework
APFP	Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
AQAP	Air Quality Action Plan
AQMA	Air Quality Management Areas
ARN	Affected Road Network
ARSI	Access Required Site Inspection
ASI	Accompanied Site Inspection
ATF	Airport Transport Forum
ATM	Air Traffic Movements
AVP	Assessment Viewpoint
AVR	Accurate Visual Representation
AW	Affinity Water
A-weighting	An adjustment applied to sound measurement to reflect how noise is perceived by the human ear.
BBB	Build Back Better: our plan for growth (March 2021)
BC	Buckinghamshire Council
BEIS	Department for Business, Energy and Industrial Strategy (BEIS) now the Department for Energy Security and Net Zero (DESNZ)
BFRS	Bedfordshire Fire and Rescue Service
BMV	Best and Most Versatile
BMWLP	Buckinghamshire Minerals and Waste Local Plan 2016-2036 (2019)
BNG	Biodiversity net gain
BoR	Book of Reference [REP9-007]
BREEAM	Building Research Establishment Environmental Assessment Method
BW	Bridleways
CA	Compulsory Acquisition

CAA	Civil Aviation Authority
CAH	Compulsory Acquisition Hearing
CAP	Civil Aviation Publication
CBC	Central Bedfordshire Council
CBLP	Central Bedfordshire Local Plan 2015-2035 (2021)
CBLPTM	Central Bedfordshire and Luton Traffic Model
CCA2008	Climate Change Act 2008
CCB	Chilterns Conservation Board
CCC	Climate Change Committee
CCR	Climate Change Resilience
ceo	Current engine option
CFA	Continuous flight augur
CHG	Cultural Heritage Gazetteer [REP4-017]
CHMP	Cultural Heritage Management Plan [REP4-020]
Chilterns NL	Chilterns National Landscape
CO2	Carbon Dioxide
CoCP	Code of Construction Practice [REP8-013]
CORSIA	Carbon Offsetting and Reduction Scheme for International Aviation
CPREs	The Countryside Charity
CRow	Countryside and Rights Of Way Act (CROW) 2000
CSACL	Chris Smith Aviation Consulting Limited
CWS	County Wildlife Site
D	Deadline
DACS	Dacorum Adopted Core Strategy
DALY	Disability Adjusted Life Year
DART	Direct Air-Rail Transit
DAS	Design and Access Statement [AS-049] and [AS-124]
dB	Decibel
DBC	Dacorum Borough Council
DBCS	Dacorum Borough Council Core Strategy 2006-2031 (2013)
DBLP	Dacorum Borough Local Plan 1991-2011 (2004)
DC	Design Code
draft DCO	draft Development Consent Order [REP11-091]
DCO	Development Consent Order
DDS	Drainage Design Statement
Defra	Department for the Environment, Food and Rural Affairs
DfR	Deposit for Recovery
DfT	Department for Transport
DHA	Designated Heritage Assets
DLP	Dacorum Local Plan to 2040
DM	Do minimum (scenario)
DMRB	Design Manual for Roads and Bridges
DP	Design Principles [REP9-030] and [REP8-013]
DS	Do something (scenario)
DWS	District Wildlife Site
EA	Environment Agency
EA2010	Equality Act 2010
ECHR	European Court of Human Rights

EEA	European Economic Area
EEAS	East of England Ambulance Service
EIA	Environmental Impact Assessment
EIA Regulations	The Infrastructure Planning (EIA) Regulations 2017
EL	Examination Library
EM	Explanatory Memorandum [REP10-005]
EPR	Infrastructure (Examination Procedure Rules) 2010
EPS	European Protected Species
EPUK	Environmental Protection UK
EqIA	Equality Impact Assessment [AS-129]
ERUB	Engine Runup Bay
ES	Environmental Statement
ESG	Environmental Scrutiny Group
ETS	Employment and Training Strategy [APP-215]
EV	Electric Vehicle
EWR	East West Rail
ExA	Examining Authority
ExQ1	Examining Authority's written questions [PD-010]
ExQ2	Examining Authority's further written questions [PD-015]
FoWP	Friends of Wigmore Park
FttF	Flightpath to the Future (2022)
FP	Footpath
FRA	Flood Risk Assessment
FSF	Fuel Storage Facility (Work No. 4c(01))
FTG	Fire Training Ground (Work No. 2d)
FTP	Framework Travel Plan [REP11-027]
FWRA	Foundation Works Risk Assessment
GB	Green Belt
GCG	Green Controlled Growth
GDP	Gross Domestic Product
GHG	Greenhouse Gas
GHP	Green Horizons Park
GI	Green Infrastructure
GLVIA3	Guidelines for Landscape and Visual Impact Assessment Third Edition (2013)
GQRA	Generic Quantitative Risk Assessment
GVD	General Vesting Declaration
ha	Hectare
HA	Heritage Assets
HCC	Hertfordshire County Council
HE	Historic England
HER	Historic Environment Record
HEWRAT	Highways England Water Risk Assessment Tool
HGV	Heavy Goods Vehicle
HHA	Hertfordshire Host Authorities – Dacorum Borough Council, Hertfordshire County Council and North Hertfordshire District Council
HRA	Habitats Regulation Assessment
HRA Regulations	The Conservation of Habitats and Species Regulations 2017
HS2	High Speed 2
IAP	Initial Assessment of Principal Issues
IAQM	Institute of Air Quality Management

IAS	International Aviation and Shipping
ICAO	International Civil Aviation Organisation
ICCE	In-combination and Cumulative Effects
ICCI	In-combination Climate Change Impacts
IEMA	Institute of Environmental Management and Assessment
ILP	Institute of Lighting Professionals
IMD	Index of Multiple Deprivation
INM	Integrated Noise Model
IP	Interested Party
IPs	Interested Parties
ISH	Issue Specific Hearing
ISO	International Standards Organisation
J	Junction
JHA	Joint Host Authorities (the Hertfordshire Host Authorities, Central Bedfordshire Council and Luton Borough Council)
JSNA	Joint Strategic Needs Assessment
JZS	Jet Zero Strategy: Delivering net zero aviation by 2050 (July 2022)
JZSOYO	Jet Zero Strategy: One Year On (2023)
kg/N/ha/yr	Kilograms of nitrogen per hectare per year
km	Kilometres
LADACAN	Luton and District Association for the Control of Aircraft Noise
LAeq	A weighted continuous equivalent sound level
L _{Aeq16hr}	The A-weighted continuous equivalent noise level for the 16 hour daytime period (07:00 to 23:00)
L _{Aeq8hr}	The A-weighted continuous equivalent noise level for the 8 hour night-time period (23:00-07:00)
L _{Amax}	The maximum RMS A-weighted sound pressure level occurring within a specified fast (0.125 second) or slow (1 second) time period
LB	Listed Building
LBC	Luton Borough Council
LBLCA	Luton Borough Landscape Character Area
LBMP	Landscape and Biodiversity Management Plan
LCA	Landscape Character Area
LCWIP	Local Cycling and Walking Infrastructure Plan
LI	Landscape Institute
LSE	Likely Significant Effect
LIR	Local Impact Report
LLA	London Luton Airport
LLACC	London Luton Airport Co-ordination Committee
LLAOL	London Luton Airport Operations Limited
LLFA	Lead Local Flood Authorities
LLP	Luton Local Plan 2011-2031 (2017)
LNR	Local Nature Reserve
LOA	Light Obtrusion Assessment (Parts A and B) [APP-052] and [APP-053]
LOAEL	Lowest Observed Adverse Effect Level
LPA	Local Planning Authority
LQ	Location Quotient
LRN	Local Road Network
LTFC	Luton Town Football Club
LTN 1/20	Department for Transport - Local Transport Note 1/20

LTN_SLTN	Noise monitoring position in south Luton
LTO	Landing and take-off phase
LTP4	Hertfordshire Local Transport Plan 4
LURA	Levelling-up and Regeneration Act 2023
LVIA	Landscape and Visual Impact Assessment
m	metre
m ²	Square metre
m ³	Cubic metre
M1 J10	M1 Junction 10
MAD	Major Accidents and Disasters
mBGL	metres below ground level
MBU	Making Best Use (reference to Beyond the horizon, The future of UK aviation: Making best use of existing runways, June 2018)
MCERTS	Monitoring Certification Scheme
mppa	Million passengers per annum
MSA	Mineral Safeguarding Area
MT1	Mitigation Type 1 (from the outline TRIMMA)
MT2	Mitigation Type 2 (from the outline TRIMMA)
MtCO ₂ e	Million tonnes carbon dioxide equivalent
NAP	Noise Action Plan
NAQP	National Air Quality Plan
NDHA	Non-Designated Heritage Assets
NE	Natural England
neo	New engine option
NEDG	Noise Envelope Design Group
Night period	23:00 to 07:00
NHLE	National Heritage List for England
NH	National Highways
NHDC	North Hertfordshire District Council
NHLP	North Hertfordshire Local Plan 2011-2031 (2022)
NH ₃	Ammonia
NISC	Noise Insulation Sub-committee (of the LLACC)
NL	National Landscape formerly known as an AONB
NMT	Noise monitoring terminal
NNNPS	National Networks National Policy Statement
NO _x	Oxides of nitrogen
NO ₂	Nitrogen dioxide
NPPF	National Planning Policy Framework (2023, unless otherwise stated)
NPSE	Noise Policy Statement for England
NQP	Night quota period – 23:30 to 06:00
NR	Network Rail Infrastructure Ltd
NSER	No Significant Effect Report
NSIP	Nationally Significant Infrastructure Project
NTP	Noise Technical Panel
NVL	Noise Violation Limits
O ₃	Ozone
OANPS	Overarching Aviation Noise Policy Statement
OFH	Open Floor Hearing
oCTMP	Outline Construction Traffic Management Plan [REP11-005]
oCWTP	Outline Construction Workers Travel Plan [APP-131]

oGGAP	Outline Greenhouse Gas Action Plan [APP-081]
oGNMP	Outline Ground Noise Management Plan [REP11-043]
oOAQP	Outline Operational Air Quality Plan [REP9-013]
oOWMP	Outline Operational Waste Management Plan [AS-097]
oRS	Outline Remediation Strategy [REP6-005]
oSWMP	Outline Site Waste Management Plan [AS-097]
oTRIMMA	Outline Transport Related Impacts Monitoring and Mitigation Approach [REP10-036]
P19	Ref 15/00950/VARCON granted on 13 October 2023 allowing, among other things, commercial passenger throughput of up to 19 million passengers in any twelve-month period
PA2008	Planning Act 2008
PADSS	Principal Areas of Disagreement Summary Statement
PAIN	People Against Intrusive Noise
PATM	Passenger Air Transport Movement
PD	Procedural Decision
PEIR	Preliminary Environmental Information Report
PFAS	Poly Fluoroalkyl Substances
PFOS	Perfluorooctane Sulphonate
PRoW	Public Right of Way
PSED	Public Sector Equality Duty
PM	Preliminary Meeting
PM _{2.5}	Fine particulate Matter 2.5 micrometres or less in diameter
PM ₁₀	Particulate matter 10 micrometres or less in diameter.
PPCE	Probabilistic projections of climate extremes
PPGAQ	Planning Practice Guidance for Air Quality
PPGN	Planning Practice Guidance for Noise
PSZ	Public Safety Zone
PRoW	Public Rights of Way
QALY	Quality Adjusted Life Year
QC	Quota Count
RBMP	River Basin Management Plans
RCP	Representative Concentration Pathway
RPA	Relevant Planning Authority
RPG	Registered Park and Garden
RR	Relevant Representations
RSA	Road Safety Audit
s	Section (eg s106 agreement)
s106	Section 106 agreement [REP11-108]
SAC	Special Area of Conservation
SAF	Sustainable Aviation Fuel
SAS	Surface Access Strategy
SEL	Sound exposure level
SLAE	Stop Luton Airport Expansion
SLM	Strategic Landscape Masterplan [APP-172]
SLQ	Special Landscape Qualities
SM	Scheduled Monument
SMP	Soil Management Plan
SMR	Surface Movement Radar (Work No. 2a(02))
SOAEL	Significant observed adverse effect level
SoCG	Statement of Common Ground
SoR	Statement of Reasons [AS-071]
SoS	Secretary of State

SO ₂	Sulphur Dioxide
SPA	Special Protection Area
SPZ	Source Protection Zone(s)
SQ	Special Quality
SQA	Special Qualities Assessment
SRN	Strategic Road Network
SSSI	Sites of Special Scientific Interest
STAND	St Albans Aircraft Noise Defence
STAQS	St Albans Quieter Skies
STF	Sustainable Transport Fund
STW	Sewage Treatment Works
SU	Statutory Undertaker
SuDS	Sustainable Drainage Systems
T1	Terminal 1
T2	Terminal 2
TA	Transport Assessment
TCPA90	Town and Country Planning Act 1990
TfL	Transport for London
TP	Temporary Possession
TPO	Tree Preservation Order
TT	Traffic and Transport
TWUL	Thames Water Utilities Limited
UAEL	Unacceptable adverse effect level
UFGS	Updated faster growth scenario
UFP	Ultra-fine Particulates
UK ETS	UK Emissions Trading Scheme
UKCP18	UK Climate Projections 2018
UKHSA and OHID	UK Health Security Agency and Office for Health Improvement and Disparities
USI	Unaccompanied Site Inspection
UXO	Unexploded Ordnance
VALP	Vale of Aylesbury Local Plan (2013-2033) (2021)
VOC	Volatile Organic Compounds
VP	Viewpoint
VSC	Very Special Circumstances
WCS	Water Cycle Strategy
WebTAG	Web-based Transport Analysis Guidance
WFD	Water Framework Directive
WHO	World Health Organisation
WP	Wigmore Park
W&R	Waste and Resources
WR	Written representations
WTP	Water Treatment Plant
WVP	Wigmore Valley Park
ZEA	Zero Emission Aircraft

APPENDIX E: THE RECOMMENDED DCO

202[] No. 0000

INFRASTRUCTURE PLANNING

**London Luton Airport Expansion Development Consent Order
202[]**

Made - - - - 202[]

Coming into force 202[]

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An application has been made to the Secretary of State, in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(a) for an Order under sections 37 of the Planning Act 2008(b) (“the 2008 Act”).

The application was examined by a Panel of five members (“the Examining Authority”) appointed by the Secretary of State pursuant to section 61 and 65 of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of the 2008 Act and with the Infrastructure Planning (Examination Procedure) Rules 2010(c).]

The Panel having examined the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 74 of the 2008 Act, has submitted a report to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report of the Panel, has decided to make an Order granting development consent for the development described in the application [with modifications which in the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application].

[The Secretary of State is satisfied that replacement land (as that term is defined in section 131(12) of the 2008 Act) has been or will be given in exchange for the special category land, and that the replacement land has been or will be vested in the person or persons in whom the special category land is vested and subject to the same rights, trusts and incidents as attach to the special category land, and that, accordingly, section 131(4) of the 2008 Act applies.]

[The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120, 122, 123 and 147 of the 2008 Act, makes the following Order—]

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the London Luton Airport Expansion Development Consent Order 202[] and comes into force on [] 202[].

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(d);

“the 1965 Act” means the Compulsory Purchase Act 1965(e);

“the 1972 Act” means the Local Government Act 1972(f)

“the 1980 Act” means the Highways Act 1980(a);

(a) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755.

(b) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).

(c) S.I. 2010/103, amended by S.I. 2012/635.

(d) 1961 c. 33.

(e) 1965 c. 56.

(f) 1972 c. 70.

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981**(b)**;

“the 1982 Act” means the Civil Aviation Act 1982**(c)**;

“the 1984 Act” means the Road Traffic Regulation Act 1984**(d)**;

“the 1990 Act” means the Town and Country Planning Act 1990**(e)**;

“the 1991 Act” means the New Roads and Street Works Act 1991**(f)**;

“the 2003 Act” means the Communications Act 2003**(g)**;

“the 2008 Act” means the Planning Act 2008**(h)**;

“the 2016 Regulations” means the Environmental Permitting (England and Wales) Regulations 2016**(i)**;

“the 2017 Regulations” means the Compulsory Purchase of Land (Vesting Declarations) (England) Regulations 2017**(j)**;

“address” includes any number or address for the purposes of electronic transmission;

“airport” means London Luton Airport, an airport within the meaning given in Part 1 of the Civil Aviation Act 2012**(k)**, comprised prior to the making of this Order in the land shown within the airport boundary plan (existing), and authorised by this Order to be expanded to comprise the land shown within the airport boundary plan (expanded);

“Airport Access Road and Luton DART long section plans” means the document certified by the Secretary of State as the Airport Access Road and Luton DART long section plans for the purposes of the Order under article 50 (certification of documents, etc.) and referenced in Schedule 9 (documents to be certified);

“airport operator” means the managing body of London Luton Airport as defined in the Airports Slot Allocation Regulations 2006**(l)**;

-
- (a) 1980 c. 66. Section 1(1) was amended by section 21(2) to the New Roads and Street Works Act 1991 (c. 22); sections 1(2), (3) and (4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act 1985 (c. 51); section 1(2A) was inserted by, and section 1(3) was amended by, section 259(1), (2) and (3) of the Greater London Authority Act 1999 (c. 29); sections J(3A) and 1(5) were inserted by section 22(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act 1994 (c. 19). Section 36(2) was amended by section 4(1) of, and paragraphs 47(a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c. 71), by S.I. 2006/1177, by section 4 of, and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11), by section 64(1), (2) and (3) of the Transport and Works Act 1992 (c. 42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c. 37); section 36(3A) was inserted by section 64(4) to the Transport and Works Act 1992 and was amended by S.I. 2006/1177; section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act 1985 (c. 51); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994 (c. 19). Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c. 29) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c. 15). There are other amendments to the 1980 Act which are not relevant to this Order.
- (b) 1981 c. 66. Sections 2(3), 6(2) and 11(6) were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11). Section 15 was amended by sections 56 and 321(1) of, and Schedules 8 and 16 to, the Housing and Regeneration Act 2008 (c. 17). Paragraph 1 of Schedule 2 was amended by section 76 of, and Part 2 of Schedule 9 to, the Housing Act 1988 (c. 50); section 161(4) of, and Schedule 19 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28); and sections 56 and 321(1) of, and Schedule 8 to, the Housing and Regeneration Act 2008 (c. 17). Paragraph 3 of Schedule 2 was amended by section 76 of, and Schedule 9 to, the Housing Act 1988 (c. 50) and section 56 of, and Schedule 8 to, the Housing and Regeneration Act 2008 (c. 17). Paragraph 2 of Schedule 3 was repealed by section 277 of, and Schedule 9 to, the Inheritance Tax Act 1984 (c. 51). There are other amendments to the 1981 Act which are not relevant to this Order.
- (c) 1982 c. 16.
- (d) 1984 c. 27.
- (e) 1990 c. 8. Section 206(1) was amended by section 192(8) of, and paragraphs 7 and 11 of Schedule 8 to, the Planning Act 2008 (c. 29) (date in force to be appointed see section 241(3), (4)(a) and (c) of the 2008 Act). There are other amendments to the 1990 Act which are not relevant to this Order.
- (f) 1991 c. 22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c. 26). Sections 79(4), 80(4), and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
- (g) 2003 c. 21. There are amendments to this Act which are not relevant to this Order.
- (h) 2008 c. 29.
- (i) S.I. 2016/1154.
- (j) S.I. 2017/3.
- (k) 2012 c. 19.
- (l) S.I. 2006/2665.

“airport boundary plans” means the document certified by the Secretary of State as the airport boundary plans for the purposes of the Order under article 50 (certification of documents, etc.) and referenced in Schedule 9 (documents to be certified);

“airport boundary plan (existing)” means the plan of that name in the airport boundary plans;

“airport boundary plan (expanded)” means the plan of that name in the airport boundary plans;

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“authorised development” means the development described in Schedule 1 (authorised development) and any other development authorised by this Order, or any part of it, which is development within the meaning of section 32 (meaning of development) of the 2008 Act;

“book of reference” means the document certified by the Secretary of State as the book of reference for the purposes of the Order under article 50 (certification of documents, etc.) and referenced in Schedule 9 (documents to be certified);

“bridleway” has the same meaning as in the 1980 Act;

“building” includes any structure or erection or any part of a building, structure or erection;

“carriageway” has the same meaning as in the 1980 Act and includes part of a carriageway;

“code of construction practice” means Appendix 4.2 of the environmental statement;

“Crown land plans” means the document certified by the Secretary of State as the Crown land plans for the purposes of the Order under article 50 (certification of documents, etc.) and referenced in Schedule 9 (documents to be certified);

“cycle track” has the same meaning as in the 1980 Act^(a);

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“environmental statement” means the document certified by the Secretary of State as the environmental statement for the purposes of the Order under article 50 (certification of documents, etc.) and referenced in Schedule 9 (documents to be certified);

“footway” and “footpath” have the same meaning as in the 1980 Act and include part of a footway or footpath;

“highway”, “highway authority” and “local highway authority” have the same meaning as in the 1980 Act and “highway” includes part of a highway;

“highway works” means any works to construct, alter or improve a highway;

“land plans” means the document certified by the Secretary of State as the land plans for the purposes of the Order under article 50 (certification of documents, etc.) and referenced in Schedule 9 (documents to be certified);

“LLAOL” means London Luton Airport Operations Limited (company number 03491213), whose registered office is at Percival House, 134 Percival Way, London Luton Airport, Luton, United Kingdom, LU2 9NU;

“LLAOL planning permission” means either planning permission reference 15/00950/VARCON or if commenced planning permission reference 21/00031/VARCON (APP/B0230/V/22/3296455), including any variations thereto granted under section 96A or section 73 of the 1990 Act;

“LLAOL section 106 agreement” means either—

(a) the agreement entered into under section 106 of the 1990 Act dated 9 October 2017 made between London Luton Airport Operations Limited, London Luton Airport Limited, The Royal Bank of Scotland PLC and Luton Borough Council and entered into in connection with planning permission reference 15/00950/VARCON; or

(a) The definition of “cycle track” (in section 329(1) of the 1980 Act) was amended by section 1 of the Cycle Tracks Act 1984 (c. 39) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

(b) if planning permission reference 21/00031/VARCON (APP/B0230/V/22/3296455) is commenced, the agreement entered into under section 106 of the 1990 Act dated 9 December 2022 made between London Luton Airport Operations Limited, London Luton Airport Limited, NatWest Markets PLC and Luton Borough Council and entered into in connection with that planning permission,

and including and variations thereto;

“local highway” means any highway which is not (or will not be upon completion of any relevant works) a strategic highway;

“maintain” in relation to the authorised development includes to inspect, repair, adjust, alter, remove, refurbish, replace, improve or reconstruct provided that such works do not give rise to any materially new or materially different environmental effects in comparison to those reported in the environmental statement and any derivative of “maintain” is to be construed accordingly;

“National Highways” means National Highways Limited (Company No. 09346363) whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ;

“Order land” means the land shown on the land plans, which is within the limits of land to be acquired or used permanently or temporarily, and described in the book of reference;

“the Order limits” means the Order limits shown on the works plans;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981^(a);

“permit scheme” means the East of England Permit Scheme made under the Traffic Management (Hertfordshire County Council) Permit Scheme Order 2015 (as varied) and the Traffic Management (Luton Borough Council) Permit Scheme Order 2015 (as varied) made under Part 3 (permit schemes) of the Traffic Management Act 2004^(b) as in force at the date on which this Order is made;

“relevant highway authority” means, in any given provision of this Order—

- (a) National Highways, for any strategic road to which the provision relates; and
- (b) for any local highway to which the provision relates, the local highway authority for the area in which the highway is situated;

“relevant planning authority” means in any given provision of this Order, the planning authority under the 1990 Act—

- (a) for the area in which the part of the authorised development to which the provision relates is situated; and
- (b) for the matter to which that provision relates,

being, as the case may be, one of Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, Luton Borough Council or North Hertfordshire District Council;

“rights of way plans – permanent stopping up of public rights of way” means the plans of that description contained in the streets, rights of way and access plans;

“rights of way plans – public rights of way proposals” means the plans of that description contained in the streets, rights of way and access plans;

“scheme layout plans” means the document certified by the Secretary of State as the scheme layout plans for the purposes of the Order under article 50 (certification of documents, etc.) and referenced in Schedule 9 (documents to be certified);

“Secretary of State” means the Secretary of State for Transport;

^(a) 1981 c. 67.

^(b) 2004 c. 18.

“special category land plans” means the document certified by the Secretary of State as the special category land plans for the purposes of the Order under article 50 (certification of documents, etc.) and referenced in Schedule 9 (documents to be certified);

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8) or section 138(4A) of the 2008 Act;

“strategic road” means a highway for which National Highways is (or will be upon completion of any relevant works) the highway authority;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 (street works in England and Wales) of the 1991 Act;

“streets, rights of way and access plans” means the document certified by the Secretary of State as the streets, rights of way and access plans for the purposes of the Order under article 50 (certification of documents, etc.) and referenced in Schedule 9 (documents to be certified);

“streets, rights of way and access plan – Airport Access Road” means the plans of that description contained in the streets, rights of way and access plans;

“streets, rights of way and access plan – A1089 / Gipsy Lane” means the plans of that description contained in the streets, rights of way and access plans;

“traffic authority” has the same meaning as in the 1984 Act;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“undertaker” means London Luton Airport Limited (company registration number 02020381) of Hart House Business Centre, Kimpton Road, Luton, LU2 0LA or the person who has the benefit of this Order in accordance with articles 7 (benefit of Order) and 8 (consent to transfer benefit of Order);

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“works plans” means the document certified by the Secretary of State as the works plans for the purposes of the Order under article 50 (certification of documents, etc.) and referenced in Schedule 9 (documents to be certified).

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

(3) Excluding the dimensions specified in paragraph 7 of Part 2 of Schedule 2 to this Order, all distances, directions, areas and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) References in this Order to the creation and acquisition of rights over land includes the rights to oblige a party having an interest in land to grant those rights referenced in the Order, at the discretion of the undertaker, either—

(a) to an affected person directly, where that person’s land or rights over land have been adversely affected by this Order, and, where that is the case, the rights referenced in the Order are to be granted for the benefit of the land in which that affected person has an interest at the time of the making of this Order; or

(b) to any statutory undertaker for the purpose of their undertaking.

(5) For the purposes of this Order, all areas described in square metres in the book of reference are approximate.

(6) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the rights of way plans.

(7) References to any body in the Order or any registered company listed in article 8 (consent to transfer benefit of Order) includes that body's or that company's successor bodies from time to time.

(8) References in this Order to numbered works are references to works as numbered in Schedule 1 (authorised development).

(9) References in this Order to materially new or materially different environmental effects in comparison with those reported in the environmental statement must not be construed so as to include the avoidance, removal or reduction of an adverse environmental effect that was reported in the environmental statement as a result of the authorised development.

(10) In this Order, the expression "includes" is to be construed without limitation.

(11) References in this Order to "part" of the authorised development are to be construed as references to stages, phases or elements of the authorised development in respect of which an application is made by the undertaker under Schedule 2, and references to commencement of part of the authorised development in Schedule 2 are to be construed accordingly.

(12) In this Order, any deemed consent provision is only effective where the application for that consent contains a statement notifying the effect of that provision.

(13) In paragraph (12), a "deemed consent provision" means any provision of this Order in which—

- (a) the undertaker is required to seek any form of consent, approval or agreement from another body; and
- (b) that body is deemed to have granted consent, approval or agreement, in circumstances where it fails to notify the undertaker of its decision within the time period specified for that notification in the provision.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

3.—(1) Subject to the provisions of this Order including the requirements in Schedule 2 (requirements), the undertaker is granted development consent for the authorised development to be carried out.

(2) Any enactment applying to land within, adjoining or sharing a common boundary with the Order limits has effect subject to the provisions of this Order.

Maintenance of authorised development

4. The undertaker may at any time maintain the authorised development, except to the extent that this Order, or an agreement made under this Order, provides otherwise.

Maintenance of drainage works

5.—(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article “drainage” has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991(a).

Limits of works

6.—(1) Each numbered work must be situated within the limits of the corresponding numbered area shown on the works plans.

(2) In carrying out the authorised development the undertaker may—

- (a) in respect of the Airport Access Road works comprised in Works Nos. 6a(01), 6a(02) and 6a(03) deviate vertically from the proposed levels as shown by the proposed vertical alignment shown on sheets 1 to 4 of the Airport Access Road Highway Mainline-Indicative Plan/Profile within the Airport Access Road and Luton DART long section plans to a maximum of 2.0 metres upwards or downwards; and
- (b) in respect of the Luton DART works comprised in Work No. 3g deviate vertically from the proposed rail levels shown on the Indicative Luton DART Tunnel Extension – Alignment Profile within the Airport Access Road and Luton DART long section plans to a maximum of 0.5 metres upwards or 1.0 metres downwards.

(3) The limits set out in paragraphs (1) and (2) do not apply where it is demonstrated by the undertaker to the relevant planning authority’s satisfaction and the relevant planning authority certifies accordingly that works in excess of these limits would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

(4) Part 5 (procedure for discharge of requirements) of Schedule 2 (requirements) applies to an application to the relevant planning authority for certification under paragraph (3) as though it were an approval required by a requirement under that Schedule.

Benefit of Order

7. Subject to article 8 (consent to transfer benefit of Order), the provisions of this Order conferring powers on the undertaker have effect solely for the benefit of the undertaker.

Consent to transfer benefit of Order

8.—(1) Subject to paragraph (4), the undertaker may with the written consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Subject to paragraph (3), where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker includes references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) The consent of the Secretary of State is required for a transfer or grant under this article, except where the transfer or grant of any or all of the benefits of the provisions and such related statutory rights as may be agreed is made to the following bodies—

(a) 1991 c. 59. The definition of “drainage” (in section 72(1) of the Land Drainage Act 1991 (c. 59)) was substituted by section 100(2) of the Environment Act 1995 (c. 25).

- (a) London Luton Airport Operations Limited (company number 03491213, whose registered office is at Percival House, 134 Percival Way, London Luton Airport, Luton, LU2 9NU)];
 - (b) the airport operator, where different from London Luton Airport Operations Limited;
 - (c) Cadent Gas Limited (company number 10080864, whose registered office is at Pilot Way, Ansty, Coventry, CV7 9JU);
 - (d) UK Power Networks Holdings Limited (company number 7290590, whose registered office is at Newington House, 237 Southwark Bridge Road, London, SE1 6NP);
 - (e) Affinity Water Limited (company number 02546950, whose registered office is at Tamblin Way, Hatfield, Hertfordshire, AL10 9EZ);
 - (f) Prax Group Limited (company number 13940675, whose registered office is at Harvest House Horizon Business Village, 1 Brooklands Road, Weybridge, Surrey, KT13 0TJ);
 - (g) Virgin Media Limited (company number 02591237, whose registered office is at 500 Brook Drive, Reading, United Kingdom, RG2 6UU);
 - (h) Vodafone Limited (company number 01471587, whose registered office is at Vodafone House, The Connection, Newbury, Berkshire, RG14 2FN);
 - (i) Thames Water Utilities Limited (company number 02366623, whose registered office is at Clearwater Court, Vastern Road, Reading, Berkshire, RG1 8DB); and
 - (j) in relation to a transfer or a grant of any highway works, the relevant highway authority.
- (5) References to a registered company named in paragraph (4) are to include any associated company carrying out the same statutory undertaking, and for the purpose of this article “associated company” means any company which is—
- (a) the holding company or a subsidiary of a company named in paragraph (4); or
 - (b) another subsidiary of the holding company of a company named in paragraph (4),
- within the meaning of section 1159 of the Companies Act 2006^(a).

PART 3

STREETS

Application of the 1991 Act

9.—(1) Works executed under this Order in relation to a highway, which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major highway works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of that Act (which defines what highway authority works are major highway works); or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 (dual carriageways and roundabouts)^(b) of the 1980 Act or section 184 (vehicle crossings over footways and verges)^(c) of that Act.

(2) In Part 3 (street works in England and Wales) of the 1991 Act, in relation to works which are major highway works by virtue of paragraph (1), references to the highway authority concerned are to be construed as references to the undertaker.

^(a) 2006 c. 46.

^(b) Section 64 was amended by Schedule 17 to the Local Government Act 1965 (c. 51) and Schedule 9 to the 1991 Act.

^(c) Section 184 was amended by section 4 of, and Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and Schedule 8 to the New Roads and Street Works Act 1991 (c. 22) and sections 35 and 46 of the Criminal Justice Act 1982 (c. 48).

(3) The following provisions of the 1991 Act (whether modified or not by the permit scheme) do not apply in relation to any works executed under the powers conferred by this Order—

- section 56 (directions as to timing)(a);
- section 56A (power to give directions as to placing of apparatus)(b);
- section 58 (restrictions following substantial road works)(c);
- section 58A (restriction on works following substantial street works)(d);
- section 73A (power to require undertaker to re-surface street)(e);
- section 73B (power to specify timing etc. of re-surfacing)(f);
- section 73C (materials, workmanship and standard of re-surfacing)(g);
- section 78A (contributions to costs of re-surfacing by undertaker)(h); and
- Schedule 3A (restriction on works following substantial street works)(i).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved under, those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 13 (temporary closure and restriction of use of streets), whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act(j) referred to in paragraph (4) are—

- section 54 (advance notice of certain works)(k), subject to paragraph (6);
- section 55 (notice of starting date of works)(l), subject to paragraph (6);
- section 57 (notice of emergency works)(m);
- section 59 (general duty of street authority to co-ordinate works)(n);
- section 60 (general duty of undertakers to co-operate);
- section 68 (facilities to be afforded to street authority);
- section 69 (works likely to affect other apparatus in the street);
- section 75 (inspection fees);
- section 76 (liability for cost of temporary traffic regulation); and
- section 77 (liability for cost of use of alternative route),

and all such other provisions as apply for the purposes of the provisions mentioned above.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 12 (construction and maintenance of new, altered or diverted streets)—

- (a) affects the operation of section 87 (prospectively maintainable highways) of the 1991 Act;

-
- (a) Section 56 was amended by section 43 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).
 - (b) Section 56A was inserted by section 44 of the Traffic Management Act 2004 (c. 18).
 - (c) Section 58 was amended by section 51 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
 - (d) Section 58A was inserted by section 52 of the Traffic Management Act 2004 (c. 18).
 - (e) Section 73A was inserted by section 55 of the Traffic Management Act 2004 (c. 18).
 - (f) Section 73B was inserted by section 55 of the Traffic Management Act 2004 (c. 18).
 - (g) Section 73C was inserted by section 55 of the Traffic Management Act 2004 (c. 18).
 - (h) Section 78A was inserted by section 57 of the Traffic Management Act 2004 (c. 18).
 - (i) Schedule 3A was inserted by Schedule 4 to the Traffic Management Act 2004 (c. 18).
 - (j) Sections 54, 55, 57, 60, 68 and 69 were amended by sections 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
 - (k) As also amended by section 49(1) of the Traffic Management Act 2004 (c. 18).
 - (l) As also amended by section 49(2) and 51(9) of the Traffic Management Act 2004 (c. 18).
 - (m) As also amended by section 52(3) of the Traffic Management Act 2004 (c. 18).
 - (n) As amended by section 42 of the Traffic Management Act 2004 (c. 18).

- (b) means that the undertaker is not by reason of any duty under that article to maintain a street or to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or
- (c) has effect in relation to maintenance works which are street works within the meaning of the 1991 Act, as respects which the provisions of Part 3 (street works in England and Wales) of the 1991 Act apply.

(8) Subject to paragraph (3), the permit scheme applies to the construction and maintenance of the authorised development and will be used by the undertaker in connection with the exercise of any powers conferred by this Part.

(9) For the purposes of this Order—

- (a) a permit may not be refused or granted subject to conditions which relate to the imposition of moratoria; and
- (b) a permit may not be granted under the permit scheme subject to conditions where compliance with those conditions would constitute a breach of this Order or where the undertaker would be unable to comply with those conditions pursuant to the powers conferred by this Order.

(10) References to moratoria in paragraph (9) mean restrictions imposed under section 58 (restrictions on works following substantial road works) or section 58A (restrictions on works following substantial street works) of the 1991 Act.

(11) Without restricting the undertaker's recourse to any appeal mechanism which may be available under a permit scheme the undertaker may appeal any decision to refuse to grant a permit or to grant a permit subject to conditions pursuant to the permit schemes in accordance with the mechanism set out in Part 6 of Schedule 2 (requirements) of this Order.

Street works

10.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets as are within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel within or under it;
- (b) tunnel or bore under the street;
- (c) place apparatus in the street;
- (d) maintain apparatus in the street or change its position; and
- (e) execute any works required for, or incidental to, any works referred to in sub-paragraphs (a) to (d).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) Subject to article 9 (application of the 1991 Act), the provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

Power to alter layout, etc., of streets

11.—(1) Subject to paragraphs (2) and (3), the undertaker may, for the purposes of constructing, operating or maintaining the authorised development alter the layout of any street within the Order limits and, without limiting the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of such footpath, footway, cycle track or verge;
- (c) reduce the width of the carriageway of the street; and
- (d) make and maintain crossovers, and passing places.

(2) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.

(3) The powers conferred by paragraph (1) must not be exercised without the written consent of the street authority.

(4) If a street authority which receives an application for consent under paragraph (3) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

(5) Paragraphs (2) and (3) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

(6) An application for consent under paragraph (3) is deemed advance notice under section 54 of the 1991 Act where advance notice is required.

Construction and maintenance of new, altered or diverted streets

12.—(1) Any highway to be constructed under this Order must be completed to the reasonable satisfaction of the relevant highway authority and, unless otherwise agreed in writing with the relevant highway authority, must be maintained by and at the expense of the relevant highway authority from its completion.

(2) Where a highway is altered or diverted under this Order, the altered or diverted part of the highway must, when completed to the reasonable satisfaction of the relevant highway authority in whose area the highway lies and, unless otherwise agreed with the relevant highway authority, be maintained by and at the expense of the relevant highway authority from its completion.

(3) Paragraphs (1) and (2) are subject to Parts 5 and 6 of Schedule 8 to this Order.

(4) Where a street which is not and is not intended to be a public highway is constructed, altered or diverted under this Order, the street (or part of the street as the case may be) must, when completed to the reasonable satisfaction of the street authority, and unless otherwise agreed in writing with the street authority, be maintained by and at the expense of the street authority.

(5) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(6) For the purposes of a defence under paragraph (5), the court must in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause dangers to users of the street; and
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

Temporary closure and restriction of use of streets

13.—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily close, alter, divert or restrict the use of any street and may for any reasonable time—

- (a) divert the traffic, or a class of traffic, from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limitation on the scope of paragraph (1), the undertaker may use any street temporarily closed or restricted under the powers conferred by this article and which is within the Order limits as a temporary working site.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary closure, alteration or diversion of a street under this article if there would otherwise be no such access.

(4) The undertaker must not temporarily close, alter or divert any street without the consent of the street authority, which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld or delayed.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) If a street authority which receives a valid application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

Permanent stopping up of public rights of way

14.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up each of the public rights of way specified in column (1) of Schedule 3 (permanent stopping up of public rights of way) to the extent specified and described in column (2) of that Schedule.

(2) Where a public right of way has been stopped up under this article—

- (a) all rights of way over or along the public right of way so stopped up are extinguished; and
- (b) the undertaker may appropriate and use for the purposes of the authorised development so much of the site of the public right of way as is bounded on both sides by land owned by the undertaker.

(3) Any person who suffers loss by the extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(4) This article is subject to article 37 (apparatus and rights of statutory undertakers in stopped-up streets).

Access to works

15.—(1) The undertaker may, for the purposes of the authorised development, and with the consent of the street authority, form and layout means of access, or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

(2) If a street authority which receives an application for consent under paragraph (1) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

Traffic regulation

16.—(1) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with the construction, operation or maintenance of the authorised development—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(2) The undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (3).

(3) The undertaker must not exercise the powers conferred by paragraph (1) unless it has—

- (a) given not less than—
 - (i) 28 days' notice in writing of its intention so to do in the case of a prohibition, restriction or other provision intended to have effect permanently; or
 - (ii) except in the case of an emergency, 14 days' notice in writing of its intention so to do in the case of a prohibition, restriction or other provision intended to have effect temporarily,to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of the undertaker's intention as provided for in subparagraph (a).

(4) Any prohibition, restriction or other provision made by the undertaker under paragraphs (1) and (2)—

- (a) has effect as if duly made by, as the case may be—
 - (i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or
 - (ii) the local authority in whose area the road is situated, as an order under section 32 (power of local authorities to provide parking spaces)(a) of the 1984 Act, and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and
- (b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004(b).

(5) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers of paragraph (1) at any time.

(6) Before exercising the powers of paragraph (1) the undertaker must consult such persons as it considers necessary and appropriate and must take into consideration any representations made to it by any such person.

(a) As amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(1) of, and paragraph 39 of Schedule 8 to, the 1991 Act.

(b) 2004 c. 18.

(7) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(8) The powers conferred on the undertaker by this article with respect to any road have effect subject to any agreement entered into by the undertaker with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

(9) If the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (1) the traffic authority is deemed to have granted consent.

Agreements with street authorities

17.—(1) A street authority and the undertaker may enter into agreements with respect to—

- (a) the construction of any new street, including any structure carrying the street over any part of the authorised development;
- (b) the strengthening, improvement, repair or reconstruction of any street, including any structure carrying the street over any of the authorised development;
- (c) the maintenance of the structure of any bridge or tunnel carrying a street over or under any part of the authorised development;
- (d) any stopping up, closure, alteration or diversion of a street authorised by this Order;
- (e) the carrying out in the street of any of the works referred to in articles 10 (street works) and 11 (power to alter layout, etc. of streets); and
- (f) such other works as the parties may agree.

(2) Such an agreement may, without limitation on the scope of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
- (b) include an agreement between the undertaker and the street authority specifying a reasonable time for the completion of the works; and
- (c) contain such terms as to payment and other matters as the parties consider appropriate.

Designation of highways

18.—(1) From the date on which each of the local highways described in Schedule 4 (designation of highways) is completed and open for traffic that local highway has the designation specified in column 3 of that Schedule.

(2) Notwithstanding Schedule 4, the application of paragraph (1) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

19.—(1) Subject to paragraphs (3) and (4), the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991^(a).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not make any opening into any public sewer or drain pursuant to paragraph (1) except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works under this article, damage or interfere with the bed or banks of any watercourse forming part of a main river other than in accordance with a consent granted by the Environment Agency.

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is free from gravel, soil or other solid substance, oil or matter in suspension or solution.

(7) This article does not authorise a groundwater activity or a water discharge activity for which an environmental permit would be required under regulation 12(1)(b) (requirement for an environmental permit) of the 2016 Regulations^(b).

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to Homes England, the Environment Agency, an internal drainage board, a joint planning board, a local authority, a sewerage undertaker or an urban development corporation;
- (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991^(c) have the same meaning as in that Act; and
- (c) “main river” means watercourses as defined under section 113(1) of the Water Resources Act 1991 and shown as such on the statutory main river maps held by the Environment Agency and the Department for Environment, Food and Rural Affairs.

(9) If a person who receives an application for consent under paragraph (3) or approval under paragraph (4)(a) fails to notify the undertaker of a decision within 28 days of receiving an application that person will be deemed to have granted consent or given approval, as the case may be.

(10) The Environment Agency is deemed to have granted consent under paragraph (3) where the watercourse, public sewer or drain belongs to the Environment Agency and an environmental permit under regulation 12(1)(b) (requirement for an environmental permit) of the 2016 Regulations has been granted in respect of the discharge.

(11) A sewerage undertaker is deemed to have granted consent to the discharge of trade effluent into a public sewer under paragraph (3) where the public sewer belongs to the sewerage undertaker and consent under section 118 of the Water Industry Act 1991 has been granted in respect of the discharge.

Protective work to buildings

20.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building which may be affected by the authorised development as the undertaker considers necessary or expedient.

(a) 1991 c. 56.

(b) S.I. 2016/1154.

(c) 1991 c. 57.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may enter and survey any building falling within paragraph (1) and any land within its curtilage, and place on, leave on and remove from the building any apparatus and equipment for use in connection with the survey.

(4) For the purpose of carrying out protective works under this article to a building the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 52 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first opened for use it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act.

(10) Any compensation payable under paragraph (7) or (8) is to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(11) Section 13(a) (refusal to give possession to acquiring authority) of the 1965 Act applies to entry onto, or possession of, land under this article to the same extent as it applies to the

(a) As amended by sections 62(3) and 139(4) to (9) of, paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 223 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions)(a) of the 2008 Act.

(12) In this article “protective works” in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, maintenance or use of the authorised development;
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development; and
- (c) any works the purpose of which is to secure the safe operation of the authorised development or to prevent or minimise the risk to such operation being disrupted.

Authority to survey and investigate the land

21.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land (including any watercourses, groundwater, static water bodies or vegetation on the land);
- (b) without limitation to the scope of sub-paragraph (a), make any excavations, trial holes, boreholes and other investigations in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil, ground water, underground structures, foundations, and plant or apparatus and remove soil and water samples and discharge water from sampling operations on to the land;
- (c) without limitation to the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land including making any excavations or trial holes on the land for such purposes; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless no less than 14 days’ notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required, before or after entering the land, produce written evidence of their authority to do so; and
- (b) may take onto the land such vehicles and equipment as are necessary to carry out the surveyor investigation or to make the trial holes, boreholes or excavations.

(4) No trial holes, boreholes or excavations are to be made under this article—

- (a) in land located within a highway boundary without the consent of the highway authority; or
- (b) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld or delayed.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) If either a highway authority or street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

- (a) under paragraph (4)(a) in the case of a highway authority; or

(a) As amended by section 190 of, and paragraph 17 of Schedule 16 to, the Housing and Planning Act 2016 (c. 22).

(b) under paragraph (4)(b) in the case of a street authority,
that authority will be deemed to have granted consent.

(7) Section 13 (refusal to give permission to the acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act

Felling, lopping and removal of trees, shrubs and hedgerows

22.—(1) Subject to paragraph 9 or 10 of Schedule 2 to this Order, the undertaker may fell, lop or remove any tree, shrub or hedgerow within or overhanging land within the Order limits, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree, shrub or hedgerow—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) The powers in sub-paragraph (1) may not be exercised in relation to any tree, shrub or hedgerow which is—

- (a) situated within a conservation area (designated under section 69 (designation of conservation areas) of the Planning (Listed Buildings and Conservation Areas) Act 1990(a));
- (b) subject to a tree preservation order made under the provisions of the 1990 Act and the Town and Country Planning (Tree Preservation) (England) Regulations 2012(b),

unless that tree, shrub or hedgerow has been identified in a scheme or plan submitted under paragraphs 9 or 10 of Schedule 2 to this Order along with written details of the proposed works, and the relevant planning authority has provided written approval of that scheme or plan.

(3) In carrying out any activity authorised by paragraphs (1) or (2), the undertaker must do no unnecessary damage to any tree, shrub or hedgerow and must pay compensation to any person for any loss or damage arising from such activity.

(4) Any dispute as to a person's entitlement to compensation under paragraph (3), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

(5) In this article “hedgerow” has the same meaning as in the Hedgerow Regulations 1997(c) and includes important hedgerows.

Removal of human remains

23.—(1) In this article “the specified land” means any land within the Order limits.

(2) Before the undertaker carries out any development or works which are to or may disturb any human remains in the specified land it is to remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.

(3) Subject to paragraph (14), before any such remains are removed from the specified land the undertaker is to give notice of the intended removal, describing the specified land and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised development; and
- (b) displaying a notice in a conspicuous place on or near to the specified land.

(a) 1990 c. 9.
(b) S.I. 2012/605.
(c) S.I. 1997/1160.

(4) As soon as reasonably practicable after the first publication of a notice under paragraph (3) the undertaker is to send a copy of the notice to the relevant planning authority.

(5) At any time within 56 days after the first publication of a notice under paragraph (3) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person's intention to undertake the removal of the remains.

(6) Where a person has given notice under paragraph (5), and remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium,

and that person is to, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).

(7) The undertaker is to pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under powers conferred by this article.

(8) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who is to remove the remains and as to the payment of the costs of the application.

(9) If—

- (a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land; or
- (b) such notice is given and no application is made under paragraph (8) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (8) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified,

subject to paragraph (10) the undertaker is to remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves are to be re-interred in individual containers which are to be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker is to comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(11) On the re-interment or cremation of any remains under powers conferred by this article—

- (a) a certificate of re-interment or cremation is to be sent by the undertaker to the Registrar General giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) is to be sent by the undertaker to the relevant planning authority.

(12) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State for Justice.

(13) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(14) No notice is required under paragraph (3) before the removal of any human remains where the undertaker is satisfied—

- (a) that the remains were interred more than 100 years ago; and
 - (b) that no relative or personal representative of the deceased is likely to object to the remains being removed in accordance with this article.
- (15) In the case of remains in relation to which paragraph (14) applies, the undertaker—
- (a) may remove the remains; and
 - (b) must apply for direction from the Secretary of State under paragraph (12) as to their subsequent treatment.
- (16) In this article—
- (a) references to a relative of the deceased are to a person who—
 - (i) is a husband, wife, civil partner, parent, grandparent, child or grandchild of the deceased; or
 - (ii) is, or is a child of, a brother, sister, uncle or aunt of the deceased;
 - (b) references to a personal representative of the deceased are to a person or persons who—
 - (i) is the lawful executor of the estate of the deceased; or
 - (ii) is the lawful administrator of the estate of the deceased.
- (17) Section 25 (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) of the Burial Act 1853^(a) does not apply to a removal carried out in accordance with this article.

PART 5

POWERS OF ACQUISITION AND POSSESSION

Compulsory acquisition of land

24.—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised development, or to facilitate it, or is incidental to it, or is required as replacement land.

(2) This article is subject to article 27(2) (compulsory acquisition of rights and imposition of restrictive covenants), article 26 (time limit for exercise of authority to acquire land compulsorily), article 33(9) (temporary use of land for carrying out the authorised development) and article 39 (Crown rights).

Compulsory acquisition of land – incorporation of the mineral code

25. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981^(b) is incorporated in this Order subject to the modifications that—

- (a) paragraph 8(3) is not incorporated;
- (b) for “the acquiring authority” substitute “the undertaker”;
- (c) for “undertaking” substitute “authorised development”; and
- (d) for “compulsory purchase order” substitute “this Order”.

Time limit for exercise of authority to acquire land compulsorily

26.—(1) After the end of the period of 10 years beginning on the start date—

- (a) no notice to treat is to be served under Part 1 (compulsory purchase under the Acquisition of Land Act 1981) of the 1965 Act; and

^(a) 1853 c. 134.

^(b) 1981 c. 67.

- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 30 (application of the 1981 Act and modification of the 2017 Regulations).

(2) The authority conferred by article 33 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

(3) In this article “start date” means the later of the day after—

- (a) the period for legal challenge in section 118 of the 2008 Act expires; or
- (b) the final determination of any legal challenge under that section,

whichever is later.

Compulsory acquisition of rights and imposition of restrictive covenants

27.—(1) Subject to paragraphs (2) to (4), the undertaker may acquire such rights over the Order land, or impose such restrictive covenants affecting the Order land, including rights and restrictive covenants for the benefit of a statutory undertaker or any other person, as may be required for any purpose for which that land may be acquired under article 24 (compulsory acquisition of land) by creating them as well as acquiring rights already in existence.

(2) In the case of the Order land specified in column (1) of Schedule 5 (land in which only new rights etc. may be acquired) the undertaker’s powers of compulsory acquisition are limited to the acquisition of such wayleaves, easements, new rights in the land or the imposition of restrictive covenants, as may be required for or in connection with the authorised development for the purposes specified in relation to that land in column (2) of that Schedule.

(3) The power under paragraph (1) to acquire the rights and to impose the restrictive covenants described in Schedule 5 (land in which only new rights etc. may be acquired) for the benefit of statutory undertakers or for the benefit of any other person—

- (a) does not preclude the acquisition of such other rights and the imposition of such other restrictive covenants in respect of the same land in accordance with Schedule 5 as may be required for the benefit of any other statutory undertaker or any other person; and
- (b) must not be exercised by the undertaker in a way that precludes the acquisition of such other rights and the imposition of such other restrictive covenants in respect of the same land in accordance with Schedule 5 as are required for the benefit of any other statutory undertaker or any other person

(4) Subject to Schedule 2A (counter-notice requiring purchase of land not in notice to treat) of the 1965 Act, as modified by paragraph (1) of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants), where the undertaker acquires a right over land or the benefit of a restrictive covenant affecting land under paragraph (1) or (2), the undertaker is not required to acquire a greater interest in that land.

(5) Schedule 6 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

Private rights over land

28.—(1) Subject to the provisions of this article, all private rights and restrictions over land subject to compulsory acquisition under this Order are extinguished—

- (a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act,

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of the rights or the imposition of restrictive covenants under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right or the burden of the restrictive covenant—

- (a) as from the date of the acquisition of the right or the benefit of the restrictive covenant by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act,

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights and restrictions over land owned by the undertaker that are within the Order land are extinguished at the start of any activity authorised by this Order which interferes with or breaches those rights.

(4) Subject to the provisions of this article, all private rights and restrictions over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(5) Any person who suffers loss by the extinguishment or suspension of any private right under this article is entitled to compensation in accordance with the terms of section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 36 (statutory undertakers) applies.

(7) Paragraphs (1) to (4) have effect subject to—

- (a) any notice given by the undertaker before—
 - (i) the completion of the acquisition of the land or the acquisition of the rights over or the imposition of the restrictive covenant affecting the land;
 - (ii) the undertaker's appropriation of the land;
 - (iii) the undertaker's entry onto the land; or
 - (iv) the undertaker's taking temporary possession of the land,that any or all of those paragraphs do not apply to any right specified in the notice; and
- (b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(8) If any such agreement as is referred to in paragraph (7)(b)—

- (a) is made with a person in or to whom the right is vested or belongs; and
- (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

the agreement is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) References in this article to private rights over land include any right of way, trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

Modification of the 1965 Act

29.—(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act is modified as follows.

- (a) in section 4A(1)(a) (extension of time limit during challenge)—
 - (i) for “section 23 (application to the High Court in respect of compulsory purchase order) of the Acquisition of Land Act 1981” substitute “section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008”; and
 - (ii) for “the three year period mentioned in section 4” substitute “the ten year period mentioned in article 26 (time limit for exercise of authority to acquire land compulsorily) of the London Luton Airport Expansion Development Consent Order 202[]”.

(2) In section 11A (powers of entry: further notice of entry)(b)—

- (a) in subsection (1)(a), after “land” insert “under that provision”;
- (b) in subsection (2), after “land” insert “under that provision”.

(3) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 26 (time limit for exercise of authority to acquire land compulsorily) of the London Luton Airport Expansion Development Consent Order 202[]”.

(4) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

- (a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 31(3) (acquisition of subsoil or airspace only) of the London Luton Airport Expansion Development Consent Order 202[], which excludes the acquisition of subsoil or airspace only from this Schedule.”; and
- (b) after paragraph 29, insert—

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 20 (protective work to buildings), article 21 (authority to survey and investigate the land), article 33 (temporary use of land for carrying out the authorised development) or 34 (temporary use of land for maintaining the authorised development) of the London Luton Airport Expansion Development Consent Order 202[].”.

Application of the 1981 Act and modification of the 2017 Regulations

30.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as so applied by paragraph (1), has effect with the following modifications.

(3) In section 1 (application of Act), in subsection (1), omit the words “in themselves”.

(4) In section 1 (application of Act) for subsection (2) substitute—

“(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”.

(5) In section 4 (execution of declaration), for subsection (1) substitute—

(a) Section 4A(1) was inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).
(b) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).

“(1) The acquiring authority may execute in respect of any of the land which they are authorised to acquire by the compulsory purchase order a declaration in the prescribed form vesting the land in themselves, or in the case of a right that they are expressly authorised to acquire for the benefit of a third party in the third party in question, from the end of such period as may be specified in the declaration (not being less than 3 months from the date on which the service of notices required by section 6 below is completed).”.

(6) In section 5 (earliest date for execution of declaration)(a), in subsection (2), omit the words from “; and this subsection” to the end.

(7) Omit section 5A (time limit for general vesting declaration)(b).

(8) In section 5B(1) (extension of time limit during challenge)(c)—

(a) for “section 23 (application to High Court in respect of compulsory purchase order) of the Acquisition of Land Act 1981” substitute “section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008”; and

(b) for “the three year period mentioned in section 5A” substitute “the ten year period mentioned in article 26 (time limit for exercise of authority to acquire land compulsorily) of the London Luton Airport Expansion Development Consent Order 202[]”.

(9) In section 6 (notices after execution of declaration)(d) for subsection (1)(b) for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134(f) (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.

(10) In section 7 (constructive notice to treat)(e) in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(11) In section 8 (vesting, and right to enter and take possession), after subsection (3), insert—

“(4) In this section references to the acquiring authority include any third party referred to in section 4(1).”.

(12) In section 10 (acquiring authority’s liability arising on vesting of the land), in subsection (1), after “vested in an acquiring authority” insert “or a third party”.

(13) In section 11 (recovery of compensation overpaid), for subsection (1) substitute—

“(1) This section applies where after the execution of a general vesting declaration a person (“the claimant”) claims compensation in respect of the acquisition of an interest in land by virtue of the declaration, and the acquiring authority pay compensation in respect of that interest.”.

(14) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration)(f), omit paragraph 1(2).

(15) References to the 1965 Act in the 1981 Act are to be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act to the compulsory acquisition of land under this Order.

(16) Schedule 1 to the 2017 Regulations is modified as follows.

(17) In paragraph (3) of Form 1, after “from the date on which the service of notices required by section 6 of the Act is completed”, insert—

“(1A) The [insert land or rights or both] described in Part [] of the Schedule hereto as being for the benefit of third parties and more particularly delineated on the plan annexed hereto vests in the third parties in question as from the end of the period of [insert period of 3 months or longer] from the date on which the service of notices required by section 6 of the Act is completed.”.

(a) Section 5 was amended by Schedule 15 to the Housing and Planning Act 2016 (c. 22).

(b) Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016 (c. 22).

(c) Section 5B(1) was inserted by section 202(2) of the Housing and Planning Act 2016 (c. 22).

(d) Section 6 was amended by paragraph 7 of Schedule 15 to the Housing and Planning Act 2016 (c. 22) and section 4 of, and paragraph 52(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11).

(e) Section 7(1) was substituted by Schedule 18 to the Housing and Planning Act 2016 (c. 22).

(f) Schedule A1 was inserted by paragraph 6 of Part 1 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

(18) References in Form 2 to “in themselves” is substituted with “in themselves and any identified third parties”.

(19) In paragraph (b) of the notes on use of Form 2—

- (a) after “Insert the name of the authority” insert “and, where the context so requires, a reference to third parties”; and
- (b) omit “Thereafter rely on that definition wherever “(b)” appears in the text.”.

Acquisition of subsoil or airspace only

31.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of or of the airspace over the land referred to in paragraph (1) of article 24 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of or the airspace over land referred to in paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as modified by article 29 (modification of the 1965 Act));
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test)(a) of the Town and Country Planning Act 1990(b).

(4) Paragraphs (2) and (3) are to be disregarded where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory or airspace above a house, building or manufactory.

Rights under or over streets

32.—(1) The undertaker may enter on and appropriate so much of the subsoil of, or airspace over, any street within the Order land as may be required for the purposes of the authorised development and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person’s interest in the land, and who suffers loss as a result, will be entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 of the 1991 Act (sharing cost of necessary measures) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

(a) Subsection (4A) of section 153 was inserted by section 200(1) and (2) of the Housing and Planning Act 2016 (c. 22).
(b) 1990 c. 8.

Temporary use of land for carrying out the authorised development

33.—(1) The undertaker may, in connection with the carrying out of the authorised development—

- (a) enter on and take temporary possession of—
 - (i) the land specified in column (1) of Schedule 7 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (2) of that Schedule relating to the part of the authorised development specified in column (3) of that Schedule; and
 - (ii) any other Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;
- (b) remove any buildings, apparatus, fences, landscaping, debris and vegetation from that land;
- (c) use any private road within the Order land for the passage of persons or vehicles (with or without materials, plant and machinery);
- (d) construct temporary works (including the provision of means of access) or buildings on that land; and
- (e) construct any works on that land as are mentioned in Schedule 1 (authorised development).

(2) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken in respect of land specified under paragraph (1)(a)(ii).

(3) The undertaker must not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (3) of Schedule 7, or
- (b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section (4) (execution of declaration) of the 1981 Act in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works have been constructed under paragraph (1)(d);
- (c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development;
- (d) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development; or
- (e) remove or reposition any apparatus belonging to statutory undertakers or necessary mitigation works.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(7) Any dispute as to the satisfactory removal of temporary works and restoration of land under paragraph (4) does not prevent the undertaker giving up possession of the land.

(8) Subject to article 48 (no double recovery), nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(9) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not to be precluded from acquiring new rights over any part of that land under article 27(2) (compulsory acquisition of rights and imposition of restrictive covenants) to the extent that such land is listed in column (1) of Schedule 5 (land in which only new rights etc. may be acquired).

(10) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act^(a) applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(12) Nothing in this article prevents the taking of temporary possession more than once in relation to any land specified in paragraph (1).

Temporary use of land for maintaining the authorised development

34.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

- (a) enter upon and take temporary possession of any land within the Order land if such possession is reasonably required for the purpose of maintaining the authorised development;
- (b) enter on any land within the Order land for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and
- (c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken.

(4) The undertaker is not required to serve notice under paragraph (3) where the undertaker has identified a potential risk to the safety of—

- (a) the authorised development or any of its parts;
- (b) the public; and/or
- (c) the surrounding environment,

and in such circumstances, the undertaker may enter the land under paragraph (1) subject to giving such notice as is reasonably practicable in the circumstances.

^(a) Section 13 was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(5) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(6) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(7) Any dispute as to the removal of temporary works and restoration of land under paragraph (6) does not prevent the undertaker giving up possession of the land.

(8) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(9) Any dispute as to a person's entitlement to compensation under paragraph (8), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(10) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (8).

(11) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(12) Section 13 (refusal to give possession to the acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(13) In this article "the maintenance period", in relation to any part of the authorised development means the period of 5 years beginning with the date on which that part of the authorised development is completed, save that in relation to a landscaping scheme referred to in paragraphs 9 and 10 of Schedule 2 to this Order, "the maintenance period" means such period as may be specified in relation to that landscaping scheme in accordance with paragraph 10(5) of Schedule 2 to this Order.

Special category land

35.—(1) On the exercise by the undertaker of the Order rights, the special category land is not to vest in the undertaker (or any specified person), and the undertaker may not acquire any rights over the special category land, until the replacement land has been acquired in the undertaker's name or is otherwise in the name of persons who owned the special category land on the date those powers are exercised and the relevant planning authority has certified that a satisfactory scheme for the provision of replacement land including a timetable for the implementation of the scheme has been received from the undertaker.

(2) On the requirements of paragraph (1) being satisfied—

- (a) the special category land is to vest in the undertaker (or any specified person) and be discharged from all rights, trusts and incidents to which it was previously subject; and
- (b) the rights to be acquired over the special category land are to vest in the undertaker and the special category land is to be discharged from all rights, trusts and incidents to which it was previously subject but only in so far as their continuance would be inconsistent with the exercising by the undertaker of the Order rights.

(3) The undertaker must implement the scheme certified by the relevant planning authority under paragraph (1) and on the date on which the replacement land is laid out and provided in accordance with that scheme, the replacement land is to vest in the persons in whom the special category land was vested on the date of the exercise of the Order powers (if the replacement land is not already owned by those persons) and is to be subject to the same rights, trusts and incidents as attached to the special category land.

(4) In this article—

“Order rights” means rights and powers exercisable over the special category land by the undertaker under article 24 (compulsory acquisition of land) and article 27 (compulsory acquisition of rights and imposition of restrictive covenants);

“the replacement land” means the land identified as replacement land for the special category land in the book of reference and on the plans entitled “special category land plans”;

“the special category land” means the land identified as forming part of an open space, or fuel or field allotment in the book of reference and on the plans entitled “special category land plans”; and

“specified person” means a person other than the undertaker for whose benefit the land or rights are being acquired.

Statutory undertakers

36.—(1) Subject to the provisions of Schedule 8 (protective provisions), article 27 (compulsory acquisition of rights and imposition of restrictive covenants) and paragraph (2), the undertaker may—

- (a) acquire compulsorily the land belonging to statutory undertakers within the Order land and described in the book of reference;
- (b) acquire existing rights, create and acquire new rights and impose restrictive covenants over the land belonging to statutory undertakers within the Order land and described in the book of reference;
- (c) extinguish or suspend the rights of, or restriction for the benefit of, or remove, relocate or reposition apparatus belonging to, statutory undertakers over or within the Order land;
- (d) construct the authorised development in such a way as to cross underneath or over apparatus belonging to statutory undertakers and other like bodies within the Order land; and
- (e) construct over existing apparatus belonging to statutory undertakers any necessary track or roadway (whether temporary or permanent) together with the right to maintain or remove the same, and install such service media under or over the existing apparatus needed in connection with the authorised development.

(2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which the following provisions apply—

- (a) Part 3 (street works in England and Wales) of the 1991 Act; and
- (b) article 37 (apparatus and rights of statutory undertakers in stopped-up streets) of this Order.

Apparatus and rights of statutory undertakers in stopped-up streets

37.—(1) Where a street is stopped up under article 14 (permanent stopping up of public rights of way), any statutory utility whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 14 (permanent stopping up of public rights of way) any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker must—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

(3) Subject to the following provisions of this article, the undertaker must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory utility by virtue of paragraph (3) is to be reduced by the amount of that excess.

(5) For the purposes of paragraph (4)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of an inspection chamber is to be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) Paragraphs (3) to (6) do not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works are to be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and
- (b) the allowable costs are to be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this article—

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“relocation works” means work executed, or apparatus provided, under paragraph (2); and

“statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in section 151(1) of the 2003 Act(a).

Recovery of costs of new connections

38.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 36 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in

(a) 2003 c. 21. There are amendments to this Act which are not relevant to this Order.

consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 36 (statutory undertakers), any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which article 37 (apparatus and rights of statutory undertakers in stopped-up streets) or Part 3 of the 1991 Act applies.

(4) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) of the 2003 Act^(a); and

“public utility undertaker” means a gas, water, electricity or sewerage undertaker.

Crown rights

39.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any lessee or licensee to take, use, enter upon or in any manner interfere with any land or rights of any description—

- (a) belonging to His Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to His Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for His Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown Land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions, and is deemed to have been given in writing where it is sent electronically.

Disregard of certain improvements, etc.

40.—(1) In assessing the compensation payable to any person on the acquisition from that person of any land or right over any land under this Order, the tribunal must not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works carried out or improvement or alteration made on the relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the carrying out of the works or the making of the improvement or alteration as part of the authorised development was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(a) 2003 c. 21. There are amendments to this Act which are not relevant to this Order.

(2) In paragraph (1) “relevant land” means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works constructed or the improvement or alteration made as part of the authorised development, directly or indirectly concerned.

Set off for enhancement in value of retained land

41.—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including the subsoil) the tribunal must set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to that person by reason of the construction of the authorised development.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil) under article 27 (compulsory acquisition of rights and imposition of restrictive covenants), the tribunal must set off against the value of the rights so acquired—

- (a) any increase in the value of the land over which the new rights are required; and
- (b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity,

which will accrue to that person by reason of the construction of the authorised development.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2) as if this Order were a local enactment for the purposes of that Act.

PART 6

OPERATIONS

Power to operate the authorised development

42.—(1) The undertaker may operate and use the authorised development.

(2) This article does not relieve the undertaker of any requirement to obtain any permit of licence under any other legislation that may be required from time to time to authorise the operation of the authorised development.

PART 7

MISCELLANEOUS AND GENERAL

Disapplication of legislative provisions

43. The provisions of the Neighbourhood Planning Act 2017^(a), in so far as they relate to the temporary possession of, or entry into, land under this Order, do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development and, within the maintenance period defined in article 34(13) (temporary use of land for maintaining the authorised development), any maintenance of any part of the authorised development.

^(a) 2017 c. 20.

Interaction with LLAOL planning permission

44.—(1) The undertaker may not, in accordance with this Order, operate the airport above the passenger cap permitted by the LLAOL planning permission until notice under this article has been served on Luton Borough Council by the undertaker.

(2) As soon as reasonably practicable following service of notice under paragraph (1), the undertaker must inform the following local authorities that such notice has been served—

- (a) Central Bedfordshire Council;
- (b) Dacorum Borough Council;
- (c) Hertfordshire County Council; and
- (d) North Hertfordshire District Council.

(3) Notwithstanding article 45(2) (application of the 1990 Act) of this Order, upon service of notice under paragraph (1)—

- (a) the undertaker must operate the airport in accordance with the provisions of this Order; and
- (b) subject to paragraphs (4) and (5), the conditions of the LLAOL planning permission cease to have effect and the LLAOL section 106 agreement is abrogated.

(4) Where one or more of the specified conditions of the LLAOL planning permission—

- (a) require delivery of built development which has not been completed at the point of service of notice under paragraph (1), or relate to construction of that built development; or
- (b) require post-completion monitoring or management of built development required to be delivered by the LLAOL planning permission,

the specified condition continues to have effect in relation to the built development in question after service of notice under paragraph (1) until the obligation in relation to the built development has been discharged, or Luton Borough Council certifies in writing that the obligation has been superseded by an equivalent obligation under this Order.

(5) Upon service of notice under paragraph (1), the LLAOL planning permission and the LLAOL section 106 agreement will not be enforceable except in respect of any breach that occurred prior to the undertaker serving notice under paragraph (1).

(6) Notwithstanding paragraph (1), the undertaker may exercise any other powers under this Order in respect of any part of the authorised development prior to or following service of notice under paragraph (1).

(7) In this article, “specified condition” means either—

- (a) conditions 1, 4, 6, 7, 13-15, 17, 18 and 20 of planning permission reference 15/00950/VARCON; or
- (b) if planning permission 21/00031/VARCON (APP/B0230/V/22/3296455) has been commenced, conditions 1-3, 5, 6, 10-12 and 14-16 of that permission,

including any variations thereto granted under section 96A or section 73 of the 1990 Act.

Application of the 1990 Act

45.—(1) Development consent granted by this Order—

- (a) which applies to land forming part of the airport; or
- (b) which authorises works to apparatus of statutory undertakers on, under or over land,

is to be treated as specific planning permission for the purposes of section 264(3) (cases in which land is to be treated as operational land for the purposes of that Act) of the 1990 Act provided development which comprises the airport or apparatus belonging to a statutory undertaker is authorised under this Order and has been carried out on the land in question.

(2) To the extent that the LLAOL planning permission or the Green Horizons Park permission or compliance with any conditions of either of those permissions is inconsistent with authorised development which is carried out under this Order, then from the point at which that inconsistency arises—

- (a) that inconsistency is to be disregarded for the purposes of establishing whether any development which is the subject matter of that planning permission is capable of physical implementation;
- (b) no enforcement action under the 1990 Act may be taken against development carried out in accordance with that planning permission by reason of such inconsistency, whether inside or outside the Order limits; and
- (c) any conditions on that planning permission that are inconsistent with this Order or the authorised development cease to have effect.

(3) To the extent that development carried out, operated or used in accordance with the grant of planning permission under the 1990 Act that is inconsistent with the authorised development under this Order it is deemed not to constitute a breach of this Order and does not prevent the undertaker carrying out the authorised development granted development consent under this Order.

(4) Where the undertaker identifies an inconsistency between a planning permission and this Order which engages the provisions of paragraphs (2) or (3) as the case may be, it must notify the relevant planning authority as soon as reasonably practicable about the existence of the inconsistency, and how the undertaker is proceeding in view of that inconsistency in accordance with this article.

(5) In this article—

- (a) “Green Horizon Park permission” means planning permission reference 17/02300/EIA or any variation of this permission granted under section 96A or section 73 of the 1990 Act;
- (b) “inconsistency” and “cognate expressions” means a circumstance in which a physical conflict exists, or one in which development is no longer capable of being physically implemented or otherwise operated in accordance with the permission or consent granted; and
- (c) “planning permission” means planning permission granted under the 1990 Act including planning permission deemed to be granted under article 3 (permitted development) and Classes F, G, I, J, K, L, M and N of Part 8 (Transport related development) of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015(a).

Application of landlord and tenant law

46.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person’s use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

(a) S.I. 2015/596.

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Defence to proceedings in respect of statutory nuisance

47.—(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance) of the Environmental Protection Act 1990^(a) in relation to a nuisance falling within paragraph (d), (e), (g) and (ga) of section 79(1) (statutory nuisances and inspections therefor) of that Act no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the construction or maintenance of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974^(b); or
 - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use or operation of the authorised development and that it cannot reasonably be avoided.

(2) For the purposes of paragraph (1), compliance with the controls and measures relating to noise, vibration, dust or lighting described in the code of construction practice will be sufficient, but not necessary, to show that an alleged nuisance could not reasonably be avoided.

(3) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

No double recovery

48. Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or deed or any rule of law, or under two or more different provisions of this Order.

Protection of interests

49. Schedule 8 (protective provisions) to the Order has effect.

(a) 1990 c. 43. There are amendments to this Act which are not relevant to this Order.

(b) 1974 c. 40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990 c. 43. There are other amendments to the 1974 Act which are not relevant to this Order.

Certification of documents, etc.

50.—(1) As soon as practicable after the making of this Order the undertaker must submit copies of each of the plans and documents set out in Schedule 9 (documents to be certified) to the Secretary of State for certification that they are true copies of those plans and documents.

(2) Where any plan or document set out in Schedule 9 (documents to be certified) requires to be amended to reflect the terms of the Secretary of State's decision to make the Order, that plan or document in the form amended to the Secretary of State's satisfaction is the version of the plan or document required to be certified under paragraph (1).

(3) A plan or document so certified will be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

51.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978^(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of "owner", or as the case may be "occupier", of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement will be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of

(a) 1978 c. 30.

that notice or other document the sender will provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation will be final and will take effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article will not be taken to exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Arbitration

52.—(1) Except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal or which falls to be determined under paragraph 40 (appeals to the Secretary of State) of Part 6 (Appeals) of Schedule 2 (requirements) to this Order) must be resolved in accordance with this article.

(2) The parties must use reasonable endeavours to settle any difference to which paragraph (1) applies through negotiations undertaken in good faith by senior representatives of the parties.

(3) Any difference which is not resolved to the satisfaction of the parties under paragraph (2) within ten working days of the dispute arising (or such longer period as may be agreed) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

Funding

53.—(1) The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any land comprised in part of the authorised development unless it has first put in place for that land either—

- (a) a guarantee and the amount of that guarantee approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land; or
- (b) an alternative form of security and the amount of that security for that purpose approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land.

(2) The provisions are—

article 24 (compulsory acquisition of land);

article 27 (compulsory acquisition of rights and imposition of restrictive covenants);

article 28 (private rights over land);

article 31 (acquisition of subsoil or airspace only);

article 32 (rights under or over streets);

article 33 (temporary use of land for carrying out the authorised development);

article 34 (temporary use of land for maintaining the authorised development); and

article 36 (statutory undertakers).

(3) A guarantee or alternative form of security given in respect of any liability of the undertaker to pay compensation under this Order is to be treated as enforceable against the guarantor or person providing the alternative form of security by any person to whom such compensation is payable and must be in such a form as to be capable of enforcement by such a person.

(4) Nothing in this article requires a guarantee or alternative form of security to be in place for more than 15 years after the date on which the relevant power is exercised.

Date

Signed
Title
Department

SCHEDULES

SCHEDULE 1

Article 2

AUTHORISED DEVELOPMENT

In the administrative area of Luton Borough Council, Central Bedfordshire Council, North Hertfordshire District Council, Hertfordshire County Council and Dacorum Borough Council

A nationally significant infrastructure project as defined in sections 14 (nationally significant infrastructure projects: general) and 23 (airports) of the 2008 Act; and associated development as defined in section 115(2) of the 2008 Act, comprising as follows—

Sitewide works to enable development

Work No. 1a — Within the area of land shown on the Works Plans as Work No. 1a, earthworks involving the excavation of natural material and existing made ground and stockpiles to create a new apron at approximately existing apron height as well as a landform platform suitable for the construction of a new terminal, apron, car parks and ancillary airport facilities.

Work No. 1b — Within the area of land shown on the Works Plans as Work No. 1b, landfill remediation works to the former Eaton Green landfill site including the excavation, processing and re-deposit of material and the piling of foundations to support the new airport buildings and infrastructure.

Airfield works

Work No. 2a(01) — Within the area of land shown on the Works Plans as Work No. 2a(01), works to construct up to four new aircraft stands including high mast lighting, linear drainage systems with catch-pits, an oil separator and attenuation storage, the construction of a new taxiway from the east side of existing Taxiway Foxtrot, drainage and aeronautical ground lighting.

Work No. 2a(02) — Within the area of land shown on the Works Plans as Work No. 2a(02), works to construct a new surface movement radar including the construction of an access road, security fencing and power and communication cable connections.

Work No. 2b(01) — Within the area of land shown on the Works Plans as Work No. 2b(01), works to construct additional taxiways, including a rapid exit taxiway, to tie-in the existing runway including—

- (a) the localised resurfacing of the runway pavement edges;
- (b) the provision of necessary drainage incorporating localised modification of runway edge drainage systems;
- (c) the modification of existing aeronautical ground lighting, specifically existing runway edge lighting and the installation of new aeronautical ground lighting including cabling; and
- (d) the provision of required markings associated with the new taxiway.

Work No. 2b(02) — Within the area of land shown on the Works Plans as Work No. 2b(02), works to construct a new airfield equipment. To include—

- (a) Instrument Runway Visual Range system, including the construction of an access track and power and communication cable connections; and
- (b) Precision Approach Path Indicators, including the construction of an access track and power and communication cable connections.

Work No. 2b(03) — Within the area of land shown on the Works Plans as Work No. 2b(03), works to construct new apron (including appropriate drainage with full retention separators to collect surface water for appropriate storage and treatment), new taxiways, roads and ground servicing equipment (GSE) areas including car parking areas and electric charging points for the GSE vehicle fleet. The construction of up to 12 new aircraft stands, each aircraft stand to be provided with—

- (a) a fixed electrical ground power unit;
- (b) a below ground fuel hydrant system servicing the stands with fuel to hydrants located on the stands;
- (c) a stand entry guidance system; and
- (d) high mast lighting.

Work No. 2b(04) — Within the area of land shown on the Works Plans as Work No. 2b(04), the construction of new taxiways to connect the new apron to the existing taxiway network consisting of a realigned existing parallel Taxiway and the construction of a new Taxiway and the construction of a new isolation stand.

Work No. 2c(01) — Within the area of land shown on the Works Plans as Work No. 2c(01), works to construct new apron (including appropriate drainage with full retention separators to collect surface water for appropriate storage and treatment), new taxiways, along with the construction of—

- (a) up to 12 additional aircraft stands;
- (b) up to three additional stands to be connected to the western pier constructed as part of Work No. 3c(01);
- (c) up to seven stands, located to the east of the current apron to provide direct access to the proposed new pier building described in Work No. 3c(02);
- (d) fixed electrical ground power units;
- (e) a below ground fuel hydrant system servicing all the stands within the apron area with fuel to hydrants located on the stands;
- (f) a stand entry guidance system; and
- (g) high mast lighting.

Work No. 2c(02) — Within the area of land shown on the Works Plans as Work No. 2c(02), works to construct additional taxiways, including a rapid exit taxiway, to tie-in the existing runway including—

- (a) the localised resurfacing of the runway pavement edges;
- (b) the provision of necessary drainage incorporating localised modification of runway edge drainage systems;
- (c) the modification of existing aeronautical ground lighting, specifically existing runway edge lighting and the installation of new aeronautical ground lighting including cabling; and
- (d) the provision of required markings associated with the new taxiway.

Work No. 2c(03) — Within the area of land shown on the Works Plans as Work No. 2c(03), the construction of new hangar aprons required to provide access for aircraft to the new hangars to be constructed under Work No. 4b.

Work No. 2c(04) — Within the area of land shown on the Works Plans as Work No. 2c(04), works to upgrade the existing perimeter road from the fire station to the new fire training ground described in Work No. 2d.

Work No. 2d — Within the area of land shown on the Works Plans as Work No. 2d, the construction of a new fire training ground facility. To include—

- (a) installation of training rigs and towers;

- (b) drainage infrastructure;
- (c) high mast lighting;
- (d) vehicle and pedestrian access routes;
- (e) ancillary buildings; and
- (f) the demolition of the existing fire training ground facility.

Work No. 2e — Within the area of land shown on the Works Plans as Work No. 2e, works to upgrade the existing engine ground run up bay. To include—

- (a) installation of acoustic and blast barriers;
- (b) drainage infrastructure;
- (c) high mast lighting;
- (d) vehicle and pedestrian access routes; and
- (e) dismantling and decommissioning of the facility following construction of Work No. 2f.

Work No. 2f — Within the area of land shown on the Works Plans as Work No. 2f, works to construct a new engine ground run up bay. To include—

- (a) relocation and installation of acoustic and blast barriers;
- (b) drainage infrastructure;
- (c) high mast lighting; and
- (d) dismantling and decommissioning of facility following construction of Work No. 2g.

Work No. 2g — Within the area of land shown on the Works Plans as Work No. 2g, works to construct a new engine ground run up bay. To include—

- (a) relocation and installation of acoustic and blast barriers;
- (b) drainage infrastructure; and
- (c) high mast lighting.

Work No. 2h(01) — Within the area of land shown on the Works Plans as Work No. 2h(01), the construction of a new airside drainage corridor to connect into proposed landside drainage infrastructure. To include—

- (a) pipework and associated drainage infrastructure to serve surface water run-off;
- (b) inspection chamber construction;
- (c) oil separator; and
- (d) below ground surface water attenuation storage facilities.

Work No. 2h(02) — Within the area of land shown on the Works Plans as Work No. 2h(02), the extension of the airside drainage corridor to connect into proposed landside drainage infrastructure. To include—

- (a) pipework and associated drainage infrastructure to serve surface water run-off;
- (b) inspection chamber construction;
- (c) oil separator; and
- (d) below ground surface water attenuation storage facilities.

Terminal and associated works

Work No. 3a(01) — Within the area of land shown on the Works Plans as Work No. 3a(01), the construction of a new Pier C to Terminal 1 (T1) accessible from existing Pier B to be built on two levels including the construction of an external canopy from the southern end of the new pier.

Work No. 3a(02) — Within the area of land shown on the Works Plans as Work No. 3a(02), works to extend the existing T1 building to its northern side at ground floor level to increase the size of the immigration area.

Work No. 3a(03) — Within the area of land shown on the Works Plans as Work No. 3a(03), works to extend the southern area of existing T1 on two levels to accommodate increased security and check-in facilities at ground floor level and to increase the area of the departure lounge at first floor level.

Work No. 3a(04) — Within the area of land shown on the Works Plans as Work No. 3a(04), works to extend the northern area of the existing T1 at first floor level over the existing airside road system to increase the area of the departure lounge.

Work No. 3a(05) — Within the area of land shown on the Works Plans as Work No. 3a(05), works to expand the area of the existing baggage hall within T1.

Work No. 3b(01) — Within the area of land shown on the Works Plans as Work No. 3b(01), the construction of an airport terminal building (T2) to include provision for landside access by light train system (Work No. 3g), a new road system (Works Nos. 6b and 6c), a pedestrian plaza (Work No. 3f) in direct contact with a new apron (Work No. 2a). The terminal buildings to include provision for—

- (a) building superstructure;
- (b) check-in hall;
- (c) passenger security screening;
- (d) baggage handling system;
- (e) departure lounge;
- (f) immigration and customs facilities;
- (g) food kiosks, cafes, restaurants and retail units;
- (h) support accommodation and operational areas for terminal management and welfare facilities for airport staff; and
- (i) waste handling facilities.

Work No. 3b(02) — Within the area of land shown on the Works Plans as Work No. 3b(02), the construction of an extension to T2 (Work No. 3b(01) in direct contact with Works Nos. 2a and 2b. To include—

- (a) expansion of passenger and baggage handling facilities;
- (b) localised internal remodelling; and
- (c) additional food kiosks, cafes, restaurants, retail and welfare facilities.

Work No. 3c(01) — Within the area of land shown on the Works Plans as Work No. 3c(01), the construction of a pier, connected to the new T2 building (Work No. 3b(01)) and the new apron (Work No. 2a), to serve up to 14 aircraft stands. To include—

- (a) construction of piled foundations;
- (b) vehicle and pedestrian access routes and parking areas;
- (c) vertical circulation nodes to each aircraft stand each with a fixed link bridge connection from pier at upper level; and
- (d) bridge connection from pier to T2.

Work No. 3c(02) — Within the area of land shown on the Works Plans as Work No. 3c(02), the construction of a pier, connected to the new T2 building (Work No. 3b(02)) and the new apron (Work No. 2b), to serve up to 14 aircraft stands. To include—

- (a) construction of piled foundations;
- (b) vehicle and pedestrian access routes and parking areas;
- (c) vertical circulation nodes to each aircraft stand each with a fixed link bridge connection from pier at upper level; and
- (d) two storey bridge connection from pier to T2.

Work No. 3d — Within the area of land shown on the Works Plans as Work No. 3d, the construction of a new coach station to connect with airport operational roads (Work No. 6c(02)). To include—

- (a) drainage works;
- (b) construction of a canopy;
- (c) hard and soft landscaping;
- (d) wayfinding features; and
- (e) fixtures, fittings and equipment.

Work No. 3e(01) — Within the area of land shown on the Works Plans as Work No. 3e(01), the construction of a passenger drop off zone to connect with airport operational roads (Work No. 6c). To include—

- (a) drainage works;
- (b) hard and soft landscaping; and
- (c) parking entry and exit gates, internal roads and parking areas.

Work No. 3e(02) — Within the area of land shown on the Works Plans as Work No. 3e(02), the construction of a passenger drop off zone to connect with airport operational roads (Work No. 6c). To include—

- (a) drainage works;
- (b) road access security features;
- (c) hard and soft landscaping; and
- (d) parking entry and exit gates, internal roads and parking areas.

Work No. 3f — Within the area of land described shown on the Works Plans as Work No. 3f, the construction of a pedestrianised plaza to the landside part of T2 (Work No. 3b(01)). To include—

- (a) drainage works;
- (b) security features and structures;
- (c) hard and soft landscaping;
- (d) wayfinding features; and
- (e) street furniture and lighting.

Work No. 3g — Within the area of land shown on the Works Plans as Work No. 3g, the extension of the Luton DART light rail system connecting T1 with the T2 along with the construction of a new Luton DART station at T2. To include—

- (a) construction of a tunnel;
- (b) construction of T2 station box;
- (c) T2 station fit out works; and
- (d) modifications to T1 Station, including platform screen doors and relocation of transport system maintenance area to T2 station.

Work No. 3h — Within the area of land shown on the Works Plans as Work No. 3h, the construction of buildings and other infrastructure supporting the function and operation of T2. To include—

- (a) service yard including loading bays and segregated waste bailing/compaction/storage;
- (b) hard and soft landscaping;
- (c) safeguarded parking zone; and
- (d) energy centre, centralised facility for T2 heating and cooling plant outside the operational envelope of the terminal.

Work No. 3i —Within the area of land shown on the Works Plans as Work No. 3i, the construction of airport operations and maintenance buildings supporting the airport including but not limited to a security gatehouse, airside operations facility, ground support equipment maintenance area and airside vehicle maintenance area. To include—

- (a) drainage system;
- (b) hard and soft landscaping;
- (c) external vehicle/pedestrian access and circulation work;
- (d) security systems, including boundary fencing;
- (e) warehouse type buildings;
- (f) internal workshops, management and welfare facilities;
- (g) controlled access operational parking; and
- (h) loading bays.

Airport support facilities

Work No. 4a — Within the area of land shown on the Works Plans as Work No. 4a, the construction of a hotel. To include—

- (a) external vehicle/pedestrian access and circulation work;
- (b) service yard access for deliveries, loading dock, maintenance access and segregated waste bailing/compaction/storage;
- (c) hard and soft landscaping;
- (d) dedicated sprinkler tank and fire suppression system; and
- (e) controlled access parking provision for hotel residents/staff.

Work No. 4b — Within the area of land shown on the Works Plans as Work No. 4b, the construction of up to two hangars. To include—

- (a) external vehicle/pedestrian access routes;
- (b) hard and soft landscaping;
- (c) fire suppression system and dedicated water tank; and
- (d) controlled access internal parking.

Work No. 4c(01) — Within the area of land shown on the Works Plans as Work No. 4c(01), the construction of fuel storage and distribution facilities to connect to Work No. 4c(02), and a distribution system that will extend to the apron area (Works Nos. 2b(03) and 2c(01)). To include—

- (a) installation of fuel storage tanks and associated pipework;
- (b) fuel pipework between the new storage facilities and the existing storage facility;
- (c) bund walls;
- (d) drainage and foul infrastructure;
- (e) lighting;
- (f) firefighting facilities and water storage tank;
- (g) vehicle and pedestrian access routes, parking areas;
- (h) security fencing, gates and monitoring systems; and
- (i) ancillary buildings.

Work No. 4c(02) — Within the area of land shown on the Works Plans as Work No. 4c(02), the construction of a new fuel pipeline providing a fuel pipe connection between the fuel storage facility (Work No. 4c(01)), national fuel delivery pipeline, and existing storage facility. To include—

- (a) earthworks to resolve site levels;

- (b) pipework monitoring systems;
- (c) fuel pumps;
- (d) landscaping
- (e) security fencing, gates and monitoring systems;
- (f) vehicle access track from highway to provide access and parking and loading area adjacent to national pipeline connection.

Work No. 4d — Within the area of land shown on the Works Plans as Work No. 4d, the construction of a new water treatment plant. To include—

- (a) primary, biological, secondary and final treatment;
- (b) facilities for processing and storage of sludge;
- (c) odour control plant; and
- (d) soft landscaping.

Work No. 4e— Within the area of land shown on the Works Plans as Work No. 4e, the construction of a solar energy battery storage facility. To include—

- (a) drainage and foul infrastructure;
- (b) firefighting facilities;
- (c) lighting;
- (d) vehicle and pedestrian access routes;
- (e) parking areas;
- (f) security fencing, gates and monitoring systems; and
- (g) ancillary buildings.

Work No. 4f— Within the area of land shown on the Works Plans as Work No. 4f, the construction of airside security and access including the construction of a vehicle control point facility and associated power, communications, potable water and foul drainage connections.

Work No. 4g — Car Park P1. Within the area of land shown on the Works Plans as Work No. 4g, the construction of Car Park P1 being a multi-storey car park to provide up to approximately 1000 parking spaces. To include—

- (a) drainage works including interceptor tanks;
- (b) vehicle connection with highway;
- (c) vehicular and pedestrian access and circulation routes;
- (d) parking entry and exit gates;
- (e) ticket machines;
- (f) firefighting system, dry risers and provision for fire tender access;
- (g) general and emergency lighting;
- (h) statutory and wayfinding signage;
- (i) solar energy production, storage, and distribution provision; and
- (j) security systems.

Work No. 4h — Car Park 2. Within the area of land shown on the Works Plans as Work No. 4h, the construction of Car Park P2 being a surface car park to provide up to approximately 470 parking spaces. To include—

- (a) car park surfacing;
- (b) drainage works including interceptor tanks;
- (c) vehicle connection with highway;
- (d) vehicular and pedestrian access and circulation routes;

- (e) parking entry and exit gates;
- (f) ticket machines;
- (g) general and emergency lighting;
- (h) statutory and wayfinding signage;
- (i) solar energy production, storage, and distribution provision; and
- (j) security systems.

Work No. 4i — Car Park P3. Within the area of land shown on the Works Plans as Work No. 4i, works to modify the existing Airport Car Park (as a result of Work No. 6a) with realignment of the roadside perimeter fence and circulation road. To include—

- (a) car park surfacing;
- (b) statutory and wayfinding signage; and
- (c) general and emergency lighting.

Work No. 4j — Car Park P4. Within the area of land shown on the Works Plans as Work No. 4j, works to reconfigure the existing T1 Multi Storey Car Park 1 to provide additional parking.

Work No. 4k(01) — Car Park P5. Within the area of land shown on the Works Plans as Work No. 4k(01), works to reduce the existing long stay surface car park in area and reconfiguration to provide up to approximately 2450 parking spaces. To include—

- (a) car park surfacing;
- (b) statutory and wayfinding signage;
- (c) hard and soft landscaping;
- (d) general and emergency lighting.

Work No. 4k(02) — Car Park P5. Within the area of land shown on the Works Plans as Work No. 4k(02), works to reduce the size of the existing long stay surface car park with the construction of a single storey decked car parking area reconfigured to provide up to approximately 1200 parking spaces. To include—

- (a) drainage works including separator tanks;
- (b) hard and soft landscaping;
- (c) vehicle connection with highway;
- (d) vehicular and pedestrian access and circulation routes;
- (e) parking entry and exit gates;
- (f) ticket machines;
- (g) firefighting system, dry riser provision for fire tender access;
- (h) general and emergency lighting;
- (i) statutory and wayfinding signage;
- (j) solar energy production, storage, and distribution provision; and
- (k) security systems.

Work No. 4l(01) — Car Park P6. Within the area of land shown on the Works Plans as Work No. 4l(01), works to construct a new temporary surface car park to provide up to approximately 1,250 car parking spaces including works to remove the temporary car park, hard and soft landscaped areas, signage, and surface treatments.

Work No. 4l(02) — Car Park P6. Within the area of land shown on the Works Plans as Work No. 4l(02), works to reconfigure and extend the temporary surface car park (Work No. 4l(01)) to provide up to approximately 1,620 car parking spaces including works to remove the temporary car park, hard and soft landscaped areas, signage, and surface treatments.

Work No. 4m(01) — Car Park P7. Within the area of land shown on the Works Plans as Work No. 4m(01), works to construct a new temporary surface car park to accommodate up to approximately 3,090 cars. including works to remove the temporary car park, hard and soft landscaped areas, signage, and surface treatments.

Work No. 4m(02) — Car Park P7. Within the area of land shown on the Works Plans as Work No. 4m(02), works to reduce the temporary surface car park (Work No. 4m(01)) to accommodate up to approximately 1,230 cars including works to remove the temporary surface car park, hard and soft landscaped areas, signage, and surface treatments.

Work No. 4n — Car Park P8. Within the area of land shown on the Works Plans as Work No. 4m, works to construct a temporary surface car park to accommodate up to approximately 600 cars including works to remove the temporary car park, hard and soft landscaped areas, signage, and surface treatments.

Work No. 4o(01) — Car Park P9. Within the area of land shown on the Works Plans as Work No. 4o(01), works to reconfigure the existing staff car park and conversion of existing car hire facility into car parking to provide up to approximately 1,075 surface car parking spaces, hard and soft landscaped areas, signage, and surface treatments.

Work No. 4o(02) — Car Park P9. Within the area of land shown on the Works Plans as Work No. 4o(02), works to redevelop the area of existing car park not required for the construction of Work No. 6a(02), including the provision of new decked car park with roofing or canopies above the upper deck, to support photovoltaic panels, to accommodate up to approximately 1,200 car parking spaces, hard and soft landscaped areas, signage, and surface treatments.

Work No. 4p(01) — Car Park P10. Within the area of land shown on the Works Plans as Work No. 4p(01), works to construct a new car park to accommodate approximately 1,150 cars including hard and soft landscaped areas, signage, and surface treatments.

Work No. 4p(02) — Car Park P10. Within the area of land shown on the Works Plans as Work No. 4p(02), works to expand and reconfigure Work No. 4p(01) to accommodate up to approximately 3,165 cars including canopies or roofing above the car park to support photovoltaic panels, and including hard and soft landscaped areas, signage, surface treatments and welfare building.

Work No. 4q(01) — Car Park P11. Within the area of land shown on the Works Plans as Work No. 4q(01), works to construct a new surface level car park to accommodate up to approximately 2,700 cars, including canopies or roofing above the car park to support photovoltaic panels, hard and soft landscaped areas, signage, below ground surface water storage tank and surface treatments.

Work No. 4q(02) — Car Park P11. Within the area of land shown on the Works Plans as Work No. 4q(02), works to expand Work No. 4q(01) to accommodate up to approximately 5,350 cars including canopies or roofing above the car park to support photovoltaic panels, hard and soft landscaped areas, signage, surface treatments and welfare building.

Work No. 4r — Car Park P12. Within the area of land shown on the Works Plans as Work No. 4r, works to construct a new multi-storey car park to accommodate up to approximately 2,225 cars including photovoltaic panels on roof or canopy over upper level, hard and soft landscaped areas, signage, and surface treatments and provision for canopies/roofing.

Work No. 4s — Airport Access Road car parking replacement provision. Within the area of land shown on the Works Plans as Work No. 4s, works to construct a temporary car park to accommodate up to approximately 80 car spaces to provide replacement car parking for spaces affected by the construction of Work No. 6a(02) including works to remove the temporary car park, including signage and surface treatments.

Work No. 4t(01) — Airport Access Road permanent car parking replacement provision. Within the area of land shown on the Works Plans as Work No. 4t(01), works to construct a new surface level car park to accommodate up to approximately 25 car spaces to provide replacement car

parking for spaces affected by the construction of Work No. 6a(02), to include both hard and soft landscaped areas, signage, and surface treatments.

Work No. 4t(02) — Airport Access Road permanent car parking replacement provision. Within the area of land shown on the Works Plans as Work No. 4t(02), works to construct three new surface level car parks including associated access roads to accommodate up to approximately 275 car spaces to provide replacement car parking for spaces affected by the construction of Work No. 6a(02), to include both hard and soft landscaped areas, signage, and surface treatments.

Work No. 4t(03) — Airport Access Road permanent car parking replacement provision. Within the area of land shown on the Works Plans as Work No. 4t(03), works to construct a new surface level car park to accommodate up to approximately 25 car spaces to provide replacement car parking for spaces affected by the construction of Work No. 6a(02), to include both hard and soft landscaped areas, signage, and surface treatments.

Work No. 4t(04) — Airport Access Road permanent car parking replacement provision. Within the area of land shown on the Works Plans as Work No. 4t(04), works to re-provide replacement car parking spaces through amendments to areas of landscaping and existing parking areas for spaces affected by the construction of Work No. 6a(02), to include both hard and soft landscaped areas, signage, and surface treatments.

Work No. 4t(05) — Airport Access Road permanent car parking replacement provision. Within the area of land shown on the Works Plans as Work No. 4t(05), works to construct a new surface level car park to accommodate up to approximately 90 car spaces to provide replacement car parking for spaces affected by the construction of Work No. 6a(02), to include both hard and soft landscaped areas, signage, and surface treatments.

Work No. 4t(06) — Airport Access Road permanent car parking replacement provision. Within the area of land shown on the Works Plans as Work No. 4t(06), works to construct a new surface level car park to accommodate up to approximately 120 car spaces to provide replacement car parking for spaces affected by the construction of Work No. 6a(02), to include both hard and soft landscaped areas, signage, and surface treatments.

Work No. 4u — Within the area of land shown on the Works Plans as Work No. 4u, works to construct a new police station and compound.

Work No. 4v — Within the area of land shown on the Works Plans as Work No. 4v, works to construct two underground infiltration tanks and a storage tank.

Work No. 4w — Within the area of land shown on the Works Plans as Work No. 4w, works to construct a new primary substation, including a hardstanding area, erection of a perimeter fence and construction of an access track for maintenance.

Work No. 4x — Within the area of land shown on the Works Plans as Work No. 4x, works to construct a second primary substation, including a hardstanding area, erection of a perimeter fence and construction of an access track for maintenance.

Landscaping and mitigation

Work No. 5a — Terminal Approach and related development. Within the area of land shown on the Works Plans as Work No. 5a, the provision of structural landscaping to include—

- (a) soft landscaping;
- (b) erection of boundary treatments (including fencing);
- (c) hard landscape finishes to roads and footpaths; and
- (d) installation of street furniture and signage.

Work No. 5b(01) — Enhancements to Wigmore Valley Park. Within the area of land shown on the Works Plans as Work No. 5b(01), the provision of structural landscaping to include—

- (a) soft landscaping;

- (b) erection of boundary treatments (including fencing);
- (c) earthworks for the creation of screening bunds;
- (d) installation of habitat creation measures;
- (e) hard landscape finishes and other improvements to footpaths and multi-use tracks; and
- (f) installation of street furniture and signage; and.
- (g) play facilities and skate park.

Work No. 5b(02) — Replacement Open Space. Within the area of land shown on the Works Plans as Work No. 5b(02), the provision of structural landscaping to include—

- (a) soft landscaping;
- (b) erection of boundary treatments including fencing;
- (c) earthworks for the creation of screening bunds;
- (d) installation of habitat creation measures;
- (e) hard landscape finishes and other improvements to footpaths and multi-use tracks; and
- (f) installation of street furniture and signage.

Work No. 5b(03) — Replacement Open Space. Within the area of land shown on the Works Plans as Work No. 5b(03), the creation of a new public right of way (footpath), 140m in length, linking the northern end of Footpath 38 (FP38) with the north-western extent of Footpath 43 (FP43).

Work No. 5b(04) — Replacement Open Space. Within the area of land shown on the Works Plans as Work No. 5b(04), the creation of a new public right of way (multi-use bridleway), 1040m in length, connecting Footpath 43 (FP43) to Winch Hill Road.

Work No. 5b(05) — Replacement Open Space. Within the area of land shown on the Works Plans as Work No. 5b(05), the creation of a new public right of way (multi-use bridleway), 400m in length, connecting Bridleway 52 (BW52) with Footpath 41 (FP41) via a new at-grade crossing of Winch Hill Road.

Work No. 5b(06) — Replacement Open Space. Within the area of land shown on the Works Plans as Work No. 5b(06), the upgrading of Footpath FP41 to a bridleway, from its western extent at the junction with Eaton Green Road and FP43, to the intersection of the new length of bridleway forming Work No. 5b(05) leading south-east to Winch Hill Road.

Work No. 5b(07) — Replacement Open Space. Within the area of land shown on the Works Plans as Work No. 5b(07), the upgrading of Footpath FP43 to bridleway, from its western extent at the junction with Eaton Green Road and FP41, to the intersection of the new bridleway forming Work No. 5b(04) leading south-east to Winch Hill Road.

Work No. 5c(01) — Landscape Restoration Area. Within the area of land shown on the Works Plans as Work No. 5c(01), the provision of structural landscaping to include—

- (a) soft landscaping;
- (b) erection of boundary treatments including fencing;
- (c) installation of signage; and
- (d) hard landscape finishes to access.

Work No. 5c(02) — Landscape Restoration Area. Within the area of land shown on the Works Plans as Work No. 5c(02), the provision of structural landscaping to include—

- (a) soft landscaping;
- (b) erection of boundary treatments including fencing;
- (c) installation of signage; and
- (d) hard landscape finishes to access.

Work No. 5d(01) — Habitat Creation Area. Within the area of land shown on the Works Plans as Work No. 5d(01), the provision of structural landscaping to include—

- (a) soft landscaping;
- (b) erection of boundary treatments including fencing;
- (c) installation of signage; and
- (d) hard landscape finishes to footpaths and access.

Work No. 5d(02) — Habitat Creation Area. Within the area of land shown on the Works Plans as Work No. 5d(02), the provision of structural landscaping to include—

- (a) soft landscaping;
- (b) erection of boundary treatments including fencing;
- (c) installation of signage; and
- (d) hard landscape finishes to footpaths and access.

Work No. 5e — Off-site Hedgerow Restoration and Screening. Within the area of land shown on the Works Plans as Work No. 5e, the provision of structural landscaping. To include—

- (a) soft landscaping; and
- (b) erection of boundary treatments including fencing.

Airport Access Road and Offsite Highway Works

Within the area of land shown on the Works Plans as Work No. 6—

Airport Access Road

Work No. 6a(01) — Airport Access Road. To include improvements and reconfiguration of the roundabout junction between A1081 New Airport Way, Airport Way and Percival Way to create a four-arm signalised junction.

Work No. 6a(02) — Airport Access Road. To include—

- (a) a new dual carriageway link road which connects to A1081 New Airport Way via a new three-arm signalised junction to the immediate west of Work. No. 6a(01). The alignment of the road runs north from the A1081, to a new three-arm roundabout adjacent to Provost Way, the alignment continues south as a short length of dual-carriageway, then connects to the existing alignment of Percival Way via a new three-arm roundabout;
- (b) minor amendments to kerblines and road markings on Percival Way, between Provost Way and Frank Lester Way;
- (c) amendments to Frank Lester Way to make the road one-way in a northbound direction between Percival Way and Eaton Green Road;
- (d) a dual carriageway link between Frank Lester Way and a four-arm roundabout at the junction with President Way, to provide access to a retained length of President Way;
- (e) a dual-carriageway link to the east of the new four arm roundabout with President Way, which continues east for a distance of approximately 200m, to a four-arm signalised junction to give access to T2;
- (f) to the east of the four-arm signalised T2 access junction, the road continues east to a four arm roundabout, which provides access to the Green Horizons Park development, and airport operational areas; and
- (g) minor amendments are proposed to the junction in Work No. 6a(01) in order to accommodate the new dual carriageway alignment; and
- (h) works to reconfigure access to existing local civic amenity recycling centre and to close the existing access.

Work No. 6a(03) — Airport Access Road and link road. To include—

- (a) a new section of dual-carriageway road to connect the eastern and western lengths of dual-carriageway (Work No. 6a(02));
- (b) amendments to the length of Percival Way between Provost Way and Frank Lester Way, together with a new section of dual-carriageway to tie into the works delivered in Work No. 6a(02);
- (c) replacement of a three-arm roundabout along the proposed dual-carriageway to the west of Provost Way with a four-arm signalised crossroads; and
- (d) a realigned link road connects the new signalised junction with the retained section of Percival Way, with a dedicated access to areas of parking and businesses to the north of the proposed junction.

Airport Public Roads

Work No. 6b(01) — Within the area of land shown on the Works Plans as Work No. 6b(01), works to modify and extend the existing long stay car park access roads as a two-lane single carriageway.

Work No. 6b(02) — Within the area of land shown on the Works Plans as Work No. 6b(02), the provision of a dual carriageway to provide access to T2. The road which continues east to the excavated area is initially formed of a length of dual carriageway over a length of approximately 75m, before joining a four-arm roundabout. East of the roundabout the carriageway continues as a two-lane single carriageway as it travels towards Work No. 4c(01) (Fuel Storage Facility) and Work No. 4d (Water Treatment Plant).

Work No. 6b(03) — Within the area of land shown on the Works Plans as Work No. 6b(03), works to realign and widen the section of highway which leads into the excavated area providing additional access to Car Park P11 (Work No. 4q(02) and Car Park P10 (Work No. 4p(02)).

Airport Operational Roads

Work No. 6c(01) — Within the area of land shown on the Works Plans as Work No. 6c(01), works to operational airport roads around the stands and the terminal, and roads around the perimeter of the airfield. These roads consist of: inter-stand roadways, head of stand roads, access roads on either side of T2 to access the baggage hall, a road to the vehicle control point east of the terminal, a road from the engine run up bay (ERUB) to the east to connect the apron roads to the airfield perimeter track and part of the perimeter track to west of the airport to be realigned due to the new runway link.

Work No. 6c(02) — Within the area of land shown on the Works Plans as Work No. 6c(02), works to the operational airport roads around the new stands and airfield perimeter track consisting of inter-stand roadways, head of stand roads, a road to the ERUB and beyond to connect with the airfield perimeter track.

Work No. 6c(03) — Within the area of land shown on the Works Plans as Work No. 6c(03), works to the operational airport roads around the new stands and airfield perimeter track consisting of inter-stand roadways, head of stand roads, a road to the ERUB and beyond to connect with the airfield perimeter track.

Work No. 6d — Within the area of land shown on the Works Plans as Work No. 6d, works to Airport Road adjacent to Winch Hill Lane and barriered junction to fuel pipeline access road, including hard and soft landscaping.

Offsite Highway Works

Work No. 6e — Within the area of land shown on the Works Plans as Work No. 6e, various offsite highway works, including works to—

- (a) Windmill Road and Kimpton Road, including the removal of the mini-roundabout and replacement with a signalised junction and realignment and widening of Windmill Road and Kimpton Road;

- (b) A1081 New Airport Way, B653 and Gipsy Lane. To include, the realignment and widening of A1081 New Airport Way (to provide additional traffic lanes), the realignment and widening of A505 Gipsy Lane (to provide additional traffic lanes), the reshaping of the A1081 New Airport Way central reserve islands including the realignment of barriers, the replacement or relocation of signage, lighting and gantries, the reprovision of cycle lanes, the reprovision of roadside barriers, and the reshaping of the A505 Gipsy Lane splitter island;
- (c) A1081 New Airport Way, A505 Kimpton Road and Vauxhall Way, including the construction of a give-way left turn lane into A505 Kimpton Road;
- (d) Eaton Green Road and Lalleford Road, including the removal of the existing mini-roundabout junction and conversion to a signalised junction and localised realignment of the carriageway;
- (e) Wigmore Lane and Crawley Green Road. To include works to—
 - (i) the Junction of Wigmore and Crawley Green Road, including the removal of the existing roundabout junction and conversion to a signalised junction, the provision of signalised pedestrian crossings, the provision of give-way left-turn flares and the realignment and widening of the carriageway;
 - (ii) Wigmore Lane, including the realignment and widening of a lane and removal of a bus stop layby; and
 - (iii) to the junction of Wigmore Lane and Raynham Way, including the removal of the existing roundabout junction and conversion to a signalised junction, the provision of signalised pedestrian crossing and the realignment and widening of the carriageway;
- (f) Eaton Green Road and Wigmore Lane, including works to the junction of Wigmore Lane and existing Asda, the removal of the existing roundabout junction and conversion to a signalised junction the provision of signalised pedestrian crossings and the realignment and widening of the carriageway;
- (g) A1081/London Road (North), including, realignment and widening to the east side of the roundabout circulatory carriageway, partial signalisation of the roundabout, on the Newlands Park and southern arms and amendments to road marking;
- (h) A1081/London Road (South), including partial signalisation of the existing roundabout and associated works, provision of a maintenance bay and road marking amendments;
- (i) Windmill Road/Manor Road/St. Mary's Road/Crawley Green Road, including realignment and widening of St. Mary's Road and Windmill Road, realignment and widening of the circulatory carriageway of the junction, amendments and extensions to various pedestrian subway portals, alterations to existing footways and full signalisation of the roundabout junction;
- (j) Crawley Green Road/Lalleford Road, including replacement of the mini roundabout with a three-arm signalised junction, minor kerb line amendments along Crawley Green Road and Lalleford Road and amendments to road markings;
- (k) A602 Park Way/A505 Upper Tilehouse Street, including minor widening to the Park Way/Upper Tilehouse Street roundabout entries, to provide increased lengths of two lane entry and amendments to existing retaining structure and vehicle restraint system;
- (l) A505 Moormead Hill/B655 Pirton Road/Upper Tilehouse Street, including minor widening and realignment of Upper Tilehouse Street entry to provide an increased length of two lane entry to the existing mini-roundabout;
- (m) A602 Park Way/Stevenage Road, including minor widening of carriageway and realignment of various kerb lines on A505 Park Way, Hitchin Hill and A602 Stevenage Road to provide increased lengths of two lane entry to the roundabout;
- (n) M1 J10, including widening to the northbound off-slip to provide a third lane on the approach to the roundabout, provision of gantries, provision of maintenance bay, widening to the western circulatory carriageway to provide four circulating lanes and

amendments to the exit from the roundabout onto the A1081, to allow three diverging lanes from the roundabout;

- (o) M1 J10, including widening to the A1081 westbound carriageway, to provide two segregated left turn lanes, widening to the A1081 westbound carriageway, to provide two segregated left turn lanes onto the M1 southbound on-slip and amendments to road markings on the southbound on-slip to increase capacity;
- (p) M1 J10, including widening of the western circulatory carriageway to provide five lanes including realignment of the A1081 exit from the roundabout, to enable three lanes to enter the A1081 from the roundabout, removal of the segregated left turn lane from the M1 southbound, and conversion of the junction between the southbound off-slip and roundabout to a signalised junction and provision of two southbound merging lanes to the M1;
- (q) Eaton Green Road/Frank Lester Way, including replacement of the roundabout with a three-arm signalised junction and minor kerb line amendments along Eaton Green Road and Frank Lester Way (with Frank Lester Way to be made one-way northbound) and amendments to road markings; and
- (r) A505 Vauxhall Way/Eaton Green Road, including partial signalisation of the roundabout.

Ancillary works

In connection with the construction of any of those works, and other development in the Order limits, ancillary or related development consisting of—

- (a) alteration of the layout of any street permanently or temporarily, including but not limited to increasing the width of the carriageway of the street by reducing the width of any footpath, footway, cycle track or verge within the street; altering the level or increasing the width of any such footpath, footway, cycle track or verge; and reducing the width of the carriageway of the street;
- (b) works required for the strengthening, improvement, maintenance, or reconstruction of any street;
- (c) ramps, means of access, non-motorised links, footpaths, footways, bridleways, cycle tracks and crossing facilities;
- (d) embankments, viaducts, aprons, abutments, shafts, foundations, retaining walls, drainage, outfalls, ditches, pollution control devices, wing walls, highway lighting, fencing and culverts;
- (e) street works, including breaking up or opening a street, or any sewer, drain or tunnel under it; tunnelling or boring under a street;
- (f) works to place, alter, divert, relocate, remove or maintain the position of apparatus, services, plant and other equipment in a street, or in other land, including mains, sewers, drains, pipes, lights and cables;
- (g) landscaping, noise barriers, works associated with the provision of ecological mitigation and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (h) works for the benefit or protection of land affected by the authorised development;
- (i) works to place, alter, remove or maintain road furniture;
- (j) site preparation works, site clearance (including fencing, vegetation removal, demolition of existing structures and the creation of alternative footpaths); earthworks (including soils stripping and storage, site levelling);
- (k) the felling of trees and hedgerows;
- (l) establishment of site construction compounds, storage areas, temporary vehicle parking, construction fencing, perimeter enclosure, security fencing, construction related buildings, welfare facilities, construction lighting, haulage roads and other machinery, apparatus, works and conveniences;

- (m) the provisions of other works including service roads, internal site roads, pavement works, kerbing and paved areas works, signing, signals, gantries, road markings works, traffic management measures including temporary roads and such other works as are associated with the construction, operation or maintenance of the authorised development; and
- (n) such other works, working sites storage areas, works of demolition or works of whatever nature, as may be necessary or expedient for the purposes of, or for purposes associated with or ancillary to, the construction, operation or maintenance of the authorised development which do not give rise to any materially new or materially different environmental effects in comparison to those reported in the environmental statement.

SCHEDULE 2

REQUIREMENTS

Article 3

PART 1

GENERAL

Interpretation

1. In this Schedule—

“air noise management plan” means the document certified by the Secretary of State as the air noise management plan for the purposes of the Order under article 50 (certification of documents, etc.) and referenced in Schedule 9 (documents to be certified);

“amphibian and reptile mitigation strategy” means Appendix 8.6 of the environmental statement;

“badger mitigation strategy” means Appendix 8.7 of the environmental statement;

“bat mitigation strategy” means Appendix 8.8 of the environmental statement;

“begin” means to carry out any material operation (as defined in section 155 of the 2008 Act) forming part, or carried out for the purposes, of the authorised development;

“bird mitigation strategy” means Appendix 8.9 of the environmental statement;

“business day” means a day other than Saturday or Sunday, which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971(a);

“commence” means carrying out any material operation (as defined in section 155 of the 2008 Act) forming part, or carried out for the purposes, of the authorised development other than operations consisting of—

- (a) remedial work in respect of any contamination or adverse ground conditions (excluding works carried out as part of Work No. 1b (landfill remediation works));
- (b) environmental (including archaeological) surveys and investigation;
- (c) site or soil surveys;
- (d) erection of fencing to site boundaries or marking out of site boundaries;
- (e) installation of barrier or demarcation fencing to protect required areas of habitats or species;
- (f) the diversion or laying of services;
- (g) ecological mitigation measures;
- (h) receipt and erection of construction plant and equipment;
- (i) erection of temporary buildings and structures;
- (j) site preparation and site clearance (excluding works carried out as part of Work No. 1a (earthworks)); and
- (k) the temporary display of site notices or information,

and “commencement” and “commenced” are to be construed accordingly;

“cultural heritage management plan” means Appendix 10.6 of the environmental statement;

(a) 1971 c. 80.

“design principles” means the document certified by the Secretary of State as the design principles for the purposes of the Order under article 50 (certification of documents, etc.) and referenced in Schedule 9 (documents to be certified);

“discharging authority” means the authority from whom a consent, approval or agreement, referred to in Part 1, Part 2 or Part 4 of this Schedule, is required or requested by the undertaker;

“drainage design statement” means Appendix 20.4 of the environmental statement;

“ecological mitigation strategies” means together the badger mitigation strategy, the bat mitigation strategy, the bird mitigation strategy, the amphibian and reptile and amphibian mitigation strategy and the orchid and invertebrate mitigation strategy;

“ESG” means the independent group established by paragraph 20 of this Part of this Schedule whose functions are relevant to any matter under this Schedule and any approval or agreement required by the ESG under this Schedule is to be construed accordingly;

“European protected species” has the same meaning as in regulations 42 (European protected species of animals) and 46 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017^(a);

“exempt flights” means unplanned air transport movements which do not carry commercial passengers, which includes but is not restricted to—

- (a) flights operated by relief organisations for humanitarian reasons;
- (b) flights operated by the armed forces for military purposes; or
- (c) flights which otherwise qualify under a particular occasion or series of occasions which are to be disregarded pursuant to a notice published by the Secretary of State under section 78(4) or 78(5)(f) of the 1982 Act or set out in guidance published by the Secretary of State in connection with those provisions;

“fixed plant noise management plan” means Appendix 16.3 of the environmental statement;

“framework travel plan” means the document of that description referenced in Schedule 9 (documents to be certified) and certified by the Secretary of State;

“infant” means a person under the age of two years;

“landscaping mitigation” means all the work numbers listed under Work No. 5, hard and soft landscaping identified in individual work numbers in Schedule 1 to the Order and areas identified in Figures 14.10 to 14.13 inclusive in Chapter 14 Landscape and Visual Figures;

“light obtrusion assessment” means Appendix 5.2 parts A and B of the environmental statement;

“nationally protected species” means any species protected under the Wildlife and Countryside Act 1981^(b);

“orchid and invertebrate mitigation strategy” means Appendix 8.10 of the environmental statement;

“outline construction traffic management plan” means Appendix 18.3 of the environmental statement;

“outline construction workers travel plan” means Appendix 18.4 of the environmental statement;

“outline foundation works risk assessment” means Appendix 17.6 of the environmental statement;

“outline greenhouse gas action plan” means Appendix 12.1 of the environmental statement;

“outline ground noise management plan” means the document certified by the Secretary of State as the outline ground noise management plan for the purposes of the Order under article 50 (certification of documents, etc.) referenced in Schedule 9 (documents to be certified);

(a) S.I. 2017/1012.

(b) 1981 c. 69.

“outline landscape and biodiversity management plan” means Appendix 8.2 of the environmental statement;

“outline operational air quality plan” means Appendix 7.5 of the environmental statement;

“outline operational waste management plan” means Appendix 19.2 of the environmental statement;

“outline remediation strategy (for the former Eaton Green Landfill site)” means Appendix 17.5 of the environmental statement;

“outline site waste management plan” means Appendix 19.1 of the environmental statement;

“outline soil management plan” means Appendix 6.6 of the environmental statement;

“outline transport related impacts monitoring and mitigation approach” means the document certified by the Secretary of State as the outline transport related impacts monitoring and mitigation approach for the purposes of the Order under article 50 (certification of documents, etc.) referenced in Schedule 9 (documents to be certified);

“passengers” means commercial airline passengers and general aviation passengers, but excluding infants, passengers on diverted planes and passengers on exempt flights;

“passengers per annum” means passengers per calendar year; and

“relevant sewerage undertaker” means Thames Water Utilities Limited (company number 02366623, whose registered office is at Clearwater Court, Vastern Road, Reading, Berkshire, RG1 8DB) and any successor to it as a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991(a);

“relevant water undertaker” means Affinity Water Limited (company number 02546950, whose registered office is at Tamblin Way, Hatfield, Hertfordshire, AL10 9EZ) and Thames Water Utilities Limited (company number 02366623, whose registered office is at Clearwater Court, Vastern Road, Reading, Berkshire, RG1 8DB) and any successor to them as a water undertaker within the meaning of the Water Industry Act 1991;

“specified authorities” means Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, Luton Borough Council and North Hertfordshire District Council, but excluding any of those authorities where they are the discharging authority;

“strategic landscape masterplan” means the document certified by the Secretary of State as the strategic landscape masterplan for the purposes of the Order under article 50 (certification of documents, etc.) referenced in Schedule 9 (documents to be certified);

“substantially in accordance with” means that the plan or detail to be submitted should in the main accord with the outline document and where it varies from the outline document should not give rise to any new or any materially different environmental effects in comparison with those reported in the Environmental Statement; and

“sustainable transport fund” means the document certified by the Secretary of State as the sustainable transport fund for the purposes of the Order under article 50 (certification of documents, etc.) referenced in Schedule 9 (documents to be certified).

Amendments to approved details

2.—(1) The undertaker may apply to Luton Borough Council for approval to amend—

- (a) the air noise management plan;
- (b) the design principles;
- (c) the code of construction practice;
- (d) the cultural heritage management plan;
- (e) the fixed plant noise management plan; and

(a) 1991 c. 56.

(f) the sustainable transport fund.

(2) Prior to approving an application under sub-paragraph (1), Luton Borough Council must consult the specified authorities on the proposed amendment of a plan, document or parameters referred to under sub-paragraph (1) and in relation to (b) the Environment Agency and water and sewage undertakers and (f) National Highways and Buckinghamshire Council.

(3) Where any plans, details or scheme requires approval by the relevant planning authority or the relevant highway authority in accordance with any paragraph in Part 2 or Part 4 of this Schedule—

- (a) the undertaker may apply to that authority for approval to amend that plan, detail or scheme; and
- (b) where the paragraph specifies that consultation with a consultee is required, that consultee must be consulted by the discharging authority on the proposed amendment of that plan, detail or scheme, prior to any approval being given.

(4) On approval of an application under sub-paragraphs (1) or (3), those documents, plans, details, schemes or parameters are to be taken to include the amendments approved by the discharging authority in accordance with those sub-paragraphs.

(5) Approval under sub-paragraphs (1) or (3) must not be given except where it has been demonstrated to the satisfaction of the discharging authority that the subject matter of the approval sought would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

(6) Any application under sub-paragraphs (1) or (3) must include—

- (a) a document identifying the specific amendments being sought to the approved details; and
- (b) such information as is adequate and reasonable to inform the discharging authority's consideration under sub-paragraph (5) as to whether the amendment gives rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

Anticipatory steps towards compliance with any requirement

3. If before the coming into force of this Order the undertaker or any other person has taken any steps that were intended to be steps towards compliance with any provision of Parts 2, 3 or 4 of this Schedule, those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.

PART 2

REQUIREMENTS PERTAINING TO CONSTRUCTION

Time limits

4. The authorised development must begin no later than the expiration of 5 years beginning with the date that this Order comes into force.

Phasing of authorised development

5.—(1) The authorised development must not commence until a written scheme setting out the planned phases for construction of the authorised development has been submitted to and approved in writing by Luton Borough Council, in consultation with the specified authorities, Buckinghamshire Council and National Highways.

(2) The written scheme submitted under sub-paragraph (1) must be substantially in accordance with the phases shown on the scheme layout plans, except that this does not prevent the incremental delivery of parts of the authorised development within those phases nor require the delivery of a part within a specific phase, provided this does not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

(3) The undertaker must undertake a review of, and make any necessary updates to, the written scheme no later than five years from the date the development is commenced, or sooner where a substantial change to the stages of construction is anticipated, and no later than every five years thereafter until construction of the authorised development is completed.

(4) The updated written scheme under sub-paragraph (3) must be submitted to and approved in writing by Luton Borough Council, in consultation with the specified authorities, Buckinghamshire Council and National Highways.

(5) The authorised development shall be carried out in accordance with the details approved unless otherwise agreed in writing by Luton Borough Council.

(6) In this paragraph “written scheme” means a scheme which—

- (a) identifies, with reference to the Schedule 1 works, the parts of the authorised development that are planned to be constructed within each phase;
- (b) includes a layout plan showing the location of the works to be delivered in each phase; and
- (c) includes an indicative construction programme for the next five-year period, and provides indicative timings for later phases.

Detailed design

6.—(1) No part of the authorised development is to commence until an application containing the detailed design of that part has been submitted to and approved in writing by the relevant planning authority.

(2) The application referred to in sub-paragraph (1) must include the following details—

- (a) plans, sections and supporting information showing the detailed layout, siting, scale, levels (including where relevant finished floor levels) and external appearance of any buildings, structure and other works;
- (b) identification of the specific Schedule 1 works (or part of works), including the components described in those works, which comprise the part of the authorised development for which the detailed design approval is being sought;
- (c) for any works within the airport—
 - (i) a plan which identifies the location and extent of the specific Schedule 1 works in relation to the scheme layout plans, and identifies any other parts of the scheme layout plans for which an approval under sub-paragraph (1) has already been obtained; and
 - (ii) a statement identifying the current passenger throughput of the airport, in million passengers per annum, and an indicative estimate of the amount of any passenger throughput increase, if any, expected to be facilitated by implementation of that part of the authorised development and the indicative timescales for realising that increase in throughput;
- (d) information to demonstrate that the works comply with the dimensions and levels contained in the table in paragraph 7 of this Schedule, where applicable;
- (e) in respect of Works Nos. 3b(01), 3b(02), 3d, 3f, 3g and 4a, a report setting out—
 - (i) the design approach;
 - (ii) how the design principles have been incorporated into the final design; and

- (iii) how the output of the design review process has been taken into account in the design presented for approval;
 - (f) an indicative programme for the implementation of the works;
 - (g) an operational lighting scheme for any building, structure or other works for that part, including detailed measures to prevent light spillage, incorporating the principles and mitigation measures contained in part A of the light obtrusion assessment, and in accordance with the exterior lighting strategy contained in part B of the light obtrusion assessment; and
 - (h) a detailed glint and glare assessment in respect of any part comprising solar energy production or canopies to support photovoltaic panels.
- (3) The detailed design referred to in sub-paragraph (1)—
- (a) be in accordance with the design principles;
 - (b) be within the limits shown on the works plans, subject to article 6(3) (limits of works);
 - (c) be within any relevant parameters set out in paragraph 7 (parameters of authorised development) of this Schedule, subject to paragraph 2(1)(g); and
 - (d) not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.
- (4) The authorised development must be carried out in accordance with the details approved under sub-paragraph (1).
- (5) The undertaker must provide the relevant planning authority with—
- (a) written notice of commencement of the part of the authorised development approved under sub-paragraph (1); and
 - (b) written notice of completion of that part of the authorised development as soon as reasonably practicable after that completion.

Parameters of authorised development

7. The elements of the authorised development listed in columns (1) and (2) of the table below must not exceed the maximum dimensions and levels (as applicable) set out in relation to that element in columns (3) to (6) of that table.

(1) <i>Element of authorised development</i>	(2) <i>Work No.</i>	(3) <i>Maximum building height (metres)</i>	(4) <i>Maximum parameter height (metres AOD)</i>	(5) <i>Maximum work area (m²)</i>	(6) <i>Maximum volume in m³</i>	(7) <i>Notes</i>
Airfield equipment – Surface Movement Radar	2a(02)	14.3	176.2	5,017	7,508	N/A
New Airfield Equipment Instrument Runway Visual Range (IRVR)	2b(02)	3.3	163.7	37,300	123,090	N/A
Fire Training Ground	2d	15.4	177.8	87,346	423,500	N/A
Existing Engine Run Up bay updates	2e	4.4	159.4	16,025	67,320	N/A
Engine Run Up bay	2f	13.2	166.8	12,525	132,000	N/A
Relocated Engine Run Up bay	2g	13.2	166.6	11,512	132,000	N/A

(1) <i>Element of authorised development</i>	(2) <i>Work No.</i>	(3) <i>Maximum building height (metres)</i>	(4) <i>Maximum parameter height (metres AOD)</i>	(5) <i>Maximum work area (m²)</i>	(6) <i>Maximum volume in m³</i>	(7) <i>Notes</i>
Terminal 1 New Pier C and External Canopy	3a(01)	16.5	173.7	4,133	44,616	N/A
Terminal 1 Immigration extension	3a(02)	9.4	167.6	270	2,525	N/A
Terminal 1 Departure Lounge South extension	3a(03)	18.7	171.1	957	12,155	N/A
Terminal 1 Departure Lounge North extension	3a(04)	9.4	171.4	400	3,740	N/A
Terminal 1 Baggage Hall extension	3a(05)	11.6	164.0	1,104	9,221	N/A
Terminal 2	3b(01)	26.5	180.5	30,470	672,067	N/A
Terminal 2 extension	3b(02)	26.5	180.5	10,635	212,689	N/A
Terminal 2 West Pier	3c(01)	14.4	169.6	15,070	69,364	N/A
Terminal 2 East Pier	3c(02)	14.4	168.5	15,060	69,433	N/A
Coach Station	3d	8.3	161.8	8,675	49,172	N/A
Terminal 2 Plaza	3f	23.7	177.2	5,930	70,950	N/A
Luton DART Terminal 2 Station and Tunnel extension	3g	23.7	177.2	26,790	88,569	Maximum volume relates to above ground areas only and excludes development beneath surface level
Terminal 2 Support Buildings – Energy Centre	3h	12.8	167.2	11,265	95,983	Maximum work area includes Terminal 2 Support Buildings – Service Yard
Terminal 2 Support Buildings – Service Yard	3h	5.0	159.5	Included in maximum work area for Terminal	941	N/A

(1) <i>Element of authorised development</i>	(2) <i>Work No.</i>	(3) <i>Maximum building height (metres)</i>	(4) <i>Maximum parameter height (metres AOD)</i>	(5) <i>Maximum work area (m²)</i>	(6) <i>Maximum volume in m³)</i>	(7) <i>Notes</i>
				2 Support Buildings – Energy Centre		
Terminal 2 Support Buildings – Emergency Vehicle Assembly Area	3h	5.0	159.2	4,858	2,047	N/A
Airport Operations and Maintenance	3i	15.2	168.7	22,100	335,478	N/A
Hotel	4a	22.0	175.5	9,441	45,980	N/A
Hangar A and B	4b	27.5	185.0	16,641	316,800	N/A
Fuel Storage Facility	4c(01)	24.2	151.4	83,700	459,800	N/A
Fuel Pipeline – above ground installation	4c(02)	4.6	140.4	8,355	38,600	N/A
Water Treatment Plant	4d	13.9	141.0	6,760	69,994	N/A
Solar Energy Battery	4e	7.2	139.8	5,270	37,681	N/A
Airside Security and Access	4f	5.0	158.0	2,870	545	N/A
Car Park P1	4g	20.4	135.4	14,105	111,588	N/A
Car Park P5 – New Decked Car Park	4k(02)	7.7	163.2	22,536	147,303	N/A
Car Park P9 – New Decked Car Park	4o(02)	7.7	161.6	27,362	163,286	N/A
Car Park P10 – New Long Stay car park	4p(01)	5.0	142.0	28,969	–	The maximum building height applies to the PV canopies, bus shelters and barriers within this work.
Car Park P10 – Reconfiguration of New Long Stay Car Park	4p(02)	5.0	135.0	71,410	2,005	The maximum building volume applies to the welfare buildings within this

(1) <i>Element of authorised development</i>	(2) <i>Work No.</i>	(3) <i>Maximum building height (metres)</i>	(4) <i>Maximum parameter height (metres AOD)</i>	(5) <i>Maximum work area (m²)</i>	(6) <i>Maximum volume in m³)</i>	(7) <i>Notes</i>
						work.
Car Park 11 – New Long Stay Car Park	4q(01)	5.0	137.0	45,045	2,797	The maximum building volume applies to the welfare buildings within this work.
Car Park P11 – Expanded Long Stay Car Park	4q(02)	5.0	137.0	51,789	644	The maximum building volume applies to the welfare buildings within this work.
Car Park P12 – New Terminal 2 Multi Storey Car Park	4r	17.1	170.6	25,070	315,205	N/A
Police Station	4u	12.1	173.5	6,780	14,520	N/A
Substation	4w	7.6	162.0	4,005	9,222	N/A
Substation	4x	7.6	162.1	3,600	12,144	N/A

Code of Construction Practice

8.—(1) The authorised development must be carried out in accordance with the code of construction practice and with the management plans approved under sub-paragraphs (2) and (3).

(2) No part of the authorised development may commence until the following management plans have been developed for that part, substantially in accordance with the outlines of those plans referred to or provided in the code of construction practice, and approved in writing by the relevant planning authority in consultation with other consultees that the relevant planning authority consider appropriate—

- (a) framework materials management plan;
- (b) carbon efficiency plan;
- (c) construction surface water management strategy;
- (d) construction noise and vibration management plan;
- (e) community engagement plan;
- (f) emergency plan;
- (g) pollution incident control plan;
- (h) dust management plan;
- (i) site waste management plan (to be substantially in accordance with the outline site waste management plan); and

- (j) soil management plan (to be substantially in accordance with the outline soil management plan).

(3) No part of the authorised development may commence until a construction site lighting plan for that part, substantially in accordance with the lighting measures contained in the code of construction practice, and including detailed measures to minimise light spillage, has been submitted to and approved in writing by the relevant planning authority in consultation with the specified authorities and the relevant highway authority.

Landscaping design

9.—(1) No part of the authorised development containing landscaping mitigation may commence until for that part a landscaping scheme has been submitted to and approved in writing by the relevant planning authority.

(2) The landscaping scheme approved under sub-paragraph (1) must be in accordance with the principles set out in the strategic landscape masterplan and the design principles, and must include details of—

- (a) location, number, species mix, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) existing trees to be retained, with measures for their protection during the construction period;
- (d) hard landscaping and materials, including colour, boundary treatment, structures and street furniture;
- (e) a timetable for the implementation of the landscaping works; and
- (f) any change to existing land levels, including cross sections showing slope profiles and gradients of any permanent earthworks.

(3) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards, other recognised codes of good practice and in line with the requirements of any environmental permit applicable to the works.

(4) The authorised development must be constructed in accordance with the landscaping scheme approved under sub-paragraph (1) and thereafter maintained in accordance with the relevant landscape and biodiversity management plan for that part approved under paragraph 10.

Landscape and biodiversity management plan

10.—(1) No part of the authorised development may commence, nor may powers under article 22 (felling, lopping and removal of trees, shrubs and hedgerows) be exercised in relation to that part, until for that part a landscape and biodiversity management plan has been submitted and approved in writing by the relevant planning authority.

(2) The landscape and biodiversity management plan approved under sub-paragraph (1) must be substantially in accordance with the outline landscape and biodiversity management plan.

(3) The authorised development must be carried out and maintained in accordance with the landscaping and biodiversity management plan referred to in sub-paragraph (1).

(4) Any tree or shrub planted as part of a landscaping scheme that, within the specified period after planting, is removed, uprooted, destroyed, dies or becomes in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted unless otherwise agreed in writing with the relevant planning authority.

(5) In this paragraph, “specified period” means

- (a) a period of 30 years in respect of the works implemented under Work No. 5b(01), Work No. 5c(01), Work No. 5c(02), Work No. 5d(01), Work No. 5d(02) and Work No. 5e in Schedule 1 to this Order; and
- (b) A period of 5 years in all other respects,

or such other period as may be specified in accordance with the landscaping and biodiversity management plan.

Protected species

11.—(1) No part of the authorised development may commence until for that part final pre-construction survey work has been carried out to establish up to date information, in particular whether a European protected species or a nationally protected species is present on any of the land affected, or likely to be affected, by that part of the authorised development.

(2) Where a European protected species or nationally protected species is shown to be present following the pre-construction survey referred to in sub-paragraph (1), the relevant part of the authorised development must not commence until a scheme of mitigation measures, substantially in accordance with the relevant ecological mitigation strategies, has been submitted to and approved by the relevant planning authority following consultation with Natural England or, where appropriate, a protected species licence has been granted by Natural England.

(3) The authorised development must be constructed in accordance with the scheme of mitigation measures approved under sub-paragraph (2) or, where relevant, in accordance with the terms of a protected species licence granted by Natural England.

Previously unidentified land contamination and contaminated groundwater

12.—(1) In the event that land affected by contamination, including groundwater, is found at any time when constructing the authorised development which was not previously identified in the environmental statement, it must be reported as soon as reasonably practicable to the relevant planning authority, the Environment Agency and the relevant water undertaker, and the undertaker must complete a risk assessment of the contamination in consultation with the relevant planning authority, the Environment Agency and the relevant water undertaker.

(2) Where the undertaker determines that remediation of the land contamination is necessary consequent to the risk assessment in sub-paragraph 12(1), a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose must be submitted to and approved in writing by the relevant planning authority, following consultation with the Environment Agency and the relevant water undertaker.

(3) Any required and agreed remediation must be carried out in accordance with the scheme approved under sub-paragraph (2).

(4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation scheme in sub-paragraph (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be submitted to and approved in writing by the relevant planning authority, following consultation with the Environment Agency and the relevant water undertaker.

(5) The relevant part of the authorised development may not be brought into use until a verification report demonstrating the completion of works set out in the approved remediation scheme and the effectiveness of the remediation will be submitted to, and approved in writing by, the relevant planning authority following consultation with the Environment Agency and the relevant water undertaker.

(6) The report referred to in sub-paragraph (5) will include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Surface and foul water drainage

13.—(1) No part of the authorised development may commence until for that part written details of a surface and foul water drainage plan, including means of pollution control and monitoring, have been submitted and approved in writing by the relevant planning authority following consultation with the Environment Agency, the lead local flood authority and the relevant water and sewerage undertakers.

(2) The details submitted under sub-paragraph (1) must be in accordance with the drainage principles set out in the design principles, and must include—

- (a) the specification for the surface and foul water drainage plant, including performance specifications for discharge levels in accordance with paragraph 7.5-7.7 of the drainage design statement;
- (b) details on the means on long-term monitoring to be carried out; and
- (c) details on the mitigation measures to be implemented if the performance specifications referred to in sub-paragraph (a) are not met.

(3) The authorised development must be carried out in accordance with the details approved under sub-paragraph (1).

(4) In paragraph 13(2), “surface and foul water drainage plant” means the surface and foul water drainage plant to be constructed under Works Nos. 4d and 4v, or any other water treatment plant, drainage system and its treatment and discharge, and any other related works to be constructed under the terms of this Order.

Construction traffic management

14.—(1) No part of the authorised development may commence until a construction traffic management plan for the construction of that part has been submitted to and approved in writing by the relevant planning authority, following consultation with the specified authorities, Buckinghamshire Council and National Highways.

(2) The construction traffic management plan submitted under sub-paragraph (1) must be substantially in accordance with the outline construction traffic management plan.

(3) The authorised development must be carried out in accordance with the construction traffic management plan referred to in sub-paragraph (1).

Construction workers

15.—(1) No part of the authorised development may commence until a construction workers travel plan for the construction of that part has been submitted to and approved in writing by the relevant planning authority, following consultation with the specified authorities and Buckinghamshire Council.

(2) The construction workers travel plan submitted under sub-paragraph (1) must be substantially in accordance with the outline construction workers travel plan.

(3) The authorised development must be carried out in accordance with the construction workers travel plan referred to in sub-paragraph (1).

Archaeological remains

16.—(1) The authorised development must be carried out in accordance with the cultural heritage management plan and any site-specific written scheme of investigation approved under sub-paragraph (2).

(2) Where the cultural heritage management plan provides for the subsequent approval of the relevant planning authority of a site-specific written scheme of investigation for certain specified elements of the authorised development, such parts of the authorised development are not to commence until for the construction of that part a site-specific written scheme for the investigation of areas of archaeological interest, incorporating the details set out in the cultural heritage management plan has been submitted to and approved in writing by the relevant planning authority following consultation, where applicable, with Historic England.

(3) A copy of any analysis, reporting, publication or archiving required as part of a written scheme of investigation referred to in sub-paragraph (2) must be deposited with the relevant planning authority within one year of the date of completion of the relevant part of the authorised development to which the site-specific written scheme of investigation relates, or such other

period as may be agreed in writing by the relevant planning authority or specified in the written scheme of investigation referred to in sub-paragraph (2).

Remediation of Former Eaton Green Landfill

17.—(1) No part of the authorised development comprising Work No. 1b may commence until—

- (a) a remediation strategy;
- (b) a foundation works risk assessment; and
- (c) a groundwater, ground gas and leachate monitoring strategy,

for the former Eaton Green Landfill has been submitted to and approved in writing by the relevant planning authority, following consultation with the Environment Agency and the relevant water undertaker.

(2) The remediation strategy to be approved under sub-paragraph (1) above must be substantially in accordance with the outline remediation strategy (for the former Eaton Green Landfill site).

(3) The foundation works risk assessment to be approved under sub-paragraph (1) above must be substantially in accordance with the outline foundation works risk assessment.

(4) The groundwater, ground gas and leachate monitoring strategy to be approved under sub-paragraph (1) above must be substantially in accordance with the outline strategy report for groundwater, ground gas and leachate monitoring strategy.

(5) Work No. 1b must be carried out in accordance with the remediation strategy, foundation works risk assessment and ground water, ground gas and leachate monitoring strategy approved under sub-paragraph (1).

PART 3

REQUIREMENTS PERTAINING TO GREEN CONTROLLED GROWTH

Interpretation

18. In Parts 3 and 6—

“airport capacity declaration” means the parameters in relation to hourly runway capacity submitted by the airport operator for slot allocation in accordance with regulation 6 of the slots regulations;

“competent person” or “competent officer” means a person that has sufficient training and experience or knowledge to undertake monitoring and reporting;

“consultation period” means the period of 28 days starting on the date of the provision of the relevant report or plan unless another time period is agreed by the undertaker and the ESG;

“council regulation” means Council Regulation (EEC) No 95/93 of 18 January 1993 as retained (and amended in UK domestic law) under the European Union (Withdrawal) Act 2018(a);

“existing capacity declaration” means—

- (a) in relation to a summer season, the last airport capacity declaration issued by the airport operator prior to the date of the submission of the Monitoring Report for a summer season; and
- (b) in relation to a winter season, the last airport capacity declaration issued by the airport operator prior to the date of the submission of the Monitoring Report for a winter season;

(a) 2018 c. 16.

“existing number of allocated slots” means —

- (a) in relation to a summer season, the aggregate of the number of slots (in respect of the summer season in the year the Monitoring Report was submitted)—
 - (i) which were eligible for historic precedence at the start of the season together with any slots that became eligible for historic precedence during the season (in each case as determined by the slot co-ordinator for the purposes of article 8(2) of the council regulation); plus
 - (ii) any other slots allocated by the airport operator’s slot co-ordinator; and
- (b) in relation to a winter season, the aggregate of the number of slots (in respect of the winter season prior to the date the Monitoring Report was submitted)—
 - (i) which were eligible for historic precedence at the start of the season together with any slots that became eligible for historic precedence during the season (in each case as determined by the slot co-ordinator for the purposes of article 8(2) of the council regulation); plus
 - (ii) any other slots allocated by the airport operator’s slot co-ordinator,

in each case, excluding the number of exempt flights in the relevant season;

“green controlled growth framework” means the document of that description referenced in Schedule 9 (documents to be certified) and certified by the Secretary of State;

“Level 2 Plan” means a plan which sets out—

- (a) details of any proposed actions which are designed to avoid or prevent exceedances of a Limit; and
- (b) the proposed programme for the implementation of those actions;

“Level 1 Threshold” means, subject to sub-paragraph (2), each of the air quality, noise, greenhouse gas emissions or surface access thresholds of that description identified in the green controlled growth framework;

“Level 2 Threshold” means, subject to sub-paragraph (2) and paragraph 19 (exceedance of air quality Level 2 Limit or Threshold) of this Part of this Schedule, each of the air quality, noise, greenhouse gas emissions or surface access thresholds of that description identified in the green controlled growth framework;

“Limit” means, subject to sub-paragraph (2) and paragraph 19 (exceedance of air quality Level 2 Limit or Threshold) of this Part of this Schedule, each of the air quality, noise, greenhouse gas emissions or surface access limit of that description identified in the green controlled growth framework;

“Mitigation Plan” means a plan which sets out—

- (a) details of the proposed mitigation and actions which are designed to remove exceedances of a Limit as soon as reasonably practicable; and
- (b) the proposed programme for the implementation of that mitigation and those actions;

“Monitoring Plans” means the following appendices to the green controlled growth framework—

- (a) appendix C: Aircraft Noise Monitoring Plan;
- (b) appendix D: Air Quality Monitoring Plan;
- (c) appendix E: Greenhouse Gases Monitoring Plan; and
- (d) appendix F: Surface Access Monitoring Plan,

or any variations to those plans approved under paragraph 21(5) of this Schedule;

“Monitoring Report” means a report submitted to the ESG containing monitoring and assessments, prepared by competent persons, of whether a Level 1 Threshold, Level 2 Threshold, or Limit have been exceeded in accordance with the Monitoring Plan;

“slots regulations” means the Airports Slot Allocation Regulations 2006(a);

“Technical Panel” means a forum of individuals and bodies who are able to provide suitable technical support to the ESG; and

“terms of reference” means—

- (a) for the ESG, the terms of reference in appendix A of the green controlled growth framework and any amendments agreed in accordance with paragraph 20(4) (Environmental Scrutiny Group) of this Schedule; and
- (b) for each Technical Panel, the terms of reference in appendix B of the green controlled growth framework and any amendments agreed in accordance with paragraph 20(9) (Environmental Scrutiny Group) of this Schedule.

(2) References to a Level 1 Threshold, Level 2 Threshold, and Limit are to be construed as references to those thresholds and Limits which may be revised in accordance with the green controlled growth framework and paragraph 25 (review of implementation of this Part) of this Schedule.

(3) References to the 1982 Act, or guidance associated with that Act, are, for the purposes of this Part, to be construed as a reference to those provisions or guidance as amended, substituted or replaced, and with such modifications as are required in those circumstances.

(4) The time periods in paragraphs 21 (monitoring of permitted operations), 23 (exceedance of a Level 2 Threshold), 24 (exceedance of a Limit) or 25 (review of implementation of this Part) of this Part apply unless another time period is agreed by the undertaker and the ESG or it is modified in accordance with the process in paragraph 25 (review of implementation of this Part) and references to the time period in those paragraphs are to be construed as references to any agreed or modified time periods.

Exceedance of air quality Level 2 Threshold or Limit

19. For the purposes of this Part, unless otherwise agreed between the undertaker and the ESG, the exceedance of a Level 2 Threshold or Limit relating to air quality requires—

- (a) an exceedance of the annual average pollutant concentrations in Table 4.3 of the green controlled growth framework; and
- (b) determination by the undertaker that its contribution to the annual average concentration of a pollutant has increased by at least 5 percentage points above the contributions specified in Table 4.2 of the green controlled growth framework relative to the Limit.

Environmental Scrutiny Group

20.—(1) The undertaker must establish a body which is hereinafter referred to as the Environmental Scrutiny Group (“ESG”) as soon as reasonably practicable following service of the notice under article 44(1) (interaction with LLAOL planning permission) and in any event no later than 56 days prior to the due date for submission of the first Monitoring Report under paragraph 21 (monitoring of permitted operations) of this Part.

(2) The undertaker will request the attendance of the following individuals and competent officers of the following authorities to a meeting held by the ESG—

- (a) Central Bedfordshire Council;
- (b) Dacorum Borough Council;
- (c) Hertfordshire County Council;
- (d) Luton Borough Council;
- (e) North Hertfordshire District Council;
- (f) representation from a slot allocation expert;

(a) S.I. 2006/2665.

- (g) an independent chairperson appointed in accordance with the terms of reference; and
- (h) an independent aviation specialist appointed in accordance with the terms of reference.

(3) The individual and competent officers in sub-paragraph (2) constitute the members of the ESG for the purposes of this Order from—

- (a) in the case of the independent chairperson, the independent aviation specialist and the slot allocation expert, the date of their appointment in accordance with the terms of reference; and
- (b) in the case of the Councils, the date on which they notify the independent chairperson of who their individual competent officer is and their appointment will be from that date,

and the membership of the ESG may include such additional individuals or bodies as agreed by the ESG and the undertaker.

(4) The ESG must operate, meet and make decisions in accordance with its terms of reference unless—

- (a) otherwise agreed by the ESG and the undertaker, in accordance with the process set out in its terms of reference; or
- (b) where the ESG has not been established in accordance with sub-paragraph (1), otherwise agreed by the bodies listed in sub-paragraph (2)(a) to (e) and the undertaker.

(5) The ESG is quorate for the purposes of decision making where the independent chair, independent aviation specialist, slot allocation expert (or an agreed substitute) and a minimum of two local authority representatives are present. In the event that quorum cannot be achieved at the scheduled meeting held under the provisions of sub-paragraph (2), then a further meeting may be held within seven days of such a meeting where as a minimum the independent chair, independent aviation specialist, slot allocation expert (or a substitute agreed) and at least one local authority representative who is not from Luton Borough Council are present.

(6) The undertaker, and if different, the airport owner or the airport operator, are permitted to attend the proceedings of the ESG and may make representations at the proceedings and present reports and plans to the ESG.

(7) The undertaker must establish Technical Panels which will provide technical support to the ESG in relation to each of the following matters—

- (a) air quality;
- (b) greenhouse gas emissions;
- (c) noise; and
- (d) surface access.

(8) The bodies invited to nominate a technical representative, and the appointment of an independent expert, to each Technical Panel will be determined in accordance with its terms of reference. The local authority nominated representative, subject to being a competent person, is not subject to approval by the chairperson of the relevant Technical Panel.

(9) The technical representatives nominated under sub-paragraph (7) and the independent technical expert will constitute the members of the Technical Panel for the purposes of this Order from the date approval is provided by the independent chairperson of the ESG in accordance with its terms of reference.

(10) Each Technical Panel must operate and make recommendations in accordance with its terms of reference unless otherwise agreed by the ESG and the undertaker, in accordance with the process set out in its terms of reference.

(11) The undertaker, and if different, the airport owner or the airport operator are permitted to attend the proceedings of the Technical Panels and may make representations at the proceedings and present reports and plans to the Technical Panels.

(12) Where the terms of reference impose obligations on the undertaker, the undertaker must act in accordance with the terms of reference.

(13) Part VA (access to meetings and documents of certain authorities, committees and subcommittees) of the 1972 Act and the Public Bodies (Admission to Meetings) Act 1960^(a) do not apply to the ESG, or any Technical Panel, or to its meetings or proceedings.

(14) In this paragraph—

“airport owner” means the undertaker on the date this Order is made;

“competent officer” means a local authority officer that has sufficient training and experience or knowledge to consider reports from technical specialists and use these to support a decision-making function linked to a planning consent;

“independent aviation specialist” is an independent and suitably qualified person specialising in aviation;

“independent chairperson” is an independent and suitably qualified person with appropriate aviation experience;

“independent technical expert” means an independent person that is suitably qualified or has significant technical experience in either air quality, greenhouse gas emissions, noise or surface access;

“slot allocation expert” means a representative of a body involved with, or an individual with suitable knowledge, skills and experience related to the implementation and / or operation of the Worldwide Airport Slot Guidelines (WASG), or any successor document to establish best practice for the allocation of airport slots; and

“technical representative” means a representative that is suitably qualified or has significant technical experience in either air quality, greenhouse gas emissions, noise or surface access and excludes elected representatives.

Monitoring of permitted operations

21.—(1) The undertaker must, in accordance with the Monitoring Plans, monitor noise, air quality, greenhouse gas emissions and surface access from at least 1 year prior to the date that notice is served under article 44(1) (interaction with the LLAOL planning permission).

(2) The undertaker must prepare and submit to the ESG on the anniversary of the commencement of the monitoring and annually thereafter, a Monitoring Report.

(3) Monitoring Reports submitted under sub-paragraph (2) must be prepared in accordance with the Monitoring Plans, which may be amended in accordance with sub-paragraph (5).

(4) Monitoring Plans in respect of noise must include details of dispensed movements for the previous 12 months, including reasons for the dispensation and what measures, if appropriate, would be introduced to reduce these incidents in the future.

(5) The undertaker and the ESG may agree to amend the Monitoring Plans, and such agreement must not be unreasonably withheld.

(6) The undertaker must make a Monitoring Report publicly available as soon as reasonably practicable following submission under sub-paragraph (1).

Exceedance of a Level 1 Threshold

22. Where a Monitoring Report submitted to the ESG under paragraph 21 (monitoring of permitted operations) assesses that a Level 1 Threshold has been exceeded, the undertaker must include in the Monitoring Report commentary on the avoidance of the exceedance of a Limit.

(a) 1960 c. 67.

Exceedance of a Level 2 Threshold

23.—(1) Where a Monitoring Report submitted to the ESG under paragraph 21 (monitoring of permitted operations) assesses that a Level 2 Threshold has been exceeded, the undertaker must, unless sub-paragraph (3) applies and subject to sub-paragraph (11), submit to the ESG, and consult the ESG on, a draft Level 2 Plan no later than 21 days starting from the date the Monitoring Report was submitted to the ESG, unless another time period is agreed by the undertaker and the ESG.

(2) Where a Monitoring Report assesses that more than one Level 2 Threshold has been exceeded in respect of a matter identified in paragraph 20(6)(a), (b), (c) or (d), the undertaker may address all of the exceedances which are reasonably considered to be related to one another in the same draft Level 2 Plan for the purposes of sub-paragraph (1) and in the same Level 2 Plan for the purposes of sub-paragraph (5).

(3) This sub-paragraph applies where the ESG certifies, acting reasonably and in accordance with its terms of reference, that a Level 2 Threshold has been exceeded as a result of circumstances beyond the undertaker's control.

(4) The undertaker must have due regard to any representations provided by the ESG on a draft Level 2 Plan during the consultation period and must provide the ESG with a written account of how any such representations have been taken into account as part of its submission under sub-paragraph (5)(a).

(5) A Level 2 Plan must be—

- (a) prepared and submitted to the ESG no later than 14 days following the last day of the consultation period; and
- (b) approved or refused by the ESG, acting reasonably, no later than 28 days starting the day after the ESG has received the Level 2 Plan under sub-paragraph (a).

(6) Where the ESG has refused a Level 2 Plan, the undertaker must no later than 42 days starting the day after the decision of the ESG—

- (a) lodge an appeal under paragraph 40 (appeals to the Secretary of State); or
- (b) resubmit a revised Mitigation Plan to the ESG.

(7) Where the ESG has failed to make a decision under sub-paragraph (5)(b) within the time period specified in that sub-paragraph, it is deemed to have refused the Level 2 Plan.

(8) The undertaker must implement the Level 2 Plan approved by the ESG under sub-paragraph (5)(b).

(9) Unless otherwise agreed by the ESG, where a Monitoring Report submitted to the ESG under paragraph 20 (monitoring of permitted operations) assesses that a Level 2 Threshold has been exceeded, and except where sub-paragraph (2) applies, the undertaker will ensure that any future airport capacity declaration does not increase from the existing capacity declaration until a Level 2 Plan has been approved by the ESG or by the Secretary of State under paragraph 40 (appeals to the Secretary of State) or a Monitoring Report confirms that the relevant environmental effect no longer exceeds the relevant Level 2 Threshold.

(10) Where a Level 2 Plan approved by the ESG or by the Secretary of State under paragraph 40 (appeals to the Secretary of State) specifies a period that plan will have effect then sub-paragraph (1) does not apply during that period unless—

- (a) an airport capacity declaration specifies the capacity of the airport is greater than any amount specified in the Level 2 Plan; or
- (b) the relevant Level 1 Threshold, Level 2 Threshold or Limit is different from the relevant Level 1 Threshold, Level 2 Threshold or Limit which applied on the date of the submission of the Level 2 Plan under sub-paragraph (5)(b).

(11) Where a Monitoring Report assesses that there has been an exceedance of either one or more Level 2 Thresholds and an exceedance of one or more Limits under paragraph 24 in respect of a matter identified in paragraph 20(6)(a), (b), (c) or (d), the undertaker may decide to address

all of these exceedances which are reasonably considered to be related to one another in the same draft Mitigation Plan for the purposes of paragraph 24(1) and 25(10) and in the same Mitigation Plan for the purposes of paragraph 24(5).

Exceedance of a Limit

24.—(1) Where a Monitoring Report submitted to the ESG under paragraph 21 (monitoring of permitted operations) assesses that a Limit has been exceeded, the undertaker must, unless sub-paragraph (3) applies and subject to sub-paragraph (15), submit to the ESG, and consult the ESG on, a draft Mitigation Plan no later than 21 days starting from the date the Monitoring Report was submitted to the ESG.

(2) Where a Monitoring Report assesses that more than one Limit has been exceeded, the undertaker may decide to address all of the exceedances which are reasonably considered to be related to one another in the same draft Mitigation Plan for the purposes of sub-paragraphs (1) and (10) and in the same Mitigation Plan for the purposes of sub-paragraph (5).

(3) This sub-paragraph applies where the ESG certifies, acting reasonably and in accordance with its terms of reference, that a Limit has been exceeded as a result of circumstances beyond the undertaker's control.

(4) The undertaker must have due regard to any representations provided by the ESG on a draft Mitigation Plan in the consultation period and must provide ESG with a written account of how any such representations have been taken into account as part of its submission under paragraph (5)(a).

(5) A Mitigation Plan must be—

- (a) prepared and submitted to the ESG no later than 14 days starting the day after the consultation period; and
- (b) approved or refused by the ESG, acting reasonably, no later than 28 days starting the day after the ESG has received the Mitigation Plan under sub-paragraph (a).

(6) A Mitigation Plan may only be refused by the ESG under sub-paragraph (5)(b) where it reasonably concludes that—

- (a) the proposed mitigation and actions in the Mitigation Plan will not avoid or prevent exceedances of the Limit as soon as reasonably practicable; or
- (b) the proposed programme for the implementation of those actions will not avoid or prevent exceedances of a Limit as soon as reasonably practicable.

(7) Where the ESG has refused a Mitigation Plan, the undertaker must no later than 42 days starting the day after the decision of the ESG—

- (a) lodge an appeal under paragraph 40 (appeals to the Secretary of State); or
- (b) resubmit a revised Mitigation Plan to the ESG.

(8) Where the ESG has failed to make a decision under sub-paragraph (5)(b) within the time period specified in that sub-paragraph, it is deemed to have refused the Mitigation Plan.

(9) The undertaker must implement the Mitigation Plan approved by the ESG under sub-paragraph (5)(b).

(10) The undertaker must unless sub-paragraph (3) applies prepare and submit an updated Mitigation Plan no more than 21 days starting the day from the day after—

- (a) the undertaker submits a Monitoring Report 1 year, unless the ESG agrees to a longer period, from the adoption of a Mitigation Plan under sub-paragraph (5)(b) which shows an exceedance of a Limit; or
- (b) a Mitigation Plan approved under sub-paragraph (5)(b) sets out a programme for a Limit not being exceeded and a Monitoring Report shows that an exceedance of a Limit which conflicts with that programme,

whichever is sooner.

(11) Without limitation to seeking a local rule in relation to a Mitigation Plan under sub-paragraph (1) or Level 2 Plan under paragraph 23(1), the updated Mitigation Plan submitted under sub-paragraph (10) must—

- (a) identify whether the application of a local rule (under the slots regulations) to reduce the existing number of allocated slots would reduce, avoid or prevent exceedances of the Limit where other measures cannot ensure an impact falls below the relevant Limit as soon as reasonably practicable; and
- (b) include the proposed programme for seeking in accordance with the slots regulations the introduction of a local rule identified under sub-paragraph (a).

(12) The updated Mitigation Plan under sub-paragraph (10) must be approved or refused by the ESG no later than 28 days starting the day after the ESG has received the Mitigation Plan.

(13) Where the ESG has failed to make a decision under sub-paragraph (12) within the time period specified in that sub-paragraph, it is deemed to have refused the updated Mitigation Plan.

(14) The undertaker must implement a Mitigation Plan approved under sub-paragraph (12).

(15) Unless otherwise agreed by the ESG, where a Monitoring Report submitted to the ESG under paragraph 21 (monitoring of permitted operations) assesses that a Limit has been exceeded, the undertaker will ensure that until monitoring carried out in accordance with a Mitigation Plan or a Monitoring Report confirms the relevant environmental effect has fallen below the relevant Limit any future airport capacity declaration—

- (a) does not increase from the existing capacity declaration; and
- (b) includes criteria to ensure that the total number of allocated slots (excluding any exempt flights) does not exceed the existing number of allocated slots.

(16) Where a Mitigation Plan approved by the ESG or by the Secretary of State under paragraph 40 (appeals to the Secretary of State) specifies a period that plan will have effect then—

- (a) sub-paragraph (1); and
- (b) sub-paragraph (10),

does not apply during that period unless sub-paragraph (10)(b) applies.

Review of implementation of this Part

25.—(1) The undertaker must undertake a review of the implementation of this Part, including the review of any Monitoring Plans and arrangements for funding, no later than 3 years from the date the notice is served under article 44(1) (interaction with LLAOL planning permission), and every 5 years following this initial review, and produce and submit to the ESG a report which sets out whether any improvements to the operation of this Part are considered necessary to ensure the efficient and effective operation of authorised development within the Limit.

(2) The undertaker may, following a review carried out under paragraph (1) or otherwise, submit an application to modify the specified periods to the ESG where it considers it necessary for effective implementation of this Part of this Schedule.

(3) The undertaker must, following a review carried out in accordance with the green controlled growth framework, which concludes that there are grounds for a modification of a Level 1 Threshold, Level 2 Threshold, Limit, or Monitoring Plan, submit an application for that modification to the ESG.

(4) The ESG must, acting reasonably, approve or refuse an application submitted under sub-paragraph (2) and (3) no later 56 days starting from the day after the ESG has received the application.

(5) Where the ESG has approved an application submitted under sub-paragraph (2) or (3), the terms of reference are deemed to have been varied to give effect to that approval.

(6) Where the ESG has failed to make a decision under sub-paragraph (4) within the time period specified, it is deemed to have refused the application.

(7) References to the specified periods in this Part of this Schedule are to be construed as references to any modified periods approved under sub-paragraph (4) by the ESG or approved by the Secretary of State under paragraph 40 (appeals to the Secretary of State).

(8) In this paragraph “specified periods” means any time period set out in relation to consultation, approval or submission of a Monitoring Report, Level 2 Plan or a Mitigation Plan.

PART 4

REQUIREMENTS PERTAINING TO OTHER OPERATIONAL MATTERS

Passenger cap for the authorised development

26. Subject to, and without prejudice to, the provisions of this Order, the undertaker may operate under this Order the airport so that it permits up to 32 million passengers per annum.

Night quota period scheduled movements cap

27.—(1) The undertaker must not operate under this Order the airport so that it permits in excess of 9,650 scheduled movements by aircraft in the night quota period (23:30-06:00) per 12 month period, unless a request to vary this limit has been submitted to approved in writing by the Secretary of State following consultation with the specified authorities and, where appointed, the ESG.

(2) Any request to vary the limits under sub-paragraph (1) shall only be approved where it has been demonstrated to the satisfaction of the Secretary of State that such changes would not give rise to any materially new or materially different effects in comparison with those reported in the environmental statement.

Annual air traffic movement cap for the authorised development

28.—(1) Subject to, and without prejudice to, the provisions of this Order, the undertaker may operate the airport under this Order so that it permits up to 209,410 commercial and non-commercial air traffic movement annually. Of this limit, no more than 12,460 air traffic movement annually shall be permitted in the early morning shoulder period (06:00-07:00).

(2) In sub-paragraph (1) “air traffic movement” means a landing or take-off of an airport operating a scheduled or non-scheduled service.

Air noise management plan

29. From the date that notice is served in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order, the airport must be operated in accordance with the air noise management plan.

Fixed plant noise management plan

30. From the date that notice is served in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order, the airport must be operated in accordance with the fixed plant noise management plan.

Ground noise management plan

31.—(1) Notice in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order must not be served until a ground noise management plan for the operation of the airport above the passenger cap permitted by the LLAOL planning permission has been submitted to and approved in writing by Luton Borough Council.

(2) The ground noise management plan submitted under sub-paragraph (1) must be substantially in accordance with the outline ground noise management plan.

(3) From the date notice is served in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order the airport must be operated in accordance with the ground noise management plan referred to in sub-paragraph (1).

Noise contour limits and quota count point limits

32. The area enclosed by the 54dB LAeq(16hr) (07:00-23:00 hrs) and the 48dB LAeq(8hr) (23:00-07:00hrs) contours shall not exceed the limit values for the time periods set out in Table 1. The undertaker shall apply the contour limit values set out for the time periods indicated. The contours shall be calculated using the Federal Aviation Authority (FAA) Aviation Environmental Design Tool (AEDT) noise model version 3e prepared to support the DCO submission or periodic updates to that model, subject to written agreement from the ESG.

Table 1: DCO noise contour Thresholds and Limits

<i>Limit</i>	<i>Up to 2028</i>	<i>2039-2033</i>	<i>2034-2038</i>	<i>2039-2043</i>	<i>2044 onwards (in 5 year cycles)</i>
Average summer day-time noise levels, as measured by size (km2) of 54 dB LAeq, 16hr noise contour	31.3	30.4	29.6	32.6	32.6
Average summer night-time noise levels, as measured by size (km2) of 48 dB LAeq, 8hr noise contour	42.6	41.5	39.7	43.2	43.2

The contour area limit values shall be converted to day and night quota count budgets, supported by threshold value day and night quota count budgets as set out in the GCG framework, using a regression analysis approach to be agreed with Luton Borough Council in consultation with the specified authorities. The undertaker may make a written request to the Secretary of State to change the contour limits, following consultation on such changes with Luton Borough Council and where appointed, the ESG. The Secretary of State may approve changes to contour limits where the undertaker has demonstrated that such changes would not result in materially new or materially different noise effects than those assessed in the environmental statement.

Noise insulation plan and programme

33.—(1) No increase in passenger capacity may occur until a detailed plan and programme for the four-year delivery of noise insulation has been submitted to and approved in writing by the relevant planning authority.

(2) The programme will set out the total number of eligible properties remaining to be insulated and the numbers of eligible properties that it is intended to insulate in the following year and each subsequent calendar year.

(3) No later than two months before the end of the calendar year, an update report will be submitted to the relevant planning authority for written approval. The update report will include a summary of the completion and survey rates, explaining the cause and remedy for any delays and setting out the programme for the next year.

(4) The noise insulation programme will be carried out in accordance with the plans approved under sub-paragraphs (1) and (3) and will continue until such time that the relevant planning authority has confirmed in writing that it is satisfied that all eligible properties have been insulated to a satisfactory level.

(5) Changes to the delivery programme may be agreed by the Secretary of State, subject to demonstrating that such changes would not result in materially new or materially different effects

Offsite highways works

34.—(1) Notice in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order must not be served until a transport related impacts monitoring and mitigation approach (“TRIMMA”) for the operation of the airport above the passenger cap permitted by the LLAOL planning permission has been submitted to and approved in writing by Luton Borough Council, following consultation with the specified authorities, Buckinghamshire Council and National Highways.

(2) The TRIMMA submitted under sub-paragraph (1) must be substantially in accordance with the outline TRIMMA. It must include the details of Work No. 6e(n) including a timetable for implementation at the point that the threshold is met that would require the works.

(3) From the date notice is served in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order the undertaker must implement and comply with the TRIMMA approved under sub-paragraph (1).

Off-site Highway Works, Work No. 6e(d), (e), (f), (j) and (q)

35.—(1) No part of the Off-site Highway Works No. 6e(d), 6e(e), 6e(f), 6e(j) and 6e(q) may commence, until a report which provides evidence, including recent monitoring data, that the works would be required to mitigate airport-related traffic has been submitted to and approved by the Secretary of State in writing.

(2) If the Secretary of State confirms that the works would be required to mitigate airport-related traffic then the detailed design of the works shall be submitted to and thereafter carried out under the provisions of paragraph 6 of this schedule.

Travel plans

36.—(1) Notice in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order must not be served until a travel plan for the operation of the airport above the passenger cap permitted by the LLAOL planning permission has been submitted to and approved in writing by Luton Borough Council, following consultation with the specified authorities, Buckinghamshire Council and National Highways.

(2) The travel plan submitted under sub-paragraph (1) must be substantially in accordance with the framework travel plan and the bus and coach study, and prepared in accordance with the process set out in Figure 7.1 of the framework travel plan.

(3) The travel plan submitted under sub-paragraph (1) must include non-sustainable mode share targets, for passengers and staff, that are no higher than the equivalent surface access limit values within the green controlled growth framework and maximises the use of sustainable transport modes in agreement with the airport transport forum.

(4) Every five years following the date a travel plan was submitted for approval under sub-paragraph (1), the undertaker must submit an updated travel plan to Luton Borough Council for approval in writing, following consultation with the specified authorities, Buckinghamshire Council and National Highways.

(5) Sub-paragraph (2) applies in relation to an updated travel plan submitted for approval under sub-paragraph (3).

(6) From the date notice is served in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order the airport must be operated in accordance with the travel plan approved under sub-paragraph (1) or any updated travel plan approved in accordance with sub-paragraph (3).

Sustainable transport fund

37. From the date that notice is served in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order, the undertaker must implement and operate the sustainable transport fund in accordance with the certified sustainable transport fund document listed in Schedule 9.

Operational air quality plan

38.—(1) Notice in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order must not be served until an operational air quality plan for the operation of the airport above the passenger cap permitted by the LLAOL planning permission has been submitted to and approved in writing by Luton Borough Council.

(2) The operational air quality plan submitted under sub-paragraph (1) must be substantially in accordance with the outline operational air quality plan.

(3) From the date notice is served in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order the airport must be operated in accordance with the operational air quality plan referred to in sub-paragraph (1).

Greenhouse gas action plan

39.—(1) Notice in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order must not be served until a greenhouse gas action plan for the operation of the airport above the passenger cap permitted by the LLAOL planning permission has been submitted to and approved in writing by Luton Borough Council.

(2) The greenhouse gas action plan submitted under sub-paragraph (1) must be substantially in accordance with the outline greenhouse gas action plan.

(3) From the date notice is served in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order the airport must be operated in accordance with the greenhouse gas action plan referred to in sub-paragraph (1).

Operational waste management plan

40.—(1) Notice in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order must not be served until an operational waste management plan for the operation of the airport above the passenger cap permitted by the LLAOL planning permission has been submitted to and approved in writing by Luton Borough Council.

(2) The operational waste management plan submitted under sub-paragraph (1) must be substantially in accordance with the outline operational waste management plan.

(3) From the date notice is served in accordance with article 44(1) (interaction with LLAOL planning permission) of this Order the airport must be operated in accordance with the operational waste management plan referred to in sub-paragraph (1).

Water consumption

41.—(1) There must not be an increase in the demand for water resources from the 2019 consumption baseline, unless otherwise agreed in writing by the relevant water undertaker.

(2) Where additional water is required during construction, a water use profile must be submitted to and agreed in writing by the relevant water undertaker in advance of works.

(3) A monitoring report detailing water consumption in respect of water demand for the airport terminals and non-terminals must be submitted annually, unless otherwise agreed, from the date of commencement to the relevant planning authority and the relevant water undertaker.

(4) In sub-paragraph (1) “2019 consumption baseline” means 4.2 litres per second in respect of water demand for the airport terminals and 3.3 litres per second in respect of water-demand for the airport non-terminals.

PART 5

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Interpretation

42. In this Part of this Schedule—

“Part 5 consultee” means one or more of the following bodies on matters relating to their function, where that body is not already the discharging authority or a consultee under the relevant paragraph in Part 1, Part 2 or Part 4 of this Schedule—

- (a) Buckinghamshire Council;
- (b) Central Bedfordshire Council;
- (c) Dacorum Borough Council;
- (d) the Environment Agency;
- (e) Hertfordshire County Council;
- (f) Historic England;
- (g) Luton Borough Council;
- (h) National Highways;
- (i) Natural England; and
- (j) North Hertfordshire District Council;
- (k) the relevant sewerage undertaker; and
- (l) the relevant water undertaker;

“specified period” means a period of—

- (a) 13 weeks for any application under paragraph 6 of this Schedule for detailed design approval of Works Nos. 3b(01), 3b(02), 3d, 3f, 3g and 4a;
- (b) 8 weeks for all other applications for approval under Part 1, Part 2 or Part 4 of this Schedule; or
- (c) such longer period as may be agreed between the undertaker and the discharging authority.

Applications made under requirements

43.—(1) Where an application has been made to the discharging authority for any consent, agreement or approval referred to in Part 1, Part 2 or Part 4 of this Schedule the discharging authority—

- (a) must consult a Part 5 consultee where it appears to the discharging authority, acting reasonably, that such consultation is necessary and appropriate having regard to—
 - (i) the nature and spatial extent of the consent, agreement or approval being sought; and
 - (ii) the functions of the Part 5 consultee;
- (b) must give notice to the undertaker of the decision on the application within the specified period which begins on—
 - (i) the day immediately following that on which the application is deemed valid by the discharging authority; or
 - (ii) the day immediately following that on which valid further information has been supplied by the undertaker in response to a request from the discharging authority or a consultee (as the case may be) in accordance with paragraph 38 (further information).

(2) The discharging authority is entitled to rely upon pre-application consultation carried out by the undertaker on an application referred to under paragraph (1) for the purposes of—

- (a) discharging any requirement to consult a specified body in Part 1, Part 2 or Part 4, where the undertaker has duly consulted that body; and
- (b) determining whether consultation by the discharging authority is required with any Part 5 consultee under sub-paragraph (1)(a),

provided that the application under paragraph (1) contains sufficient evidence of the consultation carried out by the undertaker, including the comments received from the body consulted.

(3) In determining any application made to the discharging authority for any consent, agreement or approval required by a requirement in Part 1, Part 2 or Part 4 of this Schedule, the discharging authority may—

- (a) give or refuse its consent, agreement or approval; or
- (b) give its consent, agreement or approval either subject to reasonable conditions, or unconditionally; and
- (c) where consent, agreement or approval is refused or granted subject to conditions the discharging authority must provide its reasons for that decision with the notice of the decision.

(4) In the event that the discharging authority does not determine an application within the period set out in sub-paragraph (1), the discharging authority is deemed to have refused all parts of the application (without any condition or qualification at the end of that period).

(5) Where consent, agreement or approval is refused, the discharging authority must provide its reasons for that decision with the notice of the decision.

(6) Where an application is made to the discharging authority for any written consent, agreement or approval referred to in Part 1, Part 2 or Part 4 of this Schedule, the fee contained in regulation 16(1)(b) of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012^(a) (as may be amended or replaced from time to time) is to apply and must be paid to that authority for each application.

(7) Any fee paid under this Schedule must be refunded to the undertaker within four weeks of—

- (a) the date any application is rejected as being invalid by the discharging authority; or
- (b) the discharging authority failing to determine the application within the specified period.

Further information

44.—(1) In relation to any part of an application made under Part 1, Part 2 or Part 4 of this Schedule, the discharging authority has the right to request such further information from the undertaker as is reasonably necessary to enable the discharging authority to consider the application.

(2) If the discharging authority considers that further information is reasonably necessary, and the application for approval does not give rise to consultation with another body under either the paragraph concerned or paragraph 37(1)(a), or as a result of paragraph 37(2), then the discharging authority must, within ten business days of receipt of the application, notify the undertaker in writing specifying the further information reasonably required.

(3) If the paragraph concerned specifies that consultation with a consultee is required, or the discharging authority elects to consult a Part 5 consultee under paragraph 37(1), then the discharging authority must—

- (a) issue the application to the consultee within five business days of receipt of the application;
- (b) allow the consultee the following period of time, as relevant, to notify the discharging authority whether, acting reasonably, the consultee requires further information to consider the application—

(a) S.I. 2012/2920.

- (i) 15 business days, from the date on which the views of consultees are sought, for an application under paragraph 6 of this Schedule for detailed design approval of Works Nos. 3b(01), 3b(02), 3d, 3f, 3g and 4a; and
- (ii) 10 business days, from the date on which the views of consultees are sought, for any other application under Part 1, Part 2 or Part 4 of this Schedule; and
- (c) notify the undertaker in writing specifying any further information reasonably requested by the discharging authority or any consultee (as the case may be) within—
 - (i) 25 business days of receipt of an application under paragraph 6 of this Schedule for detailed design approval of Works Nos. 3b(01), 3b(02), 3d, 3f, 3g and 4a; and
 - (ii) 20 business days of receipt of any other application under Part 1, Part 2, or Part 4 of this Schedule.

(4) If the discharging authority does not give notification of a request for further information to the undertaker within the period specified in sub-paragraph (2) or (3) it (and the consultee, as the case may be) is deemed to have sufficient information to consider the application and is not entitled to subsequently request further information without the prior agreement of the undertaker.

(5) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as separate from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 37 (applications made under requirements) and in this paragraph.

Register of requirements

45.—(1) The undertaker must, as soon as is practicable following the making of the Order, establish and maintain in an electronic form suitable for public inspection a register of those paragraphs contained within Parts 1, 2 and 4 of this Schedule that provide for any consent, agreement or approval to be given by a discharging authority.

(2) The register must set out in relation to each such paragraph its status in terms of whether any application has been made to a discharging authority and whether or not any consent, agreement or approval has been given, together with an electronic link to any document comprised in such an application or in details that have been consented to, agreed or approved.

PART 6

APPEALS

Appeals to the Secretary of State

46.—(1) The undertaker may appeal to the Secretary of State in the event that the ESG, or any other organisation, body or authority (“the discharging body”)—

- (a) issues a notice further to sections 60 (control of noise on construction sites) or 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974(a);
- (b) refuses an application for any consent, approval, certification or agreement required under this Order or grants such an approval subject to conditions;
- (c) on receipt of a request for further information under paragraph 38 (further information), the undertaker considers that either the whole or part of the specified information requested by the discharging body (or consultee, as the case may be) is not necessary for consideration of the application; or
- (d) on receipt of any further information requested under paragraph 38 (further information), the discharging body notifies the undertaker that the information provided is inadequate

(a) 1974 c. 40.

and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The appeal process applicable under sub-paragraph (1) is as follows—

- (a) any appeal by the undertaker must be made within 42 days of the date of the notice of the decision, or the date by which a decision was due to be made, as the case may be;
- (b) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the discharging body;
- (c) the Secretary of State must appoint a suitably qualified person to consider the appeal (“the appointed person”) as soon as reasonably practicable after the submission under sub-paragraph (b) but in any event no longer than 21 days from the submission under that sub-paragraph and must notify the appeal parties of the identity of the appointed person, a start date and the address to which all correspondence for their attention should be sent;
- (d) the discharging body must submit their written representations to the appointed person in respect of the appeal within 10 business days of the start date and must ensure that copies of their written representations and any other representations as sent to the appointed person are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (e) the appeal parties must make any counter-submissions to the appointed person within 10 business days of receipt of written representations under sub-paragraph (d); and
- (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable but in any event no longer than 10 business days from the receipt of counter-submissions under sub-paragraph (e).

(3) The appointment of the person under sub-paragraph (2)(c) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(4) In the event that the appointed person considers that further information is necessary to enable the appointed person to consider the appeal, the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.

(5) Any further information required under sub-paragraph (4) must be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person.

(6) The appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day.

(7) The revised timetable for the appeal must require submission of written representations to the appointed person within 10 business days of the agreed date but must otherwise be in accordance with the process and time limits set out in sub-paragraphs (2)(c) to (f).

(8) On an appeal under this paragraph, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the discharging body (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to the appointed person in the first instance.

(9) The appointed person may proceed to a decision on an appeal taking into account such written representations as have been sent within the relevant time limits and in the sole discretion of the appointed person such written representations as have been sent outside the relevant time limits.

(10) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(11) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(12) Except where a direction is given under sub-paragraph (13) requiring some or all of the costs of the appointed person to be paid by the discharging body, the reasonable costs of the appointed person must be met by the undertaker.

(13) The appointed person may give directions as to the costs of the appeal and as to the parties by whom such costs are to be paid.

(14) In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to the relevant Planning Practice Guidance published by the Department for Levelling Up, Housing and Communities and the Ministry for Housing, Communities and Local Government or such guidance as may from time to time replace it.

Matters to be considered in an appeal to the Secretary of State

47. The appointed person under paragraph 40 (appeals to the Secretary of State) of this Schedule must, when determining an appeal under that paragraph, have due regard to—

- (a) the need to ensure that the Limits are not exceeded;
- (b) the safe and efficient commercial operation of the airport; and
- (c) any other matters they consider relevant.

Application of Part 8 of the Planning Act 2008

48.—(1) A designated authority may submit representations to Luton Borough Council requesting that it consider the need to pursue enforcement action where—

- (a) the ESG, following an attempt to resolve the matter with the undertaker, determines that a Monitoring Report has not been produced in accordance with the Monitoring Plan; or
- (b) the ESG, following an attempt to resolve the matter with the undertaker, determines that the undertaker has not implemented a Level 2 Plan or a Mitigation Plan; or
- (c) the ESG, following an attempt to resolve the matter with the undertaker, determines that a draft Level 2 Plan or a draft Mitigation Plan, or a Level 2 Plan or Mitigation Plan, has not been consulted upon or submitted in the time period required under this Schedule.

(2) Luton Borough Council must no later than 42 days starting with the day after a representation is submitted under sub-paragraph (1) provide a written notice to the designated authorities, the ESG and undertaker, which sets out—

- (a) its decision on whether enforcement action is being undertaken;
- (b) reasons for that decision; and
- (c) if a decision is taken to pursue enforcement action, details of—
 - (i) any alleged breaches of the Order; and
 - (ii) the particular provision under Part 8 of the 2008 Act under which enforcement is proposed to be taken.

(3) This paragraph does not modify or otherwise prejudice the provisions of Part 8 of the 2008 Act.

(4) In this paragraph—

“2008 Act” means the Planning Act 2008;

“designated authority” means—

- (a) Central Bedfordshire Council;
- (b) Hertfordshire County Council;
- (c) North Hertfordshire District Council; and
- (d) Dacorum Borough Council;

“enforcement action” means any action under any provision contained in Part 8 of the 2008 Act and, without limitation, includes—

- (a) entering on land in accordance with section 163 or 164 of that Act;
- (b) serving notices requiring information in accordance with section 167 of that Act;
- (c) serving notices of unauthorised development in accordance with section 169 of that Act;
- (d) executing works in accordance with section 170 of that Act; and
- (e) making an application for an injunction in accordance with section 171 of that Act.

SCHEDULE 3

Article 14

PERMANENT STOPPING UP OF PUBLIC RIGHTS OF WAY

(1) <i>Public rights of way to be stopped up</i>	(2) <i>Extent of stopping up</i>
Footpath 38 (FP38)	Between Point A on sheet 1 to Point B on sheet 2 of the Rights of Way Plans – Permanent Stopping Up of Public Rights of Way.
Footpath 29 (FP29)	Between Points B and C on sheet 2 of the Rights of Way Plans – Permanent Stopping Up of Public Rights of Way.
Bridleway 28 (BW28)	Between Points C and D on sheet 2 of the Rights of Way Plans – Permanent Stopping Up of Public Rights of Way.
Bridleway 37 (BW37)	Between Point D on sheet 2 to Point E on sheet 6 of the Rights of Way Plans – Permanent Stopping Up of Public Rights of Way.

SCHEDULE 4

Article 18

DESIGNATION OF HIGHWAYS

(1) <i>Local Highway</i>	(2) <i>Extent</i>	(3) <i>Designation</i>
Airport Access Road	The area hatched blue as shown on sheets 1–3 of the Streets, Rights of Way and Access Plans – Airport Access Road	Carriageway and Footway
Junction of A1081 New Airport Way and Gipsy Lane	The area hatched blue as shown on the Streets, Rights of Way and Access Plan – A1081 New Airport Way / Gipsy Lane	Carriageway
Work No. 5b(03) – New highway (footpath) linking the northern end of Footpath 38 (FP38) with the north-western extent of Footpath 43 (FP43)	Between point 1 and point 2 as shown on sheet 1 of the Rights of Way Plans – Public Rights of Way Proposals	Footpath
Work No. 5b(04) – New highway (multi-use bridleway) connecting Footpath 43 (FP43) to Winch Hill Road	Between point 3 on sheet 1 and point 4 on sheet 3 as shown on sheets 1 and 3 of the Rights of Way Plans – Public Rights of Way Proposals	Bridleway
Work No. 5b(05) – New highway (multi-use bridleway) connecting Bridleway 52 (BW52) with Footpath 41 (FP41)	Between point 6 and point 7 as shown on sheet 2 of the Rights of Way Plans – Public Rights of Way Proposals	Bridleway
Work No. 5b(06) – Upgrading of Footpath FP41 to a bridleway, from its western extent at the junction with Eaton Green Road and FP43, to the intersection of the new length of bridleway forming Work No. 5b(05) leading south-east to Winch Hill Road	Between point 5 and point 6 as shown on sheet 1 of the Rights of Way Plans – Public Rights of Way Proposals	Bridleway
Work No. 5b(07) – Upgrading of Footpath FP43 to bridleway, from its western extent at the junction with Eaton Green Road and FP41, to the intersection of the new bridleway forming Work No. 5b(04) leading south-east to Winch Hill Road	Between point 5 and point 3 as shown on sheet 1 of the Rights of Way Plans – Public Rights of Way Proposals	Bridleway

SCHEDULE 5

Article 27

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>
Land Plans – Sheet 1 of 10	
1-41	The rights and restrictive covenants to construct, protect, operate, access and maintain the private road beneath the bridge carrying the railway, including the right to erect lighting within the subway crossing, and to maintain or upgrade the surface; and the right for the undertaker and all persons authorised on its behalf to enter, pass and re-pass, on foot, with or without plant and machinery, for all purposes in connection with the use of the footpath as a means of access between the adjacent car parks.
Land Plans – Sheet 3 of 10	
3-32, 3-40, 3-41, 3-42	The rights and restrictive covenants to install, protect, implement, retain, repair, improve, renew, remove, relocate and plant hedgerows, associated plants and supporting infrastructure together with the right to maintain, inspect and replant; and the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of hedgerows in connection with the authorised development.
Land Plans – Sheet 4 of 10	
4-01	The right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of hedgerows in connection with the authorised development.
4-02, 4-03, 4-04, 4-05	The rights and restrictive covenants to install, protect, implement, retain, repair, improve, renew, remove, relocate and plant hedgerows, associated plants and supporting infrastructure together with the right to maintain, inspect and replant; and the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of hedgerows in connection with the authorised development.
Land Plans – Sheet 6 of 10	
6-01	The rights and restrictive covenants to access, protect, and maintain an area of ancient woodland.
6-03, 6-04	The rights and restrictive covenants to construct, protect, operate, access, renew and maintain a new fuel pipeline and associated installations.
6-04	The rights and restrictive covenants to construct, operate, access, protect, and maintain a habitat mitigation area.
6-05	The right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of hedgerows in connection with the authorised development.
6-06, 6-07, 6-08, 6-21, 6-21a	The rights and restrictive covenants to install, protect,

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>
	implement, retain, repair, improve, renew, remove, relocate and plant hedgerows, associated plants and supporting infrastructure together with the right to maintain, inspect and replant; and the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of hedgerows in connection with the authorised development.
Land Plans – Sheet 7 of 10	
7-03, 7-09, 7-10, 7-12, 7-13, 7-14, 7-15, 7-16, 7-17, 7-18, 7-19, 7-20, 7-21, 7-23, 7-24, 7-25, 7-26, 7-27, 7-28, 7-30, 7-31, 7-33, 7-34 7-35, 7-36, 7-37, 7-38, 7-40, 7-41, 7-42, 7-43, 7-44, 7-45, 7-46	The rights and restrictive covenants to install, protect, implement, retain, repair, improve, renew, remove, relocate and plant hedgerows, associated plants and supporting infrastructure together with the right to maintain, inspect and replant; and the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of hedgerows in connection with the authorised development.
7-04, 7-05, 7-06, 7-07	The rights and restrictive covenants to construct, operate, access and maintain a habitat mitigation area.
7-29, 7-32, 7-39	The right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of hedgerows in connection with the authorised development.

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS AND IMPOSITION OF RESTRICTIVE COVENANTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply in the case of a compulsory acquisition under this Order of a right by the creation of a new right or the imposition of a restrictive covenant as they apply in respect of compensation on the compulsory purchase of land and interests in land, subject to the modifications set out in this Schedule.

2.—(1) Without limiting paragraph 1, the Land Compensation Act 1973^(a) has effect subject to the modifications set out in sub-paragraphs (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5—

- (a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.

3.—(1) Without limiting paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act, after “if” substitute—

- “(a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) (powers of entry) of the 1965 Act (as modified by paragraph 7 of Schedule 6 to the London Luton Airport Expansion Development Consent Order 202[]);
 - (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 10 of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants) to the London Luton Airport Expansion Development Consent Order 202[]) to acquire an interest in the land; and
 - (c) the acquiring authority enters on and takes possession of that land,
- the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right.”.

Application of Part 1 of the 1965 Act

4. The 1965 Act has effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references—

(a) 1973 c. 26.

- (a) the right acquired or to be acquired, or the restrictive covenant imposed or to be imposed;
or
- (b) the land over which the right is or is to be exercisable, or the restrictive covenant is or is to be enforceable.

(2) Without limiting sub-paragraph (1), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right or, in relation to the imposition of a restrictive covenant, with the modifications specified in the following provisions of this Schedule.

5. For section 7 (measure of compensation) of the 1965 Act substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

7. Section 11(a) (powers of entry) of the 1965 Act is modified so as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 12(b) (penalty for unauthorised entry) and 13(c) (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

8. Section 20(d) (protection for interests of tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

9. Section 22 (interests omitted from purchase) of the 1965 Act is modified so as to enable the acquiring authority in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

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- (a) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No.1) and S.I. 2009/1307.
 - (b) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23).
 - (c) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).
 - (d) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

10. For Schedule 2A of the 1965 Act substitute—

“SCHEDULE 2A COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1. This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and has not executed a general vesting declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981^(a) as applied by article 30 (application of the 1981 Act and modification of the 2017 Regulations) of the London Luton Airport Expansion Development Consent Order 202[] in respect of the land to which the notice to treat relates.

2. In this Schedule, “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the acquiring authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

6. The acquiring authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the acquiring authority decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

8. If the acquiring authority does not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the acquiring authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

Determination by Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or

(a) 1981 c. 66, as amended by Part 7 of the Housing and Planning Act 2016 (c. 22).

- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant,
- (b) the use to be made of the right or covenant proposed to be acquired or imposed, and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

13. If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph it must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”.

Application of the 2017 Regulations

11. References in Schedule 1 to the 2017 Regulations to land are, in the appropriate contexts, to be read (according to the requirements of the context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or the restrictive covenant imposed or to be imposed; or
- (b) the land over which the right is to be exercisable, or the restrictive covenant is or is to be enforceable.

SCHEDULE 7

Article 33

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which temporary possession may be taken</i>	(3) <i>Relevant part of the authorised development</i>
1-01, 1-02, 1-03, 1-04, 1-05, 1-06, 1-07, 1-08, 1-09, 1-10, 1-11, 1-12, 1-13, 1-14, 1-15, 1-16, 1-17, 1-20, 1-21, 1-26, 1-28, 1-29, 1-35	Offsite highway works, including works to A1081 New Airport Way, B653 and Gipsy Lane. To include, the realignment and widening of A1081 New Airport Way (to provide additional traffic lanes), the realignment and widening of A505 Gipsy Lane (to provide additional traffic lanes), the reshaping of the A1081 New Airport Way central reserve islands including the realignment of barriers, the replacement or relocation of signage, lighting and gantries, the reprovision of cycle lanes, the reprovision of roadside barriers, and the reshaping of the A505 Gipsy Lane splitter island	Work No. 6e(b)
1-27 1-31, 1-32, 1-33	Airport support facilities, including construction of a multi-storey car park associated laydown areas, access, working space to support construction	Work No. 4g
1-34, 1-37, 1-43, 1-49, 1-50, 1-53, 1-54, 1-57, 1-59, 1-61, 1-63	Airport support facilities, including a surface car park associated laydown areas, access, working space to support construction	Work No. 4h
1-58, 1-60, 1-62, 1-63, 1-64, 1-65, 1-66, 1-67	Offsite highway works, including works at A1081 New Airport Way, A505 Kimpton Road and Vauxhall Way, associated laydown areas, access, working space to support construction	Work No. 6e(c)
1-68, 1-69, 1-69a, 1-71a, 1-87, 1-92	Airport support facilities, including works to modify an existing car park and associated laydown areas, access, working space to support construction	Work No. 4i
1-68, 1-69, 1-69a, 1-70, 1-78, 1-80, 1-81, 1-82, 1-85, 1-87, 1-90, 1-92, 1-93,	Works in connection with Airport Access Road, associated	Work No. 6a(01)

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which temporary possession may be taken</i>	(3) <i>Relevant part of the authorised development</i>
2-1139	laydown areas, access, working space to support construction	
1-68, 1-69, 1-69a, 1-70, 1-71a, 1-74, 1-74a, 1-75, 1-76, 1-77, 1-77a, 1-78, 1-80, 1-81, 1-82, 1-85, 1-87, 1-88, 1-90, 1-92, 1-93, 1-94, 1-95, 1-99, 1-100, 2-05, 2-08, 2-09, 2-16, 2-27, 2-66, 2-67, 2-68, 2-84, 2-87, 2-90, 2-96, 2-96a, 2-101, 2-114, 2-117, 2-128, 2-133, 2-134, 3-02, 3-04, 3-05, 3-06, 3-08, 3-11, 5-11	Works in connection with Airport Access Road, associated laydown areas, access, working space to support construction	Work No. 6a(02)
1-95, 2-05, 2-08, 2-09, 2-16	Landscape and mitigation works including the provision of structural landscaping, associated laydown areas, access, working space to support construction	Work No. 5a
2-27	Airport Access Road permanent car parking replacement provision, associated laydown areas, access, working space to support construction	Work No. 4t(01), Work No. 4t(02)
2-62, 2-65, 2-70, 2-79, 2-80	Offsite highway works, including works at A505 Vauxhall Way/Eaton Green Road, associated laydown areas, access, working space to support construction	Work No. 6e(r)
2-68, 2-71	Construction of new hangar aprons, associated laydown areas, access, working space to support construction	Work No. 2c(03)
2-84, 2-87, 2-90, 2-96, 2-96a, 2-101, 2-117	Works in connection with Airport Access Road, associated laydown areas, access, working space to support construction	Work No. 6a(03)
2-93, 2-99, 2-101, 2-108, 2-114, 2-133	Works in connection with Airport Access Road replacement car parking provision, associated laydown areas, access, working space to support construction	Work No. 4t(03)
2-96a, 2-113, 2-116, 2-120, 2-121, 2-126	Offsite highway works, including works at Eaton Green Road/Frank Lester Way, associated laydown areas, access, working space to support construction	Work No. 6e(q)
2-114, 2-133	Works in connection with Airport Access Road, including replacement car parking provision and substation works,	Work No. 4t(04), Work No. 4w

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which temporary possession may be taken</i>	(3) <i>Relevant part of the authorised development</i>
	associated laydown areas, access, working space to support construction	
2-144	Offsite highway works, including works at Eaton Green Road and Lalleford Road, associated laydown areas, access, working space to support construction	Work No. 6e(d)
3-04, 3-05, 3-06, 3-08, 3-11, 3-15, 3-17, 5-11	Sitewide works to enable development including earthworks, associated laydown areas, access, working space to support construction	Work No. 1a
3-04, 3-06, 5-11	Sitewide works to enable development including landfill remediation works, associated laydown areas, access, working space to support construction	Work No. 1b
3-05, 3-06, 3-11, 3-14, 3-15, 3-17, 3-18, 3-22, 3-23, 3-24, 3-25, 3-26, 3-27, 3-28, 3-29	Offsite highway works, including works to Eaton Green Road and Wigmore Lane, including works to the junction of Wigmore Lane and existing Asda, the removal of the existing roundabout junction and conversion to a signalised junction, the provision of signalised pedestrian crossings and the realignment and widening of the carriageway	Work No. 6e(f)
3-18	Landscape and mitigation works including enhancements to Wigmore Valley Park, associated laydown areas, access, working space to support construction	Work No. 5b(01)
3-19, 3-20, 3-21, 7-02	Landscape and mitigation works including the provision of structural landscaping, associated laydown areas, access, working space to support construction	Work No. 5b(02)
3-19, 3-20, 3-21	Landscape and mitigation works including works to Replacement Open Space and upgrade of footpath, associated laydown areas, access, working space to support construction	Work No. 5b(07)
3-27, 3-28, 3-29, 3-30, 3-36, 3-37, 3-38, 3-39,	Offsite highway works, including works at Wigmore Lane and Crawley Green Road,	Work No. 6e(e)

(1) <i>Plot Reference Number shown on Land Plans</i>	(2) <i>Purpose for which temporary possession may be taken</i>	(3) <i>Relevant part of the authorised development</i>
	associated laydown areas, access, working space to support construction	
3-31, 3-33, 3-34, 3-35	Offsite highway works, including works at Crawley Green Road/Lalleford Road, associated laydown areas, access, working space to support construction	Work No. 6e(j)
8-01, 8-02, 8-03, 8-04, 8-05, 8-06, 8-07, 8-08, 8-09, 8-10, 8-11, 8-12, 8-13, 8-14, 8-15, 8-16, 8-17, 8-18, 8-19, 8-22, 8-23	Offsite highway works, including works at M1 J10, including widening to the A1081 westbound carriageway, associated laydown areas, access, working space to support construction	Work No. 6e(o)
8-01, 8-02, 8-03, 8-04, 8-05, 8-06, 8-07, 8-08, 8-09, 8-10, 8-11, 8-12, 8-13, 8-14, 8-15, 8-16, 8-17, 8-18, 8-19, 8-21, 8-22, 8-23	Offsite highway works, including works at M1 J10, including widening of the western circulatory carriageway, associated laydown areas, access, working space to support construction	Work No. 6e(p)
8-03, 8-05, 8-06, 8-07, 8-08, 8-09, 8-10, 8-11, 8-12, 8-13, 8-14, 8-15, 8-16, 8-17, 8-18, 8-19, 8-22, 8-23	Offsite highway works, including works at M1 J10, including widening to the northbound off-slip, associated laydown areas, access, working space to support construction	Work No. 6e(n)
8-20	Offsite highway works, including works at A1081/London Road (South), associated laydown areas, access, working space to support construction	Work No. 6e(h)
8-24, 8-25, 8-26, 8-27	Offsite highway works, including works at A1081/London Road (North), associated laydown areas, access, working space to support construction	Work No. 6e(g)
9-01, 9-02, 9-03, 9-04, 9-05, 9-06, 9-07, 9-08, 9-09	Offsite highway works, including works at Windmill Road and Kimpton Road, associated laydown areas, access, working space to support construction	Work No. 6e(a)
9-10, 9-11, 9-13, 9-15, 9-17, 9-18, 9-19, 9-20, 9-21, 9-22, 9-23, 9-24, 9-25	Offsite highway works, including works at Windmill Road/Manor Road/St. Mary's Road/Crawley Green Road, associated laydown areas,	Work No. 6e(i)

<i>(1) Plot Reference Number shown on Land Plans</i>	<i>(2) Purpose for which temporary possession may be taken</i>	<i>(3) Relevant part of the authorised development</i>
	access, working space to support construction	
10-01, 10-02, 10-03, 10-04, 10-05, 10-06	Offsite highway works, including works at A602 Park Way/Stevenage Road, associated laydown areas, access, working space to support construction	Work No. 6e(m)
10-07	Offsite highway works, including works at A505 Moormead Hill/B655 Pirton Road/Upper Tilehouse Street, associated laydown areas, access, working space to support construction	Work No. 6e(l)
10-08, 10-09	Offsite highway works, including works at A602 Park Way/A505 Upper Tilehouse Street, associated laydown areas, access, working space to support construction	Work No. 6e(k)

SCHEDULE 8

PROTECTIVE PROVISIONS

Articles 36 and 49

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWAGE UNDERTAKERS

1. For the protection of the utility undertakers referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertaker concerned.

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(a)), belonging to or maintained by that undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter within the meaning of Part 1 of the Gas Act 1986(b) for the purposes of gas supply;
- (c) in the case of a water undertaker, mains, pipes or other apparatus belonging to or maintained by that undertaker for the purposes of water supply; and
- (d) in the case of a sewerage undertaker—
 - (i) any drain or works vested in the undertaker under the Water Industry Act 1991(c); and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal of works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewage disposal works, at a future date) of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any inspection chambers, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

“utility undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;

(a) 1989 c. 29.

(b) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and was further amended by section 76 of the Utilities Act 2000 (c. 27).

(c) 1991 c. 56.

- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986;
 - (c) a water undertaker within the meaning of the Water Industry Act 1991; and
 - (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,
- for the area of the authorised development, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained.

On street apparatus

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

Apparatus in stopped up public rights of way

4.—(1) Where any public right of way is stopped up under article 14 (permanent stopping up of public rights of way), any utility undertaker whose apparatus is in the land in which the public right of way subsists has the same powers and rights in respect of that apparatus in the land in which the public right of way subsists as it enjoyed immediately before the stopping up and the undertaker must grant to the utility undertaker legal easements reasonably satisfactory to the utility undertaker in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of the utility undertaker to require the removal of that apparatus under paragraph 7 or the power of the undertaker to carry out works under paragraph 9.

(2) Regardless of the temporary alteration, diversion or restriction of any street under the powers conferred by article 13 (temporary closure and restriction of use of streets), a utility undertaker is at liberty at all times to take all necessary access across any such stopped up street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that street.

Protective works to buildings

5. The undertaker, in the case of the powers conferred by article 20 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

Acquisition of land

6. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

7.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished, until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (6).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed the utility undertaker must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 52 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 52 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that the undertaker desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) If the utility undertaker fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved, provided that the undertaker has first taken all reasonable steps to contact the relevant representatives of the utility undertaker in order to elicit such a response.

(8) Any deemed approval under sub-paragraph (7) does not extend to the actual undertaking of the removal works, which remains the sole responsibility of the utility undertaker or its contractors.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 52 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in the land of the undertaker, the arbitrator will—

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with the proposed works of the undertaker; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or on the land for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as

appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

9.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 7(2), the undertaker must submit to the utility undertaker in question a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If a utility undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works unless otherwise agreed with the utility undertaker, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

Expenses and costs

10.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker all expenses reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 7(2).

(2) There must be deducted from any sum payable under subparagraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 52 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of an inspection chamber is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

11.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 5 or 7(2), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the undertaker,

by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by a utility undertaker on behalf of the undertaker or in accordance with a plan approved by a utility undertaker or in accordance with any requirement of a utility undertaker or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless a utility undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(4) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Cooperation

12. Where in consequence of the proposed construction of any of the authorised development, the undertaker or a utility undertaker requires the removal of apparatus under paragraph 7(2) or a utility undertaker makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker must use best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the utility undertaker's undertaking and each utility undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

13. Where, under this Part, the utility undertaker is required to give its consent or approval in respect of any matter, that consent or approval must not be unreasonably withheld or delayed.

14. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 2

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

15. For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

16. In this Part of this Schedule—

“the 2003 Act” means the Communications Act 2003^(a);

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act^(b);

“electronic communications code network” means—

(a) so much of an electronic communications network or infrastructure system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 (application of the electronic communications code) of the 2003 Act; and

(b) an electronic communications network which the undertaker is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 (application of the electronic communications code) of the 2003 Act; and

“operator” means the operator of an electronic communications code network.

17. The exercise of the powers conferred by article 36 (statutory undertakers) is subject to Part 10 (undertaker’s works affecting electronic communications apparatus) of the electronic communications code.

18.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 52 (arbitration).

(5) This Part of this Schedule does not apply to—

(a) 2003 c. 21.

(b) See section 106.

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or
 - (b) any damages, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised development.
- (6) In respect of the acquisition of rights under or over or use of the utility undertaker's property, the utility undertaker must co-operate with the undertaker with a view to avoiding undue delay
- (7) Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 3

FOR THE PROTECTION OF LONDON LUTON AIRPORT OPERATIONS LIMITED

- 19.**—(1) The provisions of this Part of this Schedule—
- (a) have effect unless otherwise agreed in writing between the undertaker and LLAOL;
 - (b) cease to have effect where LLAOL is no longer the airport operator.
- (2) For the period that LLAOL is the airport operator, the undertaker must not—
- (a) in relation to land shown within the airport boundary plan (existing), exercise any power under this Order except with the consent of LLAOL (including, for the avoidance of doubt, the service of notice to Luton Borough Council in accordance with article 44(1) (interaction with LLAOL planning permission) of the Order); and
 - (b) exercise any power under this Order in a manner which would compromise the safe and efficient commercial operation of the airport by LLAOL except with the consent of LLAOL; or
 - (c) commence the construction of Works Nos. 6b(01), 6b(02) and 6b(03), until a written notice of the works comprising Works Nos. 6b(01), 6b(02) and 6b(03) has been given to LLAOL at least 56 days prior to commencement.

PART 4

FOR THE PROTECTION OF CADENT GAS LIMITED

Application

20. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

Interpretation

21. In this Part of this Schedule—

“alternative apparatus” means appropriate alternative apparatus to the reasonable satisfaction of Cadent to enable Cadent to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means gas mains, pipelines, pipes, pressure governors, ventilators, cathodic protection (including transformed rectifiers and associated groundbeds or cables), cables, marker posts, block valves, hydrogen above ground installations or other apparatus belonging to, or maintained by, Cadent for the purposes of Cadent's undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that

becomes operational apparatus of Cadent for the purposes of Cadent's undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

"Cadent" means Cadent Gas Limited (company number 10080864), whose registered office is at Pilot Way, Ansty, Coventry, CV7 9JU), and includes its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986(a);

"Cadent's undertaking" means the rights, duties and obligations of Cadent as a public gas transporter within the meaning of Section 7 of the Gas Act 1986 (as amended by the Gas Act 1995(b));

"commence" and "commencement" include any below ground or intrusive surveys, monitoring, work operations or remedial work in respect of any contamination or other adverse ground condition, the receipt and erection of construction plant and equipment, and intrusive investigations for the purpose of assessing ground conditions;

"deed of consent" means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

"facilities and rights" for construction and for maintenance include any appropriate working areas required to reasonably and safely undertake that construction or maintenance, and any necessary rights of access;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by Cadent (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

"ground monitoring scheme" means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, require the undertaker to submit for Cadent's approval a ground mitigation scheme;

"ground subsidence event" means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

"maintain" and "maintenance" have effect as if Cadent's existing apparatus was authorised development and as if the term maintain includes protect and use;

"plan" or "plans" include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

"rights" includes restrictive covenants and, in relation to decommissioned apparatus, the surrender of rights, release of liabilities and transfer of decommissioned apparatus; and

"specified works" means any of the authorised development or activities (including maintenance) undertaken in association with the authorised development which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under subparagraph 26(2) or otherwise; or

(a) 1986 c. 44.

(b) 1995 c. 45.

- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 26(2) or otherwise.

On street apparatus

22.—(1) This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act, except for—

- (a) paragraphs 23 (apparatus of Cadent in stopped up rights of way), 28 (retained apparatus: protection of Cadent), 29 (expenses) and 30 (indemnity); and
- (b) where sub-paragraph (2) applies, paragraphs 26 (removal of apparatus) and 27 (facilities and rights for alternative apparatus).

(2) This sub-paragraph applies where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within the existing public highway, notwithstanding that any diversion may be carried out under the provisions of Part 3 of the 1991 Act.

(3) Paragraph 29 (expenses) does not apply to any part of the authorised development that affects Cadent's apparatus in a street and which constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) any allowable costs of the measures needing to be taken in relation to that apparatus in consequence of the authorised development, or in order to facilitate their execution, is to be determined in accordance with Part 3 and section 85 (sharing of cost of necessary measures) of that Act, and any regulations for the time being having effect under that section; and
- (b) any allowable costs are to be borne by the undertaker and Cadent in such proportions as may be prescribed by any such regulations.

Apparatus of Cadent in stopped up rights of way

23.—(1) Where any public right of way is stopped up under article 14 (permanent stopping up of public rights of way), if Cadent has any apparatus in the public right of way or accessed via that public right of way Cadent is entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to Cadent, or procure the granting to Cadent of, legal easements reasonably satisfactory to Cadent in respect of such apparatus and access to it prior to the stopping up of any such public right of way, but nothing in this paragraph affects any right of the undertaker or of Cadent to require the removal of that apparatus under paragraph 26 (removal of apparatus).

(2) Notwithstanding the temporary stopping up, alteration, diversion or restriction of use of any street under the powers of article 13 (temporary closure and restriction of use of streets), Cadent will be at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as it would have been entitled to do immediately before such temporary stopping up, alteration, diversion or restriction in respect of any apparatus which at the time of the stopping up, alteration, diversion or restriction of use was in that street.

Protective works to buildings

24. The undertaker must exercise the powers conferred by article 20 (protective work to buildings) so as not to obstruct or render less convenient the access to any apparatus without the written consent of Cadent (such consent not to be unreasonably withheld or delayed).

Acquisition of land

25.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any

interest in land or appropriate, acquire, extinguish, interfere with or override any easement or other interest in land of Cadent otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out or maintenance of any part of the authorised development (or in such other timeframe as may be agreed between Cadent and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of Cadent or affect the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent, and it will be the responsibility of the undertaker to procure or secure the consent to and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised development or maintenance thereof.

(3) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus, including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent and other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Part of this Schedule prevail.

(4) Any agreement or consent granted by Cadent under paragraph 28 (retained apparatus: protection of Cadent) or any other paragraph of this Part of this Schedule, is not to be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement under sub-paragraph (1) that involves de-commissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement or other interest of Cadent in such decommissioned apparatus and release Cadent from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where the undertaker acquires land which is subject to any right or interest of Cadent (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 26 (removal of apparatus) do not apply, the undertaker must, unless Cadent agrees otherwise—

- (a) retain any notice of Cadent's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and
- (b) (where no such notice of Cadent's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of Cadent's easement, right or other interest in relation to such acquired land.

Removal of apparatus

26.—(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 25 (acquisition of land), the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of Cadent to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, is in operation, and the facilities and rights referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of Cadent and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Cadent advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be

provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to move or remove any of its apparatus) the undertaker must afford to Cadent to its satisfaction (taking into account sub-paragraph (1) of paragraph 27 (facilities and rights for alternative apparatus) the necessary facilities and rights—

- (a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus);
- (b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary maintenance by Cadent in respect of the apparatus); and
- (c) to allow access to that apparatus.

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed as soon as reasonably practicable save that this obligation does not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Cadent and the undertaker.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraph (2) or (3), then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

27.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed, then the terms and conditions to which those facilities and rights are subject may be referred to arbitration in accordance with paragraph 34 (arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of Cadent

28.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Cadent under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any specified works until Cadent has given written approval of the plan so submitted (and the ground monitoring scheme if required).

(4) Any approval of Cadent given under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5); and
- (b) must not be unreasonably withheld or delayed and Cadent must meaningfully engage with the undertaker within 28 days of the date of submission of the plan under sub-paragraph (1).

(5) Cadent may require such modifications to be made to the plan as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Specified works must only be executed in accordance with—

- (a) the plan submitted under sub-paragraph (1) (and ground monitoring scheme if required), as approved or as amended from time to time by agreement between the undertaker and Cadent; and
- (b) all conditions imposed under sub-paragraph (4)(a),

and Cadent will be entitled to watch and inspect the execution of those works where reasonably practicable to do so and in accordance with any relevant health and safety legislation.

(7) Where Cadent requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required prior to commencement.

(8) If Cadent, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 20 to 22 and 25 to 27 apply as if the removal of the apparatus had been required by the undertaker under sub-paragraph 26(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan (and the ground monitoring scheme if required), instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan (and the ground monitoring scheme if required).

(10) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development (including such an event attributable to its maintenance)—

- (a) the undertaker must implement an appropriate ground mitigation scheme; and
- (b) Cadent retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 29 (expenses).

(11) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to Cadent notice as soon as is reasonably practicable and a plan of those works and must comply with the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances.

(12) In this paragraph, “emergency works” means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

Expenses

29.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent within 28 days of receipt of an invoice all charges, costs and expenses reasonably anticipated or reasonably incurred by Cadent in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised development including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by Cadent as a consequence of Cadent—
 - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 26(3) if it elects to do so; or
 - (ii) exercising any compulsory purchase powers under this Order transferred to or benefitting Cadent;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule;
- (g) any watching brief pursuant to sub-paragraph 28(6).

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 34 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Cadent by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances (or it would be unlawful due to a statutory or regulatory change) to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to Cadent in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on Cadent any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

30.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised development (including works carried out under article 20 (protective work to buildings)) by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by the undertaker) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from Cadent, the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and
- (b) indemnify Cadent for any other expenses, loss, demands, proceedings, damages, claims, penalty, compensation or costs properly incurred by, paid by or recovered from Cadent, by reason or in consequence of any such damage or interruption or Cadent becoming liable to any third party as aforesaid other than arising from any default of Cadent.

(2) The fact that any act or thing may have been done by Cadent on behalf of the undertaker or in accordance with a plan approved by Cadent or in accordance with any requirement of Cadent or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless Cadent fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents;
- (b) any part of the authorised development carried out by Cadent in the exercise of any functions conferred by this Order pursuant to a grant or transfer under article 8 (consent to transfer benefit of Order); and
- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business interruption) arising from any such damage or interruption, which is not reasonably foreseeable at the commencement of the relevant works referred to in sub-paragraph (1).

(4) Cadent must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in

connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

Enactments and agreements

31. Except where this Part of this Schedule provides otherwise, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

32.—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or Cadent requires the removal of apparatus under paragraph 26(2) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 28(retained apparatus: protection of Cadent), the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Cadent's undertaking and Cadent must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, it must not be unreasonably withheld or delayed.

Access

33. If in consequence of any agreement reached in accordance with paragraph 25(1) or the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

34. Save for differences or disputes arising under sub-paragraphs 26(2) any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by arbitration in accordance with article 52 (arbitration).

Notices

35. Notwithstanding article 51 (service of notices) any plans submitted to Cadent by the undertaker pursuant to paragraph 28(1) must be sent via email and post to such email and postal addresses as Cadent may from time to time appoint for that purpose and notify to the undertaker in writing.

PART 5

FOR THE PROTECTION OF NATIONAL HIGHWAYS LIMITED

Application, etc.

36.—(1) The provisions of this Part of this Schedule apply for the protection of National Highways of Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ (company registration number 09346363) and all successors in title and have effect unless otherwise agreed in writing between the undertaker and National Highways.

(2) An agreement for the purpose of sub-paragraph (1) includes, but is not limited to, an agreement made under article 17 of this Order, or under the 1980 Act provided that the agreement expressly refers to this paragraph 36 of this Schedule.

(3) Nothing in this Order affects or prejudices the operation of the powers and duties of National Highways or the Secretary of State under the 1980 Act, the 1984 Act, the 1991 Act, the Transport Act 2000^(a), or Town and Country Planning (General Permitted Development) (England) Order 2015^(b) which continues to apply in respect of the exercise of all National Highways' statutory functions.

Interpretation

37.—(1) Where the terms defined in article 2 (interpretation) of this Order are inconsistent with subparagraph (2) the latter prevail.

(2) In this Part of this Schedule—

“as built information” means one electronic copy of the following information—

- (a) as constructed drawings in both PDF and AutoCAD DWG formats for anything designed by the undertaker; in compliance with Interim Advice Note 184 or any successor document;
- (b) list of suppliers and materials used, as well as any relevant test results and CCTV surveys (if required to comply with DMRB standards);
- (c) product data sheets and technical specifications for all materials used;
- (d) as constructed information for any utilities discovered or moved during the works;
- (e) method statements for the works carried out;
- (f) in relation to road lighting, signs, and traffic signals any information required by Series 1300 and 1400 of the Specification for Highway Works or any replacement or modification of it;
- (g) organisation and methods manuals for all products used;
- (h) as constructed programme;
- (i) test results and records as required by the detailed design information and during construction phase of the project;
- (j) a stage 3 road safety audit subject to any exceptions to the road safety audit standard as agreed by the undertaker and National Highways;
- (k) the health and safety file; and

such other information as is reasonably required by National Highways to be used to update all relevant databases and to ensure compliance with National Highway's Asset Data Management Manual as is in operation at the relevant time;

“the bond sum” means the sum equal to 200% of the cost of carrying out the specified works (to include all costs plus any commuted sum) or such other sum agreed between the undertaker and National Highways;

“the cash surety” means the sum agreed between the undertaker and National Highways;

“commuted sum” means such sum calculated as provided for in paragraph 48 of this Part of this Schedule to be used to fund the future cost of maintaining the specified works;

“condition survey” means a survey of the condition of National Highways structures and assets within the Order limits that in the reasonable opinion of National Highways may be affected by the specified works;

“contractor” means any contractor or subcontractor appointed by the undertaker to carry out the specified works;

(a) 2000 c. 38.
(b) S.I. 2015/596.

“defects period” means the period from the date of the provisional certificate to the date of the final certificate which is to be no less than 12 months from the date of the provisional certificate;

“detailed design information” means such of the following drawings specifications and calculations as are relevant to the development—

- (a) site clearance details;
- (b) boundary, environmental and mitigation fencing;
- (c) road restraints systems and supporting road restraint risk appraisal process assessment;
- (d) drainage and ducting as required by DMRB CD 535 Drainage asset data and risk management and DMRB CS551 Drainage surveys – standards for Highways
- (e) earthworks including supporting geotechnical assessments required by DMRB CD622 Managing geotechnical risk and any required strengthened earthworks appraisal form certification;
- (f) pavement, pavement foundations, kerbs, footways and paved areas;
- (g) traffic signs and road markings;
- (h) traffic signal equipment and associated signal phasing and timing detail;
- (i) road lighting (including columns and brackets);
- (j) regime of California Bearing Ratio testing;
- (k) electrical work for road lighting, traffic signs and signals;
- (l) motorway communications as required by DMRB;
- (m) highway structures and any required structural approval in principle;
- (n) landscaping;
- (o) proposed departures from DMRB standards;
- (p) walking, cycling and horse riding assessment and review report;
- (q) stage 1 and stage 2 road safety audits and exceptions agreed;
- (r) utilities diversions;
- (s) topographical survey;
- (t) maintenance and repair strategy in accordance with DMRB GD304 Designing health and safety into maintenance or any replacement or modification of it;
- (u) health and safety information including any asbestos survey required by GG105 or any successor document; and
- (v) other such information that may be reasonably required by National Highways to be used to inform the detailed design of the specified works;

“DBFO contract” means the contract between National Highways and the highway operations and maintenance contractor for the maintenance and operation of parts of the strategic road network which are within the Order Limits or any successor or replacement contract that may be current at the relevant time;

“DMRB” means the Design Manual for Roads and Bridges or any replacement or modification of it;

“final certificate” means the certificate relating to those aspects of the specified works that have resulted in any alteration to the strategic road network to be issued by National Highways pursuant to paragraph 46;

“the health and safety file” means the file or other permanent record containing the relevant health and safety information for the authorised development required by the Construction

(Design and Management) Regulations 2015(a) (or such updated or revised regulations as may come into force from time to time);

“highway operations and maintenance contractor” means the contractor appointed by National Highways under the DBFO contract;

“nominated persons” means the undertaker’s representatives or the contractor’s representatives on site during the carrying out of the specified works as notified to National Highways from time to time;

“programme of works” means a document setting out the sequence and timetabling of the specified works;

“provisional certificate” means the certificate of provisional completion relating to those aspects of the specified works that have resulted in any alteration to the strategic road network to be issued by National Highways in accordance with paragraph 42 when it considers the specified works are substantially complete and may be opened for traffic;

“road safety audit” means an audit carried out in accordance with the road safety audit standard;

“road safety audit standard” means DMRB Standard HD GG119 or any replacement or modification of it;

“road space booking” means road space bookings in accordance with National Highways’ Asset Management Operational Requirements (AMOR) including Network Occupancy Management System (NOMS) used to manage road space bookings and network occupancy;

“Specification for Highways Works” means the specification for highways works forming part of the manual of contract documents for highway works published by National Highways and setting out the requirements and approvals procedures for work, goods or materials used in the construction, improvement or maintenance of the strategic road network;

“specified works” means so much of any work, including highway works and signalisation, authorised by this Order including any maintenance of that work, as is on, in, under or over the strategic road network for which National Highways is the highway authority;

“strategic road network” means any part of the road network including trunk roads, special roads or streets for which National Highways is the highway authority including drainage infrastructure, street furniture, verges and vegetation and all other land, apparatus and rights located in, on, over or under the highway;

“utilities” means any pipes wires cables or equipment belonging to any person or body having power or consent to undertake street works under the New Roads and Street Works Act 1991(b); and

“winter maintenance” means maintenance of the road surface to deal with snow and ice.

(3) References to any standards, manuals, contracts, Regulations and Directives including to specific standards forming part of the DMRB are, for the purposes of this Part of this Schedule, to be construed as a reference to the same as amended, substituted or replaced, and with such modifications as are required in those circumstances.

(4) For the purposes of its obligations to procure a bond under this Part of this Schedule, the undertaker may procure a bond in relation to the specified works, and a separate bond in relation to the commuted sums, and in those circumstances references in this Part to “bond” and “bond sum” means both bonds together.

General

38. The undertaker acknowledges that parts of the works authorised by this Order affect or may affect parts of the strategic road network in respect of which National Highways have appointed the highway operations and maintenance contractor.

(a) S.I. 2015/51.

(b) 1991 c. 22.

Prior approvals and security

39.—(1) The specified works must not commence until—

- (a) a stage 1 and stage 2 road safety audit has been carried out and all recommendations raised by them or any exceptions are approved by National Highways;
- (b) the programme of works has been approved by National Highways;
- (c) the detailed design of the specified works comprising of the following details, insofar as considered relevant by National Highways, has been submitted to and approved by National Highways—
 - (i) the detailed design information, incorporating all recommendations and any exceptions approved by National Highways under sub-paragraph (a);
 - (ii) details of the proposed road space bookings with National Highways;
 - (iii) the identity of the contractor and nominated persons;
 - (iv) to the extent that this is not provided for in the Construction and Traffic Management Plan, a process for stakeholder liaison, with key stakeholders to be identified and agreed between National Highways and the undertaker;
 - (v) information demonstrating that the walking, cycling and horse riding assessment and review process undertaken by the undertaker in relation to the specified works has been adhered to in accordance with DMRB GG142 – Designing for walking, cycling and horse riding;
- (d) to the extent that this is not provided for in the Construction and Traffic Management Plan, a scheme of traffic management relating to traffic management on the strategic road network has (where relevant) been submitted by the undertaker and approved by National Highways such scheme to be capable of amendment by agreement between the undertaker and National Highways from time to time;
- (e) stakeholder liaison has (where relevant) taken place in accordance with the process for such liaison agreed between the undertaker and National Highways under sub-paragraph 39(c)(iv);
- (f) National Highways has approved the audit brief and CVs for all road safety audits and exceptions to items raised in accordance with the road safety audit standard;
- (g) the undertaker has agreed the estimate of the commuted sum with National Highways;
- (h) the scope of all maintenance operations (routine inspections, incident management, reactive and third party damage) to be carried out by the undertaker during the construction of the specified works (which must include winter maintenance) has been agreed in writing by National Highways;
- (i) the undertaker has procured to National Highways collateral warranties in a form reasonably approved by National Highways from the contractor and designer of the specified works in favour of National Highways to include covenants requiring the contractor and designer to exercise all reasonable skill care and diligence in designing and constructing the specified works, including in the selection of materials, goods, equipment and plant; and
- (j) a condition survey and regime of monitoring of any National Highways assets or structures that National Highways reasonably considers will be affected by the specified works, has been agreed in writing by National Highways.

(2) The undertaker must not exercise—

- (a) article 4 (maintenance of authorised development);
- (b) article 10 (street works);
- (c) article 11 (power to alter layout, etc., of streets);
- (d) article 12 (construction and maintenance of new, altered or diverted streets);
- (e) article 13 (temporary closure and restriction of use of streets);

- (f) article 14 (permanent stopping up or public rights of way);
- (g) article 15 (access to works);
- (h) article 16 (traffic regulation);
- (i) article 19 (discharge of water);
- (j) article 20 (protective works to buildings) insofar as this relates to buildings owned or operated by National Highways;
- (k) article 21 (authority to survey and investigate the land);
- (l) article 22 (felling, lopping and removal of trees, shrubs and hedgerows);
- (m) article 33 (temporary use of land for carrying out the authorised development); or
- (n) article 34 temporary use of land for maintaining the authorised development),

of this Order, over any part of the strategic road network without the consent of National Highways, and National Highways may in connection with any such exercise require the undertaker to provide details of any proposed road space bookings and/or submit a scheme of traffic management for National Highways' approval.

(3) National Highways must prior to the commencement of the specified works or the exercise of any power referenced in sub-paragraph (2) inform the undertaker of the identity of the person who will act as a point of contact on behalf of National Highways for consideration of the information required under sub-paragraph (1) or (2).

(4) National Highways must provide the undertaker with a list of all the structures, assets and pavements to be subject to both a condition survey and regime of monitoring pursuant to sub-paragraph (1)(i) and paragraph 44(1) of this Part of this Schedule before the first condition survey is conducted and the regime of monitoring is implemented.

(5) Any approval or consent of National Highways required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) must be given in writing;
- (c) in the case of a refusal must be accompanied by a statement of grounds for refusal;
- (d) shall be deemed to have been refused if neither given nor refused within 2 months of the receipt of the information for approval or, where further particulars are requested by National Highways within 2 months of receipt of the information to which the request for further particulars relates; and
- (e) may be subject to any conditions as National Highways reasonably considers necessary.

(6) Any change to the identity of the contractor and/or designer of the specified works will be notified to National Highways immediately along with collateral warranties in a form agreed by National Highways acting reasonably.

(7) Any change to the detailed design of the specified works must be approved by National Highways in accordance with sub-paragraph (1) of this Part of this Schedule.

Construction of the specified works

40.—(1) The undertaker must—

- (a) as soon as reasonably practicable following service of notice under article 44(1), inform National Highways that such notice has been served;
- (b) give National Highways 28 days' notice in writing of the date on which the specified works will start unless otherwise agreed by National Highways; and
- (c) give National Highways as much notice as is reasonably practicable of any element of the authorised development that the undertaker reasonably considers would significantly affect the strategic road network or the level of traffic on the strategic road network.

(2) The undertaker must comply with National Highways' road space booking procedures prior to and during the carrying out of the specified works and no specified works for which a road

space booking is required is to commence without a road space booking having first been secured from National Highways, such road space booking not to be unreasonably withheld or delayed.

(3) The specified works must be carried out by the undertaker to the reasonable satisfaction of National Highways in accordance with—

- (a) the relevant detailed design information and programme of works approved pursuant to paragraph 39(1) or as subsequently varied by agreement between the undertaker and National Highways;
- (b) the DMRB, the Manual of Contract Documents for Highway Works, including the Specification for Highway Works, together with all other relevant standards as required by National Highways to include, inter alia; all relevant interim advice notes, the Traffic Signs Manual and the Traffic Signs Regulations and General Directions 2016^(a) save to the extent that exceptions from those standards apply which have been approved by National Highways; and
- (c) all aspects of the Construction (Design and Management) Regulations 2015^(b) or any statutory amendment or variation of the same and in particular the undertaker, as client, must ensure that all client duties (as defined in the said regulations) are undertaken to the reasonable satisfaction of National Highways.

(4) The undertaker must permit and must require the contractor to permit at all reasonable times persons authorised by National Highways (whose identity must have been previously notified to the undertaker by National Highways) to gain access to the specified works for the purposes of inspection and supervision of the specified works.

(5) If any part of the specified works is constructed—

- (a) other than in accordance with the requirements of this Part of this Schedule; or
- (b) in a way that causes damage to the highway, highway structure or asset or any other land of National Highways,

National Highways may by notice in writing require the undertaker, at the undertaker's own expense, to comply promptly with the requirements of this Part of this Schedule or remedy any damage notified to the undertaker under this Part of this Schedule, to the reasonable satisfaction of National Highways.

(6) If during the carrying out of the authorised development the undertaker or its appointed contractors or agents causes damage to the strategic road network then National Highways may by notice in writing require the undertaker, at its own expense, to remedy the damage.

(7) If within 28 days on which a notice under sub-paragraph (5) or sub-paragraph (6) is served on the undertaker (or in the event of there being, in the opinion of National Highways, a danger to road users of the strategic road network, within such lesser period as National Highways may stipulate), the undertaker has failed to take the steps required by that notice, National Highways may carry out the steps required of the undertaker and may recover any expenditure incurred by National Highways in so doing, such sum to be payable within 30 days of demand.

(8) Nothing in this Part of this Schedule prevents National Highways from carrying out any work or taking any such action as it reasonably believes to be necessary as a result of or in connection with the carrying out or maintenance of the authorised development without prior notice to the undertaker in the event of an emergency or to prevent the occurrence of danger to the public and National Highways may recover any expenditure it reasonably incurs in so doing.

(9) In constructing the specified works, the undertaker must at its own expense divert or protect all utilities and all agreed alterations and reinstatement of highway over existing utilities must be constructed to the reasonable satisfaction of National Highways.

(10) During the construction of the specified works the undertaker must carry out all maintenance (including winter maintenance) in accordance with the scope of maintenance

^(a) S.I. 2016/362.

^(b) S.I. 2015/51.

operations agreed by National Highways pursuant to paragraph 39(1)(h) and the undertaker must carry out such maintenance at its own cost.

(11) The undertaker must notify National Highways if it fails to complete the specified works in accordance with the agreed programme pursuant to paragraph 39(1)(b) of this Part or suspends the carrying out of any specified work beyond a reasonable period of time and National Highways reserves the right to withdraw any road space booking granted to the undertaker to ensure compliance with its network occupancy requirements.

Payments

41.—(1) The undertaker must pay to National Highways a sum equal to the whole of any costs and expenses which National Highways reasonably incurs (including costs and expenses for using internal or external staff and costs relating to any work which becomes abortive) in relation to the specified works and in relation to any approvals sought under this Order, or otherwise incurred under this Part, including—

- (a) the checking and approval of the information required under paragraph 40(1) and any advice given to the undertaker relating to the design, specification and programme of the specified works generally;
- (b) the supervision of the specified works;
- (c) the checking and approval of the information required to determine approvals under this Order;
- (d) all reasonable legal, technical and administrative costs and disbursements incurred by National Highways in connection with sub-paragraphs (a)-(c); and
- (e) any value added tax which is payable by National Highways in respect of such costs and expenses and for which it cannot obtain reinstatement from HM Revenue and Customs,

together comprising “the NH costs”.

(2) The undertaker must pay to National Highways upon demand and prior to such costs being incurred the total costs that National Highways reasonably believe will be properly and necessarily incurred by National Highways in undertaking any statutory procedure or preparing and bringing into force any traffic regulation order or orders necessary to carry out or for effectively implementing the authorised development.

(3) National Highways must provide the undertaker with a fully itemised schedule showing its estimate of the NH costs prior to the commencement of the specified works and the undertaker must pay to National Highways the estimate of the NH costs attributable to the specified works prior to commencing the specified works and in any event prior to National Highways incurring any cost.

(4) If at any time after the payment referred to in sub-paragraph (3) has become payable, National Highways reasonably believes that the NH costs will exceed the estimated NH costs it may give notice to the undertaker of the amount that it believes the NH costs will exceed the estimate of the NH costs (the excess) and the undertaker must pay to National Highways within 28 days of the date of the notice a sum equal to the excess.

(5) National Highways must give the undertaker a final account of the NH costs referred to in sub-paragraph (1) to (4) within 30 days of the issue of the provisional certificate issued pursuant to paragraph 42(4).

(6) Within 28 days of the issue of the final account—

- (a) if the final account shows a further sum as due to National Highways the undertaker must pay to National Highways the sum shown due to it;
- (b) if the account shows that the payment or payments previously made by the undertaker have exceeded the costs incurred by National Highways, National Highways must refund the difference to the undertaker.

(7) If any payment due under any of the provisions of this Part of this Schedule is not made on or before the date on which it falls due the party from whom it was due must at the same time as making the payment pay to the other party interest at 1% above the Bank of England base lending

rate from time to time being in force for the period starting on the date upon which the payment fell due and ending with the date of payment of the sum on which interest is payable together with that interest.

Provisional certificate

42.—(1) Following any closure or partial closure of any of the strategic road network for the purposes of carrying out the specified works, National Highways will carry out a site inspection to satisfy itself that the strategic road network is, in its opinion, safe for traffic and the undertaker must comply with any reasonable requirements of National Highways prior to reopening the strategic road network.

(2) As soon as the undertaker considers that the provisional certificate may be properly issued it must apply to National Highways for the provisional certificate.

(3) Following an application for a provisional certificate, National Highways must as soon as reasonably practicable—

- (a) inspect the specified works; and
- (b) provide the undertaker with a written list of works that are required for the provisional certificate to be issued or confirmation that no further works are required for this purpose.

(4) When—

- (a) a stage 3 road safety audit for the specified works has been carried out and all recommendations raised including remedial works have (subject to any exceptions agreed) been approved by National Highways, such approval not to be unreasonably withheld or delayed;
- (b) the specified works incorporating the approved remedial works under sub-paragraph (4)(a) and any further works notified to the undertaker pursuant to sub-paragraph (3)(b) have been completed to the reasonable satisfaction of National Highways;
- (c) the as built information has been provided to National Highways; and
- (d) the undertaker has paid the commuted sum to National Highways,

National Highways must promptly issue the provisional certificate.

(5) The undertaker must submit a stage 4 road safety audits as required by and in line with the timescales stipulated in the road safety audit standard.

(6) The undertaker must comply with the findings of the stage 4 road safety audit and must pay all reasonable costs of and incidental to such and provide updated as-built information to National Highways.

Opening

43. The undertaker must notify National Highways not less than 56 days in advance of the intended date of opening to the public of the strategic road network and the undertaker must notify National Highways of the actual date the strategic road network will be opened to the public within 14 days of that date.

Final condition survey

44.—(1) The undertaker must, as soon as reasonably practicable after making its application for a provisional certificate pursuant to paragraph 42(2), arrange for the highways structures and assets that were the subject of the condition survey to be re-surveyed and must submit the re-survey to National Highways for its approval.

(2) The re-survey will include a renewed geotechnical assessment required by DMRB CD622 if the specified works include any works beneath the strategic road network.

(3) If the re-surveys carried out pursuant to paragraph 44(1) indicates that any damage has been caused to a structure or asset, the undertaker must submit a scheme for remedial works in writing

to National Highways for its approval in writing and the undertaker must carry out the remedial works at its own cost and in accordance with the scheme submitted.

(4) If the undertaker fails to carry out the remedial work in accordance with the approved scheme, National Highways may carry out the steps required of the undertaker and may recover any expenditure it reasonably incurs in so doing.

(5) National Highways may, at its discretion, at the same time as giving its approval to the re-surveys pursuant to paragraph 44(1) give notice in writing that National Highways will remedy any damage identified in the re-surveys and National Highways may recover any expenditure it reasonably incurs in so doing.

(6) The undertaker must make available to National Highways upon request copies of any survey or inspection reports produced pursuant to any inspection or survey of any specified work following its completion that the undertaker may from time to time carry out.

(7) Any approval of National Highways required under this paragraph must not be unreasonably withheld or delayed.

Defects period

45.—(1) The undertaker must at its own expense remedy any defects in the strategic road network as are reasonably required by National Highways to be remedied during the defects period.

(2) All identified defects must be remedied in accordance with the following timescales—

- (a) in respect of matters of urgency, within 24 hours of receiving notification for the same (urgency to be determined at the absolute discretion of National Highways);
- (b) in respect of matters which National Highways reasonably considers to be serious defects or faults, within 14 days of receiving notification of the same; and
- (c) in respect of all other defects notified to the undertaker, within 4 weeks of receiving notification of the same.

(3) Following the expiry of the defects period National Highways has responsibility for routine maintenance of the strategic road network save for any soft landscaping works which must be established and which must thereafter be maintained for a period of 3 years by and at the expense of the undertaker.

Final certificate

46.—(1) The undertaker must apply to National Highways for the final certificate no sooner than 12 months from the date of the provisional certificate.

(2) Following receipt of the application for the final certificate, National Highways must as soon as reasonably practicable—

- (a) inspect the strategic road network; and
- (b) provide the undertaker with a written list of any further works required to remedy or make good any defect or damage in the strategic road network or confirmation that no such works are required for this purpose.

(3) The undertaker must carry out such works notified to it pursuant to sub-paragraph (2).

(4) When National Highways is reasonably satisfied that—

- (a) any defects or damage arising from defects during the defects period and any defects notified to the undertaker pursuant to sub-paragraph (2) and any remedial works required as a result of the stage 4 road safety audit have been made good to the reasonable satisfaction of National Highways; and
- (b) the NH costs have been paid to National Highways in full,

National Highways must issue the final certificate after which the bond is to be released in full.

(5) The issue of a final certificate by National Highways amounts to an acknowledgment by National Highways that the construction, alteration or diversion (as the case may be) of the

highway has been completed to its reasonable satisfaction for the purposes of article 12 of this Order.

(6) The undertaker must pay to National Highways within 28 days of demand the costs reasonably incurred by National Highways in identifying the defects and supervising and inspecting the undertaker's work to remedy the defects that it is required to remedy pursuant to these provisions.

Security

47. The specified works must not commence until—

- (a) the undertaker procures that the specified works are secured by a bond from a bondsman first approved by National Highways in the agreed form between the undertaker and National Highways to indemnify National Highways against all losses, damages, costs or expenses arising from any breach of any one or more of the obligations of the undertaker in respect of the exercise of the powers under this Order and the specified works under the provisions of this Part of this Schedule provided that the maximum liability of the bond must not exceed the bond sum; and
- (b) the undertaker has provided the cash surety which may be utilised by National Highways in the event of the undertaker failing to meet its obligations to make payments under paragraph 41 or to carry out works the need for which arises from a breach of one or more of the obligations of the undertaker under the provisions of this Part of this Schedule.

Commuted sums

48.—(1) National Highways must provide to the undertaker an estimate of the commuted sum, calculated in accordance with FS Guidance S278 Commuted Lump Sum Calculation Method dated 18 January 2010 or any successor guidance, prior to the commencement of the specified works.

(2) The undertaker must pay to National Highways the commuted sum prior to the issue of the provisional certificate.

Insurance

49. Prior to the commencement of the specified works the undertaker must ensure public liability insurance is in place with an insurer in the minimum sum of £10,000,000.00 (ten million pounds) in respect of any one claim against any legal liability for damage loss or injury to any property or any person as a direct result of the execution of specified works or use of the strategic road network by the undertaker.

Indemnity

50.—(1) Subject to sub-paragraphs (2) and (3) the undertaker fully indemnifies National Highways from and against all costs, claims, expenses, damages, losses and liabilities suffered by National Highways arising from the construction, maintenance or use of the specified works or exercise of or failure to exercise any power under this Order within 14 days of demand save for any loss arising out of or in consequence of any negligent act or default of National Highways.

(2) Sub-paragraph (1) does not apply to any costs, claims, expenses, damages, losses and liabilities which were caused by or arose out of the negligence or default of National Highways or its officers, servants, agents or contractors or any person or body for whom it is responsible.

(3) If any person makes a claim or notifies an intention to make a claim against National Highways which may reasonably be considered likely to give rise to a liability under this paragraph then National Highways must—

- (a) as soon as reasonably practicable give the undertaker reasonable notice of any such third party claim or demand, specifying the nature of the indemnity liability in reasonable detail; and

- (b) not make any admission of liability, agreement or compromise in relation to the indemnity liability without first consulting the undertaker and considering their representations.

(4) National Highways must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands and penalties to which the indemnity under this paragraph applies where it is within National Highways' reasonable gift and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Highways' control.

(5) National Highways must provide an explanation of how any claim has been mitigated or minimised or where mitigation or minimisation is not possible an explanation as to why, if reasonably requested to do so by the undertaker and only in relation to costs that are incurred which are within National Highways' direct control.

Maintenance of the specified works

51.—(1) The undertaker must, prior to the commencement of any works of maintenance to the specified works, give National Highways 28 days' notice in writing of the date on which those works will start unless otherwise agreed by National Highways, acting reasonably.

(2) If, for the purposes of maintaining the specified works, the undertaker needs to occupy any road space, the undertaker must comply with National Highways' road space booking requirements and no maintenance of the specified works for which a road space booking is required is to commence without a road space booking having first been secured, such road space booking not to be unreasonably withheld or delayed.

(3) The undertaker must comply with any reasonable requirements that National Highways may notify to the undertaker, such requirements to be notified to the undertaker not less than 14 days' in advance of the planned commencement date of the maintenance works.

(4) The provisions of paragraph 43 apply to the opening of any part of the strategic road network following occupation of any road space under this paragraph.

Expert determination

52.—(1) Article 52 (arbitration) of the Order does not apply to this Part of this Schedule.

(2) Any difference under this Part of this Schedule may be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) All parties involved in settling any difference must use best endeavours to do so within 21 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 21 days of the notification of the dispute.

(4) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 21 days of the expert's appointment;
- (b) permit a party to comment on the submissions made by the other party within 21 days of receipt of the submission;
- (c) issue a decision within 42 days of receipt of the submissions under sub-paragraph (b); and
- (d) give reasons for the decision.

(5) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 52 (arbitration).

(6) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

PART 6

FOR THE PROTECTION OF LOCAL HIGHWAY AUTHORITIES

Application, etc.

53.—(1) The provisions of this Part of this Schedule apply for the protection of local highway authorities unless otherwise agreed in writing between the undertaker and a relevant highway authority.

(2) An agreement for the purpose of sub-paragraph (1) includes, but is not limited to, an agreement made under article 17 of this Order, or under the 1980 Act.

(3) Any approval or consent of a local highway authority required under this Part of this Schedule—

- (a) must not be unreasonably withheld or delayed;
- (b) must be given in writing;
- (c) in the case of a refusal must be accompanied by a statement of grounds for refusal; and
- (d) may be subject to any conditions as the local highway authority reasonably considers necessary.

54.—(1) In this Part of this Schedule—

“bond sum” means the sum equal to 150% of the costs of carrying out the specified works (to include all the costs plus the commuted sum) or such other sum agreed between the undertaker and the relevant highway authority;

“the cash surety” means the sum agreed between the undertaker and the relevant highway authority, acting reasonably;

“commuted sum” means such reasonable sum calculated as provided for in paragraph 67 of this Part of this Schedule to be used to fund the future cost of maintaining the specified works;

“detailed design information” means such drawings, specifications and other information, as are relevant to and reasonably required in respect of any specified works, to comprise the following—

- (a) site clearance details;
- (b) boundary, environmental and mitigation fencing;
- (c) road restraint systems (vehicle and pedestrian);
- (d) drainage and ducting as required by DMRB CD 535 Drainage asset data and risk management and DMRB CS551 Drainage surveys – standards for Highways;
- (e) earthworks as required by DMRB CD 535 Drainage asset data and risk management and DMRB CS551 Drainage surveys – standards for Highways;
- (f) highway pavements, pavement foundations, kerbs, footways and paved areas;
- (g) traffic signs and road markings;
- (h) traffic signal equipment and associated signal phasing and timing detail;
- (i) road lighting (including columns and brackets);
- (j) electrical work for highway lighting and traffic signs;
- (k) highway structures;
- (l) landscaping, planting and any boundary features which will form part of the local highway;
- (m) utility diversions insofar as in the existing or proposed local highway;
- (n) a schedule of timings for the works, including dates and durations for any closures of any part of the local highway;

- (o) stage 1 and stage 2 road safety audits prepared in accordance with paragraph 57;
- (p) traffic management proposals including any diversionary routes;
- (q) a schedule of the existing local highway condition prior to commencement of construction related activities;
- (r) a specification of the condition in which it is proposed that the local highway will be returned once the specified works have been completed;
- (s) tracking plans, including a version of such plans in AutoCAD format or such other software format as the relevant highway authority may reasonably request;
- (t) highway alignment drawings;
- (u) drainage contour plans and drainage calculations;
- (v) visibility splay plans; and
- (w) any temporary works structures which are to be erected or retained under the Order or otherwise;

“DMRB” means the Design Manual for Roads and Bridges or any replacement or modification of that standard for the time being in force;

“final certificate” means the final certificate issued by a relevant highway authority under paragraph 63 of this Part of this Schedule;

“maintenance period” means the period from the date of the provisional certificate being issued to the date of the final certificate being issued, unless otherwise agreed in writing between the undertaker and the relevant highway authority;

“provisional certificate” means the certificate issued under paragraph 62 of this Part of this Schedule;

“specification for highways works” means the specification for highways works published from time to time by the relevant highway authority setting out the requirements and approvals procedures for work, goods or materials used in the construction, alteration, improvement or maintenance of the local highway network; and

“specified works” means any part of the authorised development that involves the construction, alteration or improvement of a local highway.

(2) For the purposes of its obligations to procure a bond under this Part of this Schedule, the undertaker may procure a bond in relation to the specified works, and a separate bond in relation to the commuted sums, and in those circumstances references in this Part to “bond” and “bond sum” means both bonds together.

Detailed design information and commencement

55. Before commencing any specified works, the undertaker must—

- (a) provide to the relevant highway authority the detailed design information relating to those specified works and obtain the relevant highway authority’s written approval for those works; and
- (b) secure road space booking from the relevant highway authority, such road space booking approval not to be unreasonably withheld or delayed.

Security

56. The specified works must not commence until—

- (a) the undertaker procures that the specified works are secured by a bond from a bondsman first approved by the relevant highway authority, in a form agreed between the undertaker and the relevant highway authority, to indemnify the relevant highway authority against all losses, damages, costs or expenses arising from any breach of any one or more of the obligations of the undertaker in respect of the exercise of the powers under this Order and the specified works under the provisions of this Part of this Schedule provided that the maximum liability of the bond must not exceed the bond sum; and

- (b) the undertaker has provided the cash surety which may be utilised by the relevant highway authority in the event of the undertaker failing to make payments under paragraph 61 or to carry out works the need for which arises from a breach of one or more of the obligations of the undertaker under the provisions of this Part of this Schedule.

Road safety audits

57.—(1) Road safety audits required to be carried out by the undertaker under the provisions of this Part of this Schedule must be carried out in accordance with the Design Manual for Roads and Bridges standard GG119 or any replacement or modification of it.

(2) No stage of any road safety audit that is required to be carried out by the undertaker under this Part of this Schedule in relation to any specified works is to begin until the relevant highway authority has approved in writing for that stage of road safety audit of those specified works—

- (a) the curriculum vitae of the persons carrying out the road safety audit; and
- (b) the road safety audit brief.

(3) The specified works must not commence until a stage 1 and stage 2 road safety audit has been carried out and all recommendations raised in the audit or any exceptions are approved by the relevant highway authority.

(4) Where the report of the stage 3 and 4 road safety audit identifies any recommended measures in respect of a local highway, the undertaker must carry out, at its own expense and to the reasonable satisfaction of the relevant highway authority, those measures identified as part of the stage 3 and 4 road safety audit provided that—

- (a) the undertaker has the powers to deliver the measures under this Order; and
- (b) the measures do not give rise to any new or materially different environmental effects in comparison with those identified in the environmental statement.

(5) If by the operation of sub-paragraphs (4)(a) or (4)(b) the undertaker is not required to carry out the recommendations of a stage 3 or stage 4 road safety audit the relevant highway authority may instead carry out those recommendations and recover the reasonable costs of so doing from the undertaker.

Construction of the specified works

58. The specified works must be carried out by the undertaker to the reasonable satisfaction of the relevant highway authority in accordance with—

- (a) the relevant detailed design information approved by the relevant highway authority under paragraph 55 or as subsequently varied by agreement between the undertaker and the relevant highway authority;
- (b) the DMRB, the specification for highway works, together with all other relevant standards as required by the relevant highway authority to include, inter alia, all relevant interim advice notes, the Traffic Signs Manual and the Traffic Signs Regulations and General Directions 2016^(a) save to the extent that exceptions from those standards apply which have been approved by the relevant highway authority; and
- (c) all aspects of the Construction (Design and Management) Regulations 2015^(b) or any statutory amendment or variation of the same and in particular the undertaker, as client, must ensure that all client duties (as defined in the said regulations) are undertaken to the reasonable satisfaction of the relevant highway authority.

^(a) S.I. 2016/362.

^(b) S.I. 2015.51.

Inspections and testing of materials

59.—(1) The undertaker must allow and facilitate an appropriately qualified officer or officers of a relevant highway authority that have been nominated by that relevant highway authority (each being a “nominated officer”) to access and inspect at all reasonable times any part of the specified works during their construction and before a final certificate has been issued in respect of the specified works as is reasonably necessary to ensure that the works have been or are being carried out to the appropriate standard.

(2) Any testing reasonably requested by the relevant highway authority of materials used in any specified works must be carried out at the undertaker’s expense and in accordance with the DMRB (or any other testing specification agreed by the undertaker and the relevant highway authority acting reasonably).

(3) A relevant highway authority (or its agent) may test all or any materials used or proposed to be used in any specified works and the undertaker must provide such information, access and materials as is reasonably required to facilitate such testing.

(4) The undertaker must, as soon as is reasonably practicable, provide the relevant highway authority with a copy of all test certificates and results relevant to the specified works that the relevant highway authority has requested in writing

(5) The relevant highway authority must as soon as is reasonably practicable provide the undertaker with a copy of all test results and certificates relevant to the works that the undertaker has requested in writing.

(6) In circumstances where any relevant work carried out by the undertaker is tested by the relevant highway authority pursuant to the provisions of this Part and that test resulted in works being undone at the undertaker’s expense (acting reasonably) and found to be satisfactory then that expense must forthwith be reimbursed by the relevant highway authority provided that the relevant highway authority was given a reasonable opportunity by the undertaker to inspect the works at a time when the works could have been inspected without the need to incur the expense.

(7) If any part of the specified works is constructed—

- (a) other than in accordance with the requirements of this Part of this Schedule; or
- (b) in a way that causes damage to the highway, highway structure or asset or any other land of the relevant highway authority,

the relevant highway authority may by notice in writing require the undertaker, at the undertaker’s own expense, to comply promptly with the requirements of this Part of this Schedule or remedy any damage notified to the undertaker under this Part of this Schedule, to the reasonable satisfaction of the relevant highway authority.

(8) If during the carrying out of the authorised development the undertaker or its appointed contractors or agents causes damage to the local highway then the relevant highway authority may by notice in writing require the undertaker, at its own expense, to remedy the damage.

(9) If within 28 days on which a notice under sub-paragraph (7) or sub-paragraph (8) is served on the undertaker (or in the event of there being, in the opinion of the relevant highway authority, a danger to highway users, within such lesser period as the relevant highway authority may stipulate), the undertaker has failed to take the steps required by that notice, the relevant highway authority may carry out the steps required of the undertaker and may recover any expenditure incurred by the relevant highway authority in so doing, such sum to be payable within 30 days of demand.

Defects in local highways constructed by the undertaker

60.—(1) Until such time as a final certificate has been issued in respect of any specified works, the undertaker must make good any defects in the specified works constructed by the undertaker to the reasonable satisfaction of the relevant highway authority.

(2) The undertaker must submit to the relevant highway authority such details and information relating to making good any defects under sub-paragraph (1) as the relevant highway authority and the undertaker agree is reasonable in the circumstances.

Payments

61.—(1) The undertaker must pay to the relevant highway authority a sum equal to the whole of any costs and expenses which the relevant highway authority reasonably incurs (including costs and expenses for using internal or external staff and costs relating to any work which becomes abortive) in relation to the specified works and in relation to any approvals sought under this Order, or otherwise incurred under this Part of this Schedule, including—

- (a) the checking and approval of the information and any advice given to the undertaker relating to the design, specification and programme of the specified works generally;
- (b) the supervision of the specified works;
- (c) the checking and approval of the information required to determine approvals under this Order;
- (d) all reasonable legal, technical and administrative costs and disbursements incurred by the relevant highway authority in connection with sub-paragraphs (a)-(c); and
- (e) any value added tax which is payable by the relevant highway authority in respect of such costs and expenses and for which it cannot obtain reinstatement from HM Revenue and Customs,

together comprising “the costs”.

(2) The undertaker must pay to the relevant highway authority upon demand and prior to such costs being incurred the total costs that the relevant highway authority reasonably believe will be properly and necessarily incurred by the relevant highway authority in undertaking any statutory procedure or preparing and bringing into force any traffic regulation order or orders necessary to carry out or for effectively implementing the authorised development.

(3) The relevant highway authority must provide the undertaker with a fully itemised schedule showing its estimate of the relevant highway authority costs prior to the commencement of the specified works and the undertaker must pay to the relevant highway authority the estimate of the costs attributable to the specified works prior to commencing the specified works and in any event prior to the relevant highway authority incurring any cost.

(4) If at any time after the payment referred to in sub-paragraph (3) has become payable, the relevant highway authority reasonably believes that the costs will exceed the estimated costs it may give notice to the undertaker of the amount that it believes the costs will exceed the estimate (“the excess”) and the undertaker must pay to the relevant highway authority within 28 days of the date of the notice a sum equal to the excess.

(5) The relevant highway authority must give the undertaker a final account of the costs referred to in sub-paragraph (1) to (4) above within 30 days of the issue of the provisional certificate issued pursuant to paragraph 62.

(6) Within 28 days of the issue of the final account—

- (a) if the final account shows a further sum as due to the relevant highway authority the undertaker must pay to the relevant highway authority the sum shown due to it; and
- (b) if the account shows that the payment or payments previously made by the undertaker have exceeded the costs incurred by the relevant highway authority, the relevant highway authority must refund the difference to the undertaker.

(7) If any payment due under any of the provisions of this Part of this Schedule is not made on or before the date on which it falls due the party from whom it was due must at the same time as making the payment pay to the other party interest at 1% above the Bank of England base lending rate from time to time being in force for the period starting on the date upon which the payment fell due and ending with the date of payment of the sum on which interest is payable together with that interest.

Provisional certificate

62.—(1) Subject to sub-paragraph (2), when the undertaker considers that the specified works have reached completion so that they are available for use by the public it must apply to the relevant highway authority for a provisional certificate and must allow the relevant highway authority the opportunity to inspect the specified works to identify any defects or incomplete works (and the undertaker must make good such defects pursuant to paragraph 60.

(2) Following an application for a provisional certificate, the relevant highway authority must as soon as reasonably practicable—

- (a) inspect the specified works; and
- (b) provide the undertaker with a written list of any works that are required for the provisional certificate to be issued or confirmation that no further works are required for this purpose.

(3) When—

- (a) a stage 3 road safety audit has been carried out in respect of the works in question and any recommended measures identified in the audit have been completed and approved by the relevant highway authority;
- (b) the relevant highway authority has been provided an opportunity to inspect the specified works and the undertaker has completed any further works or measures required to address any safety deficiencies or defects identified as a result of the inspection to the reasonable satisfaction of the relevant highway authority; and
- (c) the undertaker has paid the commuted sum to the relevant highway authority,

the relevant highway authority must promptly issue the provisional certificate to the undertaker.

(4) The undertaker must submit a stage 4 road safety audit as required by and in line with the timescales stipulated in the road safety audit standard.

(5) The undertaker must comply with the findings of the stage 4 road safety standard and must pay all reasonable costs of and incidental to such and provide updated as-built information to the relevant highway authority.

Maintenance

63.—(1) Notwithstanding article 12 (construction and maintenance of new, altered or diverted streets) of this Order, but subject to sub-paragraph (2), the undertaker must maintain the specified works throughout the maintenance period to a standard appropriate to their use by the public until the final certificate is issued in accordance with paragraph 64.

(2) Nothing in sub-paragraph (1) makes the undertaker responsible during the maintenance period for the maintenance of any highway, street works or maintenance works—

- (a) undertaken by any person other than the undertaker; or
- (b) which do not form part of the specified works.

Final certificate

64.—(1) No sooner than 12 months from the date of issue of the provisional certificate the undertaker must apply in writing to the relevant highway authority for a final certificate in respect of the specified works.

(2) Following receipt of the application for a final certificate, the relevant highway authority must as soon as is reasonably practicable—

- (a) inspect the specified works; and
- (b) provide the undertaker with a written list of any further works required to remedy or make good any defect or damage in the local highway network, or confirmation that no such works are required for this purpose.

(3) The undertaker must carry out such works notified to it pursuant to sub-paragraph (2).

(4) The relevant highway authority must promptly issue the final certificate to the undertaker once the relevant highway authority is reasonably satisfied in relation to the specified works that—

- (a) any defects or damage arising from defects during the maintenance period and any defects notified to the undertaker pursuant to sub-paragraph (2) and any remedial works required as a result of the stage 4 road safety audit have been made good to the reasonable satisfaction of the relevant highway authority;
- (b) the costs have been paid to the relevant highway authority in full;
- (c) the undertaker has provided the relevant highway authority with a health and safety file in respect of the specified works to the relevant highway authority's reasonable satisfaction; and
- (d) the undertaker has provided the relevant highway authority with such detailed design information as the relevant highway authority has requested (acting reasonably) in relation to the specified works as built.

(5) The issue of a final certificate by a relevant highway authority amounts to an acknowledgment by the relevant highway authority that the construction alteration or diversion (as the case may be) of a highway has been completed to its reasonable satisfaction for the purposes of article 12 of this Order.

(6) On the issue of the final certificate to the undertaker the bond is to be released in full.

Emergency work

65. Nothing in this Part of this Schedule prevents a relevant highway authority from carrying out any work or taking such action as deemed appropriate forthwith without prior notice to the undertaker in the event of an emergency or danger to the public.

Land interests

66. Following the issuing of the final certificate under paragraph 63 in respect of any part of a local highway, the undertaker must, if requested by the relevant highway authority, in respect of a local highway which is to be maintainable by the relevant highway authority following, and as a result of, the completion of those works either—

- (a) execute and complete a transfer to the relevant highway authority at nil consideration of any land and rights which have been compulsorily acquired under this Order and which are necessary for the maintenance and operation of a local highway; or
- (b) exercise article 24 (compulsory acquisition of land) and article 27 (compulsory acquisition of rights and imposition of restrictive covenants) of this Order to directly vest in the relevant highway authority land or s which are necessary for the maintenance and operation of a local highway,

unless otherwise agreed between the undertaker and the relevant highway authority.

Commuted sums

67.—(1) The relevant highway authority must provide to the undertaker an estimate of the commuted sum, calculated in accordance with the relevant highway authority's published guidance or any successor guidance, prior to the commencement of the specified works.

(2) The undertaker must pay to the relevant highway authority the commuted sum prior to the issue of the provisional certificate.

Insurance

68. Prior to the commencement of specified works the undertaker must ensure that such public liability insurance in the minimum sum of £10,000,000 as the local highway authority may reasonably require for the specified works in question is in place with an insurer against any legal

liability for damage loss or injury to any property or any person as a direct result of the execution of specified works.

Indemnity

69.—(1) Subject to sub-paragraphs (2) and (3) the undertaker fully indemnifies the relevant highway authority from and against all costs, claims, expenses, damages, losses and liabilities suffered by the relevant highway authority arising from the construction, maintenance or use of the specified works or exercise of or failure to exercise any power under this Order within 14 days of demand.

(2) Sub-paragraph (1) does not apply to costs, claims, expenses, damages, losses and liabilities which were caused by or arose out of the negligence or default of the relevant highway authority or its officers, servants, agents or contractors or any person or body for whom it is responsible.

(3) If any person makes a claim or notifies an intention to make a claim against the relevant highway authority which may reasonably be considered likely to give rise to a liability under this paragraph then the relevant highway authority must—

- (a) as soon as reasonably practicable give the undertaker reasonable notice of any such third party claim or demand, specifying the nature of the indemnity liability in reasonable detail; and
- (b) not make any admission of liability, agreement or compromise in relation to the indemnity liability without first consulting the undertaker and considering their representations.

(4) The relevant highway authority must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands and penalties to which the indemnity under this paragraph applies where it is within the relevant highway authority's reasonable gift and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of the relevant highway authority's control. The relevant highway authority must provide an explanation of how any claim has been mitigated or minimised or where mitigation or minimisation is not possible an explanation as to why, if reasonably requested to do so by the undertaker and only in relation to costs that are incurred which are within the relevant highway authority's direct control.

PART 7

FOR THE PROTECTION OF NETWORK RAIL INFRASTRUCTURE LIMITED FOR THE PROTECTION OF RAILWAY INTERESTS

Application

70. The provisions of this Part of this Schedule have effect for the protection of Network Rail Infrastructure Limited unless otherwise agreed in writing between the undertaker and Network Rail Infrastructure Limited.

Interpretation

71. In this Part of this Schedule—

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act 1993(a);

“Network Rail” means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at Waterloo General Office, London, England SE1 8SW) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006(b)) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited’s railway undertaking;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail or a tenant or licensee of Network Rail for the purposes of such railway or works, apparatus or equipment;

“regulatory consents” means any consent or approval required under—

- (a) the Railways Act 1993;
- (b) the network licence; and/or
- (c) any other relevant statutory or regulatory provisions;

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development;

“specified work” means so much of any of the authorised development as is situated upon across, under, over or within 15 metres of, or may in any way adversely affect railway property and includes the maintenance of such works under the maintenance of such works under the powers conferred by article 3 (maintenance of authorised development).

Approval of plans

72.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

(a) 1993 c. 43.

(b) 2006 c. 46.

73.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration (article 52).

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their approval or disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker, and if by the expiry of the further 28 days the engineer has not intimated approval or disapproval, the engineer is deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying their approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's reasonable opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to their reasonable satisfaction.

74.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 72(4) must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 73;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such a manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction is caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any direct loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

75. The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as they may reasonably require with regard to a specified work or the method of constructing it.

76. Network Rail must at all times afford reasonable facilities to the undertaker and the undertaker's agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as the undertaker may reasonably require with regard to such works or the method of constructing them.

77.—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction or completion of a specified work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker reasonable notice which is no later than 56 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice including details of the reasonable cost of carrying out – and in the case of any permanent alterations or additions, maintaining, working and, when necessary, renewing – those alterations or additions in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the reasonable opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 73(3), pay to Network Rail all reasonable and proper expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 78(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

78. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 73(3) or in constructing any protective works under the provisions of paragraph 73(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it is reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;

- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

79.—(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 73(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter where reasonably required must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 73(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail’s apparatus identified pursuant to sub-paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail’s apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail’s apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 73(1) has effect subject to this sub-paragraph.

(6) Prior to the commencement of operation of the specified work the undertaker shall test the use of the specified work in a manner that shall first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the specified work causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker’s apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to the Network Rail’s apparatus.

(7) In the event of EMI having occurred—

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's works in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI; and
- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI.
- (d) the undertaker shall not allow the use or operation of the authorised development in a manner that has caused or will cause EMI until measures have been taken in accordance with this paragraph to prevent EMI occurring.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to subparagraphs (5) or (6)—

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;
- (b) any modifications to Network Rail's apparatus approved pursuant to those subparagraphs must be carried out and completed by the undertaker in accordance with paragraph 73.

(9) For the purpose of paragraph 78(a) any modifications to Network Rail's apparatus under this paragraph is deemed to be protective works referred to in that paragraph.

(10) In relation to any dispute arising under this paragraph the reference in article 52 (arbitration) to the Secretary of State is to be read as a reference to the Institution of Engineering and Technology.

80. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives reasonable notice to the undertaker informing it that the state of maintenance of any part of the specified work reasonably appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such reasonable notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

81. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

82. Any additional expenses which Network Rail has may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that a minimum of 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

83.—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (subject to article 48 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the construction, maintenance or operation of a specified work or the failure thereof;
- (b) by reason of any act or omission of the undertaker or of any person in the undertaker's employ or of the undertaker's contractors or others whilst engaged upon a specified work;
- (c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from a specified work;
- (d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as

a result of access to or egress from a specified work by the undertaker or any person in its employ or of its contractors or others; or

- (e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of a specified work,

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision does not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must—

- (a) give the undertaker reasonable written notice of any such claims or demands;
- (b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker;
- (c) take such steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands; and
- (d) keep the undertaker informed in relation to the progress of any such claims and demands and pay due regard to the undertaker's reasonable representations in relation to them.

(3) The sums payable by the undertaker under sub-paragraph (1) shall if relevant include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—

“the relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

84. Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 83 and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs)).

85. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

86. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works and land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

87. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

88. The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent, under article 8 (consent to transfer benefit of Order) of this Order, and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the specified works to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

89. The undertaker must no later than 28 days from the date that the plans and documents submitted to and certified by the Secretary of State in accordance with article 50 (certification of documents etc.) are certified by the Secretary of State in accordance with that article, provide a set of those plans and documents to Network Rail in a format specified by Network Rail.

90. In relation to any dispute arising under this Part of this Schedule (except for those disputes referred to in paragraph 79(10)) the reference in article 52 (arbitration) to the Secretary of State is to be read as a reference to the President of the Institution of Civil Engineers.

SCHEDULE 9

Article 50

DOCUMENTS TO BE CERTIFIED

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Air Noise Management Plan – regulation 5(2)(o)	TR020001/APP/8.125	Revision 2
Airport Access Road and Luton DART Long Section Plans – Regulations 5(2)(o)	TR020001/APP/4.11	Issue 1
Airport Boundary Plans – Regulation 5(2)(q)	TR020001/APP/4.12	Revision 2
Book of Reference – Regulation 5(2)(d)	TR020001/APP/3.02	Revision 2
Bus and Coach Study	TR020001/APP/8.122	Revision 2
Crown Land Plans – Regulation 5(2)(n)	TR020001/APP/4.14	Revision 1
Design Principles – Regulation 5(2)(q)	TR020001/APP/7.09	Revision 4
Environmental Statement – Chapter 1 – Regulation 5(2)(a)	TR020001/APP/5.01	Issue 1
Environmental Statement – Chapter 2 – Regulation 5(2)(a)	TR020001/APP/5.01	Issue 1
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EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises London Luton Airport Limited to undertake works to redevelop Luton Airport in Luton, Bedfordshire and carry out all associated works.

The Order permits London Luton Airport Limited to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

The Order also includes provisions in connection with the maintenance and operation of the authorised development.

A copy of the documents referred to in Schedule 9 to this Order and certified in accordance with article 50 (certification of documents, etc.) of this Order may be inspected free of charge during normal working hours at Hart House Business Centre, Kimpton Road, Luton, LU2 0LA, or any other registered office that may exist at the time of such inspection.

APPENDIX F: EXAMINATION LIBRARY

London Luton Airport Expansion Examination Library

Updated – 10 May 2024

This Examination Library relates to the London Luton Airport Expansion application. The library lists each document that has been submitted to the examination by any party and documents that have been issued by the Planning Inspectorate. All documents listed have been published to the National Infrastructure's Planning website and a hyperlink is provided for each document. A unique reference is given to each document; these references will be used within the Report on the Implications for European Sites and will be used in the Examining Authority's Recommendation Report. The documents within the library are categorised either by document type or by the deadline to which they are submitted.

Please note the following:

- This is a working document and will be updated periodically as the examination progresses.
- Advice under Section 51 of the Planning Act 2008 that has been issued by the Inspectorate, is published to the National Infrastructure Website but is not included within the Examination Library as such advice is not an examination document.
- This document contains references to documents from the point the application was submitted.
- The order of documents within each sub-section is either chronological, numerical, or alphabetical and confers no priority or higher status on those that have been listed first.

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Category	Reference
<u>Application Documents</u> As submitted and amended version received before the PM. Any amended version received during the Examination stage to be saved under the Deadline received	APP-xxx
<u>Adequacy of Consultation responses</u>	AoC-xxx
<u>Relevant Representations</u>	RR-xxx
<u>Procedural Decisions and Notifications from the Examining Authority</u> Includes Examining Authority's questions, s55, and post acceptance s51	PD-xxx
<u>Additional Submissions</u> Includes anything accepted at the Preliminary Meeting and correspondence that is either relevant to a procedural decision or contains factual information pertaining to the examination including responses to Rule 6 and Rule 8 letters	AS-xxx
<u>Events and Hearings</u> Includes agendas for hearings and site inspections, audio recordings, responses to notifications and applicant's hearing notices	EV1-xxx
Hearings and/or ASI	EV2-xxx
Hearings and/or ASI	EV3-xxx
Hearings and/or ASI	EV4-xxx
<u>Representations – by Deadline</u>	
<u>Procedural Deadline A:</u> Deadline for receipt by the ExA of:	PDA-xxx

• Responses to the Rule 6 letter including any written submissions on the Examination procedure and draft Examination Timetable • Requests to be heard orally at the Preliminary Meeting including which agenda items you wish to speak on, points you wish to make and why these need to be made orally rather than in writing • Request by Interested Parties to be heard orally at the Open Floor Hearings	
<u>Deadline 1</u> For receipt by the Examining Authority of: • Comments on any updates to application documents submitted by the Applicant before or at the Preliminary Meeting (PM) • Comments on Relevant Representations (RR) • Summaries of all RR exceeding 1500 words • Written Representations (WRs) • Summaries of all WRs exceeding 1500 words • Notification by Statutory Parties of their wish to be considered an Interested Party (IP) by the ExA • Notification of wish to be heard at an Issue Specific Hearing (ISH) • Request to be heard at a Compulsory Acquisition Hearing (CAH) • Request by IPs to be heard at any subsequent Open Floor Hearings (OFH) • Provision of suggested locations and justifications for an Accompanied Site Inspection (ASI) for consideration by the ExA (if held)	REP1-xxx

• Post-hearing submissions including written submissions of oral cases put at OFH1 and OFH2 • Response to Action Points arising from the PM, OFH1 or OFH2 (unless otherwise stated in Action Points) • Guide to the Application • Submission of information requested in Annex F of the Rule 6 letter • Notification of wish to have future correspondence received electronically • Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 • Comments on any further information/ submissions accepted by the ExA	
<u>Deadline 1A</u> For receipt by the Examining Authority of: Local Impact Reports (LIRs)	REP1A-xxx
<u>Deadline 2:</u> For receipt by the Examining Authority of: • Initial Statements of Common Ground (SoCGs) requested by the ExA (see Annex F of the Rule 6 letter) • Statement of Commonality of SoCG • Comments on WRs • The Applicant's comments on oral and written submissions of oral cases put at OFH1 and OFH2 • The Applicant's revised draft Development Consent Order (draft DCO)(if required)	REP2-xxx

• Status of Negotiations/ Compulsory Acquisition Schedule • Applicant's draft itinerary for the ASI (if held) • Updated Principal Areas of Disagreement Summary Statements (PADSS) • Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 • Comments on any further information/ submissions received by Deadline 1	
<u>Deadline 2A:</u> For receipt by the Examining Authority of: Comments on the LIRs	REP2A-xxx
<u>Deadline 3:</u> For receipt by the Examining Authority of: • Post-hearing submissions including written submissions of oral cases • The Applicant's revised draft DCO (if required) • Status of Negotiations/ CA Schedule • Updated SoCG • Updated Statement of Commonality of SoCG • Updated PADSS • Updated Guide to the Application • Comments on the Applicant's draft itinerary for the ASI (if held) • Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 • Comments on any further information/ submissions received by Deadline 2	REP3-xxx

<u>Deadline 4:</u> For receipt by the Examining Authority of: • Response to the ExA's Written Questions (ExQ1) • Comments on the Applicant's revised draft DCO (if submitted) • Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 • Comments on any further information/submissions received by Deadline 3	REP4-xxx
<u>Deadline 5:</u> For receipt by the Examining Authority of: • Notification of wish to attend the ASI (if held) • Comments on responses to the ExA's Written Questions (ExQ1) • Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 • Comments on any further information/submissions received by Deadline 4	REP5-xxx
<u>Deadline 6:</u> For receipt by the Examining Authority of: • Post-hearing submissions including written submissions of oral cases (if held) • The Applicant's revised draft DCO	REP6-xxx

• Status of Negotiations/ CA Schedule • Updated SoCG • Updated Statement of Commonality of SoCG • Updated PADSS • Updated Guide to the Application • Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 • Comments on any further information/ submissions received by Deadline 5	
<u>Deadline 7:</u> For receipt by the Examining Authority of: • Response to the ExA's Further Written Questions (ExQ2) (if required) • Comments on the Applicant's revised draft DCO • Comments on the RIES (if required) • Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 • Comments on any further information/ submissions received by Deadline 6	REP7-xxx
<u>Deadline 8:</u> For receipt by the Examining Authority of: • Comments on the ExA's commentary on, or schedule of changes to the draft DCO (if required)	REP8-xxx

• Comments on the ExA's commentary on, or schedule of changes to the draft DCO (if required) • Comments on the ExA's commentary on, or schedule of changes to the draft DCO (if required)	
<u>Deadline 9:</u> For receipt by the Examining Authority of: • Final version of the draft DCO in clean, tracked and word versions • Final draft DCO to be submitted by the Applicant in the SI template with the SI validation report • Final Book of Reference (BoR) and schedule of changes to the BoR • Final status of Negotiations/ Compulsory Acquisition Schedule • Final SoCG • Final Statement of Commonality of SoCG • Final Guide to the Application • Signed and dated planning obligations (if required) • Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 • Comments on any further information/ submissions received by Deadline 8	REP9-xxx
<u>Deadline 10:</u> For receipt by the Examining Authority of: • Any further information requested by the ExA under Rule 17 of the Infrastructure Planning	REP10-xxx

(Examination Procedure) Rules 2010 • Comments on any further information/ submissions received by Deadline 9	
Deadline 11: For receipt by the Examining Authority of: • Final SoCGs • Final Statement of Commonality of SoCG • Final status of Negotiations/Compulsory Acquisition Schedule • Final Guide to the Application • Signed and dated legal agreements • Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 • Comments on any further information/ submissions received by Deadline 10	REP11-xxx
Other Documents Includes s127/131/138 information, s56, s58 and s59 certificates, and transboundary documents	OD-xxx

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Application Documents	
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APP-002	London Luton Airport Limited 1.02 Application Form
APP-003	London Luton Airport Limited 1.03 Introduction to the Application This has now been superseded by AS-002
APP-004	London Luton Airport Limited 1.03 Introduction to the Application Appendix A - Letters of Support
APP-005	London Luton Airport Limited 1.04 Electronic Application Index This has now been superseded by AS-003
APP-006	London Luton Airport Limited 2.01 Draft Development Consent Order This has now been superseded by AS-005
APP-007	London Luton Airport Limited 2.02 Explanatory Memorandum This has now been superseded by AS-007
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APP-010	London Luton Airport Limited 3.01 Statement of Reasons This has now been superseded by AS-008
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APP-013	London Luton Airport Limited 4.01 Location Plan This has now been superseded by AS-009
APP-014	London Luton Airport Limited 4.02 Scheme Layout Plans This has now been superseded by AS-010
APP-015	London Luton Airport Limited 4.03 Land Plans and Crown Land Plans This has now been superseded by AS-011 and AS-024
APP-016	London Luton Airport Limited 4.04 Work Plans (Part 1 of 6)

	This has now been superseded by AS-012
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	Chapter 3 of the ES can be found at AS-026
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	5.01 Environmental Statement - Chapter 5 - Approach to the Assessment This has now been superseded by AS-075
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APP-203	London Luton Airport Limited 7.02 Transport Assessment - Part 1 of 4 (Chapters 1-4)
APP-204	London Luton Airport Limited 7.02 Transport Assessment - Part 2 of 4 (Chapters 5-8) This has now been superseded by AS-123
APP-205	London Luton Airport Limited 7.02 Transport Assessment - Part 3 of 4 (Chapters 9-10)
APP-206	London Luton Airport Limited 7.02 Transport Assessment - Part 4 of 4 (Chapters 11-16)
APP-207	London Luton Airport Limited 7.03 Design and Access Statement Volume I This has now been superseded by AS-049
APP-208	London Luton Airport Limited 7.03 Design and Access Statement Volume II This has now been superseded by AS-124
APP-209	London Luton Airport Limited 7.03 Design and Access Statement Appendix B - Part 1 of 4 (Chapters B1-B2)
APP-210	London Luton Airport Limited 7.03 Design and Access Statement Appendix B - Part 2 of 4 (Chapter B3)
APP-211	London Luton Airport Limited 7.03 Design and Access Statement Appendix B - Part 3 of 4 (Chapter B4)
APP-212	London Luton Airport Limited 7.03 Design and Access Statement Appendix B - Part 4 of 4 (Chapter B5)
APP-213	London Luton Airport Limited 7.04 Need Case This has now been superseded by AS-125
APP-214	London Luton Airport Limited 7.04 Need Case Appendices
APP-215	London Luton Airport Limited 7.05 Employment and Training Strategy

	This has now been superseded by REP7-016
APP-216	London Luton Airport Limited 7.06 Sustainability Statement
APP-217	London Luton Airport Limited 7.07 Green Controlled Growth Explanatory Note This has now been superseded by REP3-015
APP-218	London Luton Airport Limited 7.08 Green Controlled Growth Framework This has now been superseded by REP3-017
APP-219	London Luton Airport Limited 7.08 Green Controlled Growth Framework Appendix A - Draft ESG Terms of Reference This has now been superseded by REP3-019
APP-220	London Luton Airport Limited 7.08 Green Controlled Growth Framework Appendix B - ESG Technical Panels Draft Terms of Reference This has now been superseded by REP3-021
APP-221	London Luton Airport Limited 7.08 Green Controlled Growth Framework Appendix C - Aircraft Noise Monitoring Plan This has now been superseded by REP3-023
APP-222	London Luton Airport Limited 7.08 Green Controlled Growth Framework Appendix D - Air Quality Monitoring Plan This has now been superseded by REP3-025
APP-223	London Luton Airport Limited 7.08 Green Controlled Growth Framework Appendix E - Greenhouse Gases Monitoring Plan This has now been superseded by REP7-030
APP-224	London Luton Airport Limited 7.08 Green Controlled Growth Framework Appendix F - Surface Access Monitoring Plan This has now been superseded by REP5-032
APP-225	London Luton Airport Limited 7.09 Design Principles This has now been superseded by REP5-034
APP-226	London Luton Airport Limited 7.10 Draft Compensation Policies, Measures and Community First This has now been superseded by AS-050
APP-227	London Luton Airport Limited 7.11 Equality Impact Assessment This has now been superseded by AS-129
APP-228	London Luton Airport Limited 7.12 Surface Access Strategy
APP-229	London Luton Airport Limited 7.13 Framework Travel Plan This has now been superseded by AS-131
Adequacy of Consultation Responses	

AoC-001	Buckinghamshire Council	Adequacy of Consultation Representation
AoC-002	Cambridgeshire County Council	Adequacy of Consultation Representation
AoC-003	Central Bedfordshire Council	Adequacy of Consultation Representation
AoC-004	Dacorum Borough Council	Adequacy of Consultation Representation
AoC-005	East Hertfordshire District Council	Adequacy of Consultation Representation
AoC-006	Essex County Council	Adequacy of Consultation Representation
AoC-007	Hertfordshire County Council	Adequacy of Consultation Representation
AoC-008	Huntingdonshire District Council	Adequacy of Consultation Representation
AoC-009	London Borough of Barnet	Adequacy of Consultation Representation
AoC-010	London Borough of Harrow	Adequacy of Consultation Representation
AoC-011	Luton Borough Council	Adequacy of Consultation Representation
AoC-012	Milton Keynes City Council	Adequacy of Consultation Representation
AoC-013	North Hertfordshire District Council	Adequacy of Consultation Representation
AoC-014	South Cambridgeshire District Council	Adequacy of Consultation Representation
AoC-015	St Albans City and District Council	Adequacy of Consultation Representation
AoC-016	Three Rivers District Council	Adequacy of Consultation Representation
AoC-017	Welwyn Hatfield Borough Council	Adequacy of Consultation Representation
AoC-018	Submissions on Adequacy of Consultation received during Acceptance	Adequacy of Consultation Representation
Relevant Representations		
To assist navigation of this Examination Library, the Relevant Representations are recorded in a separate library available here: https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR020001/TR020001-001199-London%20Luton%20Expansion%20Relevant%20Reps%20Exam%20Library.pdf		

Procedural Decisions and Notifications from the Examining Authority		
PD-001		Notification of Decision to Accept Application
PD-002		Section 51 advice to the Applicant
PD-003		Section 55 Checklist
PD-004		Notification of the appointment of the Examining Authority
PD-005		Rule 9 letter - Notification of Procedural Decisions
PD-006		Rule 9 letter - Notification of Procedural Decisions
PD-007		Rule 6 letter - notification of the preliminary meeting and matters to be discussed
PD-008		Rule 8 – notification of timetable for the examination
PD-009		Rule 17 letter - Examining Authority's Request for Information
PD-010		Examining Authority's Written Questions (ExQ1)
PD-011		Rule 17 - Request for Further Information
PD-012		Rules 9 and 17 - Request to make changes to the original application
PD-013		Rule 13 - Notification of Hearings
PD-014		Rule 9 and Rule 17 Letter - Request to make changes to the original application and request for further information and written comments
PD-015		Examining Authority's Further Written Questions (ExQ2)
PD-016		Rule 17 - Examining Authority's request for information
PD-017		Rule 17 letter - request for draft s106 agreement
PD-018		ExA's commentary on, or schedule of changes to the draft DCO
PD-019		Rule 17 Letter - Request for further information
PD-020		Examining Authority's response to a request for a meeting under Rule 6(3) of the Infrastructure Planning (Examination Procedure) Rules 2010
PD-021		Rule 17 - Request for further information
PD-022		Rule 8(3) letter - Notification of change to the Examination timetable
PD-023		Rule 17 - Request for further information
PD-024		Rule 17 - Request for further information
Additional Submissions		
AS-001	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. Cover Letter
AS-002	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 1.03 Introduction to the Application Revision 1 This has now been superseded by AS-065
AS-003	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 1.04 Electronic Application Index Revision 1
AS-004	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 1.06 Application Document Tracker This has now been superseded by AS-066
AS-005	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 2.01 Draft Development Consent Order Revision 1 This has now been superseded by AS-067

AS-006	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 2.01 Draft Development Consent Order (Tracked) Revision 1 This has now been superseded by AS-068
AS-007	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 2.02 Explanatory Memorandum Revision 1 This has now been superseded by AS-069
AS-008	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 3.01 Statement of Reasons Revision 1 This has now been superseded by AS-071
AS-009	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 4.01 Location Plan Revision 1
AS-010	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 4.02 Scheme Layout Plans Revision 1 This has now been superseded by AS-072
AS-011	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 4.03 Land Plans Revision 1
AS-012	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 4.04 Work Plans (Part 1 of 6) Revision 1
AS-013	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 4.04 Work Plans (Part 2 of 6) Revision 1
AS-014	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 4.04 Work Plans (Part 3 of 6) Revision 1
AS-015	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 4.04 Work Plans (Part 4 of 6) Revision 1
AS-016	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 4.04 Work Plans (Part 5 of 6) Revision 1
AS-017	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 4.04 Work Plans (Part 6 of 6) Revision 1
AS-018	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 4.09 General Arrangement Drawings Part 1 of 3 Revision 1
AS-019	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 4.09 General Arrangement Drawings Part 2 of 3 Revision 1

AS-020	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 4.09 General Arrangement Drawings Part 3 of 3 Revision 1 This has now been superseded by REP5-010
AS-021	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 4.10 Special-Category Land Plans Revision 1
AS-022	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 4.12 Airport Boundary Plan Revision 1 This has now been superseded by REP8-007
AS-023	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 4.13 Off-site Highway Works
AS-024	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 4.14 Crown Land Plans This has now been superseded by REP5-011
AS-025	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 4.15 Ordnance Survey base map identifying Category 3 boundary
AS-026	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.01 Environmental Statement Chapter 3 Alternatives and Design Evolution Revision 1
AS-027	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.01 Environmental Statement Chapter 8 Biodiversity Revision 1
AS-028	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 7.1 Air Quality Methodology Revision 1
AS-029	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 8.2 Outline Landscape and Biodiversity Management Plan Revision 1
AS-030	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.01 Environmental Statement Chapter 18 Traffic and Transport Revision 1 This has now been superseded by REP8-009
AS-031	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.01 Environmental Statement Chapter 20 Water Resources and Flood Risk Revision 1

AS-032	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.01 Environmental Statement Chapter 21 In-combination and Cumulative Effects Revision 1 This has now been superseded by REP10-011
AS-033	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 8.1 Ecology Baseline Report Part A Revision 1
AS-034	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 8.1 Ecology Baseline Report Part B Revision 1
AS-035	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 8.10 EMS Orchid and Invertebrate Revision 1
AS-036	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 14.1 LVIA Methodology Revision 1
AS-037	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 14.7 Accurate Visual Representations Viewpoints 1, 5, 6 Revision 1 This has now been superseded by AS-149
AS-038	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 14.7 Accurate Visual Representations Viewpoints 10B, 13, 14, 17, 17A Revision 1 This has now been superseded by AS-141
AS-039	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 14.7 Accurate Visual Representations Viewpoints 18, 19, 23, 24, 25 Revision 1 This has now been superseded by AS-142
AS-040	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 14.7 Accurate Visual Representations Viewpoints 26, 29, 30, 31, 34, 37 Revision 1 This has now been superseded by AS-143
AS-041	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 14.7

		Accurate Visual Representations Viewpoints 41, 46, 48, 50 Revision 1 This has now been superseded by AS-144
AS-042	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 4 The Proposed Development Figure 4.1 - 4.15 Revision 1
AS-043	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 8 Biodiversity Figures 8.1 - 8.4 Revision 1
AS-044	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 18 Traffic and Transportation Figures 18.1 - 18.3 Revision 1
AS-045	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 20 Water Resources and Flood Risk Figures 20.1 - 20.7 Revision 1 This has now been superseded by REP9-019
AS-046	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.07 Environmental Statement Appendix 20.1 Flood Risk Assessment Revision 1
AS-047	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.09 Mitigation Route Map Revision 1 This has now been superseded by REP10-023
AS-048	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 6.01 Consultation Report Revision 1
AS-049	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 7.03 Design and Access Statement Volume I Revision 1
AS-050	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 7.10 Draft Compensation Policies, Measures and Community First Revision 1 This has now been superseded by AS-128 (main report) and AS-126 and AS-127 (Appendix A parts 1 and 2)
AS-051	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. Response to the Examining Authority's letter of 16 May 2023

AS-052	Buckinghamshire Council	Request to submit a Principal Areas of Disagreement Summary Statement
AS-053	Buckinghamshire Council	Principal Areas of Disagreement Summary Statement
AS-054	Central Bedfordshire Council	Principal Areas of Disagreement Summary Statement
AS-055	Chilterns Conservation Board	Principal Areas of Disagreement Summary Statement
AS-056	Environment Agency	Principal Areas of Disagreement Summary Statement
AS-057	Hertfordshire County Council, Dacorum Borough Council, North Hertfordshire Council	Principal Areas of Disagreement Summary Statement
AS-058	LADACAN	Principal Areas of Disagreement Summary Statement
AS-059	Luton Borough Council	Principal Areas of Disagreement Summary Statement
AS-060	National Trust	Principal Areas of Disagreement Summary Statement
AS-061	Natural England	Principal Areas of Disagreement Summary Statement
AS-062	National Highways	Principal Areas of Disagreement Summary Statement
AS-063	Huntingdonshire District Council	Additional Submission - Accepted at the discretion of the Examining Authority
AS-064	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. Rule 9 Response Cover Letter
AS-065	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 1.03 Introduction to the Application Revision 2
AS-066	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 1.06 Application Document Tracker Revision 1 This has now been superseded by AS-138
AS-067	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 2.01 Draft Development Consent Order Revision 2 (clean) This has now been superseded by REP2-003
AS-068	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 2.01 Draft Development Consent Order Revision 2 (tracked) This has now been superseded by REP2-004
AS-069	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 2.02 Explanatory Memorandum Revision 2

		This has now been superseded by REP3-005
AS-070	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 2.03 Consents and Agreements Position Statement Revision 1 This has now been superseded by REP7-007
AS-071	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 3.01 Statement of Reasons Revision 2
AS-072	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 4.02 Scheme Layout Plans Revision 2
AS-073	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 4.16 Elevation and Arrangement Drawings for Car Parks P1 and P2
AS-074	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.01 Environmental Statement Chapter 4 The Proposed Development Revision 1
AS-075	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.01 Environmental Statement Chapter 5 Approach to the Assessment Revision 1
AS-076	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.01 Environmental Statement Chapter 7 Air Quality Revision 1
AS-077	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.01 Environmental Statement Chapter 10 Cultural Heritage Revision 1
AS-078	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.01 Environmental Statement Chapter 13 Health and Community Revision 1 This has now been superseded by REP7-009
AS-079	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.01 Environmental Statement Chapter 14 Landscape and Visual Revision 1
AS-080	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.01 Environmental Statement Chapter 16 Noise and Vibration Revision 1 This has now been superseded by REP1-003
AS-081	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.01 Environmental Statement Chapter 19 Waste and Resources Revision 1

AS-082	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 4.1 Construction Method Statement and Programme Report Revision 1 This has now been superseded by REP8-011
AS-083	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 10.5 Archaeological Trial Trench Evaluation Report (Cotswold 2019) Revision 1 This has now been superseded by REP4-019
AS-084	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 13.5 Evidence Review for Health Assessment Revision 1
AS-085	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 14.3 Arboricultural Impact Assessment Revision 1 This has now been superseded by REP9-015
AS-086	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 14.4 Detailed Landscape Assessment Revision 1
AS-087	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 14.5 Detailed Visual Assessment Revision 1 This has now been superseded by AS-139
AS-088	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 14.6 Winter and Summer Viewpoint Photography Viewpoints 1-6 Revision 1
AS-089	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 14.6 Winter and Summer Viewpoint Photography Viewpoints 7-10 Revision 1
AS-090	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 14.6 Winter and Summer Viewpoint Photography Viewpoints 11-17 Revision 1
AS-091	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 14.6 Winter

		and Summer Viewpoint Photography Viewpoints 18-24 Revision 1
AS-092	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 14.6 Winter and Summer Viewpoint Photography Viewpoints 25-32 Revision 1
AS-093	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 14.6 Winter and Summer Viewpoint Photography Viewpoints 33-41 Revision 1
AS-094	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 14.6 Winter and Summer Viewpoint Photography Viewpoints 42-50 Revision 1
AS-095	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 14.6 Winter and Summer Viewpoint Photography Viewpoints 51-60 Revision 1 This has now been superseded by AS-140
AS-096	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 16.1 Noise and Vibration Information Revision 1 This has now been superseded by REP7-013
AS-097	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.02 Environmental Statement Appendix 19.1 Outline Site Waste Management Plan Revision 1
AS-098	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 7 Air Quality Figures 7.1 - 7.3a Revision 1
AS-099	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 7 Air Quality Figures 7.3b - 7.26 Revision 1
AS-100	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 7 Air Quality Figures 7.27 - 7.49 Revision 1
AS-101	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 13 Health and Community Figures 13.1-13.2 Revision 1
AS-102	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03

		Environmental Statement Chapter 14 Landscape and Visual Figures 14.1-14.17 Revision 1 This has now been superseded by REP4-037
AS-103	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 16 Noise and Vibration Figures 16.1-16.4 Rev1
AS-104	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 16 Noise and Vibration Figures 16.5-16.10 Rev1
AS-105	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 16 Noise and Vibration Figures 16.11-16.16 Rev1
AS-106	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 16 Noise and Vibration Figures 16.17a-16.21 Rev1
AS-107	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 16 Noise and Vibration Figures 16.22-16.28 Rev1
AS-108	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 16 Noise and Vibration Figures 16.29-16.36 Rev1
AS-109	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 16 Noise and Vibration Figures 16.37-16.42 Rev1
AS-110	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 16 Noise and Vibration Figures 16.43a-16.48 Rev1
AS-111	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 16 Noise and Vibration Figures 16.49-16.56 Rev1
AS-112	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 16 Noise and Vibration Figures 16.57-16.62 Rev1
AS-113	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 16 Noise and Vibration Figures 16.63-16.68b Rev1
AS-114	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03

		Environmental Statement Chapter 16 Noise and Vibration Figures 16.69-16.76 Rev1
AS-115	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 16 Noise and Vibration Figures 16.77-16.82 Rev1
AS-116	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 16 Noise and Vibration Figures 16.83-16.88 Rev1
AS-117	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 16 Noise and Vibration Figures 16.89-16.94 Rev1
AS-118	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 16 Noise and Vibration Figures 16.95-16.100b Rev1
AS-119	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.03 Environmental Statement Chapter 16 Noise and Vibration Figures 16.101-16.104 Rev1
AS-120	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.11 Ambient noise monitoring data and survey sheets
AS-121	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 5.12 Comparison of consented and proposed operational noise controls This has now been superseded by REP5-014
AS-122	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 7.01 Planning Statement Revision 1 This has now been superseded by REP5-016
AS-123	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 7.02 Transport Assessment - Part 2 of 4 (Chapters 5-8) Revision 1
AS-124	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 7.03 Design and Access Statement Volume II Revision 1
AS-125	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 7.04 Need Case Revision 1
AS-126	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 7.10 Draft Compensation Policies Measures and Community First Appendix A Part 1 Revision 2

		This has now been superseded by REP2-006
AS-127	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 7.10 Draft Compensation Policies Measures and Community First Appendix A Part 2 Revision 2 This has now been superseded by REP2-007
AS-128	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 7.10 Draft Compensation Policies Measures and Community First Revision 2 This has now been superseded by REP2-005
AS-129	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 7.11 Equality Impact Assessment Revision 1 (clean)
AS-130	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 7.11 Equality Impact Assessment Revision 1 (tracked)
AS-131	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 7.13 Framework Travel Plan Revision 1 This has now been superseded by REP4-044
AS-132	Graham Bellamy	Additional Submission - Accepted at the discretion of the Examining Authority
AS-133	Wizz Air UK	Additional Submission - Accepted at the discretion of the Examining Authority
AS-134	Tushar Ravishankar	Additional Submission - Accepted at the discretion of the Examining Authority
AS-135	Three Rivers District Council	Additional Submission - Accepted at the discretion of the Examining Authority
AS-136	Network Rail Infrastructure Limited	Additional Submission - Accepted at the discretion of the Examining Authority
AS-137	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority - Rule 9 Response Cover Letter
AS-138	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority - 1.06 Application Document Tracker Revision 2 This has now been superseded by REP1-002
AS-139	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority - 5.02 Environmental Statement Appendix 14.5 Detailed Visual Assessment Rev 2
AS-140	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority - 5.02 Environmental Statement Appendix 14.6 Winter and Summer Viewpoint Photography Viewpoints 51-61 Rev 2

AS-141	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority - 5.02 Appendix 14.7 Accurate Visual Representations View 10B, 13, 14, 17, 17A Rev2 This has now been superseded by REP3-010
AS-142	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority - 5.02 Appendix 14.7 Accurate Visual Representations View 18, 19,20, 23, 24, 25 Rev 2 This has now been superseded by REP3-011
AS-143	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority – 5.02 Appendix 14.7 Accurate Visual Representations View 26, 28, 29, 30, 31, 36, 36, 37 Rev2 This has now been superseded by REP3-012
AS-144	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority - 5.02 Appendix 14.7 Accurate Visual Representations View 46, 48, 50 Rev 2 This has now been superseded by REP3-013
AS-145	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority - 5.02 Appendix 14.7 Accurate Visual Representations View 53, 56, 61 This has now been superseded by REP3-014
AS-146	London Luton Airport Limited	Additional Submission accepted at the discretion of the Examining Authority - 5.13 Glint and Glare Assessment This has now been superseded by REP4-040
AS-147	Hertfordshire County Council, Dacorum Council, North Hertfordshire Council	Additional Submission - Accepted at the discretion of the Examining Authority
AS-148	Hertfordshire County Council, Dacorum Council, North Hertfordshire Council	Additional Submission - Accepted at the discretion of the Examining Authority
AS-149	London Luton Airport Limited	Additional Submission - Accepted at the discretion of the Examining Authority - 5.02 Appendix 14.7 Accurate Visual Representations - Representative Viewpoints 1, 5, and 6 - Revision 2 This has now been superseded by REP3-009
AS-150	LADACAN	Additional Submission - Accepted at the discretion of the Examining Authority
AS-151	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 8.61 Change Notification Cover Letter

AS-152	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 8.61 Change Notification - Drainage Strategy
AS-153	Janet Ingham	Additional Submission - Accepted at the discretion of the Examining Authority
AS-154	Hertfordshire County Council, Dacorum Council, North Hertfordshire Council, Luton Borough Council	Additional Submission - Accepted at the discretion of the Examining Authority
AS-155	London Luton Airport Limited	Additional Submission - Accepted at the discretion of the Examining Authority
AS-156	Michael Reddington	Additional Submission, accepted at the discretion of the Examining Authority - Response to REP2-034 (WRs Part 1b of 5)
AS-157	Michael Reddington	Additional Submission, accepted at the discretion of the Examining Authority - Executive Summary of Responses to REP2-034 (WRs Part 1b of 5)
AS-158	Network Rail	Additional Submission - Accepted at the discretion of the Examining Authority
AS-159	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. 8.148 Applicant's response to Issue Specific Hearing 7 Action 2 - Accounting for Covid-19 in Transport Modelling Final Report
AS-160	London Luton Airport Limited	Additional Submission - accepted at the discretion of the Examining Authority. Request for a meeting under Rule 6(3) of the Infrastructure Planning (Examination Procedure) Rules 2010
AS-161	London Luton Airport Limited	Additional Submission, accepted at the discretion of the Examining Authority. Request for amendment of the examination timetable for submission of certain documents
Events		
Site Inspections –		
EV1-001	Note of Unaccompanied Site Inspection - 23 May 2023	
EV1-002	Note of Unaccompanied Site Inspection - Morning of 24 May 2023	
EV1-003	Note of Unaccompanied Site Inspection - Afternoon of 24 May 2023	
EV1-004	Note of Unaccompanied Site Inspection - Morning of 25 May 2023	
EV1-005	Note of Unaccompanied Site Inspection - Afternoon and evening of 25 May 2023	
EV1-006	Note of Unaccompanied Site Inspection (A) - 26 May 2023	
EV1-007	Note of Unaccompanied Site Inspection (B) - 26 May 2023	
EV1-008	Note of Unaccompanied Site Inspection (A) - 8 August 2023	

EV1-009	Note of Unaccompanied Site Inspection (B) - 8 August 2023
EV1-010	Note of Unaccompanied Site Inspection (A) - 9 August 2023
EV1-011	Note of Unaccompanied Site Inspection (B) - 9 August 2023
EV1-012	Note of Unaccompanied Site Inspection (C) - 9 August 2023
EV1-013	Note of Unaccompanied Site Inspection - 25 September 2023
EV1-014	Note of Access Required Site Inspection - 25 September 2023
EV1-015	Note of Unaccompanied Site Inspection - Morning of 27 November 2023
EV1-016	Note of Access Required and Unaccompanied Site Inspections - 27 November 2023
EV1-017	Note regarding the fire training exercise
EV1-018	Note of Unaccompanied Site Inspection - Afternoon of 27 November 2023
EV1-019	Note of Access Required Site Inspection - 27 November 2023
EV1-020	Note of Unaccompanied Site Inspection - 28 November 2023
EV1-021	Note of Unaccompanied Site Inspection - Afternoon of 30 November 2023
EV1-022	Note of Access Required and Unaccompanied Site Inspections - 30 November 2023
EV1-023	Note of Unaccompanied Site Inspection - Evening of 30 November 2023
Open Floor Hearing 1 (OFH1) – 10 August 2023	
EV2-001	Agenda for the Open Floor Hearing session to be held on 10 August 2023
EV2-002	Submission in lieu of attendance at Open Floor Hearing 1 NOAH Enterprise
EV2-003	Submission in lieu of attendance at Open Floor Hearing 1 Ian Roper
EV2-004	Recording of Open Floor Hearing 1 (OFH1) – Part 1 - 10 August 2023
EV2-005	Transcript of Recording of Open Floor Hearing 1 (OFH1) – Part 1 - 10 August 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV2-006	Recording of Open Floor Hearing 1 (OFH1) – Part 2 - 10 August 2023
EV2-007	Transcript of Recording of Open Floor Hearing 1 (OFH1) – Part 2 - 10 August 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV2-008	Action Points from Open Floor Hearing 1, held on Thursday 10 August 2023
Open Floor Hearing 2 (OFH2) – 11 August 2023	
EV3-001	Agenda for the Open Floor Hearing session to be held on 11 August 2023

EV3-002	Recording of Open Floor Hearing 2 (OFH2) – Part 1 - 11 August 2023
EV3-003	Transcript of Recording of Open Floor Hearing 2 (OFH2) – Part 1 - 11 August 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV3-004	Recording of Open Floor Hearing 2 (OFH2) – Part 2 - 11 August 2023
EV3-005	Transcript of Recording of Open Floor Hearing 2 (OFH2) – Part 2 - 11 August 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV3-006	Action Points from Open Floor Hearing 2, held on Friday 11 August 2023
Preliminary Meeting - 10 August 2023	
EV4-001	Recording of Preliminary Meeting – 10 August 2023
EV4-002	Transcript of Recording of Preliminary Meeting – 10 August 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV4-003	Submission in lieu of attendance at the Preliminary Meeting Central Bedfordshire Council
EV4-004	Action Points arising from the Preliminary Meeting (PM) held on Thursday 10 August 2023
EV4-005	Preliminary meeting note
Compulsory Acquisition Hearing (CAH1) - 26 September 2023	
EV5-001	Agenda for Compulsory Acquisition Hearing (CAH1)
EV5-002	Supplementary Agenda Additional Questions for CAH1
EV5-003	Recording of Compulsory Acquisition Hearing 1 (CAH1) - Part 1 – 26 September 2023
EV5-004	Transcript of Recording of Compulsory Acquisition Hearing 1 (CAH1) - Part 1 – 26 September This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV5-005	Recording of Compulsory Acquisition Hearing 1 (CAH1) - Part 2 – 26 September 2023
EV5-006	Transcript of Recording of Compulsory Acquisition Hearing 1 (CAH1) - Part 2 – 26 September This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.

EV5-007	Action Points from Compulsory Acquisition Hearing 1, held on the afternoon of 26 September 2023
Issue Specific Hearing 1 (ISH1) - 26 September 2023	
EV6-001	Agenda for Issue Specific Hearing (ISH1)
EV6-002	Supplementary Agenda Additional Questions for ISH1
EV6-003	Recording of Issue Specific Hearing 1 (ISH1) – Part 1 – 26 September 2023
EV6-004	Transcript of Recording of Issue Specific Hearing 1 (ISH1) – Part 1 – 26 September 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV6-005	Recording of Issue Specific Hearing 1 (ISH1) – Part 2 – 26 September 2023
EV6-006	Transcript of Recording of Issue Specific Hearing 1 (ISH1) – Part 2 – 26 September 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV6-007	Action Points from Issue Specific Hearing 1, held on the morning of 26 September 2023
Issue Specific Hearing 2 (ISH2) - 27 September 2023	
EV7-001	Agenda for Issue Specific Hearing (ISH2)
EV7-002	Recording of Issue Specific Hearing 2 (ISH2) – Part 1 – 27 September 2023
EV7-003	Transcript of Recording of Issue Specific Hearing 2 (ISH2) – Part 1 – 27 September 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV7-004	Recording of Issue Specific Hearing 2 (ISH2) – Part 2 – 27 September 2023
EV7-005	Transcript of Recording of Issue Specific Hearing 2 (ISH2) – Part 2 – 27 September 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV7-006	Action Points from Issue Specific Hearing 2, held on the morning of Wednesday 27 September 2023
Issue Specific Hearing 3 (ISH3) - 27 September 2023	
EV8-001	Agenda for Issue Specific Hearing (ISH3)

EV8-002	Recording of Issue Specific Hearing 3 (ISH3) – Part 1 – 27 September 2023
EV8-003	Transcript of Recording of Issue Specific Hearing 3 (ISH3) – Part 1 – 27 September 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV8-004	Recording of Issue Specific Hearing 3 (ISH3) – Part 2 – 27 September 2023
EV8-005	Transcript of Recording of Issue Specific Hearing 3 (ISH3) – Part 2 – 27 September 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV8-006	Recording of Issue Specific Hearing 3 (ISH3) – Part 3 – 27 September 2023
EV8-007	Transcript of Recording of Issue Specific Hearing 3 (ISH3) – Part 3 – 27 September 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV8-008	Action Points from Issue Specific Hearing 3, held on the afternoon of 27 September 2023
Issue Specific Hearing 4 (ISH4) - 28 September 2023	
EV9-001	Agenda for Issue Specific Hearing (ISH4)
EV9-002	Supplementary Agenda Additional Questions for ISH4
EV9-003	Recording of Issue Specific Hearing 4 (ISH4) – Part 1 – 28 September 2023
EV9-004	Transcript of Recording of Issue Specific Hearing 4 (ISH4) – Part 1 – 28 September 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV9-005	Recording of Issue Specific Hearing 4 (ISH4) – Part 2 – 28 September 2023
EV9-006	Transcript of Recording of Issue Specific Hearing 4 (ISH4) – Part 2 – 28 September 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV9-007	Action Points from Issue Specific Hearing 4, held on the morning of 28 September 2023
Issue Specific Hearing 5 (ISH5) - 28 September 2023	

EV10-001	Agenda for Issue Specific Hearing (ISH5)
EV10-002	Recording of Issue Specific Hearing 5 (ISH5) – Part 1 – 28 September 2023
EV10-003	Transcript of Recording of Issue Specific Hearing 5 (ISH5) – Part 1 – 28 September 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV10-004	Recording of Issue Specific Hearing 5 (ISH5) – Part 2 – 28 September 2023
EV10-005	Transcript of Recording of Issue Specific Hearing 5 (ISH5) – Part 2 – 28 September 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV10-006	Action Points from Issue Specific Hearing 5, held on the afternoon of 28 September 2023
Issue Specific Hearing 6 (ISH6) - 29 September 2023	
EV11-001	Agenda for Issue Specific Hearing (ISH6)
EV11-002	Submission in lieu of attendance at Issue Specific Hearing 6
EV11-003	Recording of Issue Specific Hearing 6 (ISH6) – Part 1 – 29 September 2023
EV11-004	Transcript of Recording of Issue Specific Hearing 6 (ISH6) – Part 1 – 29 September 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV11-005	Recording of Issue Specific Hearing 6 (ISH6) – Part 2 – 29 September 2023
EV11-006	Transcript of Recording of Issue Specific Hearing 6 (ISH6) – Part 2 – 29 September 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV11-007	Recording of Issue Specific Hearing 6 (ISH6) – Part 3 – 29 September 2023
EV11-008	Transcript of Recording of Issue Specific Hearing 6 (ISH6) – Part 3 – 29 September 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event

EV11-009	Action Points from Issue Specific Hearing 6, held on 29 September 2023
Open Floor Hearing 3 (OFH3) – 27 November 2023	
EV12-001	Agenda for the Open Floor Hearing session to be held on the evening of 27 November 2023
EV12-002	Recording of Open Floor Hearing 3 (OFH3) – Part 1 - 27 November 2023
EV12-003	Transcript of Recording of Open Floor Hearing 3 (OFH3) – Part 1 - 27 November 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV12-004	Recording of Open Floor Hearing 3 (OFH3) – Part 2 - 27 November 2023
EV12-005	Transcript of Recording of Open Floor Hearing 3 (OFH3) – Part 2 - 27 November 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV12-006	Action Points from Open Floor Hearing 3, held on 27 November 2023
Compulsory Acquisition Hearing (CAH2) - 28 November 2023	
EV13-001	Agenda for Compulsory Acquisition Hearing 2 (CAH2)
EV13-002	Recording of Compulsory Acquisition Hearing 2 (CAH2) – Part 1 - 28 November 2023
EV13-003	Transcript of Recording of Compulsory Acquisition Hearing 2 (CAH2) – Part 1 - 28 November This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV13-004	Recording of Compulsory Acquisition Hearing 2 (CAH2) – Part 2 - 28 November 2023
EV13-005	Transcript of Recording of Compulsory Acquisition Hearing 2 (CAH2) – Part 2 - 28 November This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV13-006	Action Points from Compulsory Acquisition Hearing 2, held on the morning of 28 November 2023
Issue Specific Hearing 7 (ISH7) - 28 November 2023	
EV14-001	Agenda for Issue Specific Hearing 7 (ISH7)
EV14-002	Recording of Issue Specific Hearing 7 (ISH7) – Part 1 – 28 November 2023
EV14-003	Transcript of Recording of Issue Specific Hearing 7 (ISH7) – Part 1 – 28 November 2023

	This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV14-004	Recording of Issue Specific Hearing 7 (ISH7) – Part 2 – 28 November 2023
EV14-005	Transcript of Recording of Issue Specific Hearing 7 (ISH7) – Part 2 – 28 November 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV14-006	Recording of Issue Specific Hearing 7 (ISH7) – Part 3 – 28 November 2023
EV14-007	Transcript of Recording of Issue Specific Hearing 7 (ISH7) – Part 3 – 28 November 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV14-008	Action Points from Issue Specific Hearing 7, held on the afternoon of 28 November 2023
Issue Specific Hearing 8 (ISH8) - 29 November 2023	
EV15-001	Agenda for Issue Specific Hearing 8 (ISH8)
EV15-002	Submission in lieu of attendance at Issue Specific Hearing 8 Natural England
EV15-003	Recording of Issue Specific Hearing 8 (ISH8) – Part 1 – 29 November 2023
EV15-004	Transcript of Recording of Issue Specific Hearing 8 (ISH8) – Part 1 – 29 November 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV15-005	Recording of Issue Specific Hearing 8 (ISH8) – Part 2 – 29 November 2023
EV15-006	Transcript of Recording of Issue Specific Hearing 8 (ISH8) – Part 2 – 29 November 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV15-007	Recording of Issue Specific Hearing 8 (ISH8) – Part 3 – 29 November 2023
EV15-008	Transcript of Recording of Issue Specific Hearing 8 (ISH8) – Part 3 – 29 November 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to

	text and is unedited. The video recording remains as the primary record of the event.
EV15-009	Recording of Issue Specific Hearing 8 (ISH8) – Part 4 – 29 November 2023
EV15-010	Transcript of Recording of Issue Specific Hearing 8 (ISH8) – Part 4 – 29 November 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV15-011	Recording of Issue Specific Hearing 8 (ISH8) – Part 5 – 29 November 2023
EV15-012	Transcript of Recording of Issue Specific Hearing 8 (ISH8) – Part 5 – 29 November 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV15-013	Action Points from Issue Specific Hearing 8, held on 29 November 2023
Issue Specific Hearing 9 (ISH9) - 30 November 2023	
EV16-001	Agenda for Issue Specific Hearing 9 (ISH9)
EV16-002	8.145 Surface Access Controls - Relationships Map. Displayed by the Applicant at Issue Specific Hearing 9
EV16-003	Recording of Issue Specific Hearing 9 (ISH9) – Part 1 – 30 November 2023
EV16-004	Transcript of Recording of Issue Specific Hearing 9 (ISH9) – Part 1 – 30 November 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV16-005	Recording of Issue Specific Hearing 9 (ISH9) – Part 2 – 30 November 2023
EV16-006	Transcript of Recording of Issue Specific Hearing 9 (ISH9) – Part 2 – 30 November 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV16-007	Recording of Issue Specific Hearing 9 (ISH9) – Part 3 – 30 November 2023
EV16-008	Transcript of Recording of Issue Specific Hearing 9 (ISH9) – Part 3 – 30 November 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.

EV16-009	Action Points from Issue Specific Hearing 9, held on 30 November 2023	
EV16-010	Recording of Issue Specific Hearing 9 (ISH9) – Part 4 – 30 November 2023	
EV16-011	Transcript of Recording of Issue Specific Hearing 9 (ISH9) – Part 4 – 30 November 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.	
Issue Specific Hearing 10 (ISH10) - 1 December 2023		
EV17-001	Agenda for Issue Specific Hearing 10 (ISH10)	
EV17-002	Submission in lieu of attendance at Issue Specific Hearing 10 Environment Agency	
EV17-003	Recording of Issue Specific Hearing 10 (ISH10) – Part 1 – 1 December 2023	
EV17-004	Transcript of Recording of Issue Specific Hearing 10 (ISH10) – Part 1 – 1 December 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.	
EV17-005	Recording of Issue Specific Hearing 10 (ISH10) – Part 2 – 1 December 2023	
EV17-006	Transcript of Recording of Issue Specific Hearing 10 (ISH10) – Part 2 – 1 December 2023 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.	
EV17-007	Action Points from Issue Specific Hearing 10, held on 1 December 2023	
Representations		
Procedural Deadline A – 27 July 2023		
Deadline for receipt by the ExA of:		
• Responses to the Rule 6 letter including any written submissions on the Examination procedure and draft Examination Timetable • Requests to be heard orally at the Preliminary Meeting including which agenda items you wish to speak on, points you wish to make and why these need to be made orally rather than in writing • Request by Interested Parties to be heard orally at the Open Floor Hearings		
PDA-001	London Luton Airport Limited	Procedural Deadline A Submission - Response to Rule 6 Letter

PDA-002	Buckinghamshire Council	Procedural Deadline A Submission - Response to Rule 6 Letter
PDA-003	Hertfordshire County Council	Procedural Deadline A Submission - Responses to the Rule 6 letter including any written submissions on the Examination procedure and draft Examination Timetable
PDA-004	Huntingdonshire District Council	Procedural Deadline A Submission - Responses to the Rule 6 letter including any written submissions on the Examination procedure and draft Examination Timetable
PDA-005	Luton Borough Council	Procedural Deadline A Submission - Response to Rule 6 Letter
PDA-006	The Harpenden Society	Procedural Deadline A Submission - Responses to the Rule 6 letter including any written submissions on the Examination procedure and draft Examination Timetable
PDA-007	LADACAN	Procedural Deadline A Submission - Request by Interested Parties to be heard orally at the Open Floor Hearings
PDA-008	LADACAN	Procedural Deadline A Submission - Requests to be heard orally at the Preliminary Meeting including which agenda items you wish to speak on, points you wish to make and why these need to be made orally rather than in writing
PDA-009	David Endon Stuart Shipley	Procedural Deadline A Submission - Responses to the Rule 6 letter including any written submissions on the Examination procedure and draft Examination Timetable
PDA-010	Davina Martin	Procedural Deadline A Submission - Request to be heard orally at the Preliminary Meeting including which agenda items you wish to speak on, points you wish to make and why these need to be made orally rather than in writing
PDA-011	Richard Holmes	Procedural Deadline A Submission - Responses to the Rule 6 letter including any written submissions on the Examination procedure and draft Examination Timetable
PDA-012	Shirley Fisher	Procedural Deadline A Submission - Request by Interested Parties to be heard orally at the Open Floor Hearings
PDA-013	Simon Leadbeater	Procedural Deadline A Submission - Responses to the Rule 6 letter including any written submissions on the Examination procedure and draft Examination Timetable
PDA-014	Stuart Fisher	Procedural Deadline A Submission - Request by Interested Parties to be heard orally at the Open Floor Hearings

Deadline 1 – 22 August 2023

For receipt by the Examining Authority of:

- Comments on any updates to application documents submitted by the Applicant before or at the Preliminary Meeting (PM)
- Comments on Relevant Representations (RR)
- Summaries of all RR exceeding 1500 words
- Written Representations (WRs)
- Summaries of all WRs exceeding 1500 words
- Notification by Statutory Parties of their wish to be considered an Interested Party (IP) by the ExA
- Notification of wish to be heard at an Issue Specific Hearing (ISH)
- Request to be heard at a Compulsory Acquisition Hearing (CAH)
- Request by IPs to be heard at any subsequent Open Floor Hearings (OFH)
- Provision of suggested locations and justifications for an Accompanied Site Inspection (ASI) for consideration by the ExA (if held)
- Post-hearing submissions including written submissions of oral cases put at OFH1 and OFH2
- Response to Action Points arising from the PM, OFH1 or OFH2 (unless otherwise stated in Action Points)
- Guide to the Application
- Submission of information requested in Annex F of the Rule 6 letter
- Notification of wish to have future correspondence received electronically
- Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
- Comments on any further information/ submissions accepted by the ExA

REP1-001	London Luton Airport Limited	Deadline 1 Submission - Cover Letter Listing Deadline 1 Submissions & Response to Action Points arising from the PM, OFH1 or OFH2 (unless otherwise stated in Action Points)
REP1-002	London Luton Airport Limited	Deadline 1 Submission - 1.06 - Guide to the Application This has now been superseded by REP2-002
REP1-003	London Luton Airport Limited	Deadline 1 Submission - 5.01 Environmental Statement Chapter 16: Noise and Vibration This has now been superseded by REP9-011
REP1-004	London Luton Airport Limited	Deadline 1 Submission - 5.02 Environmental Statement Appendix 20.3 Hydrogeological Characterisation Report This has now been superseded by REP4-029
REP1-005	London Luton Airport Limited	Deadline 1 Submission - 8.23 Green Horizons Park Additional Information
REP1-006	London Luton Airport Limited	Deadline 1 Submission - 8.23 Green Horizons Park Additional Information - Appendix A Committee Reports

REP1-007	London Luton Airport Limited	Deadline 1 Submission - 8.23 Green Horizons Park Additional Information - Appendix B Decision Notice
REP1-008	London Luton Airport Limited	Deadline 1 Submission - 8.23 Green Horizons Park Additional Information - Appendix C S106 Agreement
REP1-009	London Luton Airport Limited	Deadline 1 Submission - 8.23 Green Horizons Park Additional Information - Appendix C S106 Agreement - Plans Part 1
REP1-010	London Luton Airport Limited	Deadline 1 Submission - 8.23 Green Horizons Park Additional Information - Appendix C S106 Agreement Plans Part 2
REP1-011	London Luton Airport Limited	Deadline 1 Submission - 8.23 Green Horizons Park Additional Information - Appendix D Plans
REP1-012	London Luton Airport Limited	Deadline 1 Submission - 8.24 Commentary on the Overarching Aviation Noise Policy Statement
REP1-013	London Luton Airport Limited	Deadline 1 Submission - 8.25 Applicant's Post Hearing Submission - Preliminary Meeting
REP1-014	London Luton Airport Limited	Deadline 1 Submission - 8.25 Applicant's Post Hearing Submission - Open Floor Hearing 1 and 2
REP1-015	London Luton Airport Limited	Deadline 1 Submission - 8.26 Errata Report This has now been superseded by REP5-036
REP1-016	London Luton Airport Limited	Deadline 1 Submission - 8.27 Flight and Passenger Information
REP1-017	London Luton Airport Limited	Deadline 1 Submission - 8.28 Environmental Improvement Plan Interim Target for PM2.5 Commentary
REP1-018	London Luton Airport Limited	Deadline 1 Submission - 8.29 Roles and Responsibilities of Luton Borough Council
REP1-019	London Luton Airport Limited	Deadline 1 Submission - 8.30 Trip Distribution Plans This has now been superseded by REP4-048
REP1-020	London Luton Airport Limited	Deadline 1 Submission - 8.31 Applicant's Response to Relevant Representations - Part 1 of 4
REP1-021	London Luton Airport Limited	Deadline 1 Submission - 8.31 Applicant's Response to Relevant Representations - Part 2A of 4 (Local Authorities)
REP1-022	London Luton Airport Limited	Deadline 1 Submission - 8.31 Applicant's Response to Relevant Representations - Part 2B of 4 (Members of the Public)
REP1-023	London Luton Airport Limited	Deadline 1 Submission - 8.31 Applicant's Response to Relevant Representations - Part 2C of 4 (Non-Statutory Organisations)
REP1-024	London Luton Airport Limited	Deadline 1 Submission - 8.31 Applicant's Response to Relevant Representations - Part 2D of 4 (Other Statutory Organisations)

REP1-025	London Luton Airport Limited	Deadline 1 Submission - 8.31 Applicant's Response to Relevant Representations - Part 2E of 4 (Parish Councils)
REP1-026	London Luton Airport Limited	Deadline 1 Submission - 8.31 Applicant's Response to Relevant Representations - Part 3 of 4 (Affected Persons)
REP1-027	London Luton Airport Limited	Deadline 1 Submission - 8.31 Applicant's Response to Relevant Representations - Part 4 of 4 (SoCGs and Additional Submissions)
REP1-028	London Luton Airport Limited	Deadline 1 Submission - 8.32 Relationship between the Development Consent Order Process and the Airspace Change Process
REP1-029	Affinity Water Limited	Deadline 1 Submission - Summaries of all WRs exceeding 1500 words
REP1-030	Affinity Water Limited	Deadline 1 Submission - Written Representations (WRs)
REP1-031	Alan Pearson	Deadline 1 Submission - Written Representations (WRs), accepted at the discretion of the Examining Authority
REP1-032	Alison Mitchell	Deadline 1 Submission - Written Representations (WRs)
REP1-033	Andrew Ferguson	Deadline 1 Submission - Written Representations (WRs), accepted at the discretion of the Examining Authority
REP1-034	Andrew Mills-Baker	Deadline 1 Submission - Comments on Relevant Representations (RR)
REP1-035	Andrew Mills-Baker	Deadline 1 Submission - Written Representations (WRs)
REP1-036	Bartholomew Pleydell-Bouverie	Deadline 1 Submission - Written Representations (WRs)
REP1-037	Brenda Ann Reintjes	Deadline 1 Submission - Written Representations (WR)
REP1-038	Buckinghamshire Council	Deadline 1 Submission - Comments on any updates to application documents submitted by the Applicant before or at the Preliminary Meeting (PM)
REP1-039	Buckinghamshire Council	Deadline 1 Submission - Cover letter: Provision of suggested locations and justifications for an Accompanied Site Inspection; Notification of wish to be heard at an Issue Specific Hearing; Comments on Rule 6 Annex F information
REP1-040	Buckinghamshire Council	Deadline 1 Submission - Summaries of all RR exceeding 1500 words
REP1-041	Buckinghamshire Council	Deadline 1 Submission - Summaries of all WRs exceeding 1500 words
REP1-042	Buckinghamshire Council	Deadline 1 Submission - Written Representations (WRs)

REP1-043	CMS Cameron McKenna Nabarro Olswang LLP	Deadline 1 Submission - Written Representations (WRs)
REP1-044	Campbell Family	Deadline 1 Submission - Written Representations (WRs)
REP1-045	Catherine Mary Ternouth	Deadline 1 Submission - Written Representations (WRs)
REP1-046	Central Bedfordshire Council	Deadline 1 Submission - Written Representations (WRs)
REP1-047	Central Bedfordshire Council	Deadline 1 - Notification of wish to be heard at Hearings
REP1-048	Chartered Institute of Logistics and Transport (CILT)	Deadline 1 Submission - Written Representations (WRs) and summary
REP1-049	Cherry Newbery	Deadline 1 Submission - Written Representations (WRs)
REP1-050	Daisy Cooper MP	Deadline 1 Submission - Written Representations (WRs)
REP1-051	Derek Bromley on behalf of A T O Holdings	Deadline 1 Submission - Written Representations (WRs)
REP1-052	Diane Rosemary Casemore	Deadline 1 Submission - Written Representations (WRs)
REP1-053	Edmund Wright	Deadline 1 Submission - Written Representations (WRs)
REP1-054	Edward Franklin	Deadline 1 Submission - Written Representations (WR)
REP1-055	Elissa Brooke Gordon	Deadline 1 Submission - Written Representations (WRs)
REP1-056	Elizabeth Graham	Deadline 1 Submission - Written Representations (WRs)
REP1-057	England's Economic Heartland	Deadline 1 Submission - Written Representations (WRs) Late Submission, accepted at the discretion of the Examining Authority
REP1-058	Environment Agency	Deadline 1 Submission - Written Representations (WR)
REP1-059	Fiona Duggett	Deadline 1 Submission - Written Representations (WRs)
REP1-060	Friends of Wigmore Park	Deadline 1 Submission - Written Representations (WRs)
REP1-061	Geoffrey Kenneth Rochester	Deadline 1 Submission - Written Representations (WRs)
REP1-062	Gowling WLG (UK) LLP on behalf of Bloor Homes Ltd	Deadline 1 Submission - Written Representations (WRs)
REP1-063	Greater London Authority	Deadline 1 Submission

REP1-064	HarpendenSky	Deadline 1 Submission – Post-hearing submissions including written submissions of oral cases put at OFH1 and OFH2
REP1-065	Heather Jayne Brady	Deadline 1 Submission - Written Representations (WRs)
REP1-066	Hertfordshire County Council, Dacorum Council, North Hertfordshire Council	Deadline 1 Submission - Notification of wish to be heard at an Issue Specific Hearing (ISH) and provision of suggested locations and justifications for an Accompanied Site Inspection
REP1-067	Hertfordshire County Council, Dacorum Council, North Hertfordshire Council	Deadline 1 Submission - Summaries of all RR exceeding 1500 words
REP1-068	Hertfordshire County Council, Dacorum Council, North Hertfordshire Council	Deadline 1 Submission - Summaries of all WRs exceeding 1500 words
REP1-069	Hertfordshire County Council, Dacorum Council, North Hertfordshire Council	Deadline 1 Submission - Written Representations (WRs) Please see errata amendment in AS-148
REP1-070	Historic England	Deadline 1 Submission - Written Representations (WRs)
REP1-071	Hitchin Forum	Deadline 1 Submission - Summaries of all RR exceeding 1500 words
REP1-072	Holiday Extras Limited	Deadline 1 Submission - Summaries of all WRs exceeding 1500 words
REP1-073	Holiday Extras Limited	Deadline 1 Submission - Written Representations (WRs)
REP1-074	Hugh Reeves	Deadline 1 Submission - Written Representations (WRs)
REP1-075	Ian Roper	Deadline 1 Submission - Written Representations (WRs)
REP1-076	Inspired Villages	Deadline 1 Submission - Written Representations (WRs)
REP1-077	J Oliver	Deadline 1 Submission - Written Representations (WRs)
REP1-078	Jane Spendley	Deadline 1 Submission - Post-hearing submissions including written submissions of oral cases put at OFH1 and OFH2
REP1-079	Janet Ingham	Deadline 1 Submission - Written Representations (WRs)
REP1-080	Jason Handscombe	Deadline 1 Submission - Written Representations (WRs), accepted at the discretion of the Examining Authority

REP1-081	Jia Cheng Zhou	Deadline 1 Submission - Written Representations (WRs)
REP1-082	Joanne Willey	Deadline 1 Submission - Written Representations (WRs)
REP1-083	John A Smith	Deadline 1 Submission - Written Representations (WRs)
REP1-084	John Philip Davies	Deadline 1 Submission - Provision of suggested locations and justifications for an Accompanied Site Inspection (ASI) for consideration by the ExA (if held)
REP1-085	John Skeggs	Deadline 1 Submission - Comments on any further information/ submissions received by Deadline 1
REP1-086	Joseph Kelly	Deadline 1 Submission - Written Representations (WRs)
REP1-087	Julie Christmas	Deadline 1 Submission - Written Representations (WRs)
REP1-088	LADACAN	Deadline 1 Submission - Written Representation - Comments on Overarching Noise Policy issued by the Df
REP1-089	LADACAN	Deadline 1 Submission - Comments on Relevant Representations (RR)
REP1-090	LADACAN	Deadline 1 Submission - Notification of wish to be heard at an Issue Specific Hearing (ISH)
REP1-091	LADACAN	Deadline 1 Submission - Post-hearing submissions including written submissions of oral cases put at OFH1 and OFH2
REP1-092	LADACAN	Deadline 1 Submission - Request by IPs to be heard at any subsequent Open Floor Hearings (OFH)
REP1-093	LADACAN	Deadline 1 Submission - Summaries of all RR exceeding 1500 words
REP1-094	LADACAN	Deadline 1 Submission - Summaries of all WRs exceeding 1500 words
REP1-095	LADACAN	Deadline 1 Submission - Written Representations (WRs) Please see errata amendment in AS-150
REP1-096	Luton Borough Council	Deadline 1 Submission - Request to be heard at a Compulsory Acquisition Hearing (CAH)
REP1-097	Luton Borough Council	Deadline 1 Submission - Notification of wish to be heard at an Issue Specific Hearing (ISH)
REP1-098	Luton Borough Council	Deadline 1 Submission - Written Representations (WRs)
REP1-099	Luton Friends of the Earth	Deadline 1 Submission - Written Representations (WRs)
REP1-100	Maha Al Jafry Thomson	Deadline 1 Submission - Notification of wish to be heard at an Issue Specific Hearing (ISH)

REP1-101	Maha Al Jafry Thomson	Deadline 1 Submission - Request by IPs to be heard at any subsequent Open Floor Hearings (OFH)
REP1-102	Maha Al Jafry Thomson	Deadline 1 Submission - Written Representations (WRs)
REP1-103	Marcus Carter-Adams	Deadline 1 Submission - Written Representations (WRs)
REP1-104	Mark Butterfield	Deadline 1 Submission - Written Representations (WRs)
REP1-105	Michael Reddington	Deadline 1 Submission - Summaries of all WRs exceeding 1500 words
REP1-106	Michael Reddington	Deadline 1 Submission - Written Representations (WRs)
REP1-107	Mr & Mrs C. Richardson	Deadline 1 Submission - Written Representations (WRs)
REP1-108	N Oliver	Deadline 1 Submission - Written Representations (WRs)
REP1-109	National Trust	Deadline 1 Submission - Provision of suggested locations and justifications for an Accompanied Site Inspection (ASI) for consideration by the ExA (if held)
REP1-110	National Trust	Deadline 1 Submission - Written Representations (WRs) and summary
REP1-111	NATS Safeguarding	Deadline 1 Submission - Written Representations (WRs)
REP1-112	Natural England	Deadline 1 Submission - Written Representations (WRs)
REP1-113	Network Rail Infrastructure Limited	Deadline 1 Submission - Written Representations (WRs)
REP1-114	New Economics Foundation	Deadline 1 Submission - Summaries of all WRs exceeding 1500 words
REP1-115	New Economics Foundation	Deadline 1 Submission - Written Representations (WRs)
REP1-116	Nicola Anne French	Deadline 1 Submission - Post-hearing submissions including written submissions of oral cases put at OFH1 and OFH2
REP1-117	Nigel Oxley	Deadline 1 Submission - Written Representations (WRs)
REP1-118	North Herts & Stevenage Friends of the Earth	Deadline 1 Submission - Written Representations (WRs)
REP1-119	Openwide Investments Limited	Deadline 1 Submission - Written Representations (WRs)
REP1-120	Patrick John Mckenna	Deadline 1 Submission - Written Representations (WRs)
REP1-121	Paul Kenneth Solly	Deadline 1 Submission - Written Representations (WRs)

REP1-122	Peter Stuart Casemore	Deadline 1 Submission - Written Representations (WRs)
REP1-123	Peter White	Deadline 1 Submission - Post-hearing submissions including written submissions of oral cases put at OFH1 and OFH2
REP1-124	Philippa Dianne Eke	Deadline 1 Submission - Written Representations (WRs)
REP1-125	Pitstone Parish Council	Deadline 1 Submission - Written Representations (WRs)
REP1-126	Professor Hartley Dean	Deadline 1 Submission - Written Representations (WRs)
REP1-127	Richard Anthony Foan	Deadline 1 Submission - Post-hearing submissions including written submissions of oral cases put at OFH1 and OFH2, accepted at the discretion of the Examining Authority
REP1-128	Richard Choppin	Deadline 1 Submission - Written Representations (WRs)
REP1-129	Richard George Brady	Deadline 1 Submission - Written Representations (WRs)
REP1-130	Richard Stubbs	Deadline 1 Submission - Written Representations (WRs)
REP1-131	Roger David Thomson	Deadline 1 Submission - Notification of wish to be heard at an Issue Specific Hearing (ISH)
REP1-132	Roger David Thomson	Deadline 1 Submission - Request by IPs to be heard at any subsequent Open Floor Hearings (OFH)
REP1-133	Roger David Thomson	Deadline 1 Submission - Written Representations (WRs)
REP1-134	Roger Lovegrove	Deadline 1 Submission - Written Representations (WRs), accepted at the discretion of the Examining Authority
REP1-135	Rosemary Fenton	Deadline 1 Submission - Written Representations (WRs)
REP1-136	Russell Collins	Deadline 1 Submission - Written Representations (WRs)
REP1-137	S Rostami	Deadline 1 Submission - Written Representations (WRs)
REP1-138	Sarah Davies	Deadline 1 Submission - Written Representations (WRs)
REP1-139	Serafina Butterfield	Deadline 1 Submission - Written Representations (WRs)
REP1-140	Sidney Garnett	Deadline 1 Submission - Written Representations (WRs)
REP1-141	Simon Leadbeater	Deadline 1 Submission - Written Representations (WRs)
REP1-142	St Paul's Walden Bury Estate Company	Deadline 1 Submission - Written Representations (WRs)

REP1-143	St Paul's Walden Bury Estate Company	Deadline 1 Submission - Post-hearing submissions including written submissions of oral cases put at OFH1 and OFH2
REP1-144	Slip End Parish Council	Deadline 1 Submission - Comments on any updates to application documents submitted by the Applicant before or at the Preliminary Meeting (PM)
REP1-145	South Cambridgeshire District Council, Caldecote Ward	Deadline 1 Submission - Comments on Relevant Representations (RR)
REP1-146	St Albans Quieter Skies (STAQS)	Deadline 1 Submission - Comments on Relevant Representations (RR)
REP1-147	St Albans Quieter Skies (STAQS)	Deadline 1 Submission - Notification of wish to be heard at an Issue Specific Hearing (ISH)
REP1-148	St Albans Quieter Skies (STAQS)	Deadline 1 Submission - Submission of information requested in Annex F of the Rule 6 letter
REP1-149	St Albans Quieter Skies (STAQS)	Deadline 1 Submission - Written Representations (WRs)
REP1-150	Stephen Pentland	Deadline 1 Submission - Written Representations (WRs)
REP1-151	Stephen Peter Gent	Deadline 1 Submission - Comments on any further information/ submissions accepted by the ExA
REP1-152	Stephen Peter Gent	Deadline 1 Submission - Notification of wish to be heard at an Issue Specific Hearing (ISH)
REP1-153	Stephen Peter Gent	Deadline 1 Submission - Post-hearing submissions including written submissions of oral cases put at OFH1 and OFH2
REP1-154	Stephen Peter Gent	Deadline 1 Submission - Provision of suggested locations and justifications for an Accompanied Site Inspection (ASI) for consideration by the ExA (if held)
REP1-155	Stephen Peter Gent	Deadline 1 Submission - Request by IPs to be heard at any subsequent Open Floor Hearings (OFH)
REP1-156	Stop Luton Airport Expansion	Deadline 1 Submission - Comments on Relevant Representations (RR)
REP1-157	Stop Luton Airport Expansion	Deadline 1 Submission - Post-hearing submissions including written submissions of oral cases put at OFH1 and OFH2
REP1-158	Stop Luton Airport Expansion	Deadline 1 Submission - Provision of suggested locations and justifications for an Accompanied Site Inspection (ASI) for consideration by the ExA (if held)
REP1-159	Stop Luton Airport Expansion	Deadline 1 Submission - Summaries of all RR exceeding 1500 words

REP1-160	Stop Luton Airport Expansion	Deadline 1 Submission - Written Representations (WRs) regarding Green Horizons Park
REP1-161	Stop Luton Airport Expansion	Deadline 1 Submission - Written Representations (WRs) regarding Luton Town Football Club's training and new stadium
REP1-162	Stop Luton Airport Expansion	Deadline 1 Submission - Written Representations (WRs) regarding the Pavillion, Skate Park and Children's Playground at Wigmore Valley Park
REP1-163	Thames Water	Deadline 1 Submission - Summary of RR exceeding 1500 words. Late submission, accepted at the discretion of the Examining Authority
REP1-164	The Harpenden Society	Deadline 1 Submission - Summaries of all WRs exceeding 1500 words
REP1-165	The Harpenden Society	Deadline 1 Submission - Written Representations (WRs)
REP1-166	The Woodland Trust	Deadline 1 Submission - Written Representations (WRs)
REP1-167	Tim Broomhead (Knight Frank LLP) representing Cella UK Property Unit Trust 1	Deadline 1 Submission - Request to be heard at a Compulsory Acquisition Hearing (CAH)
REP1-168	Transport for London	Deadline 1 Submission - Written Representations (WRs)
REP1-169	Victoria Collins	Deadline 1 Submission - Written Representations (WRs), accepted at the discretion of the Examining Authority
REP1-170	Wheathampstead & District Preservation Society (WDPS)	Deadline 1 Submission - Written Representations (WRs)
Deadline 1A – 25 August 2023 For receipt by the Examining Authority of: Local Impact Reports (LIRs)		
REP1A-001	Buckinghamshire Council	Deadline 1A Submission - Local Impact Reports (LIRs)
REP1A-002	Central Bedfordshire Council	Deadline 1A Submission - Local Impact Reports (LIRs)
REP1A-003	Hertfordshire County Council, Dacorum Council, North	Deadline 1A Submission - Local Impact Reports (LIRs) Please see errata amendment in AS-147

	Hertfordshire Council	
REP1A-004	Luton Borough Council	Deadline 1A Submission - Local Impact Reports (LIRs)
Deadline 2 – 12 September 2023 For receipt by the Examining Authority of: - Initial Statements of Common Ground (SoCGs) requested by the ExA (see Annex F of the Rule 6 letter) - Statement of Commonality of SoCG - Comments on WRs - The Applicant's comments on oral and written submissions of oral cases put at OFH1 and OFH2 - The Applicant's revised draft Development Consent Order (draft DCO)(if required) - Status of Negotiations/ Compulsory Acquisition Schedule - Applicant's draft itinerary for the ASI (if held) - Updated Principal Areas of Disagreement Summary Statements (PADSS) - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 - Comments on any further information/ submissions received by Deadline 1		
REP2-001	London Luton Airport Limited	Deadline 2 Submission - Cover Letter
REP2-002	London Luton Airport Limited	Deadline 2 Submission - 1.06 Guide to the Application This has now been superseded by REP2A-002
REP2-003	London Luton Airport Limited	Deadline 2 Submission - 2.01 Draft Development Consent Order This has now been superseded by REP3-003
REP2-004	London Luton Airport Limited	Deadline 2 Submission - 2.01 Draft Development Consent Order (tracked changes) This has now been superseded by REP3-004
REP2-005	London Luton Airport Limited	Deadline 2 Submission - 7.10 Draft Compensation Policies Measures and Community First This has now been superseded by REP4-042
REP2-006	London Luton Airport Limited	Deadline 2 Submission - 7.10 Draft Compensation Policies Measures and Community First Appendix A (Part 1 of 2)
REP2-007	London Luton Airport Limited	Deadline 2 Submission - 7.10 Draft Compensation Policies Measures and Community First Appendix A (Part 2 of 2)
REP2-008	London Luton Airport Limited	Deadline 2 Submission - 8.01 Statement of Common Ground between London Luton Airport Limited and Bedfordshire Police

REP2-009	London Luton Airport Limited	Deadline 2 Submission - 8.02 Statement of Common Ground between London Luton Airport Limited and World Fuel Services This has now been superseded by REP6-011
REP2-010	London Luton Airport Limited	Deadline 2 Submission - 8.03 Statement of Common Ground between London Luton Airport Limited and Prax Downstream UK Limited This has now been superseded by REP6-012
REP2-011	London Luton Airport Limited	Deadline 2 Submission - 8.04 Statement of Common Ground between London Luton Airport Limited and Cadent Gas This has now been superseded by REP10-031
REP2-012	London Luton Airport Limited	Deadline 2 Submission - 8.05 Statement of Common Ground between London Luton Airport Limited and Historic England This has now been superseded by REP6-013
REP2-013	London Luton Airport Limited	Deadline 2 Submission - 8.06 Statement of Common Ground between London Luton Airport Limited and Thames Water Utilities Limited This has now been superseded by REP3-027
REP2-014	London Luton Airport Limited	Deadline 2 Submission - 8.07 Statement of Common Ground between London Luton Airport Limited and the Environment Agency This has now been superseded by REP3-029
REP2-015	London Luton Airport Limited	Deadline 2 Submission - 8.08 Statement of Common Ground between London Luton Airport Limited and Affinity Water This has now been superseded by REP3-031
REP2-016	London Luton Airport Limited	Deadline 2 Submission - 8.09 Statement of Common Ground between London Luton Airport Limited and NATS (Services) Limited This has now been superseded by REP8-026
REP2-017	London Luton Airport Limited	Deadline 2 Submission - 8.10 Statement of Common Ground between London Luton Airport Limited and the Civil Aviation Authority This has now been superseded by REP3-033
REP2-018	London Luton Airport Limited	Deadline 2 Submission - 8.11 Statement of Common Ground between London Luton Airport Limited and National Highways This has now been superseded by REP3-035
REP2-019	London Luton Airport Limited	Deadline 2 Submission - 8.12 Statement of Common Ground between London Luton Airport Limited and the UK Health Security Agency This has now been superseded by REP6-025
REP2-020	London Luton Airport Limited	Deadline 2 Submission - 8.13 Statement of Common Ground between London Luton Airport Limited and Luton Borough Council This has now been superseded by REP6-027

REP2-021	London Luton Airport Limited	Deadline 2 Submission - 8.14 Statement of Common Ground between London Luton Airport Limited and Central Bedfordshire Council This has now been superseded by REP6-029
REP2-022	London Luton Airport Limited	Deadline 2 Submission - 8.15 Statement of Common Ground between London Luton Airport Limited and Hertfordshire County Council This has now been superseded by REP6-031
REP2-023	London Luton Airport Limited	Deadline 2 Submission - 8.16 Statement of Common Ground between London Luton Airport Limited and North Hertfordshire District Council This has now been superseded by REP6-033
REP2-024	London Luton Airport Limited	Deadline 2 Submission - 8.17 Statement of Common Ground between London Luton Airport Limited and Dacorum Borough Council This has now been superseded by REP6-035
REP2-025	London Luton Airport Limited	Deadline 2 Submission - 8.18 Statement of Common Ground between London Luton Airport Limited and Buckinghamshire Council This has now been superseded by REP3-037
REP2-026	London Luton Airport Limited	Deadline 2 Submission - 8.19 Statement of Common Ground between London Luton Airport Limited and the East of England Ambulance Service NHS Trust This has now been superseded by REP6-039
REP2-027	London Luton Airport Limited	Deadline 2 Submission - 8.20 Statement of Common Ground between London Luton Airport Limited and the Bedfordshire Fire and Rescue Service This has now been superseded by REP6-041
REP2-028	London Luton Airport Limited	Deadline 2 Submission - 8.21 Statement of Common Ground between London Luton Airport Limited and NATS (En Route) PLC This has now been superseded by REP6-043
REP2-029	London Luton Airport Limited	Deadline 2 Submission - 8.22 Statement of Commonality for Statements of Common Ground This has now been superseded by REP3-039
REP2-030	London Luton Airport Limited	Deadline 2 Submission - 8.33 Applicant's Summary of Oral Submissions and Responses to Comments Made at Open Floor Hearing 1, Open Floor Hearing 2 and Post-Hearing Submissions
REP2-031	London Luton Airport Limited	Deadline 2 Submission - 8.35 Applicant's draft itinerary for the Accompanied Site Inspection
REP2-032	London Luton Airport Limited	Deadline 2 Submission - 8.36 Noise Envelope - Improvements and worked example
REP2-033	London Luton Airport Limited	Deadline 2 Submission - 8.39 Applicant's Response to Written Representations - Part 1a

		members of the public and businesses (Thematic)
REP2-034	London Luton Airport Limited	Deadline 2 Submission - 8.39 Applicant's Response to Written Representations made by Members of the Public at Deadline 1 (Part 1b)
REP2-035	London Luton Airport Limited	Deadline 2 Submission - 8.39 Applicant's Response to Written Representations - Part 2 Interested Parties subject to a Statement of Common Ground
REP2-036	London Luton Airport Limited	Deadline 2 Submission - 8.39 Applicant's Response to Written Representations made by Affected Persons at Deadline 1 (Part 3) This has now been superseded by REP3-043
REP2-037	London Luton Airport Limited	Deadline 2 Submission - 8.39 Applicant's Response to Written Representations made by Non-Statutory Organisations at Deadline 1 (Part 4)
REP2-038	London Luton Airport Limited	Deadline 2 Submission - 8.39 Applicant's Response to Written Representations - Part 4 - Appendix (NEF)
REP2-039	London Luton Airport Limited	Deadline 2 Submission - 8.39 Applicant's Response to Written Representations made by Other Statutory Organisations and Additional Submissions at Deadline 1 - Part 5
REP2-040	London Luton Airport Limited	Deadline 2 Submission - 8.41 Surface Access Noise Modelling Additional Information This has now been superseded by REP3-045
REP2-041	London Luton Airport Limited	Deadline 2 Submission - 8.42 Statement of Common Ground between London Luton Airport Limited and Natural England This has now been superseded by REP6-049
REP2-042	London Luton Airport Limited	Deadline 2 Submission - 8.43 Response to Chris Smith Aviation Consultancy Limited - Initial Review of DCO Need Case for the Host Authorities
REP2-043	Buckinghamshire Council	Deadline 2 Submission - Buckinghamshire Council Cover Letter
REP2-044	Buckinghamshire Council	Deadline 2 Submission - Comments on any further information/ submissions received by Deadline 1
REP2-045	Buckinghamshire Council	Deadline 2 Submission - Updated Principal Areas of Disagreement Summary Statement
REP2-046	Central Bedfordshire Council	Deadline 2 Submission - Other - Cover Letter
REP2-047	Central Bedfordshire Council	Deadline 2 Submission - Written Representation with appendices
REP2-048	Central Bedfordshire Council	Deadline 2 Submission - Updated Principal Areas of Disagreement Summary Statement

REP2-049	David Endon Stuart Shipley	Deadline 2 Submission - Comments on any further information/ submissions received by Deadline 1
REP2-050	David Hart Jesson	Deadline 2 Submission - Written Representation
REP2-051	Elizabeth Mary Ayton	Deadline 2 Submission - Comments on any further information/ submissions received by Deadline 1
REP2-052	Elsebeth Mcconkey	Deadline 2 Submission - Other - Air quality
REP2-053	Flamstead Parish Council	Deadline 2 Submission - Written Representation
REP2-054	Friends of Wigmore Park	Deadline 2 Submission - Comments on any further information/ submissions received by Deadline 1
REP2-055	Friends of Wigmore Park	Deadline 2 Submission - Comments on WRs
REP2-056	HarpendenSky	Deadline 2 Submission - Comments on any further information/submissions received by Deadline 1
REP2-057	From Hertfordshire County Council, Dacorum Council, North Hertfordshire Council, Luton Borough Council, Central Bedfordshire Council	Deadline 2 Submission - Initial Review of DCO Need Case
REP2-058	Hertfordshire County Council, Dacorum Council, North Hertfordshire Council	Deadline 2 Submission - Updated Principal Areas of Disagreement Summary Statement
REP2-059	Hitchin Forum	Deadline 2 Submission - Comments on any further information/ submissions received by Deadline 1
REP2-060	Holiday Extras Ltd	Deadline 2 Submission - Comments on WRs
REP2-061	LADACAN	Deadline 2 Submission - Comments on any further information/ submissions received by Deadline 1
REP2-062	LADACAN	Deadline 2 Submission - Updated Principal Areas of Disagreement Summary Statement
REP2-063	Luton Borough Council	Deadline 2 Submission - Cover letter and Principal Areas of Disagreement Summary Statement
REP2-064	Michael Reddington	Deadline 2 Submission - Comments on any further information/ submissions received by Deadline 1
REP2-065	National Trust	Deadline 2 Submission - Comments on any further information/ submissions received by Deadline 1

REP2-066	National Trust	Deadline 2 Submission - Updated Principal Areas of Disagreement Summary Statement
REP2-067	PAIN	Deadline 2 Submission - Comments on WRs
REP2-068	Pamela Rose Jesson	Deadline 2 Submission - Written Representation
REP2-069	Pat Valian	Deadline 2 Submission - Written Representation
REP2-070	Paul Farquharson	Deadline 2 Submission - Comments on any further information/submissions received by Deadline 1 - accepted at the discretion of the Examining Authority
REP2-071	Peter White	Deadline 2 Submission - Comments on WRs
REP2-072	Richard West	Deadline 2 Submission - Comments on information received at Procedural Deadline A
REP2-073	Stop Luton Airport Expansion	Deadline 2 Submission - Comments on any further information/ submissions received by Deadline 1 - Response to the Applicant's response to the SLAE Relevant Representation
REP2-074	Stop Luton Airport Expansion	Deadline 2 Submission - Comments on WRs
REP2-075	The Harpenden Society	Deadline 2 Submission - Comments on any further information/ submissions received by Deadline 1
Deadline 2A – 15 September 2023 For receipt by the Examining Authority of: • Comments on the LIRs		
REP2A-001	London Luton Airport Limited	Deadline 2A Submission - Cover Letter
REP2A-002	London Luton Airport Limited	Deadline 2A Submission - 1.06 Application Document Tracker This has now been superseded by REP3-002
REP2A-003	London Luton Airport Limited	Deadline 2A Submission - 8.34 Status of Negotiations / Compulsory Acquisition Schedule This has now been superseded by REP3-041
REP2A-004	London Luton Airport Limited	Deadline 2A Submission - 8.37 Applicant's Comments on Local Impact Reports (Buckinghamshire Council)
REP2A-005	London Luton Airport Limited	Deadline 2A Submission - 8.38 Applicant's Comments on Local Impact Reports (Central Bedfordshire Council)
REP2A-006	London Luton Airport Limited	Deadline 2A Submission - 8.40 Applicant's Comments on Local Impact Reports (Hertfordshire County Council, Dacorum Borough Council, North Hertfordshire Council)

REP2A-007	London Luton Airport Limited	Deadline 2A Submission - 8.44 Applicant's Comments on Local Impact Reports (Luton Borough Council)
Deadline 3 – 5 October 2023 For receipt by the Examining Authority of: • Post-hearing submissions including written submissions of oral cases • The Applicant's revised draft DCO (if required) • Status of Negotiations/ CA Schedule • Updated SoCG • Updated Statement of Commonality of SoCG • Updated PADSS • Updated Guide to the Application • Comments on the Applicant's draft itinerary for the ASI (if held) • Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 • Comments on any further information/ submissions received by Deadline 2		
REP3-001	London Luton Airport Limited	Deadline 3 Submission - Cover Letter
REP3-002	London Luton Airport Limited	Deadline 3 Submission - 1.06 Application Document Tracker This has now been superseded by REP4-002
REP3-003	London Luton Airport Limited	Deadline 3 Submission - 2.01 Draft Development Consent Order This has now been superseded by REP4-003
REP3-004	London Luton Airport Limited	Deadline 3 Submission - 2.01 Draft Development Consent Order (Tracked Change Version) This has now been superseded by REP4-004
REP3-005	London Luton Airport Limited	Deadline 3 Submission - 2.02 Explanatory Memorandum
REP3-006	London Luton Airport Limited	Deadline 3 Submission - 2.02 Explanatory Memorandum (Tracked Change Version)
REP3-007	London Luton Airport Limited	Deadline 3 Submission - 5.01 Chapter 12 - Greenhouse Gases
REP3-008	London Luton Airport Limited	Deadline 3 Submission - 5.01 Chapter 12 - Greenhouse Gases (Tracked Change Version)
REP3-009	London Luton Airport Limited	Deadline 3 Submission - 5.02 Appendix 14.7 Accurate Visual Representations - Representative Viewpoints 1, 5, and 6 This has now been superseded by REP10-013
REP3-010	London Luton Airport Limited	Deadline 3 Submission - 5.02 Appendix 14.7 Accurate Visual Representations -

		Representative Viewpoints 10B, 13, 14, 17, and 17A This has now been superseded by REP8-017
REP3-011	London Luton Airport Limited	Deadline 3 Submission - 5.02 Appendix 14.7 Accurate Visual Representations - Representative Viewpoints 18, 19, 20, 23, 24, and 25 This has now been superseded by REP10-015
REP3-012	London Luton Airport Limited	Deadline 3 Submission - 5.02 Appendix 14.7 Accurate Visual Representations - Representative Viewpoints 26, 28, 29, 30, 31, 34, 36 and 37 This has now been superseded by REP10-016
REP3-013	London Luton Airport Limited	Deadline 3 Submission - 5.02 Appendix 14.7 Accurate Visual Representations - Representative Viewpoints 46, 48, 50 This has now been superseded by REP10-017
REP3-014	London Luton Airport Limited	Deadline 3 Submission - 5.02 Appendix 14.7 Accurate Visual Representations Representative Viewpoints 53, 56, 61 This has now been superseded by REP10-018
REP3-015	London Luton Airport Limited	Deadline 3 Submission - 7.07 Green Controlled Growth Explanatory Note This has now been superseded by REP5-020
REP3-016	London Luton Airport Limited	Deadline 3 Submission - 7.07 Green Controlled Growth Explanatory Note (Tracked Change Version) This has now been superseded by REP5-021
REP3-017	London Luton Airport Limited	Deadline 3 Submission - 7.08 Green Controlled Growth Framework This has now been superseded by REP5-022
REP3-018	London Luton Airport Limited	Deadline 3 Submission - 7.08 Green Controlled Growth Framework (Tracked Change Version) This has now been superseded by REP5-023
REP3-019	London Luton Airport Limited	Deadline 3 Submission - 7.08 Green Controlled Growth Framework Appendix A - Draft ESG Terms of Reference This has now been superseded by REP5-024
REP3-020	London Luton Airport Limited	Deadline 3 Submission - 7.08 Green Controlled Growth Framework Appendix A - Draft ESG Terms of Reference (Tracked Change Version) This has now been superseded by REP5-025
REP3-021	London Luton Airport Limited	Deadline 3 Submission - 7.08 Green Controlled Growth Framework Appendix B - ESG Technical Panels Draft Terms of Reference This has now been superseded by REP5-026

REP3-022	London Luton Airport Limited	Deadline 3 Submission - 7.08 Green Controlled Growth Framework Appendix B - ESG Technical Panels Draft Terms of Reference (Tracked Change Version) This has now been superseded by REP5-027
REP3-023	London Luton Airport Limited	Deadline 3 Submission - 7.08 Green Controlled Growth Framework Appendix C - Aircraft Noise Monitoring Plan This has now been superseded by REP5-028
REP3-024	London Luton Airport Limited	Deadline 3 Submission - 7.08 Green Controlled Growth Framework Appendix C - Aircraft Noise Monitoring Plan (Tracked Change Version) This has now been superseded by REP5-029
REP3-025	London Luton Airport Limited	Deadline 3 Submission - 7.08 Green Controlled Growth Framework Appendix D - Air Quality Monitoring Plan This has now been superseded by REP5-030
REP3-026	London Luton Airport Limited	Deadline 3 Submission - 7.08 Green Controlled Growth Framework Appendix D - Air Quality Monitoring Plan (Tracked Change Version) This has now been superseded by REP5-031
REP3-027	London Luton Airport Limited	Deadline 3 Submission - 8.06 Statement of Common Ground between London Luton Airport Limited and Thames Water Utilities Limited This has now been superseded by REP6-015
REP3-028	London Luton Airport Limited	Deadline 3 Submission - 8.06 Statement of Common Ground between London Luton Airport Limited and Thames Water Utilities Limited (Tracked Change Version) This has now been superseded by REP6-016
REP3-029	London Luton Airport Limited	Deadline 3 Submission - 8.07 Statement of Common Ground between London Luton Airport Limited and the Environment Agency This has now been superseded by REP6-017
REP3-030	London Luton Airport Limited	Deadline 3 Submission - 8.07 Statement of Common Ground between London Luton Airport Limited and the Environment Agency (Tracked Change Version) This has now been superseded by REP6-018
REP3-031	London Luton Airport Limited	Deadline 3 Submission - 8.08 Statement of Common Ground between London Luton Airport Limited and Affinity Water This has now been superseded by REP6-019
REP3-032	London Luton Airport Limited	Deadline 3 Submission - 8.08 Statement of Common Ground between London Luton Airport Limited and Affinity Water (Tracked Change Version) This has now been superseded by REP6-020

REP3-033	London Luton Airport Limited	Deadline 3 Submission - 8.10 Statement of Common Ground between London Luton Airport Limited and the Civil Aviation Authority This has now been superseded by REP6-021
REP3-034	London Luton Airport Limited	Deadline 3 Submission - 8.10 Statement of Common Ground between London Luton Airport Limited and the Civil Aviation Authority (Tracked Change Version) This has now been superseded by REP6-022
REP3-035	London Luton Airport Limited	Deadline 3 Submission - 8.11 Statement of Common Ground between London Luton Airport Limited and National Highways This has now been superseded by REP4-046
REP3-036	London Luton Airport Limited	Deadline 3 Submission - 8.11 Statement of Common Ground between London Luton Airport Limited and National Highways (Tracked Change Version) This has now been superseded by REP4-047
REP3-037	London Luton Airport Limited	Deadline 3 Submission - 8.18 Statement of Common Ground between London Luton Airport Limited and Buckinghamshire Council This has now been superseded by REP6-037
REP3-038	London Luton Airport Limited	Deadline 3 Submission - 8.18 Statement of Common Ground between London Luton Airport Limited and Buckinghamshire Council (Tracked Change Version) This has now been superseded by REP6-038
REP3-039	London Luton Airport Limited	Deadline 3 Submission - 8.22 Statement of Commonality for Statements of Common Ground This has now been superseded by REP6-045
REP3-040	London Luton Airport Limited	Deadline 3 Submission - 8.22 Statement of Commonality for Statements of Common Ground (Tracked Change Version) This has now been superseded by REP6-046
REP3-041	London Luton Airport Limited	Deadline 3 Submission - 8.34 Status of Negotiations - Compulsory Acquisition Schedule This has now been superseded by REP6-047
REP3-042	London Luton Airport Limited	Deadline 3 Submission - 8.34 Status of Negotiations - Compulsory Acquisition Schedule (Tracked Change Version) This has now been superseded by REP6-048
REP3-043	London Luton Airport Limited	Deadline 3 Submission - 8.39 Applicant's response to Written Representations made by Affected Persons at Deadline 1 (Part 3)
REP3-044	London Luton Airport Limited	Deadline 3 Submission - 8.39 Applicant's response to Written Representations made by Affected Persons at Deadline 1 (Part 3) Tracked Changes

REP3-045	London Luton Airport Limited	Deadline 3 Submission - 8.41 Surface Access Noise Modelling Additional Information
REP3-046	London Luton Airport Limited	Deadline 3 Submission - 8.41 Surface Access Noise Modelling Additional Information (Tracked Change Version)
REP3-047	London Luton Airport Limited	Deadline 3 Submission - 8.45 Holiday Inn Acoustic Barrier - Change Notification
REP3-048	London Luton Airport Limited	Deadline 3 Submission - 8.47 Applicant's Post Hearing Submission - Issue Specific Hearing 1 (ISH1)
REP3-049	London Luton Airport Limited	Deadline 3 Submission - 8.48 Applicant's Post Hearing Submission - Issue Specific Hearing 2 (ISH2)
REP3-050	London Luton Airport Limited	Deadline 3 Submission - 8.49 Applicant's Post Hearing Submission - Issue Specific Hearing 3 (ISH3)
REP3-051	London Luton Airport Limited	Deadline 3 Submission - 8.50 Applicant's Post Hearing Submission - Issue Specific Hearing 4 (ISH4)
REP3-052	London Luton Airport Limited	Deadline 3 Submission - 8.51 Applicant's Post Hearing Submission - Issue Specific Hearing 5 (ISH5)
REP3-053	London Luton Airport Limited	Deadline 3 Submission - 8.52 Applicant's Post Hearing Submission - Issue Specific Hearing 6 (ISH6)
REP3-054	London Luton Airport Limited	Deadline 3 Submission - 8.53 Applicant's Post Hearing Submission - Compulsory Acquisition Hearing 1 (CAH1)
REP3-055	London Luton Airport Limited	Deadline 3 Submission - 8.54 Summary of changes to the Draft Development Consent Order This has now been superseded by REP4-050
REP3-056	London Luton Airport Limited	Deadline 3 Submission - 8.55 Applicant's response to Deadline 2 submissions (Written Representations)
REP3-057	London Luton Airport Limited	Deadline 3 Submission - 8.55 Applicant's response to Deadline 2 submissions (Written Representations) Appendix A - Central Bedfordshire Council
REP3-058	London Luton Airport Limited	Deadline 3 Submission - 8.55 Applicant's response to Deadline 2 submissions (Written Representations) Appendix B - Flamstead Parish Council
REP3-059	London Luton Airport Limited	Deadline 3 Submission - 8.56 Applicant's response to Deadline 2 submissions (Comments from Interested Parties on Deadline 1 submission)
REP3-060	London Luton Airport Limited	Deadline 3 Submission - 8.56 Applicant's response to Deadline 2 submissions (Comments

		from Interested Parties on Deadline 1 submission) Appendix A - LADACAN
REP3-061	London Luton Airport Limited	Deadline 3 Submission - 8.56 Applicant's response to Deadline 2 submissions (Comments from Interested Parties on Deadline 1 submission) Appendix B - Michael Reddington
REP3-062	London Luton Airport Limited	Deadline 3 Submission - 8.56 Applicant's response to Deadline 2 submissions (Comments from Interested Parties on Deadline 1 submission) Appendix C - Stop Luton Airport Expansion
REP3-063	London Luton Airport Limited	Deadline 3 Submission - 8.56 Applicant's response to Deadline 2 submissions (Comments from Interested Parties on Written Representations) Appendix C2 - Stop Luton Airport Expansion
REP3-064	London Luton Airport Limited	Deadline 3 Submission - 8.56 Applicant's response to Deadline 2 submissions (Comments from Interested Parties on Deadline 1 submission) Appendix D - Buckinghamshire Council
REP3-065	London Luton Airport Limited	Deadline 3 Submission - 8.56 Applicant's response to Deadline 2 submissions (Comments from Interested Parties on Deadline 1 submission) Appendix E - The Harpenden Society
REP3-066	London Luton Airport Limited	Deadline 3 Submission - 8.56 Applicant's response to Deadline 2 submissions (Comments from Interested Parties on Deadline 1 submission) Appendix F - Friends of Wigmore Park
REP3-067	London Luton Airport Limited	Deadline 3 Submission - 8.56 Applicant's response to Deadline 2 submissions (Comments from Interested Parties on Written Representations) Appendix F2 - Friends of Wigmore Park
REP3-068	London Luton Airport Limited	Deadline 3 Submission - 8.56 Applicant's response to Deadline 2 submissions (Comments from Interested Parties on Written Representations) Appendix G - Holiday Extras Limited
REP3-069	London Luton Airport Limited	Deadline 3 Submission - 8.56 Applicant's response to Deadline 2 submissions (Comments from Interested Parties on Deadline 1 submission) Appendix H - Hitchin Forum
REP3-070	London Luton Airport Limited	Deadline 3 Submission - 8.56 Applicant's response to Deadline 2 submissions (Comments from Interested Parties on Deadline 1 submission) Appendix I - PAIN

REP3-071	London Luton Airport Limited	Deadline 3 Submission - 8.56 Applicant's response to Deadline 2 submissions (Comments from Interested Parties on Deadline 1 submission) Appendix J - Paul Farquharson
REP3-072	London Luton Airport Limited	Deadline 3 Submission - 8.57 Applicant's Response to Supplementary Agenda Additional Questions - Compulsory Acquisition Hearing 1 (CAH1)
REP3-073	London Luton Airport Limited	Deadline 3 Submission - 8.58 Applicant's Response to Supplementary Agenda Additional Questions - Issue Specific Hearing 1 (ISH1)
REP3-074	London Luton Airport Limited	Deadline 3 Submission - 8.59 Applicant's Response to Supplementary Agenda Additional Questions - Issue Specific Hearing 4 (ISH4)
REP3-075	London Luton Airport Limited	Deadline 3 Submission - 8.62 Issue Specific Hearing 3 Action 29 Response Paper - Historical Flight Path Information This has now been superseded by REP4-051
REP3-076	London Luton Airport Limited	Deadline 3 Submission - 8.63 Issue Specific Hearing 5 Action 17 Response Paper - Breakdown of Non-Surface Access Emissions
REP3-077	London Luton Airport Limited	Deadline 3 Submission - 8.64 ISH4 Action 2 Interim Response - Presentation on the Interim Findings of the Covid-19 Modelling Update
REP3-078	London Luton Airport Limited	Deadline 3 Submission - 8.65 Applicant's Deadline 3 Updates to Comments in Written Representations and Local Impact Reports on Draft DCO Drafting
REP3-079	Buckinghamshire Council	Deadline 3 Submission - Cover Letter
REP3-080	Buckinghamshire Council	Deadline 3 Submission - Response to Action Points Raised in Issue Specific Hearing 1
REP3-081	Buckinghamshire Council	Deadline 3 Submission - Response to Action Points Raised in Issue Specific Hearing 2
REP3-082	Buckinghamshire Council	Deadline 3 Submission - Comments on any further information/ submissions received by Deadline 2
REP3-083	Buckinghamshire Council	Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-084	Buckinghamshire Council	Deadline 3 Submission - Updated PADSS
REP3-085	Central Bedfordshire Council	Deadline 3 Submission - Response to the Applicant's Comments on Central Bedfordshire Council's Local Impact Report
REP3-086	Central Bedfordshire Council	Deadline 3 Submission - Cover Letter
REP3-087	Central Bedfordshire Council	Deadline 3 Submission - Issue Specific Hearing 6 post-hearing submission

REP3-088	Central Bedfordshire Council	Deadline 3 Submission - Updated PADSS
REP3-089	Hertfordshire County Council, Dacorum Borough Council and North Hertfordshire Council	Deadline 3 Submission - Response to the Applicant's Responses to Written Representations
REP3-090	Hertfordshire County Council, Dacorum Borough Council and North Hertfordshire Council	Deadline 3 Submission - Hertfordshire Host Authorities' Responses to the Applicant's Responses to Local Impact Report
REP3-091	Hertfordshire County Council, Dacorum Borough Council and North Hertfordshire District Council	Deadline 3 Submission - Updated PADSS
REP3-092	Hertfordshire County Council, Dacorum Borough Council and North Hertfordshire District Council	Deadline 3 Submission - Compulsory Acquisition Hearing 1 post-hearing submission
REP3-093	Hertfordshire County Council, North Hertfordshire District Council, Dacorum Borough Council, Central Bedfordshire Council, Luton Borough Council	Deadline 3 Submission - Issue Specific Hearing 2 post-hearing submission
REP3-094	Hertfordshire County Council, North Hertfordshire District Council, Dacorum Borough Council, Central Bedfordshire Council, Luton Borough Council	Deadline 3 Submission - Issue Specific Hearing 3 post-hearing submission
REP3-095	Hertfordshire County Council, Dacorum Borough Council and North Hertfordshire District Council	Deadline 3 Submission - Issue Specific Hearing 4 post-hearing submission
REP3-096	Hertfordshire County Council, Dacorum	Deadline 3 Submission - Issue Specific Hearing 5 post-hearing submission

	Borough Council and North Hertfordshire District Council	
REP3-097	Hertfordshire County Council, Dacorum Borough Council and North Hertfordshire District Council	Deadline 3 Submission - Issue Specific Hearing 6 post-hearing submission
REP3-098	Luton Borough Council	Deadline 3 Submission - Response to Action Point 16 at Issue Specific Hearing 2 - Climate Action Plan Support, January 2020
REP3-099	Luton Borough Council	Deadline 3 Submission - Response to Action Point 16 at Issue Specific Hearing 2 - A town-wide vision for Luton 2040, A Net Zero Town
REP3-100	Luton Borough Council	Deadline 3 Submission - Response to Action Point 16 at Issue Specific Hearing 2 - Luton Net Zero - Climate Policy and Action Plan
REP3-101	Luton Borough Council	Deadline 3 Submission - Response to Action Point 16 at Issue Specific Hearing 2 - Luton Net Zero Roadmap
REP3-102	Luton Borough Council	Deadline 3 Submission - Response to Action Point 4 at Issue Specific Hearing 3 - Century Park Access Road Plans
REP3-103	Luton Borough Council	Deadline 3 Submission - Response to Action Point 27 at Issue Specific Hearing 3 - s106 Agreement for the 2015 planning permission 15/00950/VARCON
REP3-104	Luton Borough Council	Deadline 3 Submission - Response to Action Point 21 at Issue Specific Hearing 5 - Air Quality Annual Status Report
REP3-105	Luton Borough Council	Deadline 3 Submission - Comments on Applicant's Response to Luton Borough Council's Local Impact Report
REP3-106	Luton Borough Council	Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-107	Luton Borough Council	Deadline 3 Submission - Updated PADSS
REP3-108	Luton Borough Council, Central Bedfordshire Council, Hertfordshire County Council, North Hertfordshire District Council and Dacorum Borough Council	Deadline 3 Submission - Issue Specific Hearing 1 post-hearing submission

REP3-109	Bidwells LLP on behalf of ATO Holdings Limited	Deadline 3 Submission - Post Hearing Submissions including Written Submissions of oral cases
REP3-110	Bedfordshire & Luton Community Foundation	Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases. Accepted at the discretion of the Examining Authority
REP3-111	Cambridge Friends of the Earth	Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-112	Charlie Radbone	Deadline 3 Submission - Accepted at the discretion of the Examining Authority
REP3-113	Civil Aviation Authority	Deadline 3 Submission - Response to Issue Specific Hearing 3 Action Point
REP3-114	CPRE Bedfordshire	Deadline 3 Submission - Comments on any further information/ submissions received by Deadline 2
REP3-115	CPRE Hertfordshire	Deadline 3 Submission - Comments on any further information/ submissions received by Deadline 2
REP3-116	Friends of Wigmore Park	Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-117	Glenn Morton	Deadline 3 Submission
REP3-118	Holiday Extras Ltd	Deadline 3 Submission - Comments in response to Action Point 15 Arising from the Issue Specific Hearing on Traffic and Transport (ISH4) Concerning Fly Parking and Off-Site Parking
REP3-119	Janet Ingham	Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-120	John A Smith	Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-121	LADACAN	Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-122	Luton Friends of the Earth	Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-123	Michael P Reddington	Deadline 3 Submission - Comments on any further information/ submissions received by Deadline 2
REP3-124	National Highways	Deadline 3 Submission - Comments on Applicant's Deadline 2 response on National Highways' Relevant Representation
REP3-125	National Highways	Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases

REP3-126	National Highways	Deadline 3 Submission - Summary of Representations made at Compulsory Acquisition Hearing 1
REP3-127	National Highways	Deadline 3 Submission - Summary of Representations made at Issue Specific Hearing 1
REP3-128	National Highways	Deadline 3 Submission - Summary of Representations made at Issue Specific Hearing 4
REP3-129	National Highways	Deadline 3 Submission - Issue Specific Hearing 4 post-hearing submission - Technical Note on the M1 Junction 10
REP3-130	National Trust	Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-131	New Economics Foundation	Deadline 3 Submission - Comments on any further information/ submissions received by Deadline 2
REP3-132	North Herts and Stevenage Friends of the Earth	Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-133	Peter White	Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-134	Simon Harvey on behalf of The Eldridge Family	Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-135	St Albans Quieter Skies	Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-136	Stop Luton Airport Expansion	Deadline 3 Submission - Written Representation - Traffic and Transportation
REP3-137	Stop Luton Airport Expansion	Deadline 3 Submission - Written Representation - Health and Community
REP3-138	Stop Luton Airport Expansion	Deadline 3 Submission - Response to 8.33 Applicant's Summary of Oral Submissions and Responses to Comments Made at Open Floor Hearing 1, Open Floor Hearing 2 and Post-Hearing Submissions
REP3-139	Stop Luton Airport Expansion	Deadline 3 Submission - Response to Volume 8 Additional Submissions (Examination) 8.39 Applicant's response to Written Representations made by Non-statutory Organisations at Deadline 1
REP3-140	Stop Luton Airport Expansion	Deadline 3 Submission - Comments on the Applicant's draft itinerary for Accompanied Site Inspection

REP3-141	Stop Luton Airport Expansion	Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-142	Thames Water Utilities Limited	Deadline 3 Submission - Response to Action Point 11 at Issue Specific Hearing 6
REP3-143	The Chilterns Conservation Board	Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
REP3-144	The Harpenden Society	Deadline 3 submission - Correction to REP1-164 and REP1-165
REP3-145	Roger Thompson	Deadline 3 Submission - Post-hearing submissions including written submissions of oral cases
Deadline 4 – 1 November 2023 For receipt by the Examining Authority of: • Response to the ExA's Written Questions (ExQ1) • Comments on the Applicant's revised draft DCO (if submitted) • Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 • Comments on any further information/submissions received by Deadline 3		
REP4-001	London Luton Airport Limited	Deadline 4 Submission - Cover Letter
REP4-002	London Luton Airport Limited	Deadline 4 Submission - 1.06 Guide to the Application (Application Document Tracker) This has now been superseded by REP5-002
REP4-003	London Luton Airport Limited	Deadline 4 Submission - 2.01 Draft Development Consent Order This has now been superseded by REP5-003
REP4-004	London Luton Airport Limited	Deadline 4 Submission - 2.01 Draft Development Consent Order (Tracked Change Version) This has now been superseded by REP5-004
REP4-005	London Luton Airport Limited	Deadline 4 Submission - 2.02 Explanatory Memorandum This has now been superseded by REP5-005
REP4-006	London Luton Airport Limited	Deadline 4 Submission - 2.02 Explanatory Memorandum (Tracked Change Version) This has now been superseded by REP5-006
REP4-007	London Luton Airport Limited	Deadline 4 Submission - 5.01 Chapter 4 The Proposed Development

		This has now been superseded by REP5-012
REP4-008	London Luton Airport Limited	Deadline 4 Submission - 5.01 Chapter 4 The Proposed Development (Tracked Change Version) This has now been superseded by REP5-013
REP4-009	London Luton Airport Limited	Deadline 4 Submission - 5.01 Chapter 20 Water Resources and Flood Risk
REP4-010	London Luton Airport Limited	Deadline 4 Submission - 5.01 Chapter 20 Water Resources and Flood Risk (Tracked Change Version)
REP4-011	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 4.2 Code of Construction Practice This has now been superseded by REP6-003
REP4-012	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 4.2 Code of Construction Practice (Tracked Change Version) This has now been superseded by REP6-004
REP4-013	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 7.3 Air Quality Results
REP4-014	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 7.3 Air Quality Results (Tracked Change Version)
REP4-015	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 7.4 Air Quality Sensitivity Tests
REP4-016	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 7.4 Air Quality Sensitivity Tests (Tracked Change Version)
REP4-017	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 10.2 Cultural Heritage Gazetteer
REP4-018	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 10.2 Cultural Heritage Gazetteer (Tracked Change Version)
REP4-019	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 10.5 Archaeological Trial Trench Evaluation Report (Cotswold 2019)
REP4-020	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 10.6 Cultural Heritage Management Plan This has now been superseded by REP8-015
REP4-021	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 10.6 Cultural Heritage Management Plan (Tracked Change Version) This has now been superseded by REP8-016
REP4-022	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 10.7 Archaeological Trial Trench Evaluation Report (Cotswold 2023)
REP4-023	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 16.2 Operational Noise Management (Explanatory Note) This has now been superseded by REP10-019

REP4-024	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 16.2 Operational Noise Management (Explanatory Note) (Tracked Change Version) This has now been superseded by REP10-020
REP4-025	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 16.3 Fixed Plant Noise Management Plan
REP4-026	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 16.3 Fixed Plant Noise Management Plan (Tracked Change Version)
REP4-027	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 20.2 Water Framework Directive Compliance Assessment
REP4-028	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 20.2 Water Framework Directive Compliance Assessment (Tracked Change Version)
REP4-029	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 20.3 Hydrogeological Characterisation Report
REP4-030	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 20.3 Hydrogeological Characterisation Report (Tracked Change Version)
REP4-031	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 20.4 Drainage Design Statement This has now been superseded by REP5-096
REP4-032	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 20.4 Drainage Design Statement (Tracked Change Version) This has now been superseded by REP5-097
REP4-033	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 20.5 Water Cycle Strategy
REP4-034	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 20.5 Water Cycle Strategy (Tracked Change Version)
REP4-035	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 20.6 Hydrogeological Risk Assessment - Drainage
REP4-036	London Luton Airport Limited	Deadline 4 Submission - 5.02 Appendix 20.6 Hydrogeological Risk Assessment - Drainage (Tracked Change Version)
REP4-037	London Luton Airport Limited	Deadline 4 Submission - 5.03 Chapter 14 Landscape and Visual Figures 14.1 - 14.17
REP4-038	London Luton Airport Limited	Deadline 4 Submission - 5.07 Appendix 20.1 Flood Risk Assessment
REP4-039	London Luton Airport Limited	Deadline 4 Submission - 5.07 Appendix 20.1 Flood Risk Assessment (Tracked Change Version)
REP4-040	London Luton Airport Limited	Deadline 4 Submission - 5.13 Glint and Glare Assessment
REP4-041	London Luton Airport Limited	Deadline 4 Submission - 5.13 Glint and Glare Assessment (Tracked Change Version)

REP4-042	London Luton Airport Limited	Deadline 4 Submission - 7.10 Draft Compensation Policies, Measures and Community First This has now been superseded by REP7-036
REP4-043	London Luton Airport Limited	Deadline 4 Submission - 7.10 Draft Compensation Policies, Measures and Community First (Tracked Change Version) This has now been superseded by REP7-037
REP4-044	London Luton Airport Limited	Deadline 4 Submission - 7.13 Framework Travel Plan This has now been superseded by REP8-024
REP4-045	London Luton Airport Limited	Deadline 4 Submission - 7.13 Framework Travel Plan (Tracked Change Version) This has now been superseded by REP8-025
REP4-046	London Luton Airport Limited	Deadline 4 Submission - 8.11 Statement of Common Ground between London Luton Airport Limited and National Highways This has now been superseded by REP6-023
REP4-047	London Luton Airport Limited	Deadline 4 Submission - 8.11 Statement of Common Ground between London Luton Airport Limited and National Highways (Tracked Change Version) This has now been superseded by REP6-024
REP4-048	London Luton Airport Limited	Deadline 4 Submission - 8.30 Trip Distribution Plans This has now been superseded by REP5-037
REP4-049	London Luton Airport Limited	Deadline 4 Submission - 8.46 Outline Ground Noise Management Plan
REP4-050	London Luton Airport Limited	Deadline 4 Submission - 8.54 Summary of changes to the Draft Development Consent Order This has now been superseded by REP5-039
REP4-051	London Luton Airport Limited	Deadline 4 Submission - 8.62 Applicant's response to Issue Specific Hearing 3 Action 29: Historical Flight Path Information
REP4-052	London Luton Airport Limited	Deadline 4 Submission - 8.66 Applicant's response to Written Questions - Broad and General, Cross-topic Questions
REP4-053	London Luton Airport Limited	Deadline 4 Submission - 8.67 Applicant's response to Written Questions - Air Quality and Odour
REP4-054	London Luton Airport Limited	Deadline 4 Submission - 8.68 Applicant's response to Written Questions - Biodiversity This has now been superseded by REP5-040
REP4-055	London Luton Airport Limited	Deadline 4 Submission - 8.69 Applicant's response to Written Questions - Climate Change and Greenhouse Gas Emissions
REP4-056	London Luton Airport Limited	Deadline 4 Submission - 8.70 Applicant's response to Written Questions - Compulsory

		Acquisition and Temporary Possession of Land and Rights
REP4-057	London Luton Airport Limited	Deadline 4 Submission - 8.71 Applicant's response to Written Questions - Draft Development Consent Order
REP4-058	London Luton Airport Limited	Deadline 4 Submission - 8.72 Applicant's response to Written Questions - Green Controlled Growth (GCG) This has now been superseded by REP5-090
REP4-059	London Luton Airport Limited	Deadline 4 Submission - 8.73 Applicant's response to Written Questions - Need Case
REP4-060	London Luton Airport Limited	Deadline 4 Submission - 8.74 Applicant's response to Written Questions - Noise
REP4-061	London Luton Airport Limited	Deadline 4 Submission - 8.75 Applicant's response to Written Questions - Design
REP4-062	London Luton Airport Limited	Deadline 4 Submission - 8.76 Applicant's response to Written Questions - Historic Environment
REP4-063	London Luton Airport Limited	Deadline 4 Submission - 8.77 Applicant's response to Written Questions - Landscape and Visual Impacts
REP4-064	London Luton Airport Limited	Deadline 4 Submission - 8.78 Applicant's response to Written Questions - Green Belt
REP4-065	London Luton Airport Limited	Deadline 4 Submission - 8.79 Applicant's response to Written Questions - Effects on Safety
REP4-066	London Luton Airport Limited	Deadline 4 Submission - 8.80 Applicant's response to Written Questions - Water Environment
REP4-067	London Luton Airport Limited	Deadline 4 Submission - 8.81 Applicant's response to Written Questions - Socio-economic Effects
REP4-068	London Luton Airport Limited	Deadline 4 Submission - 8.82 Applicant's response to Written Questions - Health and Community Effects
REP4-069	London Luton Airport Limited	Deadline 4 Submission - 8.83 Applicant's response to Written Questions - Traffic and Transportation including Surface Access
REP4-070	London Luton Airport Limited	Deadline 4 Submission - 8.84 Applicant's response to Deadline 4 Hearing Action
REP4-071	London Luton Airport Limited	Deadline 4 Submission - 8.85 Applicant's response to Compulsory Acquisition Hearing 1 Actions 14-17: Wigmore Valley Park
REP4-072	London Luton Airport Limited	Deadline 4 Submission - 8.86 Applicant's response to Issue Specific Hearing 1 Actions 20, 21, 24 and 26 and Issue Specific Hearing 3 Action 28: Green Controlled Growth - Transition Period and Slot Allocation Process

REP4-073	London Luton Airport Limited	Deadline 4 Submission - 8.87 Applicant's response to Issue Specific Hearing 1 Action 1: Green Horizons Park and the Proposed Development
REP4-074	London Luton Airport Limited	Deadline 4 Submission - 8.88 Applicant's response to Issue Specific Hearing 2 Actions 11, 12 and 13: New Policy Status Paper
REP4-075	London Luton Airport Limited	Deadline 4 Submission - 8.89 Applicant's response to Issue Specific Hearing 2 Actions 5 and 6: Past Employment Estimates
REP4-076	London Luton Airport Limited	Deadline 4 Submission - 8.89 Applicant's response to Issue Specific Hearing 2 Actions 5 and 6 - Past Employment Estimates - Appendices A to D
REP4-077	London Luton Airport Limited	Deadline 4 Submission - 8.89 Applicant's response to Issue Specific Hearing 2 Actions 5 and 6 - Past Employment Estimates - Appendices E to J
REP4-078	London Luton Airport Limited	Deadline 4 Submission - 8.90 Applicant's response to Issue Specific Hearing 2 Actions 15, 17, 22, 23: Greenhouse Gases and Climate Change Matters
REP4-079	London Luton Airport Limited	Deadline 4 Submission - 8.91 Applicant's response to Issue Specific Hearing 3 Action 26: Noise Insulation Delivery Programme
REP4-080	London Luton Airport Limited	Deadline 4 Submission - 8.92 Applicant's response to Issue Specific Hearing 3 Action 1: Assessment of night-time construction noise
REP4-081	London Luton Airport Limited	Deadline 4 Submission - 8.93 Applicant's response to Issue Specific Hearing 3 Action 23: Non-Residential Receptors and Screening Criteria
REP4-082	London Luton Airport Limited	Deadline 4 Submission - 8.94 Applicant's response to Issue Specific Hearing 4 Action 8: Off-site Highway Works
REP4-083	London Luton Airport Limited	Deadline 4 Submission - 8.95 Applicant's response to Issue Specific Hearing 4 Action 17: Terms of reference for the Airport Transport Forum (ATF)
REP4-084	London Luton Airport Limited	Deadline 4 Submission - 8.96 Applicant's response to Issue Specific Hearing 4 Action 29: Catchment area for staff walking and cycling
REP4-085	London Luton Airport Limited	Deadline 4 Submission - 8.97 Outline Transport Related Impacts Monitoring and Mitigation Approach (TRIMMA) This has now been superseded by REP5-041
REP4-086	London Luton Airport Limited	Deadline 4 Submission - 8.98 Applicant's response to Issue Specific Hearing 4 Action 2: Covid 19 Additional Modelling Technical Note 1

REP4-087	London Luton Airport Limited	Deadline 4 Submission - 8.99 Applicant's response to Issue Specific Hearing 4 Action 6: Traffic on B489 Link
REP4-088	London Luton Airport Limited	Deadline 4 Submission - 8.100 Applicant's response to Issue Specific Hearing 5 Action 9: Effects in relation to Pollution Climate Mapping Locations
REP4-089	London Luton Airport Limited	Deadline 4 Submission - 8.101 Applicant's response to Issue Specific Hearing 5 Action 16: Green Controlled Growth Scope Monitoring
REP4-090	London Luton Airport Limited	Deadline 4 Submission - 8.102 Applicant's response to Issue Specific Hearing 6 Action 5: Habitats and species of principal importance plan
REP4-091	London Luton Airport Limited	Deadline 4 Submission - 8.103 Applicant's response to Issue Specific Hearing 6 Action 23: Visual receptors plan
REP4-092	London Luton Airport Limited	Deadline 4 Submission - 8.104 Applicant's response to Issue Specific Hearing 6 Action 30 and Compulsory Acquisition Hearing 1 Action 32: Hedgerow restorations proposals plan
REP4-093	London Luton Airport Limited	Deadline 4 Submission - 8.105 Applicant's response to Rule 17 Request – Implications of the P19 Approval for the DCO
REP4-094	London Luton Airport Limited	Deadline 4 Submission - 8.106 SoCG Updates Document This has now been superseded by REP7-041
REP4-095	London Luton Airport Limited	Deadline 4 Submission - 8.107 Applicant's response to Deadline 3 Submissions
REP4-096	London Luton Airport Limited	Deadline 4 Submission - 8.107 Applicant's response to Deadline 3 Submissions - Appendix A New Economics Foundation [REP3-131]
REP4-097	London Luton Airport Limited	Deadline 4 Submission - 8.107 Applicant's response to Deadline 3 Submissions - Appendix B Central Bedfordshire Council [REP3-085]
REP4-098	London Luton Airport Limited	Deadline 4 Submission - 8.107 Applicant's response to Deadline 3 Submissions - Appendix C LADACAN [REP3-121]
REP4-099	London Luton Airport Limited	Deadline 4 Submission - 8.107 Applicant's response to Deadline 3 Submissions - Appendix D Peter White [REP3-133]
REP4-100	London Luton Airport Limited	Deadline 4 Submission - 8.107 Applicant's response to Deadline 3 Submissions - Appendix E Stop Luton Airport Expansion [REP3-136 and REP3-137]
REP4-101	London Luton Airport Limited	Deadline 4 Submission - 8.107 Applicant's response to Deadline 3 Submissions - Appendix F The Chilterns Conservation Board [REP3-143]

REP4-102	London Luton Airport Limited	Deadline 4 Submission - 8.107 Applicant's response to Deadline 3 Submissions - Appendix G The Eldridge Family [REP3-134]
REP4-103	London Luton Airport Limited	Deadline 4 Submission - 8.107 Applicant's response to Deadline 3 Submissions - Appendix H Hertfordshire County Council, Dacorum Borough Council and North Hertfordshire Council [REP3-090]
REP4-104	London Luton Airport Limited	Deadline 4 Submission - 8.107 Applicant's response to Deadline 3 Submissions - Appendix I Buckinghamshire Council [REP3-083]
REP4-105	London Luton Airport Limited	Deadline 4 Submission - 8.108 Applicant's response to Issue Specific Hearing 4 Action 4: M1 A6 Routing Analysis
REP4-106	London Luton Airport Limited	Deadline 4 Submission - 8.109 Applicant's response to Issue Specific Hearing 4 Action 2: Covid 19 Additional Modelling Technical Note 2 Risk Assessment
REP4-107	London Luton Airport Limited	Deadline 4 Submission - 8.110 Applicant's response to Issue Specific Hearing 4 Action 3: Modelling Concerns from John Smith
REP4-108	Affinity Water Limited	Deadline 4 Submission - Response to the ExA's Written Questions
REP4-109	Agnieszka Streciwilk	Deadline 4 Submission
REP4-110	Ben Rudd	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP4-111	Buckinghamshire Council	Deadline 4 Submission - Cover Letter
REP4-112	Buckinghamshire Council	Deadline 4 Submission - Response to the ExA's Written Questions (ExQ1)
REP4-113	Buckinghamshire Council	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP4-114	Buckinghamshire Council	Deadline 4 Submission - Comments on any further information/submissions received by Deadline 3
REP4-115	Cavan McDonald	Deadline 4 Submission - Accepted at the discretion of the Examining Authority
REP4-116	Central Bedfordshire Council	Deadline 4 Submission - Response to the ExA's Written Questions (ExQ1)
REP4-117	Central Bedfordshire Council	Deadline 4 Submission - Response to ExQ1 BCG.1.2 - Caddington and Slip End Neighbourhood Plan

REP4-118	Central Bedfordshire Council	Deadline 4 Submission - Response to ExQ1 BIO.1.4 - Citation for Kidney and Bull Woods CWS
REP4-119	Central Bedfordshire Council	Deadline 4 Submission - Response to ExQ1 BIO.1.4 - Citation for River Lea CWS
REP4-120	Central Bedfordshire Council	Deadline 4 Submission - Response to ExQ1 BIO.1.4 - Citation for River Flit CWS
REP4-121	Central Bedfordshire Council	Deadline 4 Submission - Response to ExQ1 BIO.1.4 - Citation for Luton Hoo Park CWS
REP4-122	Central Bedfordshire Council	Deadline 4 Submission - Response to ExQ1 BIO.1.4 - Citation for Kingshoe Wood CWS
REP4-123	Central Bedfordshire Council	Deadline 4 Submission - Response to Action Points Arising from Issue Specific Hearings
REP4-124	Central Bedfordshire Council	Deadline 4 Submission - Comments on Deadline 3 Submissions
REP4-125	Civil Aviation Authority	Deadline 4 Submission - Response to the ExA's Written Questions (ExQ1)
REP4-126	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Response to the ExA's Written Questions (ExQ1)
REP4-127	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 1: Response to ExQ1 BCG.1.1 - Development Plan Policies
REP4-128	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 2: Response to ExQ1 BCG.1.2 - Wheathampstead Neighbourhood Plan
REP4-129	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 3: Response to ExQ1 BCG.1.2 - Redbourn Neighbourhood Plan
REP4-130	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 4: Response to ExQ1 BCG.1.2 - St Stephen Neighbourhood Plan

REP4-131	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 5: Response to ExQ1 BCG.1.2 - Sandridge Neighbourhood Plan
REP4-132	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 6: Response to ExQ1 BCG.1.2 - Harpenden Neighbourhood Plan
REP4-133	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 7: Response to ExQ1 BCG.1.2 - The Grovehill Future Neighbourhood Plan
REP4-134	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 8: Response to ExQ1 BCG.1.2 - Kings Langley Neighbourhood Plan
REP4-135	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 9: Response to ExQ1 BCG.1.2 - Bovingdon Neighbourhood Plan
REP4-136	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 10: Response to ExQ1 BCG.1.2 - Ashwell Neighbourhood Plan
REP4-137	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 11: Response to ExQ1 BCG.1.2 - Pirton Neighbourhood Plan
REP4-138	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 12: Response to ExQ1 BCG.1.2 - Baldock, Bygrave and Clothall Neighbourhood Plan

REP4-139	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 13: Response to ExQ1 BCG.1.2 - Preston Parish Neighbourhood Plan
REP4-140	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 14: Response to ExQ1 BCG.1.2 - Knebworth Neighbourhood Plan
REP4-141	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 15: Response to ExQ1 BCG.1.2 - Wymondley Parish Neighbourhood Plan
REP4-142	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 16: Response to ExQ1 BCG.1.2 - Ickleford Neighbourhood Plan
REP4-143	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 17: Response to ExQ1 BCG.1.2 - Wallington Neighbourhood Plan
REP4-144	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 18: Response to ExQ1 BCG.1.2 - Northaw and Cuffley Neighbourhood Plan
REP4-145	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 19: Response to ExQ1 BCG.1.3 - National Planning Policy Framework
REP4-146	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 20: Response to ExQ1 BIO.1.2 - Natural England Commissioned Report NECR210

REP4-147	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 21: Response to ExQ1 AQ.1.1 - St Albans Air Quality Annual Status Report 2023
REP4-148	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 22: Response to ExQ1 AQ.1.1 - Stevenage Air Quality Annual Status Report 2023
REP4-149	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 23: Response to ExQ1 AQ.1.1 - Dacorum Air Quality Annual Status Report 2023
REP4-150	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 24: Response to ExQ1 AQ.1.1 - North Herts 2023 Air Quality Annual Status Report 2023
REP4-151	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 25: Response to ExQ1 AQ.1.1 - Welwyn Hatfield Air Quality Annual Status Report 2023
REP4-152	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 26: Response to ExQ1 BIO.1.4 - HERC Citation (Burnt Wood)
REP4-153	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 27: Response to ExQ1 BIO.1.4 - HERC Citation (Winch Hill Wood)
REP4-154	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 28: Response to ExQ1 DCO.1.10 - Airports National Policy Statement

REP4-155	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 29: Response to ExQ1 PED.1.2 - Aviation Policy Framework (2013)
REP4-156	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 30: Response to ExQ1 PED.1.2 - Aviation 2050 The future of UK aviation
REP4-157	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 31: Response to ExQ1 PED.1.2 - Jet Zero Strategy
REP4-158	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 32: Response to ExQ1 PED.1.11 - Historic England The Setting of Heritage Assets, Good Practice Advice 3
REP4-159	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix 33: Response to ExQ1 PED.1.30 - North Hertfordshire District Council Local Development Framework, Design Supplementary Planning Document, July 2011
REP4-160	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP4-161	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Responses to Action Points from Issue Specific Hearings
REP4-162	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Appendix to Responses to Action Points - Chris Smith Aviation Consultancy Limited Response (CSACL-003)

REP4-163	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 4 Submission - Comments on any further information/submissions received by Deadline 3
REP4-164	David Manning	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP4-165	Elspeth Gass	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP4-166	Environment Agency	Deadline 4 Submission - Response to the ExA's Written Questions (ExQ1)
REP4-167	Environment Agency	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP4-168	Environment Agency	Deadline 4 Submission - Response to Action Point 14 from ISH6
REP4-169	Forestry Commission	Deadline 4 Submission - Response to the ExA's Written Questions (ExQ1)
REP4-170	Friends of Wigmore Park	Deadline 4 Submission - Comments on any further information/submissions received by Deadline 3
REP4-171	Friends of Wigmore Park	Deadline 4 Submission - Bank Holiday Survey 2020
REP4-172	HarpendenSky	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP4-173	Historic England	Deadline 4 Submission - Response to the ExA's Written Questions (ExQ1)
REP4-174	Huntingdonshire District Council	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP4-175	Holiday Extras Limited	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP4-176	Holiday Extras Limited	Deadline 4 Submission - Representation in relation to the multi storey car park fire
REP4-177	Janet Ingham	Deadline 4 Submission - Friends of Wigmore Park Bank Holiday Survey 2020
REP4-178	Janet Ingham	Deadline 4 Submission - supplement to AS-153

REP4-179	John Farrow	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP4-180	John Gass	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP4-181	LADACAN	Deadline 4 Submission - Response to the ExA's Written Questions (ExQ1)
REP4-182	LADACAN	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP4-183	LADACAN	Deadline 4 Submission - Revised Funding Statement
REP4-184	LADACAN	Deadline 4 Submission - Comments on 8.29 Roles and Responsibilities of Luton Borough Council (REP1-018)
REP4-185	Lanos (Luton) Limited	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP4-186	London Luton Limited	Deadline 4 Submission
REP4-187	Luton Borough Council	Deadline 4 Submission - Response to the ExA's Written Questions (ExQ1)
REP4-188	Luton Borough Council	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP4-189	Luton Borough Council, Hertfordshire County Council, Dacorum Council, North Hertfordshire Council, Central Bedfordshire Council	Deadline 4 Submission - Economic Impact Assessment Independent Review, September 2023 (Genecon)
REP4-190	Luton Borough Council	Deadline 4 Submission - Response to Action Points
REP4-191	Luton Borough Council	Deadline 4 Submission - Comments on any further information/submissions received by Deadline 3
REP4-192	Luton Borough Council	Deadline 4 Submission - Response to Action Point 3 at Issue Specific Hearing 5 - Late Submission, accepted at the discretion of the Examining Authority

REP4-193	Luton Friends of the Earth	Deadline 4 Submission - Supplement to Luton Friends of the Earth Deadline 1 Submission
REP4-194	Margaret Breheny	Deadline 4 Submission
REP4-195	Michael P Reddington	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP4-196	Michael P Reddington	Deadline 4 Submission - Response to REP3-061 (Applicant's Response to Michael Reddington's REP2-064)
REP4-197	National Highways	Deadline 4 Submission - Comments on the Applicant's revised draft DCO (if submitted)
REP4-198	Natural England	Deadline 4 Submission - Response to the ExA's Written Questions (ExQ1)
REP4-199	Network Rail Infrastructure Limited	Deadline 4 Submission - Response to the ExA's Written Questions (ExQ1)
REP4-200	Network Rail Infrastructure Limited	Deadline 4 Submission - Written Representation
REP4-201	Paul Mantle	Deadline 4 Submission - Accepted at the discretion of the Examining Authority
REP4-202	Peter White	Deadline 4 Submission - Comments on the Applicant's revised draft DCO (if submitted)
REP4-203	Richard William Groom	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP4-204	Roland Hyde	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP4-205	Ron Taylor	Deadline 4 Submission
REP4-206	Shirley Woods	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP4-207	St Albans Quieter Skies (STAQS)	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP4-208	Stop Luton Airport Expansion	Deadline 4 Submission - Wigmore Valley Park Written Representation Summary
REP4-209	Stop Luton Airport Expansion	Deadline 4 Submission - Response to 8.56 Applicant's response to D2 submissions comments from IPs on WR Appendix C2 - SLAE

REP4-210	Stop Luton Airport Expansion	Deadline 4 Submission - Wigmore Valley Park Written Representation
REP4-211	Stop Luton Airport Expansion	Deadline 4 Submission - Response to Roles and Responsibilities of Luton Borough Council
REP4-212	Teresa Bunyan	Deadline 4 Submission
REP4-213	Thames Water	Deadline 4 Submission - Response to the ExA's Written Questions (ExQ1)
REP4-214	The Chilterns Conservation Board	Deadline 4 Submission - Response to the ExA's Written Questions (ExQ1)
REP4-215	The Harpenden Society	Deadline 4 Submission - Response to the ExA's Written Questions (ExQ1)
REP4-216	The Harpenden Society	Deadline 4 Submission - Comments on the Applicant's revised draft DCO (if submitted)
REP4-217	The Harpenden Society	Deadline 4 Submission - Comments on any further information/submissions received by Deadline 3
REP4-218	The Woodland Trust	Deadline 4 Submission - Response to the ExA's Written Questions (ExQ1)
REP4-219	UK Health Security Agency	Deadline 4 Submission - Response to the ExA's Written Questions (ExQ1)
REP4-220	UK Health Security Agency	Deadline 4 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
Deadline 5 – 14 November 2023 For receipt by the Examining Authority of: • Notification of wish to attend the ASI (if held) • Comments on responses to the ExA's Written Questions (ExQ1) • Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 • Comments on any further information/submissions received by Deadline 4		
REP5-001	London Luton Airport Limited	Deadline 5 Submission - Cover Letter
REP5-002	London Luton Airport Limited	Deadline 5 Submission - 1.06 Guide to the Application (Application Document Tracker) This has now been superseded by REP5-095

REP5-003	London Luton Airport Limited	Deadline 5 Submission - 2.01 Draft Development Consent Order This has now been superseded by REP7-003
REP5-004	London Luton Airport Limited	Deadline 5 Submission - 2.01 Draft Development Consent Order (Tracked Change Version) This has now been superseded by REP7-004
REP5-005	London Luton Airport Limited	Deadline 5 Submission - 2.02 Explanatory Memorandum This has now been superseded by REP7-005
REP5-006	London Luton Airport Limited	Deadline 5 Submission - 2.02 Explanatory Memorandum (Tracked Change Version) This has now been superseded by REP7-006
REP5-007	London Luton Airport Limited	Deadline 5 Submission - 3.02 Book of Reference This has now been superseded by REP9-007
REP5-008	London Luton Airport Limited	Deadline 5 Submission - 3.02 Book of Reference (Tracked Changed Version) This has now been superseded by REP9-008
REP5-009	London Luton Airport Limited	Deadline 5 Submission - 3.03 Funding Statement
REP5-010	London Luton Airport Limited	Deadline 5 Submission - 4.09 General Arrangement Drawings (Part 3 of 3)
REP5-011	London Luton Airport Limited	Deadline 5 Submission - 4.14 Crown Land Plans
REP5-012	London Luton Airport Limited	Deadline 5 Submission - 5.01 Environmental Statement Chapter 4 The Proposed Development
REP5-013	London Luton Airport Limited	Deadline 5 Submission - 5.01 Environmental Statement Chapter 4 The Proposed Development (Tracked Change Version)
REP5-014	London Luton Airport Limited	Deadline 5 Submission - 5.12 Comparison of consented and proposed operational noise controls
REP5-015	London Luton Airport Limited	Deadline 5 Submission - 5.12 Comparison of consented and proposed operational noise controls (Tracked Change Version)
REP5-016	London Luton Airport Limited	Deadline 5 Submission - 7.01 Planning Statement This has now been superseded by REP11-009
REP5-017	London Luton Airport Limited	Deadline 5 Submission - 7.01 Planning Statement (Tracked Change Version) This has now been superseded by REP11-010
REP5-018	London Luton Airport Limited	Deadline 5 Submission - 7.01 Planning Statement Appendix E - Policy Compliance Tables

REP5-019	London Luton Airport Limited	Deadline 5 Submission - 7.01 Planning Statement Appendix E - Policy Compliance Tables (Tracked Change Version)
REP5-020	London Luton Airport Limited	Deadline 5 Submission - 7.07 Green Controlled Growth Explanatory Note
REP5-021	London Luton Airport Limited	Deadline 5 Submission - 7.07 Green Controlled Growth Explanatory Note (Tracked Change Version)
REP5-022	London Luton Airport Limited	Deadline 5 Submission - 7.08 Green Controlled Growth Framework This has now been superseded by REP7-020
REP5-023	London Luton Airport Limited	Deadline 5 Submission - 7.08 Green Controlled Growth Framework (Tracked Change Version) This has now been superseded by REP7-021
REP5-024	London Luton Airport Limited	Deadline 5 Submission - 7.08 Green Controlled Growth Framework Appendix A - Draft ESG Terms of Reference This has now been superseded by REP7-022
REP5-025	London Luton Airport Limited	Deadline 5 Submission - 7.08 Green Controlled Growth Framework Appendix A - Draft ESG Terms of Reference (Tracked Change Version) This has now been superseded by REP7-023
REP5-026	London Luton Airport Limited	Deadline 5 Submission - 7.08 Green Controlled Growth Framework Appendix B - Draft Technical Panels Terms of Reference This has now been superseded by REP7-024
REP5-027	London Luton Airport Limited	Deadline 5 Submission - 7.08 Green Controlled Growth Framework Appendix B - Draft Technical Panels Terms of Reference (Tracked Change Version) This has now been superseded by REP7-025
REP5-028	London Luton Airport Limited	Deadline 5 Submission - 7.08 Green Controlled Growth Framework Appendix C - Aircraft Noise Monitoring Plan This has now been superseded by REP7-026
REP5-029	London Luton Airport Limited	Deadline 5 Submission - 7.08 Green Controlled Growth Framework Appendix C - Aircraft Noise Monitoring Plan (Tracked Change Version) This has now been superseded by REP7-027
REP5-030	London Luton Airport Limited	Deadline 5 Submission - 7.08 Green Controlled Growth Framework Appendix D - Air Quality Monitoring Plan This has now been superseded by REP7-028
REP5-031	London Luton Airport Limited	Deadline 5 Submission - 7.08 Green Controlled Growth Framework Appendix D - Air Quality Monitoring Plan (Tracked Change Version) This has now been superseded by REP7-029

REP5-032	London Luton Airport Limited	Deadline 5 Submission - 7.08 Green Controlled Growth Framework Appendix F - Surface Access Monitoring Plan This has now been superseded by REP7-032
REP5-033	London Luton Airport Limited	Deadline 5 Submission - 7.08 Green Controlled Growth Framework Appendix F - Surface Access Monitoring Plan (Tracked Change Version) This has now been superseded by REP7-033
REP5-034	London Luton Airport Limited	Deadline 5 Submission - 7.09 Design Principles This has now been superseded by REP7-034
REP5-035	London Luton Airport Limited	Deadline 5 Submission - 7.09 Design Principles (Tracked Change Version) This has now been superseded by REP7-035
REP5-036	London Luton Airport Limited	Deadline 5 Submission - 8.26 Errata Report
REP5-037	London Luton Airport Limited	Deadline 5 Submission - 8.30 Trip Distribution Plans
REP5-038	London Luton Airport Limited	Deadline 5 Submission - 8.30 Trip Distribution Plans (Tracked Change Version)
REP5-039	London Luton Airport Limited	Deadline 5 Submission - 8.54 Summary of Changes to the Draft Development Consent Order This has now been superseded by REP7-038
REP5-040	London Luton Airport Limited	Deadline 5 Submission - 8.68 Applicant's Response to Written Questions - Biodiversity
REP5-041	London Luton Airport Limited	Deadline 5 Submission - 8.97 Outline Transport Related Impacts Monitoring and Mitigation Approach (TRIMMA) This has now been superseded by REP7-039
REP5-042	London Luton Airport Limited	Deadline 5 Submission - 8.97 Outline Transport Related Impacts Monitoring and Mitigation Approach (TRIMMA) (Tracked Change Version) This has now been superseded by REP7-040
REP5-043	London Luton Airport Limited	Deadline 5 Submission - 8.111 Applicant's Response to Issue Specific Hearing 6, Action 33 - Principles of Good Design
REP5-044	London Luton Airport Limited	Deadline 5 Submission - 8.112 Applicant's Response to Issue Specific Hearing 1 Actions 8 and 11 - Note on existing/previous planning conditions and S106 obligations This has now been superseded by REP5-098
REP5-045	London Luton Airport Limited	Deadline 5 Submission - 8.113 Applicant's Response to Issue Specific Hearing 3 Action 24 - Additional Ground Noise Modelling Information
REP5-046	London Luton Airport Limited	Deadline 5 Submission - 8.114 Applicant's Response to Deadline 4 Submissions
REP5-047	London Luton Airport Limited	Deadline 5 Submission - 8.114 Applicant's Response to Deadline 4 Submissions Appendix

		A Luton Borough Council (Response to Deadline 3 Documents) [REP4-191]
REP5-048	London Luton Airport Limited	Deadline 5 Submission - 8.114 Applicant's Response to Deadline 4 Submissions Appendix B Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council (Response to Deadline 3 Documents) [REP4-163]
REP5-049	London Luton Airport Limited	Deadline 5 Submission - 8.114 Applicant's Response to Deadline 4 Submissions Appendix C Central Bedfordshire Council (Comments on Deadline 3 Submissions) [REP4-124]
REP5-050	London Luton Airport Limited	Deadline 5 Submission - 8.114 Applicant's Response to Deadline 4 Submissions Appendix D Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council (CSACL Response) [REP4-162]
REP5-051	London Luton Airport Limited	Deadline 5 Submission - 8.114 Applicant's Response to Deadline 4 Submissions Appendix E The Harpenden Society [REP4-217]
REP5-052	London Luton Airport Limited	Deadline 5 Submission - 8.115 Applicant's Comments on Responses to Written Questions by Interested Parties
REP5-053	London Luton Airport Limited	Deadline 5 Submission - 8.116 Applicant's Comments on Submissions by Interested Parties on the P19 Approval
REP5-054	London Luton Airport Limited	Deadline 5 Submission - 8.117 Applicant's Response to Deadline 3 Submission by Michael P Reddington [AS-156 and AS-157]
REP5-055	London Luton Airport Limited	Deadline 5 Submission - 8.118 Applicant's Response to Issue Specific Hearing 4 Action 7 - Updates on Road Safety Audits This has now been superseded by REP8-028
REP5-056	London Luton Airport Limited	Deadline 5 Submission - 8.119 Applicant's Response to Issue Specific Hearing 4 Action 26 - Sustainable Transport Fund This has now been superseded by REP7-042
REP5-057	London Luton Airport Limited	Deadline 5 Submission - 8.121 Rail Impacts Summary This has now been superseded by REP8-030
REP5-058	London Luton Airport Limited	Deadline 5 Submission - 8.122 Bus and Coach Study This has now been superseded by REP8-032
REP5-059	London Luton Airport Limited	Deadline 5 Submission - 8.123 Applicant's Response to Deadline 3 Comments from Holiday Extras Limited [REP3-118]
REP5-060	London Luton Airport Limited	Deadline 5 Submission - 8.124 Schedule of Changes to the Book of Reference This has now been superseded by REP9-046

REP5-061	ATO Holdings	Deadline 5 Submission - Comments on any further information/submissions received by Deadline 4
REP5-062	Buckinghamshire Council	Deadline 5 Submission - Cover Letter
REP5-063	Buckinghamshire Council	Deadline 5 Submission - Comments on responses to the ExA's Written Questions (ExQ1)
REP5-064	Buckinghamshire Council	Deadline 5 Submission - Comments on any further information/submissions received by Deadline 4
REP5-065	Central Bedfordshire Council	Deadline 5 Submission - Comments on responses to the ExA's Written Questions (ExQ1)
REP5-066	Central Bedfordshire Council	Deadline 5 Submission - Comments on any further information/submissions received by Deadline 4
REP5-067	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 5 Submission - Comments on responses to the ExA's Written Questions (ExQ1)
REP5-068	Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council	Deadline 5 Submission - Comments on any further information/submissions received by Deadline 4
REP5-069	Friends of Wigmore Park	Deadline 5 Submission - Comments on any further information/submissions received by Deadline 4
REP5-070	Holiday Extras Limited	Deadline 5 Submission - Comments on any further information/submissions received by Deadline 4
REP5-071	LADACAN	Deadline 5 Submission - Summary of LADACAN comments on REP3-060 applying to noise envelope design
REP5-072	LADACAN	Deadline 5 Submission - Comments on the Applicant's REP3-060 submission in response to LADACAN's REP2-061 submission
REP5-073	LADACAN	Deadline 5 Submission - Comments on REP4-060
REP5-074	Luton Borough Council	Deadline 5 Submission - Cover Letter
REP5-075	Luton Borough Council	Deadline 5 Submission - Comments on responses to the ExA's Written Questions (ExQ1)

REP5-076	Luton Borough Council	Deadline 5 Submission - Comments on any further information/submissions received by Deadline 4
REP5-077	Luton Borough Council	Deadline 5 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 - Section 106 Agreement
REP5-078	Luton Borough Council	Deadline 5 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 - Noise Management Plan
REP5-079	Luton Borough Council	Deadline 5 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 - Travel Plan
REP5-080	Natural England	Deadline 5 Submission - Advice to the Applicant on the draft Chilterns AoNB Special Qualities Assessment (October 2023)
REP5-081	New Economics Foundation	Deadline 5 Submission - Comments on responses to the ExA's Written Questions (ExQ1)
REP5-082	Peter White	Deadline 5 Submission - Comments on any further information/submissions received by Deadline 4
REP5-083	Richard Choppin	Deadline 5 Submission - Comments on any further information/submissions received by Deadline 4
REP5-084	Roger Lovegrove	Deadline 5 Submission - Comments on any further information/submissions received by Deadline 4, accepted at the discretion of the Examining Authority
REP5-085	Shiv Mohan Bhanot	Deadline 5 Submission - Comments on any further information/submissions received by Deadline 4
REP5-086	St Albans Quieter Skies (STAQS)	Deadline 5 Submission - Comments on Luton Rising explanatory note - Operational Noise Management Plan
REP5-087	Stop Luton Airport Expansion	Deadline 5 Submission - Response to the Applicant's Trip Distribution Plans
REP5-088	The Harpenden Society	Deadline 5 Submission - Comments on responses to the ExA's Written Questions (ExQ1)
REP5-089	The Harpenden Society	Deadline 5 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP5-090	London Luton Airport Limited	Deadline 5 Submission - 8.72 Applicant's response to Written Questions - Green

		Controlled Growth GCG. Late submission, accepted at the discretion of the Examining Authority
REP5-091	National Highways	Deadline 5 Submission - Technical Note - Review of TRIMMA and post-Covid modelling submitted at Deadline 4. Late submission, accepted at the discretion of the Examining Authority
REP5-092	National Highways	Deadline 5 Submission - Cover Letter. Late submission, accepted at the discretion of the Examining Authority
REP5-093	National Highways	Deadline 5 Submission - Technical Note - South Facing Slip Interventions. Late submission, accepted at the discretion of the Examining Authority
REP5-094	London Luton Airport Limited	Deadline 5 Submission - Cover Letter for late Deadline 5 submissions. Late submission, accepted at the discretion of the Examining Authority
REP5-095	London Luton Airport Limited	Deadline 5 Submission - 1.06 Guide to the Application (Application Document Tracker). Late submission, accepted at the discretion of the Examining Authority This has now been superseded by REP6-002
REP5-096	London Luton Airport Limited	Deadline 5 Submission - 5.02 Environmental Statement Appendix 20.4 Drainage Design Statement. Late submission, accepted at the discretion of the Examining Authority
REP5-097	London Luton Airport Limited	Deadline 5 Submission - 5.02 Environmental Statement Appendix 20.4 Drainage Design Statement (Tracked Change Version). Late submission, accepted at the discretion of the Examining Authority
REP5-098	London Luton Airport Limited	Deadline 5 Submission - 8.112 Applicant's Response to Issue Specific Hearing 1 Actions 8 and 11: Note on existing/previous planning conditions and S106 obligations. Late submission, accepted at the discretion of the Examining Authority

Deadline 6 – 8 December 2023

For receipt by the Examining Authority of:

- Post-hearing submissions including written submissions of oral cases (if held)
- The Applicant's revised draft DCO
- Status of Negotiations/ CA Schedule
- Updated SoCG

• Updated Statement of Commonality of SoCG • Updated PADSS • Updated Guide to the Application • Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 • Comments on any further information/ submissions received by Deadline 5		
REP6-001	London Luton Airport Limited	Deadline 6 Submission - Cover Letter
REP6-002	London Luton Airport Limited	Deadline 6 Submission - 1.06 Guide to the Application (Application Document Tracker) This has now been superseded by REP7-002
REP6-003	London Luton Airport Limited	Deadline 6 Submission - 5.02 Appendix 4.2 Code of Construction Practice This has now been superseded by REP8-013
REP6-004	London Luton Airport Limited	Deadline 6 Submission - 5.02 Appendix 4.2 Code of Construction Practice (Tracked Change Version) This has now been superseded by REP8-014
REP6-005	London Luton Airport Limited	Deadline 6 Submission - 5.02 Appendix 17.5 Outline Remediation Strategy (for Former Eaton Green Landfill)
REP6-006	London Luton Airport Limited	Deadline 6 Submission - 5.02 Appendix 17.5 Outline Remediation Strategy (for Former Eaton Green Landfill) (Tracked Change Version)
REP6-007	London Luton Airport Limited	Deadline 6 Submission - 5.02 Appendix 17.6 Outline Foundation Works Risk Assessment
REP6-008	London Luton Airport Limited	Deadline 6 Submission - 5.02 Appendix 17.6 Outline Foundation Works Risk Assessment (Tracked Change Version)
REP6-009	London Luton Airport Limited	Deadline 6 Submission - 5.02 Appendix 18.3 Outline Construction Traffic Management Plan This has now been superseded by REP10-021
REP6-010	London Luton Airport Limited	Deadline 6 Submission - 5.02 Appendix 18.3 Outline Construction Traffic Management Plan (Tracked Change Version) This has now been superseded by REP10-022
REP6-011	London Luton Airport Limited	Deadline 6 Submission - 8.02 Statement of Common Ground between London Luton Airport Limited and World Fuel Services

REP6-012	London Luton Airport Limited	Deadline 6 Submission - 8.03 Statement of Common Ground between London Luton Airport Limited and Prax Downstream UK Limited
REP6-013	London Luton Airport Limited	Deadline 6 Submission - 8.05 Statement of Common Ground between London Luton Airport Limited and Historic England This has now been superseded by REP9-034
REP6-014	London Luton Airport Limited	Deadline 6 Submission - 8.05 Statement of Common Ground between London Luton Airport Limited and Historic England (Tracked Change Version)
REP6-015	London Luton Airport Limited	Deadline 6 Submission - 8.06 Statement of Common Ground between London Luton Airport Limited and Thames Water Utilities Ltd This has now been superseded by REP11-029
REP6-016	London Luton Airport Limited	Deadline 6 Submission - 8.06 Statement of Common Ground between London Luton Airport Limited and Thames Water Utilities Ltd (Tracked Change Version) This has now been superseded by REP11-030
REP6-017	London Luton Airport Limited	Deadline 6 Submission - 8.07 Statement of Common Ground between London Luton Airport Limited and the Environment Agency This has now been superseded by REP9-035
REP6-018	London Luton Airport Limited	Deadline 6 Submission - 8.07 Statement of Common Ground between London Luton Airport Limited and the Environment Agency (Tracked Change Version) This has now been superseded by REP9-036
REP6-019	London Luton Airport Limited	Deadline 6 Submission - 8.08 Statement of Common Ground between London Luton Airport Limited and Affinity Water This has now been superseded by REP11-031
REP6-020	London Luton Airport Limited	Deadline 6 Submission - 8.08 Statement of Common Ground between London Luton Airport Limited and Affinity Water (Tracked Change Version) This has now been superseded by REP11-032
REP6-021	London Luton Airport Limited	Deadline 6 Submission - 8.10 Statement of Common Ground between London Luton Airport Limited and the Civil Aviation Authority This has now been superseded by REP9-037
REP6-022	London Luton Airport Limited	Deadline 6 Submission - 8.10 Statement of Common Ground between London Luton Airport Limited and the Civil Aviation Authority (Tracked Change Version)

		This has now been superseded by REP9-038
REP6-023	London Luton Airport Limited	Deadline 6 Submission - 8.11 Statement of Common Ground between London Luton Airport Limited and National Highways This has now been superseded by REP11-093
REP6-024	London Luton Airport Limited	Deadline 6 Submission - 8.11 Statement of Common Ground between London Luton Airport Limited and National Highways (Tracked Change Version) This has now been superseded by REP11-094
REP6-025	London Luton Airport Limited	Deadline 6 Submission - 8.12 Statement of Common Ground between London Luton Airport Limited and the UK Health Security Agency This has now been superseded by REP10-033
REP6-026	London Luton Airport Limited	Deadline 6 Submission - 8.12 Statement of Common Ground between London Luton Airport Limited and the UK Health Security Agency (Tracked Change Version) This has now been superseded by REP10-034
REP6-027	London Luton Airport Limited	Deadline 6 Submission - 8.13 Statement of Common Ground between London Luton Airport Limited and Luton Borough Council This has now been superseded by REP11-033
REP6-028	London Luton Airport Limited	Deadline 6 Submission - 8.13 Statement of Common Ground between London Luton Airport Limited and Luton Borough Council (Tracked Change Version) This has now been superseded by REP11-034
REP6-029	London Luton Airport Limited	Deadline 6 Submission - 8.14 Statement of Common Ground between London Luton Airport Limited and Central Bedfordshire Council This has now been superseded by REP11-035
REP6-030	London Luton Airport Limited	Deadline 6 Submission - 8.14 Statement of Common Ground between London Luton Airport Limited and Central Bedfordshire Council (Tracked Change Version) This has now been superseded by REP11-036
REP6-031	London Luton Airport Limited	Deadline 6 Submission - 8.15 Statement of Common Ground between London Luton Airport Limited and Hertfordshire County Council This has now been superseded by REP11-095

REP6-032	London Luton Airport Limited	Deadline 6 Submission - 8.15 Statement of Common Ground between London Luton Airport Limited and Hertfordshire County Council (Tracked Change Version) This has now been superseded by REP11-096
REP6-033	London Luton Airport Limited	Deadline 6 Submission - 8.16 Statement of Common Ground between London Luton Airport Limited and North Hertfordshire District Council This has now been superseded by REP11-097
REP6-034	London Luton Airport Limited	Deadline 6 Submission - 8.16 Statement of Common Ground between London Luton Airport Limited and North Hertfordshire District Council (Tracked Change Version) This has now been superseded by REP11-098
REP6-035	London Luton Airport Limited	Deadline 6 Submission - 8.17 Statement of Common Ground Between London Luton Airport Limited and Dacorum Borough Council This has now been superseded by REP11-099
REP6-036	London Luton Airport Limited	Deadline 6 Submission - 8.17 Statement of Common Ground Between London Luton Airport Limited and Dacorum Borough Council (Tracked Change Version) This has now been superseded by REP11-100
REP6-037	London Luton Airport Limited	Deadline 6 Submission - 8.18 Statement of Common Ground between London Luton Airport Limited and Buckinghamshire Council This has now been superseded by REP11-101
REP6-038	London Luton Airport Limited	Deadline 6 Submission - 8.18 Statement of Common Ground between London Luton Airport Limited and Buckinghamshire Council (Tracked Change Version) This has now been superseded by REP11-102
REP6-039	London Luton Airport Limited	Deadline 6 Submission - 8.19 Statement of Common Ground between London Luton Airport Limited and the East of England Ambulance Service This has now been superseded by REP11-037
REP6-040	London Luton Airport Limited	Deadline 6 Submission - 8.19 Statement of Common Ground between London Luton Airport Limited and the East of England Ambulance Service (Tracked Change Version)

		This has now been superseded by REP11-038
REP6-041	London Luton Airport Limited	Deadline 6 Submission - 8.20 Statement of Common Ground between London Luton Airport Limited and the Bedfordshire Fire and Rescue Service This has now been superseded by REP9-039
REP6-042	London Luton Airport Limited	Deadline 6 Submission - 8.20 Statement of Common Ground between London Luton Airport Limited and the Bedfordshire Fire and Rescue Service (Tracked Change Version)
REP6-043	London Luton Airport Limited	Deadline 6 Submission - 8.21 Statement of Common Ground between London Luton Airport Limited and NATS (En Route) PLC This has now been superseded by REP8-041
REP6-044	London Luton Airport Limited	Deadline 6 Submission - 8.21 Statement of Common Ground between London Luton Airport Limited and NATS (En Route) PLC (Tracked Change Version)
REP6-045	London Luton Airport Limited	Deadline 6 Submission - 8.22 Statement of Commonality for Statements of Common Ground This has now been superseded by REP11-039
REP6-046	London Luton Airport Limited	Deadline 6 Submission - 8.22 Statement of Commonality for Statements of Common Ground (Tracked Change Version) This has now been superseded by REP11-040
REP6-047	London Luton Airport Limited	Deadline 6 Submission - 8.34 Status of Negotiations/Compulsory Acquisition Schedule This has now been superseded by REP11-041
REP6-048	London Luton Airport Limited	Deadline 6 Submission - 8.34 Status of Negotiations/Compulsory Acquisition Schedule (Tracked Change Version) This has now been superseded by REP11-042
REP6-049	London Luton Airport Limited	Deadline 6 Submission - 8.42 Statement of Common Ground between London Luton Airport Limited and Natural England This has now been superseded by REP9-040
REP6-050	London Luton Airport Limited	Deadline 6 Submission - 8.42 Statement of Common Ground between London Luton Airport Limited and Natural England (Tracked Change Version) This has now been superseded by REP9-041
REP6-051	London Luton Airport Limited	Deadline 6 Submission - 8.125 Air Noise Management Plan This has now been superseded by REP7-044

REP6-052	London Luton Airport Limited	Deadline 6 Submission - 8.126 Response to Suono's note on Noise Controls
REP6-053	London Luton Airport Limited	Deadline 6 Submission - 8.127 Applicant's Response to Deadline 5 submissions
REP6-054	London Luton Airport Limited	Deadline 6 Submission - 8.127 Applicant's Response to Deadline 5 Submissions Appendix A - LADACAN
REP6-055	London Luton Airport Limited	Deadline 6 Submission - 8.127 Applicant's Response to Deadline 5 Submissions Appendix B - Buckinghamshire Council
REP6-056	London Luton Airport Limited	Deadline 6 Submission - 8.127 Applicant's Response to Deadline 5 Submissions Appendix C - Central Bedfordshire Council
REP6-057	London Luton Airport Limited	Deadline 6 Submission - 8.127 Applicant's Response to Deadline 5 Submissions Appendix D - Dacorum Borough Council, Hertfordshire County Council & North Hertfordshire Council
REP6-058	London Luton Airport Limited	Deadline 6 Submission - 8.127 Applicant's Response to Deadline 5 Submissions Appendix E - National Highways
REP6-059	London Luton Airport Limited	Deadline 6 Submission - 8.128 Written Question Responses - Applicant's Response to Buckinghamshire Council's Comments
REP6-060	London Luton Airport Limited	Deadline 6 Submission - 8.129 Written Question Responses - Applicant's Response to Central Bedfordshire Council's Comments
REP6-061	London Luton Airport Limited	Deadline 6 Submission - 8.130 Written Question Responses - Applicant's Response to Hertfordshire Host Authorities' Comments
REP6-062	London Luton Airport Limited	Deadline 6 Submission - 8.131 Written Question Responses - Applicant's Response to Luton Borough Council's Comments
REP6-063	London Luton Airport Limited	Deadline 6 Submission - 8.132 Written Question Responses - Applicant's Response to Comments by The Harpenden Society, LADACAN and NEF
REP6-064	London Luton Airport Limited	Deadline 6 Submission - 8.133 Applicant's Post Hearing Submission - Compulsory Acquisition Hearing 2 (CAH2)
REP6-065	London Luton Airport Limited	Deadline 6 Submission - 8.134 Applicant's Post Hearing Submission - Issue Specific Hearing 7 (ISH7)
REP6-066	London Luton Airport Limited	Deadline 6 Submission - 8.135 Applicant's Post Hearing Submission - Issue Specific Hearing 8 (ISH8)
REP6-067	London Luton Airport Limited	Deadline 6 Submission - 8.136 Applicant's Post Hearing Submission - Issue Specific Hearing 9 (ISH9)

REP6-068	London Luton Airport Limited	Deadline 6 Submission - 8.137 Applicant's Post Hearing Submission - Issue Specific Hearing 10 (ISH10)
REP6-069	London Luton Airport Limited	Deadline 6 Submission - 8.138 Applicant's Post Hearing Submission - Open Floor Hearing 3 (OFH3)
REP6-070	London Luton Airport Limited	Deadline 6 Submission - 8.139 Applicant's Response to Issue Specific Hearing 7 Action 3 - Ivinghoe Junction Modelling Review
REP6-071	London Luton Airport Limited	Deadline 6 Submission - 8.140 Applicant's Response to Issue Specific Hearing 4 Action 7 - Update on M1 Junction 10 Road Safety Audit
REP6-072	London Luton Airport Limited	Deadline 6 Submission - 8.141 Applicant's Response to Issue Specific Hearing Action 10 Action 19 Summary of Section 106 Heads of Terms
REP6-073	London Luton Airport Limited	Deadline 6 Submission - 8.142 Applicant's Response to Issue Specific Hearing 8 Action 22 - Proposed Odour Reporting Process This has now been superseded by REP8-034
REP6-074	London Luton Airport Limited	Deadline 6 Submission - 8.143 Applicant's Response to Issue Specific Hearing 8 Action 21 - Hitchin AQMA Impact Assessment Summary Note
REP6-075	London Luton Airport Limited	Deadline 6 Submission - 8.144 Draft Chilterns AONB Special Qualities Assessment This has now been superseded by REP7-046
REP6-076	London Luton Airport Limited	Deadline 6 Submission - 8.147 Applicant's Response to Issue Specific Hearing 9 Action 26 - Air Quality Monitoring
REP6-077	Bedfordshire, Luton and Milton Keynes Integrated Care Board	Deadline 6 Submission - Post-hearing submission
REP6-078	Bedfordshire, Luton and Milton Keynes Integrated Care Board	Deadline 6 Submission - Post-hearing submission - Response to OFH3 Action Point 4 - Meeting minutes of 24 March 2023
REP6-079	Bedfordshire, Luton and Milton Keynes Integrated Care Board	Deadline 6 Submission - Post-hearing submission - Response to OFH3 Action Point 4 - Meeting minutes of 30 June 2023
REP6-080	Buckinghamshire and Milton Keynes Association of Local Councils	Deadline 6 Submission - Comments on any further information/ submissions received by Deadline 5
REP6-081	Buckinghamshire and Milton Keynes Association of Local Councils	Deadline 6 Submission - Comments on any further information/ submissions received by Deadline 5 - Community Noise Report Dagnall

REP6-082	Buckinghamshire and Milton Keynes Association of Local Councils	Deadline 6 Submission - Comments on any further information/ submissions received by Deadline 5 - Implications of preferential access to land and clean energy for Sustainable Aviation Fuels
REP6-083	Buckinghamshire and Milton Keynes Association of Local Councils	Deadline 6 Submission - New Economics Foundation Report - Losing Altitude: The Economics of Air Transport in Great Britain
REP6-084	Buckinghamshire and Milton Keynes Association of Local Councils	Deadline 6 Submission - Comments on any further information/ submissions received by Deadline 5 - The Royal Society: Net zero aviation fuels
REP6-085	Buckinghamshire Council	Deadline 6 Submission – Buckinghamshire Council Cover Letter
REP6-086	Buckinghamshire Council	Deadline 6 Submission - Comments on any further information/ submissions received by Deadline 5
REP6-087	Buckinghamshire Council	Deadline 6 Submission - Post-hearing submissions including written submissions of oral cases (if held)
REP6-088	Buckinghamshire Council	Deadline 6 Submission - Updated PADSS
REP6-089	Central Bedfordshire Council	Deadline 6 Submission - Post-hearing submission - ISH7
REP6-090	Central Bedfordshire Council	Deadline 6 Submission - Post-hearing submission - ISH8
REP6-091	Central Bedfordshire Council	Deadline 6 Submission - Comments on any further information/ submissions received by Deadline 5
REP6-092	Central Bedfordshire Council	Deadline 6 Submission - Updated PADSS
REP6-093	Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, Luton Borough Council, North Hertfordshire Council	Deadline 6 Submission - Post-hearing submission - ISH8
REP6-094	Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, Luton Borough Council, North Hertfordshire Council	Deadline 6 Submission - Post-hearing submission - ISH9
REP6-095	Central Bedfordshire Council, Dacorum	Deadline 6 Submission - Post-hearing submission - ISH10

	Borough Council, Hertfordshire County Council, Luton Borough Council, North Hertfordshire Council	
REP6-096	Dacorum Borough Council, Hertfordshire County Council, Luton Borough Council, North Hertfordshire Council	Deadline 6 Submission - Response to ISH9 Action Point 38 - Sustainability report 2022
REP6-097	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council	Deadline 6 Submission - Post-hearing submission - ISH7
REP6-098	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council	Deadline 6 Submission - Response to ISH7 Action Point 23 - Department for Transport policy paper: strategic road network and the delivery of sustainable development
REP6-099	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council	Deadline 6 Submission - Updated PADSS
REP6-100	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council	Deadline 6 Submission - Comments on any further information/ submissions received by Deadline 5
REP6-101	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council	Deadline 6 Submission - Comments on any further information/ submissions received by Deadline 5: Written Questions
REP6-102	Luton Borough Council	Deadline 6 Submission - Cover Letter
REP6-103	Luton Borough Council	Deadline 6 Submission - Comments on any further information/ submissions received by Deadline 5
REP6-104	Luton Borough Council	Deadline 6 Submission - Post-hearing submission - Responses to CAH2 Action Points

REP6-105	Luton Borough Council	Deadline 6 Submission - Post-hearing submission - Responses to ISH7 Action Points
REP6-106	Luton Borough Council	Deadline 6 Submission - Post-hearing submission - ISH8
REP6-107	Luton Borough Council	Deadline 6 Submission - Post-hearing submission - Responses to ISH8 Action Points
REP6-108	Luton Borough Council	Deadline 6 Submission - Post-hearing submission - OFH3
REP6-109	Luton Borough Council	Deadline 6 Submission - Updated PADSS
REP6-110	Environment Agency	Deadline 6 Submission - Post-hearing submission - ISH8 Action 32
REP6-111	Environment Agency	Deadline 6 Submission - Updated PADSS
REP6-112	National Highways	Deadline 6 Submission - Cover Letter
REP6-113	National Highways	Deadline 6 Submission - Draft DCO marked up with proposed wording to address concerns regarding mitigation and monitoring
REP6-114	National Highways	Deadline 6 Submission - Post-hearing submission - CAH2
REP6-115	National Highways	Deadline 6 Submission - Post-hearing submission - ISH7
REP6-116	National Highways	Deadline 6 Submission - Post-hearing submission - ISH9
REP6-117	National Highways	Deadline 6 Submission - Post-hearing submission - ISH10
REP6-118	National Highways	Deadline 6 Submission - Post-hearing submission - Position on the TRIMMA and the Green Controlled Growth Framework
REP6-119	Network Rail Infrastructure Limited	Deadline 6 Submission
REP6-120	Affinity Water Limited	Deadline 6 Submission - Comments on any further information/ submissions received by Deadline 5
REP6-121	Barnfield College	Deadline 6 Submission - Post-hearing submissions including written submissions of oral cases (if held)
REP6-122	The Chilterns Conservation Board	Deadline 6 Submission - Post-hearing submission - Boundary Review timeline overview
REP6-123	The Chilterns Conservation Board	Deadline 6 Submission - Post-hearing submission - Response to ISH8 Action 44 - Frequently Asked Questions December 2023
REP6-124	The Chilterns Conservation Board	Deadline 6 Submission - Post-hearing submissions including written submissions of oral cases (if held)
REP6-125	Friends of Wigmore Park	Deadline 6 Submission - Post-hearing submission - Open Floor Hearing 3

REP6-126	Friends of Wigmore Park	Deadline 6 Submission - Post-hearing submission - OFH3 - Fields in Trust awards
REP6-127	Friends of Wigmore Park	Deadline 6 Submission - Post-hearing submission - Comments on CAH2, agenda item 3
REP6-128	Friends of Wigmore Park	Deadline 6 Submission - Post-hearing submission - Issue Specific Hearing 7
REP6-129	Friends of Wigmore Park	Deadline 6 Submission - Post-hearing submission - Issue Specific Hearing 8
REP6-130	The Harpenden Society	Deadline 6 Submission - Comments on any further information/ submissions received by Deadline 5 - Response to revised Funding Statement
REP6-131	The Harpenden Society	Deadline 6 Submission - Post-hearing submissions including written submissions of oral cases (if held)
REP6-132	Holiday Extras Ltd	Deadline 6 Submission - Comments on any further information/ submissions received by Deadline 5
REP6-133	LADACAN	Deadline 6 Submission - Post-hearing submission - OFH3
REP6-134	LADACAN	Deadline 6 Submission - Post-hearing submission - ISH8
REP6-135	LADACAN	Deadline 6 Submission - Post hearing submission - ISH8 Action 7 - A321neo vs A321ceo noise and Full Length Runway Departure Trial
REP6-136	LADACAN	Deadline 6 Submission - Post-hearing submission - ISH8 Action 38 - note on Jet Zero Progress since OYO
REP6-137	LADACAN	Deadline 6 Submission - Post-hearing submission - ISH8 Action 9
REP6-138	LADACAN	Deadline 6 Submission - Post-hearing submission - ISH8 Action 9 - London Luton Airport Quarterly Monitoring Report Quarter 3 2023
REP6-139	LADACAN	Deadline 6 Submission - Post-hearing submission - ISH9 Action 15
REP6-140	LADACAN	Deadline 6 Submission - Post-hearing submission - Slightly Steeper Approach Study Report 2021
REP6-141	Luton Town FC, 2020 Developments (Luton) Ltd	Deadline 6 Submission - Post-hearing submissions including written submissions of oral cases (if held)
REP6-142	St Albans Quieter Skies (STAQS)	Deadline 6 Submission - Post-hearing submissions including written submissions of oral cases (if held)
REP6-143	Stop Luton Airport Expansion	Deadline 6 Submission - Bartlett Square Development

REP6-144	Stop Luton Airport Expansion	Deadline 6 Submission - Comments on any further information/ submissions received by Deadline 5 - Bridlepaths, Footpaths, Public Rights of Way
REP6-145	Stop Luton Airport Expansion	Deadline 6 Submission - Post-hearing submission - OFH3
REP6-146	Stop Luton Airport Expansion	Deadline 6 Submission - Response to 8.114 Applicant's Response to Deadline 4 submissions
REP6-147	UK Health Security Agency	Deadline 6 Submission - Response to ISH8 Action Points. Late submission, accepted at the discretion of the Examining Authority
REP6-148	Feroza Bartlett	Deadline 6 Submission - Post-hearing submissions including written submissions of oral cases (if held)
REP6-149	Janet Ingham	Deadline 6 Submission - Comments on any further information/ submissions received by Deadline 5 - Environmental Statement Biodiversity revision. Late submission accepted at the discretion of the Examining Authority
REP6-150	Joseph Kelly	Deadline 6 Submission - Post-hearing submissions including written submissions of oral cases (if held)
REP6-151	Andrew Mills-Baker	Deadline 6 Submission - Comments on any further information/ submissions received by Deadline 5
REP6-152	Alison Mitchell	Deadline 6 Submission - Post-hearing submissions including written submissions of oral cases (if held)
REP6-153	Michael Reddington	Deadline 6 Submission - Comments on any further information/ submissions received by Deadline 5 - Comments on AS-125 Need Case Revision 1
REP6-154	Michael Reddington	Deadline 6 Submission - Comments on any further information/ submissions received by Deadline 5 - Comments on REP5-054 Applicant's Response to AS-156
REP6-155	Michael Reddington	Deadline 6 Submission - Response to ISH9 Action 34: Comments on Noise Insulation Delivery Programme (REP4-079)
REP6-156	Carol Redgment	Deadline 6 Submission - Submission in lieu of attendance at hearings w/c 27 November 2023
REP6-157	John A Smith	Deadline 6 Submission - Post-hearing submissions including written submissions of oral cases (if held)
REP6-158	John A Smith	Deadline 6 Submission - Traffic and Transport - Thameslink Trains. Late submission, accepted at the discretion of the Examining Authority

REP6-159	Cllr Steven Stephens	Deadline 6 Submission - Post-hearing submission - 14 November 2023 Full Council Video Recording
REP6-160	Cllr Steven Stephens	Deadline 6 Submission - Post-hearing submission - Extract of minute number 109 of Council Minutes of 14 November 2023
REP6-161	Cllr Steven Stephens	Deadline 6 Submission - Post-hearing submission - OFH3 and ISH8
REP6-162	Peter White	Deadline 6 Submission - Post-hearing submissions including written submissions of oral cases (if held)
Deadline 7 – 9 January 2024 For receipt by the Examining Authority of: • Response to the ExA's Further Written Questions (ExQ2) (if required) • Comments on the Applicant's revised draft DCO • Comments on the RIES (if required) • Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 • Comments on any further information/ submissions received by Deadline 6		
REP7-001	London Luton Airport Limited	Deadline 7 Submission - Cover Letter
REP7-002	London Luton Airport Limited	Deadline 7 Submission - 1.06 Guide to the Application (Application Document Tracker) This has now been superseded by REP8-002
REP7-003	London Luton Airport Limited	Deadline 7 Submission - 2.01 Draft Development Consent Order This has now been superseded by REP8-003
REP7-004	London Luton Airport Limited	Deadline 7 Submission - 2.01 Draft Development Consent Order (Tracked Change Version) This has now been superseded by REP8-004
REP7-005	London Luton Airport Limited	Deadline 7 Submission - 2.02 Explanatory Memorandum This has now been superseded by REP8-005

REP7-006	London Luton Airport Limited	Deadline 7 Submission - 2.02 Explanatory Memorandum (Tracked Change Version) This has now been superseded by REP8-006
REP7-007	London Luton Airport Limited	Deadline 7 Submission - 2.03 Consents and Agreements Position Statement
REP7-008	London Luton Airport Limited	Deadline 7 Submission - 2.03 Consents and Agreements Position Statement (Tracked Change Version)
REP7-009	London Luton Airport Limited	Deadline 7 Submission - 5.01 Environmental Statement Chapter 13 Health and Community This has now been superseded by REP10-009
REP7-010	London Luton Airport Limited	Deadline 7 Submission - 5.01 Environmental Statement Chapter 13 Health and Community (Tracked Change Version) This has now been superseded by REP10-010
REP7-011	London Luton Airport Limited	Deadline 7 Submission - 5.01 Environmental Statement Chapter 17 Soils and Geology
REP7-012	London Luton Airport Limited	Deadline 7 Submission - 5.01 Environmental Statement Chapter 17 Soils and Geology (Tracked Change Version)
REP7-013	London Luton Airport Limited	Deadline 7 Submission - 5.02 Environmental Statement Appendix 16.1 Noise and Vibration Information This has now been superseded by REP9-017
REP7-014	London Luton Airport Limited	Deadline 7 Submission - 5.02 Environmental Statement Appendix 16.1 Noise and Vibration Information (Tracked Change Version) This has now been superseded by REP9-018
REP7-015	London Luton Airport Limited	Deadline 7 Submission - 5.03 Environmental Statement Chapter 17 Soils and Geology Figures 17.1-17.3
REP7-016	London Luton Airport Limited	Deadline 7 Submission - 7.05 Employment and Training Strategy This has now been superseded by REP8-020
REP7-017	London Luton Airport Limited	Deadline 7 Submission - 7.05 Employment and Training Strategy (Tracked Change Version) This has now been superseded by REP8-021
REP7-018	London Luton Airport Limited	Deadline 7 Submission - 7.07 Green Controlled Growth Explanatory Note This has now been superseded by REP9-020
REP7-019	London Luton Airport Limited	Deadline 7 Submission - 7.07 Green Controlled Growth Explanatory Note (Tracked Change Version) This has now been superseded by REP9-021
REP7-020	London Luton Airport Limited	Deadline 7 Submission - 7.08 Green Controlled Growth Framework This has now been superseded by REP9-022

REP7-021	London Luton Airport Limited	Deadline 7 Submission - 7.08 Green Controlled Growth Framework (Tracked Change Version) This has now been superseded by REP9-023
REP7-022	London Luton Airport Limited	Deadline 7 Submission - 7.08 Green Controlled Growth Framework Appendix A - Draft ESG Terms of Reference This has now been superseded by REP9-024
REP7-023	London Luton Airport Limited	Deadline 7 Submission - 7.08 Green Controlled Growth Framework Appendix A - Draft ESG Terms of Reference (Tracked Change Version) This has now been superseded by REP9-025
REP7-024	London Luton Airport Limited	Deadline 7 Submission - 7.08 Green Controlled Growth Framework Appendix B - Draft Technical Panels Terms of Reference This has now been superseded by REP9-026
REP7-025	London Luton Airport Limited	Deadline 7 Submission - 7.08 Green Controlled Growth Framework Appendix B - Draft Technical Panels Terms of Reference (Tracked Change Version) This has now been superseded by REP9-027
REP7-026	London Luton Airport Limited	Deadline 7 Submission - 7.08 Green Controlled Growth Framework Appendix C - Aircraft Noise Monitoring Plan
REP7-027	London Luton Airport Limited	Deadline 7 Submission - 7.08 Green Controlled Growth Framework Appendix C - Aircraft Noise Monitoring Plan (Tracked Change Version)
REP7-028	London Luton Airport Limited	Deadline 7 Submission - 7.08 Green Controlled Growth Framework Appendix D - Air Quality Monitoring Plan This has now been superseded by REP9-028
REP7-029	London Luton Airport Limited	Deadline 7 Submission - 7.08 Green Controlled Growth Framework Appendix D - Air Quality Monitoring Plan (Tracked Change Version) This has now been superseded by REP9-029
REP7-030	London Luton Airport Limited	Deadline 7 Submission - 7.08 Green Controlled Growth Framework Appendix E - Greenhouse Gases Monitoring Plan
REP7-031	London Luton Airport Limited	Deadline 7 Submission - 7.08 Green Controlled Growth Framework Appendix E - Greenhouse Gases Monitoring Plan (Tracked Change Version)
REP7-032	London Luton Airport Limited	Deadline 7 Submission - 7.08 Green Controlled Growth Framework Appendix F - Surface Access Monitoring Plan
REP7-033	London Luton Airport Limited	Deadline 7 Submission - 7.08 Green Controlled Growth Framework Appendix F - Surface Access Monitoring Plan (Tracked Change Version)
REP7-034	London Luton Airport Limited	Deadline 7 Submission - 7.09 Design Principles This has now been superseded by REP8-022

REP7-035	London Luton Airport Limited	Deadline 7 Submission - 7.09 Design Principles (Tracked Change Version) This has now been superseded by REP8-023
REP7-036	London Luton Airport Limited	Deadline 7 Submission - 7.10 Draft Compensation Policies, Measures and Community First This has now been superseded by REP9-032
REP7-037	London Luton Airport Limited	Deadline 7 Submission - 7.10 Draft Compensation Policies, Measures and Community First (Tracked Change Version) This has now been superseded by REP9-033
REP7-038	London Luton Airport Limited	Deadline 7 Submission - 8.54 Summary of Changes to the Draft Development Consent Order This has now been superseded by REP8-042
REP7-039	London Luton Airport Limited	Deadline 7 Submission - 8.97 Outline Transport Related Impacts Monitoring and Mitigation Approach (TRIMMA) This has now been superseded by REP8-043
REP7-040	London Luton Airport Limited	Deadline 7 Submission - 8.97 Outline Transport Related Impacts Monitoring and Mitigation Approach (TRIMMA) (Tracked Change Version) This has now been superseded by REP8-044
REP7-041	London Luton Airport Limited	Deadline 7 Submission - 8.106 Statement of Common Grounds Updates Document This has now been superseded by REP8-027
REP7-042	London Luton Airport Limited	Deadline 7 Submission - 8.119 Applicant's Response to Issue Specific Hearing 4 Action 26 and Issue Specific Hearing 7 Action 10 - Sustainable Transport Fund
REP7-043	London Luton Airport Limited	Deadline 7 Submission - 8.119 Applicant's Response to Issue Specific Hearing 4 Action 26 and Issue Specific Hearing 7 Action 10 - Sustainable Transport Fund (Tracked Change Version)
REP7-044	London Luton Airport Limited	Deadline 7 Submission - 8.125 Air Noise Management Plan This has now been superseded by REP9-047
REP7-045	London Luton Airport Limited	Deadline 7 Submission - 8.125 Air Noise Management Plan (Tracked Change Version) This has now been superseded by REP9-048
REP7-046	London Luton Airport Limited	Deadline 7 Submission - 8.144 Applicant's Response to Issue Specific Hearing 8 Action 42 - Chilterns Area of Outstanding Natural Beauty Special Qualities Assessment
REP7-047	London Luton Airport Limited	Deadline 7 Submission - 8.144 Applicant's Response to Issue Specific Hearing 8 Action 42 - Chilterns Area of Outstanding Natural Beauty Special Qualities Assessment (Tracked Change Version)

REP7-048	London Luton Airport Limited	<u>Deadline 7 Submission - 8.146 Applicant's response to Written Questions - Arising from Hearings</u>
REP7-049	London Luton Airport Limited	<u>Deadline 7 Submission - 8.149 Applicant's response to Written Questions - Broad, cross-topic and general questions</u>
REP7-050	London Luton Airport Limited	<u>Deadline 7 Submission - 8.150 Applicant's Response to Written Questions - Air Quality and Odour</u>
REP7-051	London Luton Airport Limited	<u>Deadline 7 Submission - 8.151 Applicant's Response to Written Questions - Compulsory Acquisition and Temporary Possession of land and rights</u>
REP7-052	London Luton Airport Limited	<u>Deadline 7 Submission - 8.152 Applicant's Response to Written Questions - Physical Effects of Development and Operation</u>
REP7-053	London Luton Airport Limited	<u>Deadline 7 Submission - 8.153 Applicant's Response to Written Questions - Draft Development Consent Order</u>
REP7-054	London Luton Airport Limited	<u>Deadline 7 Submission - 8.154 Applicant's response to Written Questions - Green Controlled Growth (GCG)</u>
REP7-055	London Luton Airport Limited	<u>Deadline 7 Submission - 8.155 Applicant's response to Written Questions - Need</u>
REP7-056	London Luton Airport Limited	<u>Deadline 7 Submission - 8.156 Applicant's Response to Written Questions - Noise</u>
REP7-057	London Luton Airport Limited	<u>Deadline 7 Submission - 8.157 Applicant's response to Written Questions - Water environment</u>
REP7-058	London Luton Airport Limited	<u>Deadline 7 Submission - 8.158 Applicant's response to Written Questions - Socio-economic effects</u>
REP7-059	London Luton Airport Limited	<u>Deadline 7 Submission - 8.159 Applicant's response to Written Questions - Health and Community Effects</u>
REP7-060	London Luton Airport Limited	<u>Deadline 7 Submission - 8.160 Applicant's response to Written Questions - Major Accidents and Disasters</u>
REP7-061	London Luton Airport Limited	<u>Deadline 7 Submission - 8.161 Applicant's Response to Written Questions - Traffic and Transport</u>
REP7-062	London Luton Airport Limited	<u>Deadline 7 Submission - 8.162 Applicant's Response to Comments on the Draft Development Consent Order at Deadline 6</u>
REP7-063	London Luton Airport Limited	<u>Deadline 7 Submission - 8.163 Applicant's Response to Deadline 6 Submissions</u>
REP7-064	London Luton Airport Limited	<u>Deadline 7 Submission - 8.163 Applicant's Response to Deadline 6 Submissions Appendix A - Friends of Wigmore Park</u>

REP7-065	London Luton Airport Limited	Deadline 7 Submission - 8.163 Applicant's Response to Deadline 6 Submissions Appendix B - National Highways
REP7-066	London Luton Airport Limited	Deadline 7 Submission - 8.163 Applicant's Response to Deadline 6 Submissions Appendix C - LADACAN
REP7-067	London Luton Airport Limited	Deadline 7 Submission - 8.163 Applicant's Response to Deadline 6 Submissions Appendix D - Central Bedfordshire Council
REP7-068	London Luton Airport Limited	Deadline 7 Submission - 8.163 Applicant's Response to Deadline 6 Submissions Appendix E - Luton Borough Council
REP7-069	London Luton Airport Limited	Deadline 7 Submission - 8.163 Applicant's Response to Deadline 6 Submissions Appendix - F CBC, DBC, HCC, LBC, NHDC
REP7-070	London Luton Airport Limited	Deadline 7 Submission - 8.163 Applicant's Response to Deadline 6 Submissions Appendix G - Dacorum Borough Council, Hertfordshire County Council and North Hertfordshire District Council
REP7-071	London Luton Airport Limited	Deadline 7 Submission - 8.164 Gas Mitigation Measures Technical Note
REP7-072	London Luton Airport Limited	Deadline 7 Submission - 8.165 Applicant's Response to November Hearing Actions (Compulsory Acquisition Hearing 2 and Issue Specific Hearings 7 - 10)
REP7-073	London Luton Airport Limited	Deadline 7 Submission - 8.166 Applicant's Response to Issue Specific Hearing 7 Actions 13 and 14 - Needs of Non-Motorised Users
REP7-074	London Luton Airport Limited	Deadline 7 Submission - 8.167 Draft Section 106 Agreement
REP7-075	London Luton Airport Limited	Deadline 7 Submission - 8.168 Applicant's Response to Issue Specific Hearing 8 Action 20 - Position Statement on Health Monitoring
REP7-076	London Luton Airport Limited	Deadline 7 Submission - 8.169 Applicant's Response to Issue Specific Hearing 8 Action 41 - Commentary Regarding Non Carbon Dioxide Emissions
REP7-077	London Luton Airport Limited	Deadline 7 Submission - 8.170 Applicant's Response to Issue Specific Hearing 9 Actions 8, 19 and 20 - Quota Count Noise Controls
REP7-078	London Luton Airport Limited	Deadline 7 Submission - 8.171 Applicant's Response to Issue Specific Hearing 9 Action 27 - Note on GHG Limits
REP7-079	London Luton Airport Limited	Deadline 7 Submission - 8.172 Accounting for Covid-19 in Transport Modelling - Environmental Appraisal

REP7-080	Buckinghamshire Council	Deadline 7 Submission - Comments on any further information/ submissions received by Deadline 6
REP7-081	Buckinghamshire Council	Deadline 7 Submission - Response to the ExA's Further Written Questions (ExQ2) (if required)
REP7-082	Central Bedfordshire Council	Deadline 7 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP7-083	Central Bedfordshire Council	Deadline 7 Submission - Comments on any further information/ submissions received by Deadline 6
REP7-084	Central Bedfordshire Council	Deadline 7 Submission - Response to the ExA's Further Written Questions (ExQ2) (if required)
REP7-085	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council	Deadline 7 Submission - Comments on any further information/ submissions received by Deadline 6
REP7-086	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council	Deadline 7 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP7-087	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council	Deadline 7 Submission - Response to the ExA's Further Written Questions (ExQ2) (if required)
REP7-088	Luton Borough Council	Deadline 7 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP7-089	Luton Borough Council	Deadline 7 Submission - Comments on any further information/ submissions received by Deadline 6
REP7-090	Luton Borough Council	Deadline 7 Submission - Response to the ExA's Further Written Questions (ExQ2) (if required)
REP7-091	Environment Agency	Deadline 7 Submission - Response to the ExA's Further Written Questions (ExQ2) (if required)
REP7-092	Historic England	Deadline 7 Submission - Response to the ExA's Further Written Questions (ExQ2) (if required)
REP7-093	National Highways	Deadline 7 Submission - Response to the ExA's Further Written Questions (ExQ2) (if required)
REP7-094	Natural England	Deadline 7 Submission - Response to the ExA's Further Written Questions (ExQ2) (if required)

REP7-095	Network Rail	Deadline 7 Submission - Standard Protective Provisions for Inclusion in Statutory Orders
REP7-096	Affinity Water	Deadline 7 Submission - Response to the ExA's Further Written Questions (ExQ2) (if required)
REP7-097	Bartholomew Pleydell-Bouverie	Deadline 7 Submission - Confirmation of Written Representation withdrawal
REP7-098	Bristol Airport Action Network	Deadline 7 Submission - Response to the ExA's Further Written Questions (ExQ2) (if required)
REP7-099	Friends of Wigmore Park	Deadline 7 Submission - Statement regarding historic use of fields adjacent to Wigmore Valley Park
REP7-100	Friends of Wigmore Park	Deadline 7 Submission - Responses to the ExA's Further Written Questions (ExQ2) (if required)
REP7-101	HarpendenSky	Deadline 7 Submission - Objection to Luton Rising expansion DCO proposal for London Luton Airport capacity increase to 32 million passengers based upon UN COP28 First Global Stocktake report
REP7-102	Holiday Extras Ltd	Deadline 7 Submission - Comments on any further information/ submissions received by Deadline 6
REP7-103	John Gass	Deadline 7 Submission - Correspondence between John Gass and the Applicant
REP7-104	LADACAN	Deadline 7 Submission - Comments on any further information/ submissions received by Deadline 6
REP7-105	LADACAN	Deadline 7 Submission - Response to the ExA's Further Written Questions (ExQ2) (if required)
REP7-106	New Economics Foundation	Deadline 7 Submission - Correspondence between New Economics Foundation and the Department for Transport
REP7-107	New Economics Foundation	Deadline 7 Submission - Comments on any further information/ submissions received by Deadline 6
REP7-108	Peter White	Deadline 7 Submission - Questions for the Applicant
REP7-109	Peter White	Deadline 7 Submission - Comments on any further information/ submissions received by Deadline 6
REP7-110	Richard Choppin	Deadline 7 Submission - Comments on any further information/ submissions received by Deadline 6
REP7-111	Ronald Taylor	Deadline 7 Submission - Financial implications on the construction of Terminal 2 and adjacent car park plus the demolition and rebuild of the

		Car Park 1 adjacent to Terminal 1 following fire in the Autumn 2023
REP7-112	Ronald Taylor	Deadline 7 Submission - Surface Traffic submission that was not covered in several journeys by the Inspectorate in previous submissions
REP7-113	Stay Grounded UK	Deadline 7 Submission - Response to the ExA's Further Written Questions (ExQ2), accepted at the discretion of the Examining Authority
REP7-114	Stop Luton Airport Expansion	Deadline 7 Submission - Comments on any further information/ submissions received by Deadline 6
REP7-115	The Chilterns Conservation Board	Deadline 7 Submission - Comments on any further information/ submissions received by Deadline 6
REP7-116	The Harpenden Society	Deadline 7 Submission - Response to the ExA's Further Written Questions (ExQ2) (if required)
REP7-117	UK Health Security Agency	Deadline 7 Submission - Response to Further Written Questions
REP7-118	Roebuck Land & Planning on behalf of Offley Chase Estates Ltd	Deadline 7 submission - Withdrawal of objection to the Luton Rising DCO
Deadline 8 – 23 January 2024 For receipt by the Examining Authority of: • Comments on the ExA's commentary on, or schedule of changes to the draft DCO (if required) • Comments on the ExA's commentary on, or schedule of changes to the draft DCO (if required) • Comments on the ExA's commentary on, or schedule of changes to the draft DCO (if required)		
REP8-001	London Luton Airport Limited	Deadline 8 Submission - Deadline 8 Cover Letter
REP8-002	London Luton Airport Limited	Deadline 8 Submission - 1.06 Guide to the Application (Application Document Tracker) This has now been superseded by REP9-002
REP8-003	London Luton Airport Limited	Deadline 8 Submission - 2.01 Draft Development Consent Order This has now been superseded by REP9-003

REP8-004	London Luton Airport Limited	Deadline 8 Submission - 2.01 Draft Development Consent Order (Tracked Change Version) This has now been superseded by REP9-004
REP8-005	London Luton Airport Limited	Deadline 8 Submission - 2.02 Explanatory Memorandum This has now been superseded by REP9-005
REP8-006	London Luton Airport Limited	Deadline 8 Submission - 2.02 Explanatory Memorandum (Tracked Change Version) This has now been superseded by REP9-006
REP8-007	London Luton Airport Limited	Deadline 8 Submission - 4.12 Airport Boundary Plans
REP8-008	London Luton Airport Limited	Deadline 8 Submission - 4.12 Airport Boundary Plans (Tracked Change Version)
REP8-009	London Luton Airport Limited	Deadline 8 Submission - 5.01 Environmental Statement Chapter 18 Traffic and Transportation
REP8-010	London Luton Airport Limited	Deadline 8 Submission - 5.01 Environmental Statement Chapter 18 Traffic and Transportation (Tracked Change Version)
REP8-011	London Luton Airport Limited	Deadline 8 Submission - 5.02 Environmental Statement Appendix 4.1 Construction Method Statement and Programme Report
REP8-012	London Luton Airport Limited	Deadline 8 Submission - 5.02 Environmental Statement Appendix 4.1 Construction Method Statement and Programme Report (Tracked Change Version)
REP8-013	London Luton Airport Limited	Deadline 8 Submission - 5.02 Environmental Statement Appendix 4.2 Code of Construction Practice
REP8-014	London Luton Airport Limited	Deadline 8 Submission - 5.02 Environmental Statement Appendix 4.2 Code of Construction Practice (Tracked Change Version)
REP8-015	London Luton Airport Limited	Deadline 8 Submission - 5.02 Environmental Statement Appendix 10.6 Cultural Heritage Management Plan
REP8-016	London Luton Airport Limited	Deadline 8 Submission - 5.02 Environmental Statement Appendix 10.6 Cultural Heritage Management Plan (Tracked Change Version)
REP8-017	London Luton Airport Limited	Deadline 8 Submission - 5.02 Environmental Statement Appendix 14.7 Accurate Visual Representations - 10B, 13, 14, 17, 17A This has now been superseded by REP10-014
REP8-018	London Luton Airport Limited	Deadline 8 Submission - 5.02 Environmental Statement Appendix 18.4 Outline Construction Workers Travel Plan
REP8-019	London Luton Airport Limited	Deadline 8 Submission - 5.02 Environmental Statement Appendix 18.4 Outline Construction Workers Travel Plan (Tracked Change Version)

REP8-020	London Luton Airport Limited	Deadline 8 Submission - 7.05 Employment and Training Strategy
REP8-021	London Luton Airport Limited	Deadline 8 Submission - 7.05 Employment and Training Strategy (Tracked Change Version)
REP8-022	London Luton Airport Limited	Deadline 8 Submission - 7.09 Design Principles This has now been superseded by REP9-030
REP8-023	London Luton Airport Limited	Deadline 8 Submission - 7.09 Design Principles (Tracked Change Version) This has now been superseded by REP9-031
REP8-024	London Luton Airport Limited	Deadline 8 Submission - 7.13 Framework Travel Plan This has now been superseded by REP11-027
REP8-025	London Luton Airport Limited	Deadline 8 Submission - 7.13 Framework Travel Plan (Tracked Change Version) This has now been superseded by REP11-028
REP8-026	London Luton Airport Limited	Deadline 8 Submission - 8.09 Statement of Common Ground between London Luton Airport Limited and NATS (Services) Limited
REP8-027	London Luton Airport Limited	Deadline 8 Submission - 8.106 Statements of Common Ground Updates Document
REP8-028	London Luton Airport Limited	Deadline 8 Submission - 8.118 Applicant's Response to Issue Specific Hearing 4, Action 7 - Updates on Road Safety Audits This has now been superseded by REP11-106
REP8-029	London Luton Airport Limited	Deadline 8 Submission - 8.118 Applicant's Response to Issue Specific Hearing 4, Action 7 - Updates on Road Safety Audits (Tracked Change Version) This has now been superseded by REP11-107
REP8-030	London Luton Airport Limited	Deadline 8 Submission - 8.121 Rail Impacts Summary
REP8-031	London Luton Airport Limited	Deadline 8 Submission - 8.121 Rail Impacts Summary (Tracked Change Version)
REP8-032	London Luton Airport Limited	Deadline 8 Submission - 8.122 Bus & Coach Study This has now been superseded by REP10-041
REP8-033	London Luton Airport Limited	Deadline 8 Submission - 8.122 Bus and Coach Study (Tracked Change Version) This has now been superseded by REP10-042
REP8-034	London Luton Airport Limited	Deadline 8 Submission - 8.142 Applicant's Response to Issue Specific Hearing 8 Action 22 - Proposed Odour Reporting Process

REP8-035	London Luton Airport Limited	Deadline 8 Submission - 8.142 Applicant's Response to Issue Specific Hearing 8 Action 22 - Proposed Odour Reporting Process (Tracked Change Version)
REP8-036	London Luton Airport Limited	Deadline 8 Submission - 8.173 Applicant's Response to the Examining Authority's Commentary on the Draft DCO
REP8-037	London Luton Airport Limited	Deadline 8 Submission - 8.174 Applicant's Response to Written Questions NE.2.1 and NE.2.2 - Demand Forecasts
REP8-038	London Luton Airport Limited	Deadline 8 Submission - 8.175 Applicant's Response to Deadline 7 Submissions
REP8-039	London Luton Airport Limited	Deadline 8 Submission - 8.176 Applicant's Response to Comments from the Highway Authorities on the Accounting for Covid-19 in Transport Modelling Final Report [AS-159]
REP8-040	London Luton Airport Limited	Deadline 8 Submission - 8.179 Applicant's Response to Examining Authority's Rule 17 Request dated 17 January 2024
REP8-041	London Luton Airport Limited	Deadline 8 Submission - 8.21 Statement of Common Ground between London Luton Airport Limited and NATS (En Route) PLC
REP8-042	London Luton Airport Limited	Deadline 8 Submission - 8.54 Summary of Changes to the Draft Development Consent Order
REP8-043	London Luton Airport Limited	Deadline 8 Submission - 8.97 Outline Transport Related Impacts Monitoring and Mitigation Approach (TRIMMA) This has now been superseded by REP10-036
REP8-044	London Luton Airport Limited	Deadline 8 Submission - 8.97 Outline Transport Related Impacts Monitoring and Mitigation Approach (TRIMMA) (Tracked Change Version) This has now been superseded by REP10-037
REP8-045	Buckinghamshire Council	Deadline 8 Submission - Cover Letter
REP8-046	Buckinghamshire Council	Deadline 8 Submission - Response to the Applicant's Response to Deadline 6 Submissions
REP8-047	Buckinghamshire Council	Deadline 8 Submission - Comments on Further Deadline 7 Submissions
REP8-048	Buckinghamshire Council	Deadline 8 Submission - Final PADSS
REP8-049	Caldecote Ward - South Cambridgeshire District Council	Deadline 8 Submission - Comments on the ExA's commentary on, or schedule of changes to the draft DCO (if required)

REP8-050	Central Bedfordshire Council	Deadline 8 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP8-051	Central Bedfordshire Council	Deadline 8 Submission - Comments on any further information/ submissions received by Deadline 7
REP8-052	Central Bedfordshire Council, Luton Borough Council, Hertfordshire County Council, Dacorum Council, North Hertfordshire Council	Deadline 8 Submission - Comments on the ExA's commentary on, or schedule of changes to the draft DCO (if required)
REP8-053	Central Bedfordshire Council	Deadline 8 Submission - Final PADSS
REP8-054	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council	Deadline 8 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP8-055	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council	Deadline 8 Submission - Comments on any further information/ submissions received by Deadline 7
REP8-056	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council	Deadline 8 Submission - Final PADSS
REP8-057	Luton Borough Council	Deadline 8 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP8-058	Luton Borough Council	Deadline 8 Submission - Comments on any further information/ submissions received by Deadline 7
REP8-059	Luton Borough Council	Deadline 8 Submission - Comments on the ExA's commentary on, or schedule of changes to the draft DCO (if required)
REP8-060	Luton Borough Council	Deadline 8 Submission - Final PADSS
REP8-061	Affinity Water Limited	Deadline 8 Submission - Comments on any further information/ submissions received by Deadline 7

REP8-062	Environment Agency	Deadline 8 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP8-063	National Highways	Deadline 8 Submission - Cover Letter
REP8-064	National Highways	Deadline 8 Submission - Final PADSS
REP8-065	National Highways	Deadline 8 Submission - Legal note on the s106 and changes to the DCO (including a version of the amended DCO)
REP8-066	National Highways	Deadline 8 Submission - Technical Note summarising National Highways' response to the most recent version of the Outline TRIMMA (REP7-040)
REP8-067	National Highways	Deadline 8 Submission - Letter from National Highways' Regional Head of Planning and Development setting out the Organisation's updated position
REP8-068	Andrew Mills-Baker	Deadline 8 Submission - Comments on any further information/ submissions received by Deadline 7
REP8-069	Bourn Parish Council	Deadline 8 Submission
REP8-070	David Shipley	Deadline 8 Submission - Comments on any further information/ submissions received by Deadline 7
REP8-071	Friends of Wigmore Park	Deadline 8 Submission - Comments on any further information/ submissions received by Deadline 7
REP8-072	HarpendenSky	Deadline 8 Submission - Comments on any further information/ submissions received at Deadline 7
REP8-073	Holiday Extras Ltd	Deadline 8 Submission - Comments on any further information/ submissions received by Deadline 7
REP8-074	John A Smith	Deadline 8 Submission - Comments on any further information/ submissions received by Deadline 7
REP8-075	LADACAN	Deadline 8 Submission - Comments on any further information/ submissions received by Deadline 7
REP8-076	LADACAN	Deadline 8 Submission - Comments on the ExA's commentary on, or schedule of changes to the draft DCO (if required)
REP8-077	Marilyn Whittle	Deadline 8 Submission - Objections to Luton Airport Expansion
REP8-078	Michael Reddington	Deadline 8 Submission - Comments on any further information/ submissions received by Deadline 7

REP8-079	Michael Reddington	Deadline 8 Submission - Comments on REP6-067: Applicant's Approach to Luton Local Plan Policies LLP6B(iv-vii)
REP8-080	Peter White	Deadline 8 Submission - Questions in response to REP6-108
REP8-081	Ron Taylor	Deadline 8 Submission
REP8-082	Sandra Lawes	Deadline 8 Submission
REP8-083	St Albans Aircraft Noise Defence	Deadline 8 Submission - Comments on the ExA's commentary on, or schedule of changes to the draft DCO (if required)
REP8-084	St Albans Quieter Skies (STAQS)	Deadline 8 Submission - Comments on the ExA's commentary on, or schedule of changes to the draft DCO (if required)
REP8-085	Stop Low Flights From Luton	Deadline 8 Submission - Comments on the ExA's commentary on, or schedule of changes to the draft DCO (if required)
REP8-086	Mr B. Strutt	Deadline 8 Submission
REP8-087	The Harpenden Society	Deadline 8 Submission - Comments on any further information/ submissions received by Deadline 7
REP8-088	Trevor Lee	Deadline 8 Submission - Comments on any further information/ submissions received by Deadline 7. Accepted at the discretion of the Examining Authority
REP8-089	Wheathampstead & District Preservation Society	Deadline 8 Submission - Comments on the ExA's commentary on, or schedule of changes to the draft DCO (if required)
Deadline 9 – 1 February 2024 For receipt by the Examining Authority of: • Final version of the draft DCO in clean, tracked and word versions • Final draft DCO to be submitted by the Applicant in the SI template with the SI validation report • Final Book of Reference (BoR) and schedule of changes to the BoR • Final status of Negotiations/ Compulsory Acquisition Schedule • Final SoCG • Final Statement of Commonality of SoCG • Final Guide to the Application • Signed and dated planning obligations (if required) • Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 • Comments on any further information/ submissions received by Deadline 8		
REP9-001	London Luton Airport Limited	Deadline 9 Submission - Cover Letter

REP9-002	London Luton Airport Limited	Deadline 9 Submission – 1.06 Guide to the Application (Application Document Tracker) This has now been superseded by REP10-002
REP9-003	London Luton Airport Limited	Deadline 9 Submission - 2.01 Draft Development Consent Order This has now been superseded by REP10-003
REP9-004	London Luton Airport Limited	Deadline 9 Submission - 2.01 Draft Development Consent Order (Tracked Change Version) This has now been superseded by REP10-004
REP9-005	London Luton Airport Limited	Deadline 9 Submission - 2.02 Explanatory Memorandum This has now been superseded by REP10-005
REP9-006	London Luton Airport Limited	Deadline 9 Submission - 2.02 Explanatory Memorandum (Tracked Change Version) This has now been superseded by REP10-006
REP9-007	London Luton Airport Limited	Deadline 9 Submission - 3.02 Book of Reference
REP9-008	London Luton Airport Limited	Deadline 9 Submission - 3.02 Book of Reference (Tracked Change Version)
REP9-009	London Luton Airport Limited	Deadline 9 Submission - 5.01 Environmental Statement Chapter 6 Agricultural Land Quality and Farm Holding
REP9-010	London Luton Airport Limited	Deadline 9 Submission - 5.01 Environmental Statement Chapter 6 Agricultural Land Quality and Farm Holdings (Tracked Changed Version)
REP9-011	London Luton Airport Limited	Deadline 9 Submission - 5.01 Environmental Statement Chapter 16 Noise and Vibration
REP9-012	London Luton Airport Limited	Deadline 9 Submission - 5.01 Environmental Statement Chapter 16 Noise and Vibration (Tracked Changed Version)
REP9-013	London Luton Airport Limited	Deadline 9 Submission - 5.02 Environmental Statement Appendix 7.5 Outline Operational Air Quality Plan
REP9-014	London Luton Airport Limited	Deadline 9 Submission - 5.02 Environmental Statement Appendix 7.5 Outline Operational Air Quality Plan (Tracked Change Version)
REP9-015	London Luton Airport Limited	Deadline 9 Submission - 5.02 Environmental Statement Appendix 14.3 Arboricultural Impact Assessment
REP9-016	London Luton Airport Limited	Deadline 9 Submission - 5.02 Environmental Statement Appendix 14.3 Arboricultural Impact Assessment (Tracked Change Version)

REP9-017	London Luton Airport Limited	Deadline 9 Submission - 5.02 Environmental Statement Appendix 16.1 Noise and Vibration Information
REP9-018	London Luton Airport Limited	Deadline 9 Submission - 5.02 Environmental Statement Appendix 16.1 Noise and Vibration Information (Tracked Changed Version)
REP9-019	London Luton Airport Limited	Deadline 9 Submission - 5.03 Environmental Statement Chapter 20 Water Resources and Flood Risk Figures 20.1-20.7
REP9-020	London Luton Airport Limited	Deadline 9 Submission - 7.07 Green Controlled Growth Explanatory Note
REP9-021	London Luton Airport Limited	Deadline 9 Submission - 7.07 Green Controlled Growth Explanatory Note (Tracked Change Version)
REP9-022	London Luton Airport Limited	Deadline 9 Submission - 7.08 Green Controlled Growth Framework This has now been superseded by REP10-025
REP9-023	London Luton Airport Limited	Deadline 9 Submission - 7.08 Green Controlled Growth Framework (Tracked Change Version) This has now been superseded by REP10-026
REP9-024	London Luton Airport Limited	Deadline 9 Submission - 7.08 Green Controlled Growth Framework Appendix A - ESG Terms of Reference This has now been superseded by REP10-027
REP9-025	London Luton Airport Limited	Deadline 9 Submission - 7.08 Green Controlled Growth Framework Appendix A - ESG Terms of Reference (Tracked Change Version) This has now been superseded by REP10-028
REP9-026	London Luton Airport Limited	Deadline 9 Submission - 7.08 Green Controlled Growth Framework Appendix B - Technical Panels Terms of Reference
REP9-027	London Luton Airport Limited	Deadline 9 Submission - 7.08 Green Controlled Growth Framework Appendix B - Technical Panels Terms of Reference (Tracked Change Version)
REP9-028	London Luton Airport Limited	Deadline 9 Submission - 7.08 Green Controlled Growth Framework Appendix D - Air Quality Monitoring Plan
REP9-029	London Luton Airport Limited	Deadline 9 Submission - 7.08 Green Controlled Growth Framework Appendix D - Air Quality Monitoring Plan (Tracked Change Version)
REP9-030	London Luton Airport Limited	Deadline 9 Submission - 7.09 Design Principles
REP9-031	London Luton Airport Limited	Deadline 9 Submission - 7.09 Design Principles (Tracked Change Version)

REP9-032	London Luton Airport Limited	Deadline 9 Submission - 7.10 Compensation Policies, Measures and Community First This has now been superseded by REP10-029
REP9-033	London Luton Airport Limited	Deadline 9 Submission - 7.10 Compensation Policies, Measures and Community First (Tracked Change) This has now been superseded by REP10-030
REP9-034	London Luton Airport Limited	Deadline 9 Submission - 8.05 SoCG between London Luton Airport Limited and Historic England
REP9-035	London Luton Airport Limited	Deadline 9 Submission - 8.07 SoCG between London Luton Airport Limited and the Environment Agency
REP9-036	London Luton Airport Limited	Deadline 9 Submission - 8.07 SoCG between London Luton Airport Limited and the Environment Agency (Tracked Change Version)
REP9-037	London Luton Airport Limited	Deadline 9 Submission - 8.10 SoCG between London Luton Airport Limited and the Civil Aviation Authority
REP9-038	London Luton Airport Limited	Deadline 9 Submission - 8.10 SoCG between London Luton Airport Limited and the Civil Aviation Authority (Tracked Change Version)
REP9-039	London Luton Airport Limited	Deadline 9 Submission - 8.20 SoCG between London Luton Airport Limited and the Bedfordshire Fire and Rescue Service
REP9-040	London Luton Airport Limited	Deadline 9 Submission - 8.42 SoCG between London Luton Airport Limited and Natural England
REP9-041	London Luton Airport Limited	Deadline 9 Submission - 8.42 SoCG between London Luton Airport Limited and Natural England (Tracked Change Version)
REP9-042	London Luton Airport Limited	Deadline 9 Submission - 8.54 Summary of Changes to the Draft Development Consent Order This has now been superseded by REP10-035
REP9-043	London Luton Airport Limited	Deadline 9 Submission - 8.106 Statements of Common Ground Updates Document This has now been superseded by REP10-038
REP9-044	London Luton Airport Limited	Deadline 9 Submission - 8.119 Sustainable Transport Fund This has now been superseded by REP10-039
REP9-045	London Luton Airport Limited	Deadline 9 Submission - 8.119 Sustainable Transport Fund (Tracked Change Version) This has now been superseded by REP10-040

REP9-046	London Luton Airport Limited	Deadline 9 Submission - 8.124 Schedule of Changes to the Book of Reference
REP9-047	London Luton Airport Limited	Deadline 9 Submission - 8.125 Air Noise Management Plan
REP9-048	London Luton Airport Limited	Deadline 9 Submission - 8.125 Air Noise Management Plan (Tracked Change Version)
REP9-049	London Luton Airport Limited	Deadline 9 Submission - 8.167 Draft Section 106 Agreement This has now been superseded by REP11-108
REP9-050	London Luton Airport Limited	Deadline 9 Submission - 8.167 Draft Section 106 Agreement (Tracked Change Version)
REP9-051	London Luton Airport Limited	Deadline 9 Submission - 8.177 Applicant's Response to Deadline 8 Submissions
REP9-052	London Luton Airport Limited	Deadline 9 Submission - 8.178 Applicant's Response to Examining Authority's Rule 17 Request dated 17 January 2024 This has now been superseded by REP11-047
REP9-053	London Luton Airport Limited	Deadline 9 Submission - 8.182 Section 127 Submission This has now been superseded by REP10-043
REP9-054	London Luton Airport Limited	Deadline 9 Submission - 8.183 Response to Examining Authority's Commentary on the Draft Development Consent Order [PD-018] - Proposed Amendments to Schedule 1 Offsite Highway Works Work No. 6e
REP9-055	London Luton Airport Limited	Deadline 9 Submission - 8.184 Applicant's Position on Noise Contour and Movement Limits
REP9-056	London Luton Airport Limited	Deadline 9 Submission - 8.185 Alternative Mechanisms to the Section 106 Agreement
REP9-057	London Luton Airport Limited	Deadline 9 Submission - 8.186 Applicant's Response to Examining Authority's Rule 17 Request Dated 25 January 2024
REP9-058	London Luton Airport Limited	Deadline 9 Submission - 8.187 Applicant's Position Paper on Financial Penalties
REP9-059	Buckinghamshire Council	Deadline 9 Submission - Cover Letter
REP9-060	Buckinghamshire Council	Deadline 9 Submission - Comments on any further information/ submissions received by Deadline 8
REP9-061	Buckinghamshire Council	Deadline 9 Submission - Response to the Applicant's Response to Deadline 7 Submissions (REP8-038)
REP9-062	Central Bedfordshire Council	Deadline 9 Submission - Comments on any further information/ submissions received by Deadline 8

REP9-063	Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, Luton Borough Council, North Hertfordshire Council	Deadline 9 Submission - Comments on any further information/ submissions received by Deadline 8
REP9-064	Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, Luton Borough Council, North Hertfordshire Council	Deadline 9 Submission - Review of the Applicant's Response to Written Questions NE.2.1 and NE.2.2 - Demand Forecasts (REP8-037)
REP9-065	Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, Luton Borough Council, North Hertfordshire Council	Deadline 9 Submission - Letter regarding submission by the Applicant of a proposed s106 Agreement
REP9-066	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council	Deadline 9 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP9-067	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council	Deadline 9 Submission - Comments on any further information/ submissions received by Deadline 8
REP9-068	Luton Borough Council	Deadline 9 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP9-069	Luton Borough Council	Deadline 9 Submission - Comments on any further information/ submissions received by Deadline 8
REP9-070	Affinity Water Limited	Deadline 9 Submission - Comments on any further information/ submissions received by Deadline 8
REP9-071	National Highways	Deadline 9 Submission - Cover Letter
REP9-072	National Highways	Deadline 9 Submission - Updated position on 'Accounting for Covid-19 in Transport Modelling'

REP9-073	National Highways	Deadline 9 Submission - Position on the OTRIMMA (REP8-043 and REP8-044) (Tracked)
REP9-074	Natural England	Deadline 9 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP9-075	Bidwells on behalf of A T O Holdings Ltd	Deadline 9 Submission - Confirmation of Written Representation withdrawal
REP9-076	CMS Cameron McKenna Nabarro Olswang LLP on behalf of Cadent Gas Limited	Deadline 9 submission - Withdrawal of Written Representation
REP9-077	Dean Tormey	Deadline 9 Submission - Accepted at the discretion of the Examining Authority
REP9-078	Elissa Gordon	Deadline 9 Submission - Comments on any further information/ submissions received by Deadline 8
REP9-079	Holiday Extras Ltd	Deadline 9 Submission - Comments on any further information/ submissions received by Deadline 8
REP9-080	LADACAN	Deadline 9 Submission - Comments on Outline Greenhouse Gas Action Plan
REP9-081	LADACAN	Deadline 9 Submission - Comments on any further information/ submissions received by Deadline 8
REP9-082	New Economics Foundation	Deadline 9 Submission - Comments on any further information/ submissions received by Deadline 8
REP9-083	Peter Motson	Deadline 9 Submission - Comments on any further information/ submissions received by Deadline 8. Accepted at the discretion of the Examining Authority
REP9-084	Peter White	Deadline 9 Submission - Comments on REP7-074
REP9-085	Peter White	Deadline 9 Submission - Comments on REP8-038
REP9-086	Richard Choppin	Deadline 9 Submission - Comments on any further information/ submissions received by Deadline 8
REP9-087	Russell Collins	Deadline 9 Submission - Comments on any further information/ submissions received by Deadline 8
REP9-088	Stop Luton Airport Expansion	Deadline 9 Submission - Comments on any further information/ submissions received by Deadline 8

REP9-089	Stop Luton Airport Expansion	Deadline 9 Submission - Comments on any further information/ submissions received by Deadline 8 - East of Luton Strategic Masterplan
REP9-090	Stop Luton Airport Expansion	Deadline 9 Submission - Comments on any further information/ submissions received by Deadline 8 - Aerodrome Manual, Airport Operating Safety Instructions and Emergency Orders
REP9-091	Stop Luton Airport Expansion	Deadline 9 Submission - Parking issues caused by cars illegally parked and an associated litter problem
REP9-092	The Chilterns Conservation Board	Deadline 9 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP9-093	The Harpenden Society	Deadline 9 Submission - Comments on any further information/ submissions received by Deadline 8
Deadline 10 – 5 February 2024 For receipt by the Examining Authority of: - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 - Comments on any further information/ submissions received by Deadline 9		
REP10-001	London Luton Airport Limited	Deadline 10 Submission - Cover Letter
REP10-002	London Luton Airport Limited	Deadline 10 Submission - 1.06 Guide to the Application (Application Document Tracker)
REP10-003	London Luton Airport Limited	Deadline 10 Submission - 2.01 Draft Development Consent Order This has now been superseded by REP11-091
REP10-004	London Luton Airport Limited	Deadline 10 Submission - 2.01 Draft Development Consent Order (Tracked Change Version) This has now been superseded by REP11-091
REP10-005	London Luton Airport Limited	Deadline 10 Submission - 2.02 Explanatory Memorandum
REP10-006	London Luton Airport Limited	Deadline 10 Submission - 2.02 Explanatory Memorandum (Tracked Change Version)
REP10-007	London Luton Airport Limited	Deadline 10 Submission - 2.04 DCO Validation Report

REP10-008	London Luton Airport Limited	Deadline 10 Submission - 4.08 Streets, Rights of Way and Access Plans
REP10-009	London Luton Airport Limited	Deadline 10 Submission - 5.01 Environmental Statement Chapter 13 Health and Community
REP10-010	London Luton Airport Limited	Deadline 10 Submission - 5.01 Environmental Statement Chapter 13 Health and Community Tracked Changed Version
REP10-011	London Luton Airport Limited	Deadline 10 Submission - 5.01 Environmental Statement Chapter 21 In-combination and Cumulative Effects
REP10-012	London Luton Airport Limited	Deadline 10 Submission - 5.01 Environmental Statement Chapter 21 In-combination and Cumulative Effects Tracked Change Version
REP10-013	London Luton Airport Limited	Deadline 10 Submission - 5.02 Appendix 14.7 Accurate Visual Representations - Viewpoints 1, 5 and 6
REP10-014	London Luton Airport Limited	Deadline 10 Submission - 5.02 Appendix 14.7 Accurate Visual Representations Viewpoints 10B, 13, 14, 17, and 17A
REP10-015	London Luton Airport Limited	Deadline 10 Submission - 5.02 Appendix 14.7 Accurate Visual Representations - Viewpoints 18, 19, 20, 23, 24 and 25
REP10-016	London Luton Airport Limited	Deadline 10 Submission - 5.02 Appendix 14.7 Accurate Visual Representations - Viewpoints 26, 28, 29, 30, 31, 34, 36 and 37
REP10-017	London Luton Airport Limited	Deadline 10 Submission - 5.02 Appendix 14.7 Accurate Visual Representations - Viewpoints 46, 48 and 50
REP10-018	London Luton Airport Limited	Deadline 10 Submission - 5.02 Appendix 14.7 Accurate Visual Representations - Viewpoints 53, 56 and 61
REP10-019	London Luton Airport Limited	Deadline 10 Submission - 5.02 Environmental Statement Appendix 16.2 Operational Noise Management (Explanatory Note)
REP10-020	London Luton Airport Limited	Deadline 10 Submission - 5.02 Environmental Statement Appendix 16.2 Operational Noise Management (Explanatory Note) Track Changed Version
REP10-021	London Luton Airport Limited	Deadline 10 Submission - 5.02 Environmental Statement Appendix 18.3 Outline Construction Traffic Management Plan
REP10-022	London Luton Airport Limited	Deadline 10 Submission - 5.02 Environmental Statement Appendix 18.3 Outline Construction Traffic Management Plan (Tracked Changed Version)
REP10-023	London Luton Airport Limited	Deadline 10 Submission - 5.09 Mitigation Route Map
REP10-024	London Luton Airport Limited	Deadline 10 Submission - 5.09 Mitigation Route Map (Tracked Change Version)

REP10-025	London Luton Airport Limited	Deadline 10 Submission - 7.08 Green Controlled Growth Framework
REP10-026	London Luton Airport Limited	Deadline 10 Submission - 7.08 Green Controlled Growth Framework (Tracked Change Version)
REP10-027	London Luton Airport Limited	Deadline 10 Submission - 7.08 Green Controlled Growth Framework Appendix A - ESG Terms of Reference
REP10-028	London Luton Airport Limited	Deadline 10 Submission - 7.08 Green Controlled Growth Framework Appendix A - ESG Terms of Reference (Tracked Change Version)
REP10-029	London Luton Airport Limited	Deadline 10 Submission - 7.10 Compensation Policies, Measures and Community First
REP10-030	London Luton Airport Limited	Deadline 10 Submission - 7.10 Compensation Policies, Measures and Community First (Tracked Change Version)
REP10-031	London Luton Airport Limited	Deadline 10 Submission - 8.04 Statement of Common Ground between London Luton Airport Limited and Cadent
REP10-032	London Luton Airport Limited	Deadline 10 Submission - 8.04 Statement of Common Ground between London Luton Airport Limited and Cadent (Tracked Change Version)
REP10-033	London Luton Airport Limited	Deadline 10 Submission - 8.12 Statement of Common Ground between London Luton Airport Limited and the UK Health Security Agency
REP10-034	London Luton Airport Limited	Deadline 10 Submission - 8.12 Statement of Common Ground between London Luton Airport Limited and the UK Health Security Agency (Tracked Change Version)
REP10-035	London Luton Airport Limited	Deadline 10 Submission - 8.54 Summary of Changes to the Draft Development Consent Order This has now been superseded by REP11-105
REP10-036	London Luton Airport Limited	Deadline 10 Submission - 8.97 Outline Transport Related Impacts Monitoring and Mitigation Approach (TRIMMA). Late Submission, accepted at the discretion of the Examining Authority
REP10-037	London Luton Airport Limited	Deadline 10 Submission - 8.97 Outline Transport Related Impacts Monitoring and Mitigation Approach (TRIMMA) (Tracked Change Version). Late submission, accepted at the discretion of the Examining Authority
REP10-038	London Luton Airport Limited	Deadline 10 Submission - 8.106 Statements of Common Ground Updates Document
REP10-039	London Luton Airport Limited	Deadline 10 Submission - 8.119 Sustainable Transport Fund
REP10-040	London Luton Airport Limited	Deadline 10 Submission - 8.119 Sustainable Transport Fund (Tracked Change Version)

REP10-041	London Luton Airport Limited	Deadline 10 Submission - 8.122 Bus and Coach Study
REP10-042	London Luton Airport Limited	Deadline 10 Submission - 8.122 Bus and Coach Study (Tracked Change Version)
REP10-043	London Luton Airport Limited	Deadline 10 Submission - 8.182 Applicant's Position Paper on Sections 127 and 138 of the Planning Act 2008
REP10-044	London Luton Airport Limited	Deadline 10 Submission - 8.182 Applicant's Position Paper on Sections 127 and 138 of the Planning Act 2008 (Tracked Change Version)
REP10-045	London Luton Airport Limited	Deadline 10 Submission - 8.188 Applicant's Response to Deadline 9 Submissions
REP10-046	London Luton Airport Limited	Deadline 10 Submission - 8.189 Applicant's Response to Examining Authority's Rule 17 Request Dated 25 January 2024
REP10-047	London Luton Airport Limited	Deadline 10 Submission - 8.190 Applicant's Response to Examining Authority's Rule 17 Request dated 31 January 2024
REP10-048	Buckinghamshire Council	Deadline 10 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP10-049	Buckinghamshire Council	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9
REP10-050	Buckinghamshire Council	Deadline 10 Submission - Response to the Applicant's Response to Deadline 8 Submissions (REP9-051)
REP10-051	Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, Luton Borough Council, North Hertfordshire Council	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9 - Review of the "Applicant's Position on Noise Contour and Movement Limits" (REP9-055)
REP10-052	Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, Luton Borough Council, North Hertfordshire Council	Deadline 10 Submission - Response to The Applicant's Position Paper on Financial Penalties (REP9-058)
REP10-053	Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, Luton Borough Council,	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9

	North Hertfordshire Council	
REP10-054	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council	Deadline 10 Submission - Response to the Examining Authority's Rule 17 Letter dated 25 January 2024
REP10-055	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council	Deadline 10 Submission - Response to the Examining Authority's Rule 17 Letter dated 31 January 2024
REP10-056	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9
REP10-057	Luton Borough Council	Deadline 10 Submission - Response to the Examining Authority's Rule 17 Letter dated 25 January 2024
REP10-058	Luton Borough Council	Deadline 10 Submission - Response to the Examining Authority's Rule 17 Letter of 31 January 2024
REP10-059	Luton Borough Council	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9
REP10-060	Luton Borough Council	Deadline 10 Submission - Update on the status of pre-application discussions with the Airport Operator in relation to the submission of details pursuant to the P19 planning permission
REP10-061	Affinity Water Limited	Deadline 10 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP10-062	National Highways	Deadline 10 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP10-063	National Trust	Deadline 10 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 and Comments on any further information/ submissions received by Deadline 9
REP10-064	Network Rail Infrastructure Limited	Deadline 10 Submission - Any further information requested by the ExA under Rule 17

		of the Infrastructure Planning (Examination Procedure) Rules 2010
REP10-065	Thames Water	Deadline 10 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP10-066	UK Health Security Agency	Deadline 10 Submission - Position statement on health monitoring
REP10-067	Andrew Mills-Baker	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline
REP10-068	Knight Frank LLP on behalf of Cellar UK Property Unit Trust 1	Deadline 10 Submission - Preservation House
REP10-069	DHL Express	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9. Accepted at the discretion of the Examining Authority
REP10-070	Friends of Wigmore Park	Deadline 10 Submission - Comment on REP9-058 - Applicant's Position Paper on Financial Penalties
REP10-071	Friends of Wigmore Park	Deadline 10 Submission - Comment on REP7-074 Draft Section 106 Agreement
REP10-072	Friends of Wigmore Park	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9 - Concerns regarding contradictory submissions relating to Wigmore Valley Park
REP10-073	Friends of Wigmore Park	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9 - Summary of concerns, objections and video request
REP10-074	Janet Ingham	Deadline 10 Submission
REP10-075	Jeremy Young	Deadline 10 Submission
REP10-076	John A Smith	Deadline 10 Submission - Comments on any further information/submissions received by Deadline 9
REP10-077	John Mardle	Deadline 10 Submission - Summary of objections
REP10-078	LADACAN	Deadline 10 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP10-079	LADACAN	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9
REP10-080	Michael Reddington	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9 - Need Case

REP10-081	Michael Reddington	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9 - Odour Reporting Process
REP10-082	Michael Reddington	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9 - Draft S106 Agreement
REP10-083	Michael Reddington	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9 - Compensation Policies and Measures
REP10-084	Michael Reddington	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9 - Noise and Vibration
REP10-085	Peter White	Deadline 10 Submission
REP10-086	Richard Choppin	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9
REP10-087	Ron Taylor	Deadline 10 Submission - Surface Traffic
REP10-088	Stop Luton Airport Expansion	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9 - Employment and Training
REP10-089	Stop Luton Airport Expansion	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9 - petition and the DCO process
REP10-090	Stop Luton Airport Expansion	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9 - Wigmore Valley Park Jinx
REP10-091	Stop Luton Airport Expansion	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9 - Sustainable Transport Fund (STF) & Residual Impacts Fund (RIF)
REP10-092	Stop Luton Airport Expansion	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9 - Response to Rule 8(3) letter
REP10-093	The Harpenden Society	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9
REP10-094	Central Bedfordshire Council	Deadline 10 Submission - Comments on any further information/ submissions received by Deadline 9 - Late submission, accepted at the discretion of the Examining Authority
REP10-095	Central Bedfordshire Council	Deadline 10 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 - Late submission, accepted at the discretion of the Examining Authority
REP10-096	Dacorum Borough Council,	Deadline 10 Submission - Comments on any further information/ submissions received by

	Hertfordshire County Council, North Hertfordshire Council	Deadline 8 - Errata Report. Late submission, accepted at the discretion of the Examining Authority
Deadline 11 – 8 February 2024 For receipt by the Examining Authority of: • Final SoCGs • Final Statement of Commonality of SoCG • Final status of Negotiations/Compulsory Acquisition Schedule • Final Guide to the Application • Signed and dated legal agreements • Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 • Comments on any further information/ submissions received by Deadline 10		
REP11-001	London Luton Airport Limited	Deadline 11 Submission - Cover letter
REP11-002	London Luton Airport Limited	Deadline 11 Submission - 1.06 Guide to the Application (Application Document Tracker) This has now been superseded by REP11-090
REP11-003	London Luton Airport Limited	Deadline 11 Submission - 2.03 Consents and Agreements Position Statement
REP11-004	London Luton Airport Limited	Deadline 11 Submission - 2.03 Consents and Agreements Position Statement (Tracked Change Version)
REP11-005	London Luton Airport Limited	Deadline 11 Submission - 5.02 Environmental Statement Appendix 18.3 Outline Construction Traffic Management Plan
REP11-006	London Luton Airport Limited	Deadline 11 Submission - 5.02 Environmental Statement Appendix 18.3 Outline Construction Traffic Management Plan (Tracked Changed Version)
REP11-007	London Luton Airport Limited	Deadline 11 Submission - 5.13 Glint and Glare Assessment
REP11-008	London Luton Airport Limited	Deadline 11 Submission - 5.13 Glint and Glare Assessment (Tracked Change Version)
REP11-009	London Luton Airport Limited	Deadline 11 Submission - 7.01 Planning Statement
REP11-010	London Luton Airport Limited	Deadline 11 Submission - 7.01 Planning Statement (Tracked Change Version)
REP11-011	London Luton Airport Limited	Deadline 11 Submission - 7.07 Green Controlled Growth Explanatory Note

REP11-012	London Luton Airport Limited	Deadline 11 Submission - 7.07 Green Controlled Growth Explanatory Note (Tracked Change Version)
REP11-013	London Luton Airport Limited	Deadline 11 Submission - 7.08 Green Controlled Growth Framework
REP11-014	London Luton Airport Limited	Deadline 11 Submission - 7.08 Green Controlled Growth Framework (Tracked Change Version)
REP11-015	London Luton Airport Limited	Deadline 11 Submission - 7.08 Green Controlled Growth Framework Appendix A - ESG Terms of Reference
REP11-016	London Luton Airport Limited	Deadline 11 Submission - 7.08 Green Controlled Growth Framework Appendix A - ESG Terms of Reference (Tracked Change Version)
REP11-017	London Luton Airport Limited	Deadline 11 Submission - 7.08 Green Controlled Growth Framework Appendix B - Technical Panel Terms of Reference
REP11-018	London Luton Airport Limited	Deadline 11 Submission - 7.08 Green Controlled Growth Framework Appendix B - Technical Panel Terms of Reference (Tracked Change Version)
REP11-019	London Luton Airport Limited	Deadline 11 Submission - 7.08 Green Controlled Growth Framework Appendix C - Aircraft Noise Monitoring Plan
REP11-020	London Luton Airport Limited	Deadline 11 Submission - 7.08 Green Controlled Growth Framework Appendix C - Aircraft Noise Monitoring Plan (Tracked Change Version)
REP11-021	London Luton Airport Limited	Deadline 11 Submission - 7.08 Green Controlled Growth Framework Appendix E - Greenhouse Gases Monitoring Plan
REP11-022	London Luton Airport Limited	Deadline 11 Submission - 7.08 Green Controlled Growth Framework Appendix E - Greenhouse Gases Monitoring Plan (Tracked Change Version)
REP11-023	London Luton Airport Limited	Deadline 11 Submission - 7.08 Green Controlled Growth Framework Appendix F - Surface Access Monitoring Plan
REP11-024	London Luton Airport Limited	Deadline 11 Submission - 7.08 Green Controlled Growth Framework Appendix F - Surface Access Monitoring Plan (Tracked Change Version)
REP11-025	London Luton Airport Limited	Deadline 11 Submission - 7.10 Compensation Policies, Measures and Community First
REP11-026	London Luton Airport Limited	Deadline 11 Submission - 7.10 Compensation Policies, Measures and Community First (Tracked Change Version)
REP11-027	London Luton Airport Limited	Deadline 11 Submission - 7.13 Framework Travel Plan
REP11-028	London Luton Airport Limited	Deadline 11 Submission - 7.13 Framework Travel Plan (Tracked Change Version)

REP11-029	London Luton Airport Limited	Deadline 11 Submission - 8.06 Statement of Common Ground between London Luton Airport Limited and Thames Water
REP11-030	London Luton Airport Limited	Deadline 11 Submission - 8.06 Statement of Common Ground between London Luton Airport Limited and Thames Water (Tracked Change Version)
REP11-031	London Luton Airport Limited	Deadline 11 Submission - 8.08 Statement of Common Ground between London Luton Airport Limited and Affinity Water
REP11-032	London Luton Airport Limited	Deadline 11 Submission - 8.08 Statement of Common Ground between London Luton Airport Limited and Affinity Water (Tracked Change Version)
REP11-033	London Luton Airport Limited	Deadline 11 Submission - 8.13 Statement of Common Ground between London Luton Airport and Luton Borough Council
REP11-034	London Luton Airport Limited	Deadline 11 Submission - 8.13 Statement of Common Ground between London Luton Airport and Luton Borough Council (Tracked Change Version)
REP11-035	London Luton Airport Limited	Deadline 11 Submission - 8.14 Statement of Common Ground between London Luton Airport and Central Bedfordshire Council
REP11-036	London Luton Airport Limited	Deadline 11 Submission - 8.14 Statement of Common Ground between London Luton Airport Limited and Central Bedfordshire Council (Tracked Change Version)
REP11-037	London Luton Airport Limited	Deadline 11 Submission - 8.19 Statement of Common Ground between London Luton Airport Limited and the East of England Ambulance Service NHS Trust
REP11-038	London Luton Airport Limited	Deadline 11 Submission - 8.19 Statement of Common Ground between London Luton Airport Limited and the East of England Ambulance Service NHS Trust (Tracked Change Version)
REP11-039	London Luton Airport Limited	Deadline 11 Submission - 8.22 Statement of Commonality for Statements of Common Ground This has now been superseded by REP11-103
REP11-040	London Luton Airport Limited	Deadline 11 Submission - 8.22 Statement of Commonality for Statements of Common Ground (Tracked Change Version) This has now been superseded by REP11-104
REP11-041	London Luton Airport Limited	Deadline 11 Submission - 8.34 Status of Negotiations / Compulsory Acquisition Schedule

REP11-042	London Luton Airport Limited	Deadline 11 Submission - 8.34 Status of Negotiations Compulsory Acquisition Schedule (Tracked Change Version)
REP11-043	London Luton Airport Limited	Deadline 11 Submission - 8.46 Outline Ground Noise Management Plan
REP11-044	London Luton Airport Limited	Deadline 11 Submission - 8.46 Outline Ground Noise Management Plan (Tracked Change Version)
REP11-045	London Luton Airport Limited	Deadline 11 Submission - 8.167 Section 106 Agreement This has now been superseded by REP11-108
REP11-046	London Luton Airport Limited	Deadline 11 Submission - 8.167 Section 106 Agreement (Tracked Changed Version)
REP11-047	London Luton Airport Limited	Deadline 11 Submission - 8.178 Applicant's Response to Examining Authority's Rule 17 Request dated 17 January 2024
REP11-048	London Luton Airport Limited	Deadline 11 Submission - 8.178 Applicant's Response to Examining Authority's Rule 17 Request dated 17 January 2024 (Tracked Change Version)
REP11-049	London Luton Airport Limited	Deadline 11 Submission - 8.191 Closing Submissions
REP11-050	London Luton Airport Limited	Deadline 11 Submission - 8.192 Applicant's Response to Deadline 10 Submissions
REP11-051	London Luton Airport Limited	Deadline 11 Submission - 8.193 Applicant's Response to Examining Authority's Rule 17 Request Dated 6 February 2024
REP11-052	London Luton Airport Limited	Deadline 11 Submission - 8.194 Excerpts of Relevant Landscape Character Assessments
REP11-053	London Luton Airport Limited	Deadline 11 Submission - 8.195 Applicant's Response to Compulsory Acquisition Hearing 2 Action Point 10 - Luton Rising Financial Report 2022-23
REP11-054	London Luton Airport Limited	Deadline 11 Submission - 8.196 Joint Position Statement - Section 106 Agreement
REP11-055	Buckinghamshire Council	Deadline 11 Submission - Cover letter
REP11-056	Buckinghamshire Council	Deadline 11 Submission - Comments on further Deadline 10 Submissions
REP11-057	Buckinghamshire Council	Deadline 11 Submission - Response to the Applicant's Response to Deadline 9 Submissions (REP10-045)
REP11-058	Central Bedfordshire Council	Deadline 11 Submission - Cover letter
REP11-059	Central Bedfordshire Council	Deadline 11 Submission - Response to the Examining Authority's Rule 17 letter of 6 February 2024

REP11-060	Central Bedfordshire Council	Deadline 11 Submission - Comments on any further information/ submissions received by Deadline 10
REP11-061	Central Bedfordshire Council, Dacorum Borough Council, Hertfordshire County Council, Luton Borough Council, North Hertfordshire Council	Deadline 11 Submission - Host Authorities' statement on DCO matters
REP11-062	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council	Deadline 11 Submission - Response to the Examining Authority's Rule 17 letter of 6 February 2024
REP11-063	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council	Deadline 11 Submission - Closing position statement
REP11-064	Dacorum Borough Council, Hertfordshire County Council, North Hertfordshire Council	Deadline 11 Submission - Comments on any further information/ submissions received by Deadline 10
REP11-065	Luton Borough Council	Deadline 11 Submission - Cover letter
REP11-066	Luton Borough Council	Deadline 11 Submission - Response to the Examining Authority's Rule 17 letter of 31 January 2024 - Plaiter's Lea Conservation Area Appraisal
REP11-067	Luton Borough Council	Deadline 11 Submission - Comments on any further information/ submissions received by Deadline 10
REP11-068	Luton Borough Council	Deadline 11 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010
REP11-069	Luton Borough Council	Deadline 11 Submission - Final Position Statement
REP11-070	Affinity Water Limited	Deadline 11 Submission
REP11-071	Civil Aviation Authority	Deadline 11 Submission - Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010

REP11-072	Eastern Power Networks Plc and UK Power Networks Operations Ltd	Deadline 11 Submission - Withdrawal of objections
REP11-073	National Highways	Deadline 11 Submission - Final status of Negotiations/Compulsory Acquisition Schedule
REP11-074	Network Rail Infrastructure Limited	Deadline 11 Submission - Asset Protection Requirements
REP11-075	Network Rail Infrastructure Limited	Deadline 11 Submission - Comments on the form of protective provisions included in the Deadline 10 draft Development Consent Order
REP11-076	Network Rail Infrastructure Limited	Deadline 11 Submission - Comments on the Applicant's Rail Impact Summary Document
REP11-077	Thames Water	Deadline 11 Submission - Withdrawal of Representations
REP11-078	Brown & Co on behalf of The Eldridge Family	Deadline 11 Submission - Status of negotiations
REP11-079	Federation of Small Businesses	Deadline 11 Submission - Accepted at the discretion of the Examining Authority
REP11-080	Holiday Extras Ltd	Deadline 11 Submission - Comments on any further information / submissions received by Deadline 10
REP11-081	John A Smith	Deadline 11 Submission - Traffic and Transport modelling
REP11-082	LADACAN	Deadline 11 Submission - Comments on REP10-045
REP11-083	LADACAN	Deadline 11 Submission - Summary Statement
REP11-084	London Luton Airport Operations Limited	Deadline 11 Submission - Comments on any further information / submissions received by Deadline 10
REP11-085	Michael Reddington	Deadline 11 Submission - Comments on any further information / submissions received by Deadline 10
REP11-086	St Albans Quieter Skies (STAQS)	Deadline 11 Submission - Closing statement
REP11-087	Stop Luton Airport Expansion	Deadline 11 Submission - Comments on the Applicant's responses to SLAE written representations throughout the Examination
REP11-088	The Harpenden Society	Deadline 11 Submission - Comments on any further information/ submissions received by Deadline 10
REP11-089	London Luton Airport Limited	Deadline 11 Submission - Cover letter. Late submission, accepted at the discretion of the Examining Authority
REP11-090	London Luton Airport Limited	Deadline 11 Submission - 1.06 Guide to the Application (Application Document Tracker).

		<u>Late submission, accepted at the discretion of the Examining Authority</u>
REP11-091	London Luton Airport Limited	<u>Deadline 11 Submission - 2.01 Draft Development Consent Order. Late submission, accepted at the discretion of the Examining Authority</u>
REP11-092	London Luton Airport Limited	<u>Deadline 11 Submission - 2.01 Draft Development Consent Order (Tracked Change Version). Late submission, accepted at the discretion of the Examining Authority</u>
REP11-093	London Luton Airport Limited	<u>Deadline 11 Submission - 8.11 Statement of Common Ground between London Luton Airport Limited and National Highways. Late submission, accepted at the discretion of the Examining Authority</u>
REP11-094	London Luton Airport Limited	<u>Deadline 11 Submission - 8.11 Statement of Common Ground between London Luton Airport Limited and National Highways (Tracked Change Version). Late submission, accepted at the discretion of the Examining Authority</u>
REP11-095	London Luton Airport Limited	<u>Deadline 11 Submission - 8.15 Statement of Common Ground between London Luton Airport Limited and Hertfordshire County Council. Late submission, accepted at the discretion of the Examining Authority</u>
REP11-096	London Luton Airport Limited	<u>Deadline 11 Submission - 8.15 Statement of Common Ground between London Luton Airport Limited and Hertfordshire County Council (Tracked Change Version). Late submission, accepted at the discretion of the Examining Authority</u>
REP11-097	London Luton Airport Limited	<u>Deadline 11 Submission - 8.16 Statement of Common Ground between London Luton Airport Limited and North Hertfordshire District Council. Late submission, accepted at the discretion of the Examining Authority</u>
REP11-098	London Luton Airport Limited	<u>Deadline 11 Submission - 8.16 Statement of Common Ground between London Luton Airport Limited and North Hertfordshire District Council (Tracked Change Version). Late submission, accepted at the discretion of the Examining Authority</u>
REP11-099	London Luton Airport Limited	<u>Deadline 11 Submission - 8.17 Statement of Common Ground between London Luton Airport Limited and Dacorum Borough Council. Late submission, accepted at the discretion of the Examining Authority</u>
REP11-100	London Luton Airport Limited	<u>Deadline 11 Submission - 8.17 Statement of Common Ground between London Luton Airport Limited and Dacorum Borough Council (Tracked</u>

		<u>Change Version). Late submission, accepted at the discretion of the Examining Authority</u>
REP11-101	London Luton Airport Limited	<u>Deadline 11 Submission - 8.18 Statement of Common Ground between London Luton Airport Limited and Buckinghamshire Council. Late submission, accepted at the discretion of the Examining Authority</u>
REP11-102	London Luton Airport Limited	<u>Deadline 11 Submission - 8.18 Statement of Common Ground between London Luton Airport Limited and Buckinghamshire Council (Tracked Change Version). Late submission, accepted at the discretion of the Examining Authority</u>
REP11-103	London Luton Airport Limited	<u>Deadline 11 Submission - 8.22 Statement of Commonality for Statements of Common Ground. Late submission, accepted at the discretion of the Examining Authority</u>
REP11-104	London Luton Airport Limited	<u>Deadline 11 Submission - 8.22 Statement of Commonality for Statements of Common Ground (Tracked Change Version). Late submission, accepted at the discretion of the Examining Authority</u>
REP11-105	London Luton Airport Limited	<u>Deadline 11 Submission - 8.54 Summary of changes to the Draft Development Consent Order. Late submission, accepted at the discretion of the Examining Authority</u>
REP11-106	London Luton Airport Limited	<u>Deadline 11 Submission - 8.118 Applicant's Response to Issue Specific Hearing 4 Action 7 - Update on Road Safety Audits. Late submission, accepted at the discretion of the Examining Authority</u>
REP11-107	London Luton Airport Limited	<u>Deadline 11 Submission - 8.118 Applicant's Response to Issue Specific Hearing 4 Action 7 - Update on Road Safety Audits (Tracked Change Version). Late submission, accepted at the discretion of the Examining Authority</u>
REP11-108	London Luton Airport Limited	<u>Deadline 11 Submission - 8.167 Section 106 Agreement. Late submission, accepted at the discretion of the Examining Authority</u>
REP11-109	Andrew Mills-Baker	<u>Deadline 11 Submission - Late submission, accepted at the discretion of the Examining Authority</u>
REP11-110	David Shipley	<u>Deadline 11 Submission - Late submission, accepted at the discretion of the Examining Authority</u>
REP11-111	Holiday Extras Ltd	<u>Deadline 11 Submission - Late submission, accepted at the discretion of the Examining Authority</u>
REP11-112	LADACAN	<u>Deadline 11 Submission - Late submission, accepted at the discretion of the Examining Authority</u>

REP11-113	Stop Luton Airport Expansion	Deadline 11 Submission - Late submission, accepted at the discretion of the Examining Authority
Other Documents		
OD-001	London Luton Airport Limited	LUTN - Regulation 32 Transboundary Screening
OD-002	London Luton Airport Limited	Section 56 Notice
OD-003	London Luton Airport Limited	Certificate of Compliance with Section 56, Section 59 of the Planning Act 2008

EXAMINATION LIBRARY

TR020001 - Luton Airport Relevant Representations Library

2 August 2023

This library is a definitive record of the Relevant Representations received between 9 May 2023 and 23 June 2023. It has been prepared to assist navigation of the core Examination Library, available here:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR020001/TR020001-000920-London%20Luton%20Airport%20Expansion%20Examination%20Library.pdf>

Ref	Interested Party
RR-0001	A Dodd
RR-0002	A.T.O. Holdings Ltd (A.T.O. Holdings Ltd)
RR-0003	Aaron Salfairso
RR-0004	ABCD-in-Luton CIC (ABCD-in-Luton CIC)
RR-0005	Abdul Ahad (Abdul Ahad)
RR-0006	Abhay Gupta
RR-0007	Active Luton (Active Luton)
RR-0008	Adam Azariah Pinney
RR-0009	Adam Fisher
RR-0010	Adam Kearney
RR-0011	Adam Shutkever
RR-0012	Adeel Hussain
RR-0013	Adrees Latif
RR-0014	Adrian Alexander Cunningham
RR-0015	Adrian Cummings
RR-0016	Adrian Slade
RR-0017	Adrian Sutcliffe
RR-0018	Adrienne Jo Pritchard
RR-0019	Affinity Water Limited (Affinity Water Limited)
RR-0020	Agnieszka Miskiewicz
RR-0021	Aileen Margaret King
RR-0022	Akbur Ghafoor
RR-0023	Alan Blake
RR-0024	Alan Buttery
RR-0025	Alan Chapman
RR-0026	Alan Craig
RR-0027	Alan Daglish
RR-0028	alan dodds

<u>RR-0029</u>	<u>Alan Edward Drew</u>
<u>RR-0030</u>	<u>Alan Edward Harwood</u>
<u>RR-0031</u>	<u>Alan Falconer</u>
<u>RR-0032</u>	<u>Alan Haworth</u>
<u>RR-0033</u>	<u>Alan John Fox</u>
<u>RR-0034</u>	<u>Alan John Pinney</u>
<u>RR-0035</u>	<u>Alan Parkins</u>
<u>RR-0036</u>	<u>Alex Haden</u>
<u>RR-0037</u>	<u>Alex Huzzey</u>
<u>RR-0038</u>	<u>Alex Newnham</u>
<u>RR-0039</u>	<u>Alexa Hicks</u>
<u>RR-0040</u>	<u>Alexandra Daar</u>
<u>RR-0041</u>	<u>Alia Razaq Rehan</u>
<u>RR-0042</u>	<u>Alice Morton</u>
<u>RR-0043</u>	<u>Alison Bourke</u>
<u>RR-0044</u>	<u>Alison Clare Ascott</u>
<u>RR-0045</u>	<u>Alison Cunningham</u>
<u>RR-0046</u>	<u>Alison Dolling</u>
<u>RR-0047</u>	<u>Alison Hockley</u>
<u>RR-0048</u>	<u>Alison Janet Ewer</u>
<u>RR-0049</u>	<u>Alison Knight</u>
<u>RR-0050</u>	<u>Alison Page</u>
<u>RR-0051</u>	<u>Alison Watts</u>
<u>RR-0052</u>	<u>Alison Wilson</u>
<u>RR-0053</u>	<u>Alison Young</u>
<u>RR-0054</u>	<u>Allan Howes</u>
<u>RR-0055</u>	<u>Allan Wright</u>
<u>RR-0056</u>	<u>Amanda Browning</u>
<u>RR-0057</u>	<u>Amanda Byrne</u>
<u>RR-0058</u>	<u>Amanda Fairbairn</u>
<u>RR-0059</u>	<u>Amanda Fox</u>
<u>RR-0060</u>	<u>Amanda Iles</u>
<u>RR-0061</u>	<u>Amanda King</u>
<u>RR-0062</u>	<u>Amanda Pearce</u>
<u>RR-0063</u>	<u>Amanda Rankin</u>
<u>RR-0064</u>	<u>Amber Nicholls</u>
<u>RR-0065</u>	<u>Amy Johnson</u>
<u>RR-0066</u>	<u>Amy Wren</u>
<u>RR-0067</u>	<u>Ana Christina Sanderson</u>
<u>RR-0068</u>	<u>Andrea Gregory</u>
<u>RR-0069</u>	<u>Andrew Barker</u>
<u>RR-0070</u>	<u>Andrew Bianchi</u>
<u>RR-0071</u>	<u>Andrew Bowes-Lyon</u>
<u>RR-0072</u>	<u>Andrew Burnett</u>
<u>RR-0073</u>	<u>Andrew Clarke</u>
<u>RR-0074</u>	<u>Andrew Douglas Laurie-Pile (Andrew Douglas Laurie-Pile)</u>
<u>RR-0075</u>	<u>Andrew Durrant</u>
<u>RR-0076</u>	<u>Andrew James Mills-Baker</u>
<u>RR-0077</u>	<u>Andrew Kinzelmann</u>
<u>RR-0078</u>	<u>Andrew Lennard</u>

<u>RR-0079</u>	<u>Andrew Leslie Prothero</u>
<u>RR-0080</u>	<u>Andrew Mills</u>
<u>RR-0081</u>	<u>Andrew Mills</u>
<u>RR-0082</u>	<u>Andrew missenden</u>
<u>RR-0083</u>	<u>Andrew Pett</u>
<u>RR-0084</u>	<u>Andrew Richard Palmer</u>
<u>RR-0085</u>	<u>Andrew Robson</u>
<u>RR-0086</u>	<u>Andrew Say</u>
<u>RR-0087</u>	<u>Andrew Spyrou</u>
<u>RR-0088</u>	<u>Andrew Street</u>
<u>RR-0089</u>	<u>Andrew Sutcliffe</u>
<u>RR-0090</u>	<u>Andrew Toogood</u>
<u>RR-0091</u>	<u>Andrew Urquhart</u>
<u>RR-0092</u>	<u>Andy Pemberton</u>
<u>RR-0093</u>	<u>Andy Weber</u>
<u>RR-0094</u>	<u>Angela Cotton</u>
<u>RR-0095</u>	<u>Angela standring</u>
<u>RR-0096</u>	<u>Angela Woods</u>
<u>RR-0097</u>	<u>Anina Phillippa Castle</u>
<u>RR-0098</u>	<u>Anita wilson</u>
<u>RR-0099</u>	<u>Ann Adlem</u>
<u>RR-0100</u>	<u>Ann Simmonds</u>
<u>RR-0101</u>	<u>Ann White</u>
<u>RR-0102</u>	<u>Anna dwyer</u>
<u>RR-0103</u>	<u>Annabel Kathleen Potter</u>
<u>RR-0104</u>	<u>Annables Management company ltd (Annables Management company ltd)</u>
<u>RR-0105</u>	<u>Anne Adams</u>
<u>RR-0106</u>	<u>Anne Hollis</u>
<u>RR-0107</u>	<u>Anne MacPherson</u>
<u>RR-0108</u>	<u>Anne Roberts</u>
<u>RR-0109</u>	<u>Anne Smith</u>
<u>RR-0110</u>	<u>Annie Hitch</u>
<u>RR-0111</u>	<u>Anthony Baldwin</u>
<u>RR-0112</u>	<u>Anthony Booth</u>
<u>RR-0113</u>	<u>Anthony Bourke</u>
<u>RR-0114</u>	<u>Anthony Higgins</u>
<u>RR-0115</u>	<u>Anthony Oliver</u>
<u>RR-0116</u>	<u>Anthony Richard Maryan</u>
<u>RR-0117</u>	<u>Anthony Seymour Burgess</u>
<u>RR-0118</u>	<u>Anthony tyler</u>
<u>RR-0119</u>	<u>Anthony Walpole</u>
<u>RR-0120</u>	<u>Antonia Croft</u>
<u>RR-0121</u>	<u>April Jones</u>
<u>RR-0122</u>	<u>Aqua Moye</u>
<u>RR-0123</u>	<u>Arriva (Arriva)</u>
<u>RR-0124</u>	<u>Artur Guzy</u>
<u>RR-0125</u>	<u>Ashley Philip Allen</u>
<u>RR-0126</u>	<u>Ashok Chandarana</u>
<u>RR-0127</u>	<u>Asia Razaq</u>

RR-0128	Atia Riaz
RR-0129	Azra Aslam
RR-0130	Barbara Jean Squires
RR-0131	Barbara Millard
RR-0132	Barnfield College (Barnfield College)
RR-0133	Barry bridges
RR-0134	Barry Gray
RR-0135	Barry Guy
RR-0136	Barry Johnson
RR-0137	Barry Leonard Cottle
RR-0138	Barry Smith
RR-0139	Bartholomew Pleydell-Bouverie (Bartholomew Pleydell-Bouverie)
RR-0140	Be Active (Be Active)
RR-0141	Bedfordshire Chamber of Commerce (Bedfordshire Chamber of Commerce)
RR-0142	Bedfordshire Fire & Rescue Service (Bedfordshire Fire & Rescue Service)
RR-0143	Bedfordshire Luton and Milton Keynes Integrated Care Board (Bedfordshire Luton and Milton Keynes Integrated Care Board)
RR-0144	BELL PACKAGING LIMITED (BELL PACKAGING LIMITED)
RR-0145	Bellrock Group (Bellrock Group)
RR-0146	Benjamin Tusting
RR-0147	Benoit Katombe
RR-0148	Bernadine Phenna
RR-0149	Beverley Daglish
RR-0150	Beverley Dalgarno
RR-0151	Blakeney Homes Ltd (Blakeney Homes Ltd)
RR-0152	The Bloor Family
RR-0153	Bloor Homes Limited (Bloor Homes Limited)
RR-0154	Bob Baker
RR-0155	Bourn Parish Council (Bourn Parish Council)
RR-0156	Breachwood Green Baptist Church (Breachwood Green Baptist Church)
RR-0157	Breachwood Green Charity Group (Breachwood Green Charity Group)
RR-0158	Brenda Ann Reintjes
RR-0159	Brenda Moran
RR-0160	Brian Fulton
RR-0161	Brian Macdonald
RR-0162	Brian Robert Roe
RR-0163	Bridget Fordham
RR-0164	Bristol Airport Action Network (Bristol Airport Action Network)
RR-0165	Buckinghamshire and Milton Keynes Association of Local Councils (BMKALC) (Buckinghamshire and Milton Keynes Association of Local Councils (BMKALC))
RR-0166	Buckinghamshire Council (Buckinghamshire Council)
RR-0167	Bulls Green (Bulls Green)
RR-0168	Butterworth Family (Butterworth Family)
RR-0169	C F HARVEY
RR-0170	Caddington Parish Council (Caddington Parish Council)

<u>RR-0171</u>	<u>Cadent Gas (Cadent Gas)</u>
<u>RR-0172</u>	<u>Caldecote Ward, South Cambridgeshire District Council (Caldecote Ward, South Cambridgeshire District Council)</u>
<u>RR-0173</u>	<u>Cambridge and Peterborough Climate Action Coalition (Cambridge and Peterborough Climate Action Coalition)</u>
<u>RR-0174</u>	<u>Cambridge Friends of the Earth (Cambridge Friends of the Earth)</u>
<u>RR-0175</u>	<u>Cameron Taylor</u>
<u>RR-0176</u>	<u>Campbell family (Campbell family)</u>
<u>RR-0177</u>	<u>Cara Catlin</u>
<u>RR-0178</u>	<u>Cara Manton</u>
<u>RR-0179</u>	<u>Carl Andrew Brittain</u>
<u>RR-0180</u>	<u>Carlisle Support Services Group Limited (Carlisle Support Services Group Limited)</u>
<u>RR-0181</u>	<u>Carmel King</u>
<u>RR-0182</u>	<u>Carol Birch</u>
<u>RR-0183</u>	<u>Carol Brennan</u>
<u>RR-0184</u>	<u>Carol Crook</u>
<u>RR-0185</u>	<u>Carol Redgment</u>
<u>RR-0186</u>	<u>Carol Rodd</u>
<u>RR-0187</u>	<u>CAROL SHUTKEVER</u>
<u>RR-0188</u>	<u>Carole Walker</u>
<u>RR-0189</u>	<u>Caroline Bandcroft</u>
<u>RR-0190</u>	<u>Caroline Clancy</u>
<u>RR-0191</u>	<u>Caroline Hall</u>
<u>RR-0192</u>	<u>Caroline O'Donnell</u>
<u>RR-0193</u>	<u>Caroline sizer</u>
<u>RR-0194</u>	<u>Carolyn Daphne Ward</u>
<u>RR-0195</u>	<u>Carolyn Dodd</u>
<u>RR-0196</u>	<u>Carolyn Vivien Allen</u>
<u>RR-0197</u>	<u>Caron Montague</u>
<u>RR-0198</u>	<u>Catherine Brant</u>
<u>RR-0199</u>	<u>Catherine Flood</u>
<u>RR-0200</u>	<u>Catherine Jane Durrant</u>
<u>RR-0201</u>	<u>Catherine jones</u>
<u>RR-0202</u>	<u>Catherine Jones</u>
<u>RR-0203</u>	<u>Catherine Manthorpe</u>
<u>RR-0204</u>	<u>Catherine Smith</u>
<u>RR-0205</u>	<u>Catherine Victoria Hanson</u>
<u>RR-0206</u>	<u>Cathrine Gaskin</u>
<u>RR-0207</u>	<u>Catriona Dunhill</u>
<u>RR-0208</u>	<u>Cawleys (Cawleys)</u>
<u>RR-0209</u>	<u>Cella UK Property Unit Trust 1 (Cella UK Property Unit Trust 1)</u>
<u>RR-0210</u>	<u>Central Bedfordshire Council (Central Bedfordshire Council)</u>
<u>RR-0211</u>	<u>Ceren User</u>
<u>RR-0212</u>	<u>Charles Arthur Barber-Lomax</u>
<u>RR-0213</u>	<u>Charles Simpson Organisation Limited (Charles Simpson Organisation Limited)</u>
<u>RR-0214</u>	<u>Charles Simpson Organisation Limited (Charles Simpson Organisation Limited)</u>
<u>RR-0215</u>	<u>Charles Simpson Rentals Limited (Charles Simpson Rentals</u>

	Limited)
RR-0216	Charles Simpson Rentals Limited (Charles Simpson Rentals Limited)
RR-0217	Charles Simpson Rentals Limited (Charles Simpson Rentals Limited)
RR-0218	Charles Slater
RR-0219	Charlotte East
RR-0220	Charlotte Hills
RR-0221	Charlotte Woodbridge
RR-0222	Charmian Chapman
RR-0223	Chartered Institute of Logistics and Transport (Chartered Institute of Logistics and Transport)
RR-0224	Cherry Newbery
RR-0225	Cheryl Armstrong
RR-0226	Chiltern Society (Chiltern Society)
RR-0227	Chilterns Conservation Board (Chilterns Conservation Board)
RR-0228	Chingjung Chang
RR-0229	Cholesbury-cum-St Leonards Parish Council (Cholesbury-cum-St Leonards Parish Council)
RR-0230	chris bloomfield
RR-0231	Chris Goldenberg
RR-0232	Chris Hall
RR-0233	Chris Howe
RR-0234	Chris Jones
RR-0235	Chris Kouwenberg
RR-0236	Chris Lewis
RR-0237	Christina Goxha
RR-0238	Christina McCabe
RR-0239	Christina McElligott
RR-0240	Christina Scott Stedman
RR-0241	Christine Couch
RR-0242	Christine Elizabeth Palmer
RR-0243	Christine Street
RR-0244	Christine Wallsworth
RR-0245	CHRISTINE YOUNGER
RR-0246	Christopher Endicott
RR-0247	Christopher Hill
RR-0248	Christopher John Burkitt
RR-0249	Christopher Jones
RR-0250	Christopher Leigh Gordon
RR-0251	Christopher Peter Gorringe
RR-0252	Christopher Roberts
RR-0253	Christopher Squires
RR-0254	Christy Wright
RR-0255	CHUMS (CHUMS)
RR-0256	Citizens Advice Luton (Citizens Advice Luton)
RR-0257	Civil Aviation Authority (Civil Aviation Authority)
RR-0258	Claire Bevan
RR-0259	CLAIRE ELIZABETH BROTHERTON
RR-0260	Claire Gallagher

RR-0261	Claire Godfrey
RR-0262	Claire Jones
RR-0263	Claire Tily
RR-0264	Claire Turner
RR-0265	Clare Heloise Duke
RR-0266	Clare Miesner
RR-0267	Clarion Housing Group (Clarion Housing Group)
RR-0268	Claude Fourcroy
RR-0269	Claudia Balara
RR-0270	Claudia Cristina Young
RR-0271	Claudia Steeles
RR-0272	Clifford Nigel Myers
RR-0273	Clive Gordon Page
RR-0274	Clive Gresswell
RR-0275	Clive Whyatt
RR-0276	Cllr Tahmina Saleem
RR-0277	Colette Cook
RR-0278	Colin Albert Malam
RR-0279	Colin William O'Brien
RR-0280	Colin Wilson
RR-0281	Columba Edward Mcnelis
RR-0282	Columba Mcmenamin
RR-0283	Conan Sammon
RR-0284	Connected Places Catapult (Connected Places Catapult)
RR-0285	Coopers (Coopers)
RR-0286	Corinne Peacock
RR-0287	Corrina Rutter
RR-0288	Courtney Duffin-Hall
RR-0289	CPRE Bedfordshire The Countryside Charity (CPRE Bedfordshire The Countryside Charity)
RR-0290	CPRE Hertfordshire (jointly with CPRE Bedfordshire) - the countryside charity (CPRE Hertfordshire (jointly with CPRE Bedfordshire) - the countryside charity)
RR-0291	Craig Hance
RR-0292	Craig Hobbs
RR-0293	Craig Osborne
RR-0294	Craig Scudder
RR-0295	Cristina Gacek
RR-0296	Crowhurst (Crowhurst)
RR-0297	Dacorum Borough Council (Dacorum Borough Council)
RR-0298	Dagnall Village Hall (Dagnall Village Hall)
RR-0299	Daisy Cooper MP
RR-0300	Dame Joyce Plotnikoff
RR-0301	Damian McClean
RR-0302	Dan Cartwright
RR-0303	Dan Chatterley
RR-0304	Dan Jenkins
RR-0305	Danae Copley
RR-0306	Daniel Crossley
RR-0307	Daniel Downing

RR-0308	Daniel Kiernan
RR-0309	Daniel Robson
RR-0310	Daniel Swaile
RR-0311	Daniel Wilson
RR-0312	Danielle Louise Durant-Taylor (Danielle Louise Durant-Taylor)
RR-0313	Danny Norman Chapman
RR-0314	Darren Howard
RR-0315	Daryl Anne Pritchard
RR-0316	Datchworth Parish Council (Datchworth Parish Council)
RR-0317	dave severn
RR-0318	David Allen
RR-0319	David Barnard
RR-0320	David Beaty
RR-0321	David Boothman
RR-0322	David Bromet Phillips
RR-0323	David Charles Smith
RR-0324	David Day
RR-0325	David Dilley
RR-0326	David Drury
RR-0327	David Endon Stuart Shipley
RR-0328	David Ewer
RR-0329	David Farr
RR-0330	David Garwood
RR-0331	David Ghobadian
RR-0332	David Glazebrook
RR-0333	David James Hooker
RR-0334	David John Brown
RR-0335	David Jones
RR-0336	David Keith Graham
RR-0337	David Kingdon
RR-0338	David Lionel Geary
RR-0339	David Lyon
RR-0340	David Manning
RR-0341	David Manton
RR-0342	David Martin Rhodes
RR-0343	david Michael greenhalgh
RR-0344	David Morton
RR-0345	David Mulholland
RR-0346	David Neil Baker
RR-0347	David Newman
RR-0348	David Paul Ascott
RR-0349	DAVID PAUL STONER
RR-0350	David Pearce
RR-0351	David Robertson
RR-0352	David Robinson
RR-0353	David Sanok
RR-0354	David Stewart
RR-0355	David tree
RR-0356	David William Eynon Ball
RR-0357	DAVID WILLIAM MITTON

RR-0358	David Willmer
RR-0359	David Wyn Griffiths
RR-0360	David. Twydell
RR-0361	Davina Martin
RR-0362	Davinia Badham
RR-0363	Dawn Hardy
RR-0364	Dawn Hodges
RR-0365	Deanna Joan Newell
RR-0366	Deb Swinney
RR-0367	Debbie Case
RR-0368	Debby Wilson
RR-0369	Deborah Barnett
RR-0370	Deborah Catt
RR-0371	Deborah Manners
RR-0372	Derek Langley
RR-0373	Dermot McCarthy
RR-0374	Desi Fest Luton (Desi Fest Luton)
RR-0375	Devang Patel
RR-0376	Diane Bernier
RR-0377	Diane Elizabeth Baker
RR-0378	Diverse fM Community Media & Training Ltd (Diverse fM Community Media & Training Ltd)
RR-0379	Dominic Edward Burnell
RR-0380	Dominika Dronska
RR-0381	Don Cameron
RR-0382	Donald Hugh Reeves
RR-0383	Donlon Family (Donlon Family)
RR-0384	Donna Hillyer
RR-0385	Donna Murphy
RR-0386	Dorian Walton
RR-0387	Dorothy Ann Browne
RR-0388	Douglas sellers
RR-0389	Dr Guy Frank Foster
RR-0390	Dr Jacqui A Hart
RR-0391	Dr John Richard Bell
RR-0392	Dr Judith Pillinger
RR-0393	Dr Julian K Marsden
RR-0394	Dr Richard Woolfson
RR-0395	Duncan Beard
RR-0396	Duncan Bennett
RR-0397	E Kavanagh
RR-0398	Eamon Hailes
RR-0399	Early Years Alliance (Early Years Alliance)
RR-0400	East Midlands Railway (East Midlands Railway)
RR-0401	East of England Ambulance Service NHS Trust (East of England Ambulance Service NHS Trust)
RR-0402	Eastern Power Networks Plc and UK Power Networks Operations Ltd (Eastern Power Networks Plc and UK Power Networks Operations Ltd)
RR-0403	Easthall Farms Trading Ltd (Easthall Farms Trading Ltd)

RR-0404	Edlesborough Parish Council (Edlesborough Parish Council)
RR-0405	Edmund Wright
RR-0406	El Litten
RR-0407	Elaine Miller
RR-0408	Elaine Moore
RR-0409	Elaine O Farrell
RR-0410	Eldridge Family
RR-0411	Eleanor Ollerenshaw
RR-0412	Elisabeth Helen Bird
RR-0413	Elisabeth Helen Bird
RR-0414	Elisabeth Helen Bird
RR-0415	Elisabeth Helen Bird
RR-0416	Elisabeth Helen Bird
RR-0417	Elissa Gordon
RR-0418	Elizabeth Anne Hogan
RR-0419	Elizabeth Baxter
RR-0420	Elizabeth Gathern
RR-0421	Elizabeth Gaubert
RR-0422	Elizabeth Graham
RR-0423	Elizabeth Hamilton
RR-0424	ELIZABETH J MORGAN
RR-0425	Elizabeth Jane Hughes
RR-0426	Elizabeth Mary Ayton
RR-0427	Elizabeth Mcgarry
RR-0428	Elizabeth Merchant
RR-0429	Elizabeth Stevens
RR-0430	Elizabeth Widdowson
RR-0431	Ellen Damle
RR-0432	Ellen Wade
RR-0433	Elsebeth Mcconkey
RR-0434	Elspeth Gass
RR-0435	Emily Spry
RR-0436	Emma Armitage
RR-0437	Emma Atkinson
RR-0438	Emma Jane O'Reilly
RR-0439	Emma Rookwood
RR-0440	Emma Smart
RR-0441	Emma Webster
RR-0442	Emmi Clark
RR-0443	England's Economic Heartland (England's Economic Heartland)
RR-0444	Environment Agency (Environment Agency)
RR-0445	Eoin Dunne
RR-0446	Eric Phillips
RR-0447	Erin Landry
RR-0448	Erland Sternby
RR-0449	Esther Kennedy
RR-0450	Ethos Farm (Ethos Farm)
RR-0451	Ettenfield (Ettenfield)
RR-0452	EWAN THOMPSON
RR-0453	Faiza Malik

RR-0454	Farrah Somani
RR-0455	Feroza Bartlett
RR-0456	Fiona Duggett
RR-0457	Fiona Margaret Bloomfield
RR-0458	Fiona Mayling
RR-0459	FIONA VICK
RR-0460	Flight Free UK (Flight Free UK)
RR-0461	Follett Property Holdings Ltd (Follett Property Holdings Ltd)
RR-0462	Forestry Commission (Forestry Commission)
RR-0463	Frances Bowes Lyon
RR-0464	Frances Burton
RR-0465	Frances Moss
RR-0466	Frances Woods
RR-0467	Francesca Turner
RR-0468	Francis Bick
RR-0469	Franco Angella
RR-0470	Fraser Campbell
RR-0471	Frederick Thomas
RR-0472	Friends of Wigmore Park (Friends of Wigmore Park)
RR-0473	Gail Jackson
RR-0474	Gail Smith
RR-0475	Gareth Green
RR-0476	Gareth Phillips
RR-0477	Garry Stubbs
RR-0478	Gary Johnson
RR-0479	Gary Moore
RR-0480	Gary Paul
RR-0481	Gary Starling
RR-0482	Gary Winter
RR-0483	Gavin Chater
RR-0484	Gavin Stevens
RR-0485	Gaynor Hulford
RR-0486	GDPR-001
RR-0487	GDPR-002
RR-0488	GDPR-003
RR-0489	Gemma Gamble
RR-0490	geoff lambert
RR-0491	Geoffrey Thiel
RR-0492	George Bevan
RR-0493	George Edward Perkins
RR-0494	George Gilmour
RR-0495	George Mills
RR-0496	George Nedelchev
RR-0497	Georgina Coombes
RR-0498	Geoffrey Rochester
RR-0499	Geraldine Coyle
RR-0500	Geraldine Galvin
RR-0501	Geraldine Hogg
RR-0502	gerd lende
RR-0503	Gerri Meredith

RR-0504	Ghulam Abbas
RR-0505	Gil Yaron
RR-0506	Giles Bridger
RR-0507	Gillian Brook
RR-0508	Gillian Georgiou
RR-0509	Gillian Holland
RR-0510	Gillian Mary Chegwyn
RR-0511	Gillian Maurant
RR-0512	Gillian O'Neill
RR-0513	Girlguiding Luton South Division (Girlguiding Luton South Division)
RR-0514	GKN Aerospace Services Limited (GKN Aerospace Services Limited)
RR-0515	Gladys Walker (Gladys Walker)
RR-0516	Gordon Glen
RR-0517	Grace Simmons
RR-0518	Graham A Hoad
RR-0519	Graham Hill
RR-0520	Graham John Bickerdike
RR-0521	Grainne Tallon
RR-0522	Greg Baker
RR-0523	Gregor Laing
RR-0524	Greig Toyer
RR-0525	Gulielma Butcher
RR-0526	Hampton Inn by Hilton London Luton Airport (Hampton Inn by Hilton London Luton Airport)
RR-0527	Harishchandra Umradia
RR-0528	Harmanpiar Gill
RR-0529	Harpenden Town Council (Harpenden Town Council)
RR-0530	HarpendenSky.com (HarpendenSky.com)
RR-0531	Harriot Pleydell-Bouverie
RR-0532	Harrods Aviation Limited (Harrods Aviation Limited)
RR-0533	Hartley Dean
RR-0534	Hayley Daniels-Lake
RR-0535	Hayley Ward
RR-0536	Hayward Tyler Ltd (Hayward Tyler Ltd)
RR-0537	hazel furssedonn
RR-0538	Headway Luton (Headway Luton)
RR-0539	Heather Anne Sales
RR-0540	Heather Connor
RR-0541	Heather Jayne Brady
RR-0542	Heather Lewis
RR-0543	Heather Whyte
RR-0544	Heidi Walker
RR-0545	Helen Beavis
RR-0546	Helen Cullen
RR-0547	Helen E Haran
RR-0548	Helen Elisabeth Skelton
RR-0549	Helen Evans
RR-0550	Helen Farr

RR-0551	Helen Garwood
RR-0552	Helen Greensmith
RR-0553	Helen Halsey
RR-0554	Helen Hunter
RR-0555	Helen Parker
RR-0556	Helen Wand
RR-0557	Helena Mary Catherine Cotter
RR-0558	Hertfordshire County Council (Hertfordshire County Council)
RR-0559	Hilary Gelling
RR-0560	Hilary John Beavis
RR-0561	Hilary Reynolds
RR-0562	Hillary Mead
RR-0563	Hindu Mandir and Community Centre Luton. And LCOF. (Hindu Mandir and Community Centre Luton. And LCOF.)
RR-0564	Hitchin Forum (Hitchin Forum)
RR-0565	Holiday Extras Ltd (Holiday Extras Ltd)
RR-0566	Hollie Rebecca fisher
RR-0567	Hope Camilla Catherine Clayton
RR-0568	Howard Godfrey
RR-0569	Howard Witts
RR-0570	Hugh Francis Lawrence
RR-0571	Huw Davies
RR-0572	Ian Alderman
RR-0573	Ian Brian Roper
RR-0574	Ian Brooke
RR-0575	Ian Chilvers
RR-0576	Ian Hunt
RR-0577	Ian Laidler
RR-0578	Ian Mitchell
RR-0579	Ian Otter
RR-0580	Ian Stewart
RR-0581	Ilze De Vos
RR-0582	Inspire FM (Inspire FM)
RR-0583	Ion Mihail Gorgoiu
RR-0584	Isabel Lorna Wilks
RR-0585	Ishrat Akber
RR-0586	Ivan Brooks
RR-0587	Ivinghoe Parish Council (Ivinghoe Parish Council)
RR-0588	Izabela Broadley
RR-0589	J Christmas
RR-0590	J Henderson
RR-0591	j loughlin
RR-0592	J Oliver
RR-0593	J Stephens
RR-0594	J Thompson
RR-0595	Jackie kenneford
RR-0596	Jacqueline Clarke
RR-0597	Jacqueline Daniels
RR-0598	Jacqueline Howard
RR-0599	Jacqueline Melvin

RR-0600	Jacqueline Rainbow
RR-0601	Jacqui Mace
RR-0602	Jacqueline Sliney
RR-0603	Jaison Property Development Company Ltd (Jaison Property Development Company Ltd)
RR-0604	Jaltek Systems Limited (Jaltek Systems Limited)
RR-0605	James Ashby
RR-0606	James Cameron
RR-0607	James Henry Loweth
RR-0608	James Howard Borchers
RR-0609	James Masters
RR-0610	James Sizer (James Sizer)
RR-0611	James Thompson Browne
RR-0612	James Walker
RR-0613	James White Jack
RR-0614	Jamie Matthew Pridmore
RR-0615	Jan Dvorak
RR-0616	Jan Evans
RR-0617	Jan Gabrielle Powley
RR-0618	Jane Anne Lintott
RR-0619	Jane B Read
RR-0620	Jane Bedlington
RR-0621	Jane elizabeth dimmock
RR-0622	Jane McMurdie
RR-0623	Jane Payton
RR-0624	Jane Susan Anne Spendley
RR-0625	Jane swain
RR-0626	Jane Tyler
RR-0627	Janet Brown
RR-0628	Janet C Fossey
RR-0629	Janet Cummings
RR-0630	Janet Frances Stevens
RR-0631	Janet Gerrard-Wright
RR-0632	Janet Henshilwood
RR-0633	Janet Ingham
RR-0634	Janet Manning
RR-0635	Janet Wheeler
RR-0636	Janice Bignell
RR-0637	Janice Sharon Burnell
RR-0638	Janina Marie Drury
RR-0639	Janis O'Leary on behalf of the O'Leary family
RR-0640	Jason Handscombe
RR-0641	Jason holdham
RR-0642	Jason Houlihan
RR-0643	Jason Owen
RR-0644	Javed Hussain
RR-0645	Jayne Appleby Holdham
RR-0646	Jayne Elizabeth Bloch
RR-0647	JC Harryman
RR-0648	Jean Johnson

RR-0649	<u>Jean Weir</u>
RR-0650	<u>Jeanette Millett</u>
RR-0651	<u>Jeanette Wildman</u>
RR-0652	<u>Jeff Clarkson</u>
RR-0653	<u>Jeffrey Chapman</u>
RR-0654	<u>Jeffrey Sloley</u>
RR-0655	<u>Jemma Candy</u>
RR-0656	<u>Jennie Payne</u>
RR-0657	<u>Jennie White</u>
RR-0658	<u>Jennifer Ann Burkitt</u>
RR-0659	<u>Jennifer Clare Hutchinson</u>
RR-0660	<u>Jennifer Marguerite Monaco</u>
RR-0661	<u>Jennifer Marjorie Moore</u>
RR-0662	<u>Jennifer Maryan</u>
RR-0663	<u>Jennifer Morrison</u>
RR-0664	<u>Jennifer Summerbee</u>
RR-0665	<u>Jennifer Willis</u>
RR-0666	<u>Jenny Baker</u>
RR-0667	<u>Jenny Langley</u>
RR-0668	<u>Jeremy Gordon Young</u>
RR-0669	<u>Jeremy Jason Lane</u>
RR-0670	<u>Jerry Gallaher</u>
RR-0671	<u>Jessica Edney</u>
RR-0672	<u>Jessica McGinty</u>
RR-0673	<u>Jessica Pike</u>
RR-0674	<u>Jevan Thomas Bryant</u>
RR-0675	<u>Jill Robertson</u>
RR-0676	<u>Jill Toogood</u>
RR-0677	<u>Jo Hennessey</u>
RR-0678	<u>Jo Wiley</u>
RR-0679	<u>Joan Margaret Drage</u>
RR-0680	<u>Joanna Broughton</u>
RR-0681	<u>Joanna DOYLE</u>
RR-0682	<u>Joanne Ashmore Cook</u>
RR-0683	<u>Joanne Butler</u>
RR-0684	<u>Joanne Elizabeth Martin</u>
RR-0685	<u>Joanne Lane</u>
RR-0686	<u>Joanne Lemon</u>
RR-0687	<u>Jocelyn Poulton</u>
RR-0688	<u>Jody Nason</u>
RR-0689	<u>Joe Brown</u>
RR-0690	<u>Joe Connolly-Wright</u>
RR-0691	<u>John Andrew and Jana Ninot Jason (John Andrew and Jana Ninot Jason)</u>
RR-0692	<u>John Bourke</u>
RR-0693	<u>John Boyle</u>
RR-0694	<u>John Brian Alexander</u>
RR-0695	<u>John C. M. Skeggs</u>
RR-0696	<u>John Callender</u>
RR-0697	<u>John D Mardle</u>

RR-0698	John David Gass
RR-0699	John Davies
RR-0700	John Dudley
RR-0701	John Duncan
RR-0702	John Eugene Osullivan
RR-0703	JOHN FARROW
RR-0704	John Gardner
RR-0705	John Gelling
RR-0706	John Hagger
RR-0707	John Hale
RR-0708	John HAMER
RR-0709	John Harrison
RR-0710	John Hogan
RR-0711	John Joseph Walsh
RR-0712	John Long
RR-0713	John Marsham
RR-0714	John Martin Bradley
RR-0715	John Martin Pinney
RR-0716	John McAlister
RR-0717	John Michael Humphreys
RR-0718	John Michael Wilkinson
RR-0719	John Milligan
RR-0720	John Ormiston
RR-0721	John Philip Davies
RR-0722	john spencer
RR-0723	John Tattersall
RR-0724	John Timoney
RR-0725	John West
RR-0726	John Wood
RR-0727	Jolanta Leszkowicz-Luks
RR-0728	Jon Chamberlin
RR-0729	Jon Perry
RR-0730	Jon Stephen House
RR-0731	Jonathan P Andrews
RR-0732	Jonathan Stares
RR-0733	Jones Mitchell (Jones Mitchell)
RR-0734	Joseph Bray
RR-0735	Joseph Kelly
RR-0736	Joyce Family (Joyce Family)
RR-0737	Judith Morris
RR-0738	Judy Cherry
RR-0739	Julia mooney
RR-0740	Julia Shand-Milne
RR-0741	Julian Gannon
RR-0742	Julian Lovell
RR-0743	Julian Morgan Skeens
RR-0744	Julian Wathen
RR-0745	JULIE ANGELLA
RR-0746	Julie Baker
RR-0747	Julie Elizabeth Furnivall

RR-0748	Julie Hills
RR-0749	Julie Mann
RR-0750	Julie Robbins
RR-0751	Juliet Lyal
RR-0752	Juliet nolan
RR-0753	Juliet Reid
RR-0754	June Frances Parrott
RR-0755	Justin Lane
RR-0756	JUSTIN RICHARDS
RR-0757	K Oogarah
RR-0758	Kalpesh Shah
RR-0759	Karen Beardon
RR-0760	Karen Bewick
RR-0761	karen Clack
RR-0762	Karen Day
RR-0763	Karen Hakesley
RR-0764	Karen Kester
RR-0765	Karen Kim Carter
RR-0766	Karen king
RR-0767	Karen Linda Stewart
RR-0768	Karen Peacock
RR-0769	Karen Ryan
RR-0770	Karen Say
RR-0771	Karen Susan Chapman
RR-0772	Karen Sutton
RR-0773	Karin wragg
RR-0774	Karina Klimaszewski
RR-0775	Karolina Taflaj
RR-0776	Kate Appleby
RR-0777	Kate Netherton
RR-0778	Kate Penning
RR-0779	Katharina Klamt
RR-0780	Katherine Khan
RR-0781	Kathleen Ann Cowan (Kathleen Ann Cowan)
RR-0782	Kathleen craig
RR-0783	Kathleen Marie Corander
RR-0784	Kathryn Grimes
RR-0785	Kathryn Hurle
RR-0786	Katie Brazier
RR-0787	Katie Jackson
RR-0788	Katrina Mairi Doubleday
RR-0789	Keech Hospice Care (Keech Hospice Care)
RR-0790	Keith Attenborough
RR-0791	Keith Raymond Gissing
RR-0792	Keith Tolladay
RR-0793	Kelli-Marie Scott
RR-0794	Kelly Ann Watson
RR-0795	Kelly Butterfield
RR-0796	Kelvin Peter Hopkins
RR-0797	Kenneth George France

RR-0798	Kenneth James Munday
RR-0799	Kensworth Parish Council (Kensworth Parish Council)
RR-0800	Kerry Toyer
RR-0801	Kevin Blake
RR-0802	kevin driver
RR-0803	Kevin George Folds
RR-0804	Kevin Griffiths
RR-0805	Kevin Rouse
RR-0806	Kevin Sharp
RR-0807	Kevin Stephens
RR-0808	Kh Butt
RR-0809	Kimpton Environmentalists (Kimpton Environmentalists)
RR-0810	Kings Walden Parish Council (Kings Walden Parish Council)
RR-0811	Kirstie Slessor McEwan
RR-0812	Kirstine Mcculloch
RR-0813	Kirsty Clark
RR-0814	Kornelia Deppe
RR-0815	Kristin Coldwell
RR-0816	Kwok Man
RR-0817	LADACAN (Luton And District Association for the Control of Aircraft Noise) (LADACAN (Luton And District Association for the Control of Aircraft Noise))
RR-0818	Lanos (Luton) Limited (Lanos (Luton) Limited)
RR-0819	Laura Fellows
RR-0820	Laura Salton
RR-0821	Lauren Bailey
RR-0822	Lauren Chapman
RR-0823	Lauren Lanik
RR-0824	Laurie Gibson
RR-0825	Lawrence K Maxwell
RR-0826	Lawrence Patterson
RR-0827	Leanne Lewis
RR-0828	Lee Armstrong
RR-0829	Lee Jonathan Hazell
RR-0830	Leon Joseph Varnals
RR-0831	Lesley Elaine Smart
RR-0832	Lesley Greengrass
RR-0833	Lesley Jane Townend
RR-0834	Lesley Vicat on behalf of the Vicat Family
RR-0835	Lewis Tunnicliffe
RR-0836	Liliana Busuioc
RR-0837	Lin Ball
RR-0838	Linda Downie
RR-0839	Linda Joyce Davies
RR-0840	Linda Kay Folland
RR-0841	Linda Lane
RR-0842	Linda Parker
RR-0843	Linda scott
RR-0844	Linda Scurry
RR-0845	linda smith

RR-0846	Linda Street
RR-0847	Linda styles
RR-0848	Linda Williams
RR-0849	Link Community Centre (Link Community Centre)
RR-0850	Lisa Clarke
RR-0851	Lisa Harris
RR-0852	Lisa Jane Lathane
RR-0853	Liz O'Connell
RR-0854	Liza Leaning
RR-0855	Lolita Puckova
RR-0856	London Luton Hotel BPRA Property Fund LLP (London Luton Hotel BPRA Property Fund LLP)
RR-0857	London Luton limited (London Luton limited)
RR-0858	London Southend Airport (London Southend Airport)
RR-0859	Long (Long)
RR-0860	Lorna Caldwell
RR-0861	Lorna Gordon
RR-0862	Lorna Swain
RR-0863	Lorraine King
RR-0864	Louise Brecknell
RR-0865	Louise Brown
RR-0866	Louise Haden
RR-0867	Louise Stubbs
RR-0868	Louise Victoria Costa-Sa
RR-0869	Lucile Bertolaso-Scarlett
RR-0870	Lucinda Smith
RR-0871	Lucy Moore
RR-0872	Luke McCarthy
RR-0873	Luton Airport Operations Limited (Luton Airport Operations Limited)
RR-0874	Luton and Dunstable Cycling Forum (Luton and Dunstable Cycling Forum)
RR-0875	Luton BID (Luton BID)
RR-0876	Luton Council (Luton Council)
RR-0877	Luton Cultural Services Trust (Luton Cultural Services Trust)
RR-0878	Luton Friends of the Earth (Luton Friends of the Earth)
RR-0879	Luton Irish Forum (Luton Irish Forum)
RR-0880	Luton Law Centre (Luton Law Centre)
RR-0881	Luton Sixth Form College (Luton Sixth Form College)
RR-0882	Luton Town Football Club Community Trust (Luton Town Football Club Community Trust)
RR-0883	Lydia Truman
RR-0884	Lyn Bliss
RR-0885	Lyn Reid
RR-0886	Lynda Cameron
RR-0887	Lynn Morton
RR-0888	Lynne McGeachie
RR-0889	Malcolm Bush
RR-0890	Malcolm Day
RR-0891	Mandie Bavister

RR-0892	Mandy Bromwich
RR-0893	Mandy Gallaher
RR-0894	Mandy Hope
RR-0895	Manish Dhokia
RR-0896	Marcelo Pazzinatto
RR-0897	Marcia Phaedra Clay
RR-0898	Marcin Oldakowski
RR-0899	Marcus Carter-Adams
RR-0900	Margaret Anne Constantine
RR-0901	Margaret Bonnard
RR-0902	Margaret Burnage
RR-0903	Margaret E Ross
RR-0904	Margaret Gannon
RR-0905	Margaret Helen Gathard
RR-0906	Margaret Janet Gordon
RR-0907	Margaret Maria Geary
RR-0908	Margaret Rose White
RR-0909	Margaret Rosemary Oliver
RR-0910	Margaret Scott
RR-0911	Margaret Stewart
RR-0912	Margareta Christina Reeves
RR-0913	Maria Alicia Casero-Rojo
RR-0914	Maria Jianu
RR-0915	Maria Petersen-Keith
RR-0916	Marie Cameron
RR-0917	marie winifred preston
RR-0918	Marilyn Jude
RR-0919	Marilyn Whittle
RR-0920	Mario May
RR-0921	Marion clapp
RR-0922	MARION JEAN HOWE
RR-0923	mark allen
RR-0924	Mark Butterfield
RR-0925	Mark Dimmock
RR-0926	Mark Edwards
RR-0927	mark j sansom
RR-0928	Mark Manning
RR-0929	Mark Oliver
RR-0930	Mark Phillips
RR-0931	Mark Pontin
RR-0932	Mark Riley
RR-0933	Mark Russell
RR-0934	Mark Russell Deacon
RR-0935	Mark Salton
RR-0936	Mark Sutton
RR-0937	Mark Tattingham
RR-0938	Mark Welch
RR-0939	Mark Willow
RR-0940	Martell (Martell)
RR-0941	Martin Bierton

RR-0942	Martin Christopher Bates
RR-0943	Martin Hindmarsh
RR-0944	Martin Hunt
RR-0945	Martin Ketcher
RR-0946	Martin King
RR-0947	Martin Lindsay Wood
RR-0948	Martin Lovatt Rosser
RR-0949	Martin Peter McBride
RR-0950	Martin Shaw
RR-0951	Martin waggott
RR-0952	Martin Whitfield
RR-0953	martina dvorak
RR-0954	Martyn Crassweller
RR-0955	Mary Ann Lund
RR-0956	Mary Rankin
RR-0957	Mary Rose
RR-0958	Mary Seacole Housing Association (Mary Seacole Housing Association)
RR-0959	Mary Stewart
RR-0960	Mary Ternouth
RR-0961	Mathew Lawson
RR-0962	Matilda Moran
RR-0963	Matilda Walpole
RR-0964	Matt Brooks
RR-0965	Matt Fisher
RR-0966	Matthew Bailey
RR-0967	Matthew Edward Clarke
RR-0968	Matthew Hanlon
RR-0969	Matthew Neal
RR-0970	Matthew Sutcliffe
RR-0971	Matthew tomlin
RR-0972	Maxine Anne Whittaker
RR-0973	Mayo Nettey
RR-0974	Mechell Webb
RR-0975	Megan Donaghy
RR-0976	Mel Djogo
RR-0977	Melanie Armitage
RR-0978	Melanie Arnold
RR-0979	Melanie Fowler
RR-0980	melanie parker
RR-0981	Melissa Clarke
RR-0982	Michael Edwards
RR-0983	Michael Errol Smith
RR-0984	Michael George hammond
RR-0985	Michael Hammond
RR-0986	Michael Holland
RR-0987	Michael Jaye
RR-0988	Michael John Mercer-Deadman
RR-0989	Michael John Mullenger
RR-0990	Michael Johnson

RR-0991	Michael Oliver
RR-0992	Michael Parkinson
RR-0993	Michael Reddington
RR-0994	Michael Waller
RR-0995	Michaela Comb
RR-0996	Michelle facer
RR-0997	Michelle Kane
RR-0998	Michelle Lydon
RR-0999	Michelle Salomons
RR-1000	Micka Garg
RR-1001	Mike Lancaster
RR-1002	Mike Lewis
RR-1003	Mike Newman on behalf of the Newman family
RR-1004	Mike Payne
RR-1005	Millicent Brown
RR-1006	Miranda Folds
RR-1007	Miriam Lowbury
RR-1008	Miss Diane Marie Moulster
RR-1009	Miss Eleanor Field
RR-1010	Miss Helen Ayres
RR-1011	Miss Samantha Britten
RR-1012	Miss Sophie Smith
RR-1013	Mohammed Aslam Khan
RR-1014	Moiria Lea
RR-1015	Monika Mitchell
RR-1016	Morny Abramian
RR-1017	Moroni (Moroni)
RR-1018	Mr Allan Thomason
RR-1019	Mr B. Strutt
RR-1020	Mr Ben Kellard
RR-1021	Mr David Gardiner
RR-1022	Mr garry greensmith
RR-1023	Mr Gary Morrissey
RR-1024	Mr Gary Morrissey
RR-1025	Mr Gary Morrissey
RR-1026	Mr J P McNally
RR-1027	mr johan ward
RR-1028	Mr jonathan vass
RR-1029	MR KEITH WILLIAMS
RR-1030	Mr Mesut Meral
RR-1031	MR MRS P BAVISTER
RR-1032	Mr P Sturgess
RR-1033	Mr Peter A Garbutt
RR-1034	Mr Peter M Graham
RR-1035	Mr Simon Hvass
RR-1036	Mr V F O'Leary
RR-1037	Mr Vimal Upadhyaya
RR-1038	Mr. John A. Smith
RR-1039	Mr. R M St. J Fairholm
RR-1040	Mrs Agnes Helen Philpot (Mrs Agnes Helen Philpot)

RR-1041	Mrs Anna Schreier
RR-1042	Mrs ayse meral
RR-1043	Mrs B
RR-1044	Mrs Carrie Lawrence
RR-1045	Mrs Claire Astbury
RR-1046	Mrs Deepika Chohan
RR-1047	Mrs Elizabeth Thurlby
RR-1048	Mrs J Glass
RR-1049	Mrs Jacqueline Murray-Fowler
RR-1050	Mrs Jane sheppard
RR-1051	Mrs Jill Carroll
RR-1052	Mrs Jo Laurie-Pile
RR-1053	Mrs Linda Brookes
RR-1054	Mrs Linda Skelley
RR-1055	Mrs Louise Browne
RR-1056	Mrs lynda Matthews
RR-1057	Mrs Natalie Carter
RR-1058	Mrs Sharon O'Brien
RR-1059	Mrs Susan Bates (Mrs Susan Bates)
RR-1060	Mrs Tracey Lumm
RR-1061	Mrutyunjaya Kuruvatti
RR-1062	Ms Elaine Henderson
RR-1063	Ms Gail Foster
RR-1064	Ms Jane Timmis MBE
RR-1065	Ms.Allison Fordyce
RR-1066	Muhammad Ali khan
RR-1067	Mukesh Patel
RR-1068	Muriel Crawford
RR-1069	N Oliver
RR-1070	Nadiger (Nadiger)
RR-1071	Nadine Santus
RR-1072	Natalie Battershill
RR-1073	Natalie Coward
RR-1074	Natalie Yates
RR-1075	Nathan Spencer
RR-1076	National Highways (National Highways)
RR-1077	National Trust (National Trust)
RR-1078	NATS EN ROUTE LTD (NATS EN ROUTE LTD)
RR-1079	Natural England (Natural England)
RR-1080	Neil Blake
RR-1081	Neil Cavanagh
RR-1082	Neil Davies Morgan
RR-1083	Neil Gaskell
RR-1084	Neil Walker
RR-1085	Neville Chapman
RR-1086	Neville Doe (Historic England)
RR-1087	New Economics Foundation (New Economics Foundation)
RR-1088	Newcater (Newcater)
RR-1089	Niall Gleeson
RR-1090	Nicholas Cox

RR-1091	Nicholas John Webb
RR-1092	Nicholas Mark Powley
RR-1093	NICHOLAS MOURANT
RR-1094	Nicky Adkins
RR-1095	Nicol Taylor Consulting Ltd (Nicol Taylor Consulting Ltd)
RR-1096	Nicola Anne French
RR-1097	Nicola butler
RR-1098	Nicola Caroline Jenkins
RR-1099	Nicola Clark
RR-1100	Nicola Jones
RR-1101	Nicola Kentish
RR-1102	Nicola Parkins
RR-1103	Nicola Tait
RR-1104	Nicola Woodward
RR-1105	Nicole Keane
RR-1106	Nigel Emms
RR-1107	Nigel Harvey
RR-1108	Nigel Oxley
RR-1109	Nigel Shane
RR-1110	Nigel Tully MBE
RR-1111	Niki Toffis
RR-1112	Nikolaus Rath
RR-1113	Nina Garner
RR-1114	NISHA D
RR-1115	NOAH Enterprise (NOAH Enterprise)
RR-1116	Noel Francis John Whittle
RR-1117	Noreen Walsh
RR-1118	Norleen Chipo Soko
RR-1119	North Hertfordshire District Council (North Hertfordshire District Council)
RR-1120	North Herts & Stevenage Friends of the Earth (North Herts & Stevenage Friends of the Earth)
RR-1121	Olga Sivell
RR-1122	Oliver Clarke
RR-1123	Oliver Clarke
RR-1124	Oliver Renwick
RR-1125	Oliver Ryman
RR-1126	Oliver Scott
RR-1127	Olivia Sharp
RR-1128	Ollie Campbell
RR-1129	Openwide Investments Limited (Openwide Investments Limited)
RR-1130	Owen Connolly
RR-1131	P Ramsay
RR-1132	P van Weede
RR-1133	PAIN (People Against Intrusive Noise) (PAIN (People Against Intrusive Noise))
RR-1134	Pam Waggott
RR-1135	Pamela Jean Crawley
RR-1136	Pamela Matthews
RR-1137	Pamela Twydell

RR-1138	Patricia langton
RR-1139	Patricia Owen
RR-1140	Patricia Valian
RR-1141	Patrick Diamond
RR-1142	Patrick Fitzpatrick
RR-1143	Patrick Kevin Jennings
RR-1144	Paul Andrew Dyett
RR-1145	Paul Bird
RR-1146	Paul Brecknell
RR-1147	Paul Charters
RR-1148	Paul Dawson
RR-1149	Paul Douglas
RR-1150	Paul Fitton
RR-1151	Paul Houston
RR-1152	Paul Hunter
RR-1153	Paul James Cullen
RR-1154	Paul Johnson
RR-1155	Paul Kenneth Solly
RR-1156	Paul Kraus
RR-1157	Paul Redmond
RR-1158	Paul Richard Squires
RR-1159	Paul Roy Harris
RR-1160	Paul Spelzini on behalf of South Herts User group
RR-1161	Paul Stephen Rawlinson
RR-1162	Paul Thomas
RR-1163	Paul William Croly
RR-1164	Paul Winton Theobald
RR-1165	Paula McCann
RR-1166	Paula Pettit
RR-1167	Paula Yapp
RR-1168	Pauline Anne Grimes
RR-1169	Pauline Archer
RR-1170	Pauline Baker
RR-1171	Pauline Hill
RR-1172	Pauline Hill
RR-1173	Pauline Jill Weston
RR-1174	Pauline Pinney
RR-1175	Pauline Roby
RR-1176	Pauline Rosina Chilvers
RR-1177	Pauline Snoxell
RR-1178	Penelope Jane Schenkel
RR-1179	Penny Quilter
RR-1180	Pervez Akbar
RR-1181	Pete Gregory
RR-1182	Peter Adams
RR-1183	Peter Appleyard
RR-1184	Peter Charles Preston
RR-1185	Peter Collins
RR-1186	Peter Horwood (Peter Horwood)
RR-1187	Peter James Gatland

<u>RR-1188</u>	<u>Peter Mannell</u>
<u>RR-1189</u>	<u>Peter Nicholas Cutforth</u>
<u>RR-1190</u>	<u>Peter Norrington</u>
<u>RR-1191</u>	<u>Peter Reynolds</u>
<u>RR-1192</u>	<u>Peter Rochford</u>
<u>RR-1193</u>	<u>Peter Ronald Crossley</u>
<u>RR-1194</u>	<u>Peter Roy Barrow</u>
<u>RR-1195</u>	<u>Peter Russell Triddon</u>
<u>RR-1196</u>	<u>Peter Saul</u>
<u>RR-1197</u>	<u>Peter Thomas</u>
<u>RR-1198</u>	<u>Peter Wallis</u>
<u>RR-1199</u>	<u>Peter White</u>
<u>RR-1200</u>	<u>Petrea Ann Cameron</u>
<u>RR-1201</u>	<u>Phil Skone</u>
<u>RR-1202</u>	<u>Philip Anthony Smith</u>
<u>RR-1203</u>	<u>Philip Antony Streeter</u>
<u>RR-1204</u>	<u>Philip Cohen</u>
<u>RR-1205</u>	<u>Philip Hilaire-Moore</u>
<u>RR-1206</u>	<u>Philip Morrisey</u>
<u>RR-1207</u>	<u>Philip Nalpanis</u>
<u>RR-1208</u>	<u>Philip Sorsky</u>
<u>RR-1209</u>	<u>Philip Tate</u>
<u>RR-1210</u>	<u>Philip Valentine</u>
<u>RR-1211</u>	<u>Philip Wamuth</u>
<u>RR-1212</u>	<u>Philip William Alderman</u>
<u>RR-1213</u>	<u>Philip Woods</u>
<u>RR-1214</u>	<u>Philippa Ann Lock</u>
<u>RR-1215</u>	<u>Philippa Eke</u>
<u>RR-1216</u>	<u>Philippa Rosemary Fray</u>
<u>RR-1217</u>	<u>philomena fairley</u>
<u>RR-1218</u>	<u>Pitstone Parish Council (Pitstone Parish Council)</u>
<u>RR-1219</u>	<u>Pravinkumar Patel</u>
<u>RR-1220</u>	<u>Preston Parish Council (Preston Parish Council)</u>
<u>RR-1221</u>	<u>Priscilla Cullen</u>
<u>RR-1222</u>	<u>Prologis UK Limited (Prologis UK Limited)</u>
<u>RR-1223</u>	<u>Qaisar Hussain</u>
<u>RR-1224</u>	<u>R Herity</u>
<u>RR-1225</u>	<u>R. Ifat</u>
<u>RR-1226</u>	<u>Rachael Andrews</u>
<u>RR-1227</u>	<u>Rachel Beaty</u>
<u>RR-1228</u>	<u>Rachel Gardner</u>
<u>RR-1229</u>	<u>Rachel Hopkins MP</u>
<u>RR-1230</u>	<u>Rachel Ives</u>
<u>RR-1231</u>	<u>Rachel Keen</u>
<u>RR-1232</u>	<u>Rachel Wyatt</u>
<u>RR-1233</u>	<u>Ralph John Penny</u>
<u>RR-1234</u>	<u>Ray Hooper</u>
<u>RR-1235</u>	<u>Ray Meredith</u>
<u>RR-1236</u>	<u>Rayman Khan</u>
<u>RR-1237</u>	<u>Rebecca Bancroft</u>

<u>RR-1238</u>	<u>Rebecca Jones</u>
<u>RR-1239</u>	<u>Rebecca Palmer</u>
<u>RR-1240</u>	<u>Rebecca Wilcox</u>
<u>RR-1241</u>	<u>Redrock Property Investment Ltd (Redrock Property Investment Ltd)</u>
<u>RR-1242</u>	<u>Reginald Keith Marriott</u>
<u>RR-1243</u>	<u>Renata Woodhams</u>
<u>RR-1244</u>	<u>Restoration Revival Fellowship (Luton) (Restoration Revival Fellowship (Luton))</u>
<u>RR-1245</u>	<u>Rev Fr Allan R. Jones, CRIC</u>
<u>RR-1246</u>	<u>Rev. Dr. James Michael Cassidy</u>
<u>RR-1247</u>	<u>Richard Choppin</u>
<u>RR-1248</u>	<u>Richard Douglas Millett</u>
<u>RR-1249</u>	<u>Richard Fisher</u>
<u>RR-1250</u>	<u>Richard George Brady</u>
<u>RR-1251</u>	<u>Richard Groom</u>
<u>RR-1252</u>	<u>Richard Guy Nettleton</u>
<u>RR-1253</u>	<u>Richard Hamilton</u>
<u>RR-1254</u>	<u>Richard Hennessy</u>
<u>RR-1255</u>	<u>Richard Holmes</u>
<u>RR-1256</u>	<u>Richard James Michael Johnson</u>
<u>RR-1257</u>	<u>Richard John Bowser</u>
<u>RR-1258</u>	<u>Richard John Langeveld</u>
<u>RR-1259</u>	<u>Richard Landen</u>
<u>RR-1260</u>	<u>Richard Landen</u>
<u>RR-1261</u>	<u>Richard Littlewood</u>
<u>RR-1262</u>	<u>Richard Martin Skelley</u>
<u>RR-1263</u>	<u>Richard Rolfe</u>
<u>RR-1264</u>	<u>Richard Stubbs</u>
<u>RR-1265</u>	<u>Rita Helen Weber</u>
<u>RR-1266</u>	<u>Rob Pankhurst</u>
<u>RR-1267</u>	<u>Rob Payne</u>
<u>RR-1268</u>	<u>Rob turpin</u>
<u>RR-1269</u>	<u>ROBERT ANDREWS</u>
<u>RR-1270</u>	<u>Robert Balaam</u>
<u>RR-1271</u>	<u>Robert Castle</u>
<u>RR-1272</u>	<u>Robert Clarke</u>
<u>RR-1273</u>	<u>Robert cox</u>
<u>RR-1274</u>	<u>Robert Jackson</u>
<u>RR-1275</u>	<u>Robert Thomas</u>
<u>RR-1276</u>	<u>Robert Thurlby</u>
<u>RR-1277</u>	<u>Robert Tusting</u>
<u>RR-1278</u>	<u>Robert Upton</u>
<u>RR-1279</u>	<u>Robert Wildman</u>
<u>RR-1280</u>	<u>ROBIN ASHCROFT</u>
<u>RR-1281</u>	<u>Robin Blandford</u>
<u>RR-1282</u>	<u>Robin King</u>
<u>RR-1283</u>	<u>Robin Tilbury</u>
<u>RR-1284</u>	<u>Robin Turner</u>
<u>RR-1285</u>	<u>Roderic A Hart</u>

RR-1286	Rodney Anthony
RR-1287	Rodney Lendrum
RR-1288	Roebuck Land and Planning Ltd (Roebuck Land and Planning Ltd)
RR-1289	Roger Charles Robert Hall
RR-1290	Roger David Thomson
RR-1291	Roger Fox
RR-1292	Roger William Payne
RR-1293	Roman Ullah
RR-1294	Ronald James Taylor
RR-1295	Ronald Kenneth Payton
RR-1296	Ronald Sutton-Jones
RR-1297	Rosalind Hancock
RR-1298	Rosanne Kenealy
RR-1299	Rose-marie Reddington
RR-1300	Rosemary Billett
RR-1301	Rosemary Bland
RR-1302	Rosemary Bradley
RR-1303	Rosemary Dodds
RR-1304	Rosemary Fenton
RR-1305	Rosemary Rowe
RR-1306	Rosie Copperwheat
RR-1307	Rosie Glazebrook
RR-1308	Rosie Napier
RR-1309	Ross Hill
RR-1310	Rosy Skone
RR-1311	Rowena Katherine Lyons
RR-1312	Roy Charles Catford
RR-1313	Royal Mail Group Limited (Royal Mail Group Limited)
RR-1314	Russell Collins
RR-1315	Russell Geake
RR-1316	Ruth Melnykowicz
RR-1317	Ruth Poole
RR-1318	Ruth Quine
RR-1319	Ryebridge Construction (Ryebridge Construction)
RR-1320	S Pentland
RR-1321	S Rostami
RR-1322	Saad Miah
RR-1323	Sabina Begum
RR-1324	Sajjad Ahmed
RR-1325	Sally Gaskell
RR-1326	Sally Jennifer Wood
RR-1327	Sally Lewis
RR-1328	Salvatore Cardinale
RR-1329	Sam Alison
RR-1330	Sam Wilson
RR-1331	Samantha Owens
RR-1332	Samantha Tyler
RR-1333	Samuel Brownjohn
RR-1334	Samuel Kwiatkowski

RR-1335	Sandra Elizabeth Calow
RR-1336	Sandra Gordon
RR-1337	Sandra Hobbs
RR-1338	Sandra Hooper
RR-1339	Sandra Jean Jarvis
RR-1340	Sandra Lawes
RR-1341	Sandra White
RR-1342	Sandy Wayne
RR-1343	Sara Holdstock
RR-1344	Sara Louise Edwards
RR-1345	Sara MacNaughton
RR-1346	Sara Smith
RR-1347	Sarah Ann osullivan
RR-1348	Sarah Ansell
RR-1349	Sarah Caroline Beeley
RR-1350	Sarah Griffith
RR-1351	Sarah Hopewell
RR-1352	Sarah Jane Brenman
RR-1353	Sarah Kohl
RR-1354	Sarah Louise Rosser
RR-1355	Sarah Neilson
RR-1356	sarah paterson
RR-1357	Sarah Rhodes
RR-1358	Sarah Royston
RR-1359	Sarah Sansom
RR-1360	Sarineh Tahmasi
RR-1361	Scott McNamee
RR-1362	Sean Haughton
RR-1363	Sean Scully
RR-1364	SEMLEP (South East Midlands Local Enterprise Partnership) (SEMLEP (South East Midlands Local Enterprise Partnership))
RR-1365	Serafina Butterfield
RR-1366	Shahriar Shahidi
RR-1367	sharna currington
RR-1368	Sharon Drain
RR-1369	Sharon Horwood
RR-1370	Sharon Neal
RR-1371	Sharon Tyrrell
RR-1372	Sharon Whiteman
RR-1373	Sheena johnston
RR-1374	Sheila Brown
RR-1375	Sheila chaney
RR-1376	Sheila Conway
RR-1377	Sheila Lendrum
RR-1378	Sheila Margaret Loweth
RR-1379	Sheila Page
RR-1380	Shelley Burns
RR-1381	Shirin Elliott
RR-1382	Shirish Trivedy
RR-1383	Shirley Anne Crosbie

RR-1384	<u>Shirley Day</u>
RR-1385	<u>Shirley Fisher</u>
RR-1386	<u>Shirley Patricia Woods</u>
RR-1387	<u>Shobhna Chandarana</u>
RR-1388	<u>Shona Wilson</u>
RR-1389	<u>shuyel bari</u>
RR-1390	<u>Sian arthur</u>
RR-1391	<u>Sian Fletcher</u>
RR-1392	<u>Sidney Colin Garnett</u>
RR-1393	<u>Silvija Lenortavice</u>
RR-1394	<u>Simeon James Jenkin</u>
RR-1395	<u>Simon Barrett</u>
RR-1396	<u>Simon Finnie</u>
RR-1397	<u>Simon John Mawdsley</u>
RR-1398	<u>Simon Jude</u>
RR-1399	<u>Simon McDonald</u>
RR-1400	<u>Simon Paul Jarvis</u>
RR-1401	<u>Simon Robert Brough Leadbeater</u>
RR-1402	<u>simon smith</u>
RR-1403	<u>Simon Whittle</u>
RR-1404	<u>Siobhan Keane</u>
RR-1405	<u>Sivan Coleman</u>
RR-1406	<u>SKWALE - Studham, Kensworth and Whipsnade Against Luton Airport Expansion (SKWALE - Studham, Kensworth and Whipsnade Against Luton Airport Expansion)</u>
RR-1407	<u>Skye Pemberton</u>
RR-1408	<u>Slip End Parish Council (Slip End Parish Council)</u>
RR-1409	<u>Sophia Blackburn</u>
RR-1410	<u>Sophie Elizabeth Barber</u>
RR-1411	<u>Sophie Lesley Alexandra MacDonald</u>
RR-1412	<u>St Albans City and District Council (St Albans City and District Council)</u>
RR-1413	<u>St Paul's Walden Bury Estate Company (St Paul's Walden Bury Estate Company)</u>
RR-1414	<u>St Paul's Walden Bury Events (St Paul's Walden Bury Events)</u>
RR-1415	<u>St. Albans Aircraft Noise Defence (St. Albans Aircraft Noise Defence)</u>
RR-1416	<u>St. Albans Quieter Skies (STAQS) (St. Albans Quieter Skies (STAQS))</u>
RR-1417	<u>St. Paul's Walden Parish Council (St. Paul's Walden Parish Council)</u>
RR-1418	<u>St.Albans and District Friends of the Earth (St.Albans and District Friends of the Earth)</u>
RR-1419	<u>Stapleton (Stapleton)</u>
RR-1420	<u>Steph Dalgarno</u>
RR-1421	<u>Stephanie Bowley</u>
RR-1422	<u>Stephanie Killingbeck-Turner</u>
RR-1423	<u>Stephanie Rankin</u>
RR-1424	<u>Stephanie Riddle</u>
RR-1425	<u>stephen Battershill</u>
RR-1426	<u>Stephen Folland</u>

<u>RR-1427</u>	<u>Stephen Gledhill</u>
<u>RR-1428</u>	<u>Stephen J W Bates</u>
<u>RR-1429</u>	<u>Stephen John Merchant</u>
<u>RR-1430</u>	<u>Stephen Marcus</u>
<u>RR-1431</u>	<u>Stephen Millard</u>
<u>RR-1432</u>	<u>Stephen Morley</u>
<u>RR-1433</u>	<u>Stephen Pentland</u>
<u>RR-1434</u>	<u>Stephen Roy Howard</u>
<u>RR-1435</u>	<u>Stepping Stones Luton (Stepping Stones Luton)</u>
<u>RR-1436</u>	<u>Steve Day</u>
<u>RR-1437</u>	<u>Steve Gent</u>
<u>RR-1438</u>	<u>Steve Hawkins</u>
<u>RR-1439</u>	<u>Steve Jackson</u>
<u>RR-1440</u>	<u>Steve Lyons</u>
<u>RR-1441</u>	<u>Steve Macey</u>
<u>RR-1442</u>	<u>Steven Butler</u>
<u>RR-1443</u>	<u>Steven Frank Argent</u>
<u>RR-1444</u>	<u>Steven Low</u>
<u>RR-1445</u>	<u>Stewart Woolsey</u>
<u>RR-1446</u>	<u>Stonewater Limited and associated companies (Stonewater Limited and associated companies)</u>
<u>RR-1447</u>	<u>Stop Low Flights From Luton (Stop Low Flights From Luton)</u>
<u>RR-1448</u>	<u>Stop Luton Airport Expansion (Stop Luton Airport Expansion)</u>
<u>RR-1449</u>	<u>Strawberry Star (Strawberry Star)</u>
<u>RR-1450</u>	<u>Stuart Coleman</u>
<u>RR-1451</u>	<u>Stuart Fisher</u>
<u>RR-1452</u>	<u>Stuart Harries</u>
<u>RR-1453</u>	<u>Sue Eldridge</u>
<u>RR-1454</u>	<u>Sue Humphreys</u>
<u>RR-1455</u>	<u>Sue Lyons</u>
<u>RR-1456</u>	<u>Surinder Bhatia</u>
<u>RR-1457</u>	<u>Surjeet Kalsi</u>
<u>RR-1458</u>	<u>Surrey Street Primary School (Surrey Street Primary School)</u>
<u>RR-1459</u>	<u>Susan Briggs</u>
<u>RR-1460</u>	<u>Susan Carter</u>
<u>RR-1461</u>	<u>Susan Cotton</u>
<u>RR-1462</u>	<u>Susan Davies</u>
<u>RR-1463</u>	<u>Susan Elizabeth Benge</u>
<u>RR-1464</u>	<u>Susan Elizabeth Phillips</u>
<u>RR-1465</u>	<u>Susan Gould</u>
<u>RR-1466</u>	<u>Susan Heselton</u>
<u>RR-1467</u>	<u>Susan Jaye</u>
<u>RR-1468</u>	<u>Susan Joan Stalham</u>
<u>RR-1469</u>	<u>Susan Justice</u>
<u>RR-1470</u>	<u>Susan Lee</u>
<u>RR-1471</u>	<u>Susan Margaret Bates</u>
<u>RR-1472</u>	<u>Susan Margaret Lines</u>
<u>RR-1473</u>	<u>Susan Marsh</u>
<u>RR-1474</u>	<u>Susan Mary wyatt</u>
<u>RR-1475</u>	<u>Susan O'Callaghan</u>

RR-1476	Susan Palmer
RR-1477	SUSAN PAMELA ANDREWS
RR-1478	Susan Sharp
RR-1479	Susan Verona Burnett
RR-1480	Susan Wellstood-Eason
RR-1481	Susie Smith
RR-1482	Susie Winstanley
RR-1483	Sustainable St Albans (Sustainable St Albans)
RR-1484	Suzanne Brown
RR-1485	Suzanne Gillian
RR-1486	Suzanne Messetter
RR-1487	Suzanne Whittaker
RR-1488	Suzi Watson
RR-1489	Syeda Ahmed
RR-1490	Sylvia Ann Godfrey
RR-1491	T alabaster
RR-1492	Tadeh Tahmasi
RR-1493	Talla Lee
RR-1494	Tania Louise Clarke
RR-1495	Tanya Vinton
RR-1496	Tautvydas Meliunas
RR-1497	Terence Daly
RR-1498	Teresa Jane Morgan
RR-1499	Thames Water (Thames Water)
RR-1500	The Blaser Family (The Blaser Family)
RR-1501	The Bluemel family (The Bluemel family)
RR-1502	The Fairburn Family (The Fairburn Family)
RR-1503	The Foley Family
RR-1504	The Gillen Family
RR-1505	The Gilpin Household (The Gilpin Household)
RR-1506	The Harpenden Society (The Harpenden Society)
RR-1507	The Hill Family
RR-1508	The Hodsons (The Hodsons)
RR-1509	The Hughes Household (The Hughes Household)
RR-1510	THE INSTITUTION OF ENGINEERING AND TECHNOLOGY (THE INSTITUTION OF ENGINEERING AND TECHNOLOGY)
RR-1511	The Launch Group (The Launch Group)
RR-1512	The Mall Luton (The Mall Luton)
RR-1513	The Maughan Household (The Maughan Household)
RR-1514	The Munns family (The Munns family)
RR-1515	The Rumball family (The Rumball family)
RR-1516	The Thomas Family (The Thomas Family)
RR-1517	The Trustees of the Paul Tompkins Will Trust (The Trustees of the Paul Tompkins Will Trust)
RR-1518	The wilson household (The wilson household)
RR-1519	The Woodland Trust (The Woodland Trust)
RR-1520	The Wyer family (The Wyer family)
RR-1521	Theo Chapman
RR-1522	Thomas Coates
RR-1523	Thomas Hindley

RR-1524	Thomas Laskowski
RR-1525	Tim Beesley
RR-1526	tim bushe
RR-1527	Timothy Hannagan
RR-1528	Timothy James Clough
RR-1529	Timothy Kenneth Matthews
RR-1530	Timothy Peter Gentry
RR-1531	Timothy Sutton
RR-1532	Tina Lord
RR-1533	Tom Humphrey
RR-1534	Tomas Jones
RR-1535	Tony Bruce
RR-1536	Tony James Green
RR-1537	Toria Lamb
RR-1538	Tracey Back
RR-1539	Tracey Baldwin
RR-1540	Tracey Hill
RR-1541	Tracey Lubbock
RR-1542	Tracy Rolfe
RR-1543	Transport for London (Transport for London)
RR-1544	Trevor Beckwith
RR-1545	Tricia Beavis
RR-1546	UK Health Security Agency (UK Health Security Agency)
RR-1547	Unite the Union (Unite the Union)
RR-1548	University of Bedfordshire (University of Bedfordshire)
RR-1549	UNO BUSES (UNO BUSES)
RR-1550	Ursyn Stefanski-Luks
RR-1551	Usama Butt
RR-1552	Valerie Joy Little
RR-1553	Valerie Luckins
RR-1554	Valerie Male
RR-1555	Valerie Messetter
RR-1556	Veronica Gorman
RR-1557	Vickie Kershaw
RR-1558	Victim Support (Victim Support)
RR-1559	Victor Meakes
RR-1560	Victoria Chamberlin
RR-1561	Victoria Folds
RR-1562	Victoria M Smith
RR-1563	Victoria Malone
RR-1564	Victoria Peck-Cooper
RR-1565	Vikki Miller
RR-1566	Vincent Hanning
RR-1567	Vinod Tailor
RR-1568	Vitali Pozniak
RR-1569	Vivienne Litchfield
RR-1570	Vivienne Tew
RR-1571	VolkerFitzpatrick Ltd (VolkerFitzpatrick Ltd)
RR-1572	Walker Household (Walker Household)
RR-1573	Watermill Estate Residents' Association (Watermill Estate

	<u>Residents' Association)</u>
<u>RR-1574</u>	<u>Wendy Ann Hall</u>
<u>RR-1575</u>	<u>Wendy Barber</u>
<u>RR-1576</u>	<u>Wendy Campbell-Maughan</u>
<u>RR-1577</u>	<u>Wendy Catford</u>
<u>RR-1578</u>	<u>Wendy Cook</u>
<u>RR-1579</u>	<u>Wendy Daniels</u>
<u>RR-1580</u>	<u>Wendy Hooper</u>
<u>RR-1581</u>	<u>Wendy Mills</u>
<u>RR-1582</u>	<u>Wendy Molefi</u>
<u>RR-1583</u>	<u>Wendy Travers</u>
<u>RR-1584</u>	<u>Wheathampstead & District Preservation Society</u> <u>(Wheathampstead & District Preservation Society)</u>
<u>RR-1585</u>	<u>Whipsnade Parish Council (Whipsnade Parish Council)</u>
<u>RR-1586</u>	<u>Wigmore Village Neighbourhood Area Forum (Wigmore Village</u> <u>Neighbourhood Area Forum)</u>
<u>RR-1587</u>	<u>William Jenkins-Greig</u>
<u>RR-1588</u>	<u>William Mahy</u>
<u>RR-1589</u>	<u>William O'Leary</u>
<u>RR-1590</u>	<u>William Stephenson Jackson</u>
<u>RR-1591</u>	<u>William Watts</u>
<u>RR-1592</u>	<u>Wingrave with Rowsham Parish Council (Wingrave with</u> <u>Rowsham Parish Council)</u>
<u>RR-1593</u>	<u>Women's Aid in Luton (Women's Aid in Luton)</u>
<u>RR-1594</u>	<u>Woodside Park Residents Association (Woodside Park</u> <u>Residents Association)</u>
<u>RR-1595</u>	<u>Yasmin Milligan</u>
<u>RR-1596</u>	<u>YouTurn Futures (YouTurn Futures)</u>
<u>RR-1597</u>	<u>Yvonne Salton</u>
<u>RR-1598</u>	<u>Zahid Qadir Shaikh</u>
<u>RR-1599</u>	<u>Zawisza Agnieszka</u>
<u>RR-1600</u>	<u>Zeki Gurbuz</u>
<u>RR-1601</u>	<u>Zena Telford</u>
<u>RR-1602</u>	<u>Zenobia Lewis</u>
<u>RR-1603</u>	<u>Zuleikha Malik</u>