



Freepost LLAOL CONSULTATION

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Dear Sir/Madam,

London Luton Airport 19 mppa Consultation 2020

1. Thank you for the opportunity to comment on the above.
2. You will of course be aware that this proposal comes forward within the context of other current live planning applications/growth proposals at the Airport (LLA):
 - i. London Luton Airport Operations Limited (LLAOL) planning application to vary condition 10 in an attempt to regularise breaches of the 2014 planning consent to grow throughput at LLA to 18 mppa.
 - ii. London Luton Airport Limited's (LLAL) Development Consent Order proposal to grow LLA to 32 mppa.
3. The County Council's responses (attached Appendices 1 and 2 by way of context) to these proposals set out its broad position with regard to management of growth at LLA, aspects of which are relevant to the proposal the subject of this consultation.

Mismanagement of operations at LLA in relation to the current planning permission

4. The County Council's representations on i. and ii. above raise very serious concerns relating to the mis-management of the operations of LLA resulting in it failing to comply with its 2014 planning consent and the knock-on adverse implications this has had for communities. By way of example:

Condition 10

'1.7 The County Council is of the view that the behaviour of the Airport has not been within the spirit of the planning application originally submitted and the planning consent granted, represents an abrogation of its environmental responsibilities and is disrespectful of communities. The Airport should have proactively managed its operations to respect the regulatory regime imposed upon it. In failing to do so it has acted irresponsibly.'

1.8 Within its emerging aviation policy (Aviation 2050), Government is clear that it supports aviation growth, but on the condition that it is sustainable, environmental impacts are managed better and that communities are protected from the adverse impacts of growth and should directly benefit from it. Key to delivery of Government expectations is a 'Partnership' approach involving all partners, including communities. The Government sees the setting of noise caps as part of planning approvals as a means to balance noise and growth and to provide future certainty over noise levels to communities. The 'contract' between the Partnership in this case (the Airport operator, the local planning authority, highways authorities, communities and others) entered into for growth of the Airport to 18 mppa and the setting of noise caps to provide certainty for communities is in large part the terms of the planning permission. In failing to manage its operations to comply with that consent and committing to comply with it in the future, the Airport has betrayed the other partners, particularly those communities currently suffering from the adverse consequences of the breaches of planning control. The County Council is of the view that the actions of the Airport have fallen considerably short of Government expectations.'

Development Consent Order

'The County Council's position

You will be aware that recent history of operations at London Luton Airport, from a Hertfordshire perspective, has been one that could hardly be more negative. Unmanaged accelerated growth at the Airport has proceeded in the full knowledge that restrictions on operations to safeguard communities from adverse noise impacts would be compromised. Breaches of planning control have occurred, are occurring and are predicted to continue to do so. There is a current live planning application seeking planning permission to, in effect, authorise those breaches for a temporary period of 5 years. Meanwhile, airspace change processes continue to seek to address the adverse noise impacts of an airspace change brought into effect in 2015 – impacts exacerbated by the mismanagement of recent accelerated growth. On top of this, communities are now expecting a planning application to raise the

consented passenger throughput cap from 18mppa to 19mppa - again, because the Airport has mismanaged growth.

The consultation material states:

'Since the conclusion of our first round of consultation, we have published our Sustainability Strategy. This sets out a range of targets over the medium and long term. We will work with the airport operator, London Luton Airport Operations Limited (LLAOL), to deliver against the targets. Our aims are to be a better neighbour, protect our planet, and enable growth and support for our future communities.'

Whilst the commitment to be a better neighbour is welcomed, Hertfordshire communities do not consider London Luton Airport to be a good, considerate, neighbour. The County Council has every sympathy with that view.

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

5. The reason a 19 mppa proposal is seen by LLAOL as being required to facilitate additional throughput in advance of 2027/8 (the timeframe within which LLA was supposed to reach 18 mppa had the terms of the consent been honoured) is that it has failed to manage its operations within the spirit of the 2014 planning consent. Fundamentally, therefore, the County Council has an in-principle objection to the current s73 planning application to vary Condition 10 and any further potential planning application relating to 19 mppa.

6. Whilst in no way attempting to downplay the impacts of Covid-19 on the aviation sector and on LLA, one positive that could be achieved would be to reset throughput growth of LLA and management of it to be consistent with the growth trajectory of the 2012 master plan and of the 2014 planning consent. That would be the right thing to do to honour the commitments made to stakeholders and communities.

7. However, the County Council fully understands that any 19 mppa planning application must be considered on its own merits by the relevant responsible planning body. It also appreciates that if it is LLA's intention to pursue such a planning application, then that should take place within the context of a master plan. The proposed preparation of such a plan is in the spirit of Government expectations and is welcomed.

8. The County Council has the following comments in relation to the published consultation material and process issues.

The Consultation Material - evidence and engagement

9. Attached (Appendix 3) are some detailed comments on the published consultation material. These are by no means exhaustive, but sit behind a number of the issues that follow. Two key messages are:

- the consultation material presents a position on a wide range of issues based on evidence prepared to date to inform the development of the proposal and presents a range of proposals for mitigation. However, very little of the evidence referred to is available for review and comment and as a consequence the opportunity to effectively engage with the consultation and shape the proposal has been somewhat limited.
- there has been no meaningful engagement (to the County Council's knowledge) with key informed stakeholders on the technical work underpinning the findings and conclusions and mitigation proposals.
- how transparency of evidence and informed engagement is to happen in advance of submission of any planning application.

An all-encompassing master plan

10. You will of course be aware of Government consultation and liaison expectations in relation to master plans, set out in its Aviation Policy Framework (APF):

'4.13 Government also recommends that airport operators consult on proposed changes to master plans, and engage more widely with local communities prior to publication, for example liaising more closely with local authorities and also through drop-in sessions and public meetings.....'

11. And also its position on availability of technical evidence:

'4.14 Research carried out by the DfT on the effectiveness of master plans has indicated that drafting for all audiences produces a tension between communicating future plans and providing a technical reference source. We therefore recommend that, where possible, the body of the document should be accessible to a lay person, and the technical detail clearly annexed.'

12. You will also be aware that the APF states that:

'4.5 Airports, in partnership with local communities, should:

-
- *review their consultative timetables, for example for master plans and Noise Action Plans, with a view to aligning these where possible and reducing the consultative burden on all concerned;*
- *review the extent and detail of information that is published and set out clearly the methodology used. Airports should provide transparency and*

ensure that sufficient relevant information and opportunities for consultation reach a wide audience; and

- *combine their ASASs into their published master plans to ensure a joined-up approach and make it easier for people to access information about the 'airport's plans.'*

'Mitigation

B.6 Proposals for mitigation measures across the major impact areas identified will be an important component of master plans; for example emission controls, noise abatement measures, sound insulation, surface access schemes and traffic management and measures to address landscape and biodiversity impacts.

B.7 It will be appropriate for master plans to address any proposals for compensation measures that may be required where the scale of impacts is such that they cannot adequately be mitigated. Such measures might include appropriate voluntary purchase schemes and assistance with relocation costs where the extent of property and land-take is clear.'

13. The consultation material seems to propose to amend or add to the contents of publications that already exist but without giving specific details of what these are to be – for example, see the 'Noise management/mitigation' section below. There also appears to be a new Transport Assessment, Travel Plan and Car Parking Management Plan which are not available at this stage and which appear to introduce new assumptions – for example (from the EIA Progress Report).

'8.1.3 The TP has been developed with the objective of reviewing the latest Airport Surface Access Strategy Report (ASAS) 2018 - 2022 (2019 Reissue) and updating objectives, targets and measures based on a policy appraisal and site assessment. This analysis has been translated into a concrete action plan to be monitored periodically.'

14. There also appear to be other assessment, such as an Air Quality Assessment and Greenhouse Gas Assessment. Moving forward, the availability of technical evidence and engagement on it with key stakeholders will be important. As far as is practicable, this should take place in advance of submission of any planning application and there is an opportunity to do so as part of the master plan preparation process. The master plan needs to be drafted to be accessible to the lay person, but contain evidence (appended) to substantiate its proposals, about which it needs to be much more transparent rather than making general statements of intent. It also needs to be clear on the implications for other publications such as the noise action plan and surface access strategy. Consideration should be given to whether there is an opportunity to draw the various plans/strategies together into a whole, with the master plan fronting up a range of subsidiary plans/strategies/evidence. This will take time – more time than the consultation material and processes currently appear to allow.

Status and process for approval of the master plan

15. The usual and logical course of events is for an airport to consult widely on a master plan, setting out its aspirations for the future and covering those matters advised by Government in the APF. In this way all stakeholders and communities have a common understanding of what lies ahead – likely scale of growth, infrastructure provision, environmental management and mitigation, noise insulation, community benefits, and so on. Amongst other matters that master plan would form the framework within which future planning applications for development and throughput growth are brought forward.

16. Indeed, this is exactly what happened in the last master plan/planning application cycle at LLA. Somewhat bizarrely, LLAOL and LLAL consulted separately on different master plans for different proposed levels of growth during 2012, following which a joint master plan was published in September 2012 that provided a framework for growth of LLA to 18 mppa. Some months later, a planning application for that scale of growth was duly submitted.

17. The consultation material makes no reference to the in-force master plan at LLA and it is therefore assumed that it is to be completely superseded by the one published as part of this consultation, as suitably amended following feedback received.

18. The material contains no guidance on the process for and timing of approval/adoption/publication of the master plan, but states that a planning application is to be submitted by the end of 2020. No information is provided with regard to the process for ‘approval’ of the master plan and whether there is any intention to release and consult upon the evidence that underpins it.

19. You will of course be aware that Luton Local Plan Policy LLP6 requires any growth proposal at LLA to be consistent with a master plan submitted to and approved by Luton Borough Council (LBC). The material makes no reference to this policy and provides no clarity on whether the master plan is to be submitted to LBC for its approval and if so, whether that is to happen in advance of any planning application or perhaps even at the same time.

20. Clarity is required on the process for approval/publication of the master plan and how that relates to the timing of submission of any planning application. If a planning application is to be submitted before the end of 2020, it is difficult to see how:

- in the spirit of Government guidance in the APF, meaningful engagement can take place with stakeholders on the technical evidence that underpins the assumptions behind and findings of the master plan.
- the master plan can be approved by LBC.

21. Paragraphs 29-30 call for a delay in the submission of the proposed planning application. Such a delay would enable a master plan preparation process that is able to more effectively engage with communities and stakeholders, with a view to building a more productive and trusting relationship in response to recent experience.

Aviation 2050/Covid-19

22. The County Council's response to the consultation on the DCO highlights the scale of uncertainty that exists in relation to national aviation policy, which, amongst a wide range of other matters, will set out the Government's approach to aviation with regard to how it will contribute to meeting its net-zero carbon commitment.

'National aviation policy and the Climate Change Act 2008

The consultation material assesses the proposal in terms of its compatibility with existing national aviation policy [Aviation Policy Framework (APF) (2013), Making best use of existing runways (MBUER) (June 2018) and the Airports National Policy Statement (ANPS) (June 2018)] and the carbon budgets set in accordance with the historic Climate Change Act 2008 target of an 80% reduction of greenhouse gas emissions compared to 1990 levels (with the 5th Carbon Budget setting a limit that aviation emissions for the UK being capped at 37.5MtCO₂ in 2050 based on 2005 levels, excluding emissions from international aviation).

The assessment concludes that the increase in carbon emissions resulting from the proposed development is considered (with mitigations in place) not to have a material impact on the ability of Government to meet its carbon reduction targets, including carbon budgets. This conclusion is consistent with that of the Government more generally in terms of the compatibility between policy to make best use of existing runways/Heathrow third runway and 80% reduction Climate Change Act target and related carbon budgets.

In a joint letter (15th October 2018) to the Committee on Climate Change (CCC) the Governments of the UK, Scotland and Wales requested advice from the Committee on their respective long-term CO₂ emissions targets:

- 1. the date by which the UK should achieve (a) a net zero greenhouse gas target and/or (b) a net zero carbon [dioxide] target in order to contribute to the global ambitions set out in the Paris Agreement.*
- 2. whether now is the right time for the UK to set such a target.*
- 3. the range which UK greenhouse gas emissions reductions would need to be within, against 1990 levels, by 2050 as an appropriate contribution to the global goal of limiting global warming to well below 2°C and "towards global efforts to limit the increase to 1.5°C.*
- 4. how reductions in line with your recommendations might be delivered in key sectors of the economy.*
- 5. the expected costs and benefits across the spectrum of scenarios in comparison to the costs and benefits of meeting the current target.*
- 6. updated advice on the long-term emissions targets for Scotland and Wales provided with regards to the respective devolved statutory frameworks on climate change.*

In December 2018 Government consulted on its Aviation Green Paper 'Aviation 2050 - The future of UK aviation', reaffirming Government's commitment to provide additional capacity through the development of a third runway at Heathrow Airport and airports throughout the UK making best use of their

existing runways. The Strategy is based on the 80% reduction Climate Change Act target and related planning assumptions. In its response (February 2019) to the consultation the CCC stated that it would write to Government specifically about the implications of its forthcoming net-zero recommendations for the emerging national Aviation Strategy.

'The UK's currently legislated 2050 target is to reduce economy-wide greenhouse gas emissions by at least 80% from 1990 levels. Since the Climate Change Act became law, the UK has ratified the Paris Agreement, implying even stronger action. You will be aware that my Committee has been asked by Ministers to offer advice on the implications of the Paris Agreement for the UK's statutory framework, including when 'net-zero' emissions can be achieved. A stronger UK target would require more effort from all sectors, including aviation. We intend to provide an updated view on the appropriate long-term ambition for aviation emissions within our advice on the UK's long term targets. We will publish our report in spring. Following that, we will write to you directly to set out the implications for the Aviation Strategy.'

Our present planning assumption, which underpins the fifth carbon budget and the current 2050 target, is that UK aviation emissions in 2050 should be around their 2005 level (i.e. 37.5 MtCO₂e). Your acceptance of this planning assumption in the consultation is a very welcome step. The final white paper should further clarify that this will be met on the basis of actual emissions, rather than by relying on international offset credits.

Aviation emissions in the UK have more than doubled since 1990, while emissions for the economy as a whole have fallen by around 40%. Achieving aviation emissions at or below 2005 levels in 2050 will require contributions from all parts of the aviation sector, including from new technologies and aircraft designs, improved airspace management, airlines' operations, and use of sustainable fuels. It will also require steps to limit growth in demand. In the absence of a true zero-carbon plane, demand cannot continue to grow unfettered over the long-term.'

In May 2019, the CCC published its report ('Net Zero The UK's contribution to stopping global warming Committee on Climate Change' May 2019) to the UK Governments. Its overarching recommendation was that the UK should amend its legislation to commit to net zero greenhouse gas emissions by 2050 and in relation to aviation, that this target should include the UK's share of international aviation and be met through domestic action rather than international offset credits – 'This will require immediate steps from Government, industry and the public. Challenges that have not yet been confronted – such as aviation and shipping emissions – must now be addressed'. The UK should legislate as soon as possible to reach net-zero greenhouse gas emissions by 2050. The target can be legislated as a 100% reduction in greenhouse gases (GHGs) from 1990 and should cover all sectors of the economy, including international aviation and shipping.'

'We will set out our recommended policy approach for aviation in follow-up advice to the Government later in 2019.....Reducing emissions from

aviation will require a combination of international and domestic policies, and these should be implemented in ways that avoid perverse outcomes (e.g. carbon leakage). A package of policy measures should be put in place that include carbon pricing, support for research, innovation and deployment, and measures to manage growth in demand.'

In May 2019 Parliament declared an environment and climate emergency and in June The Climate Change Act 2008 (2050 Target Amendment) Order 2019 came into force, revising the 2050 GHG target of an 80% reduction of GHG emissions compared to 1990 levels to a net zero carbon target. In July 2019 the County Council joined the ranks of over 200 local authorities across the country in declaring a climate emergency.

In September 2019 the CCC wrote to the Secretary of State for Transport advising that the planning assumption for international aviation should be to achieve net-zero emissions by 2050 and that this should be reflected within the Government's forthcoming Aviation Strategy. To achieve this would require reduction in actual emissions and would be likely to require some use of greenhouse gas removals to offset remaining emissions. Key to reducing emissions will be limiting demand growth to at most 25% above current levels, with potential to reduce emissions further with lower levels of demand. The CCC advises that 'The Government should assess its airport capacity strategy in this context. Specifically, investments will need to be demonstrated to make economic sense in a net-zero world and the transition towards it.'

All in force and emerging national aviation policy precedes the June 2019 Climate Change Act net-zero declaration/legislation. The Department of Transport has stated that the implications of the declaration/legislation and the CCC's recommended policy approach to aviation will be taken into account in further developing aviation policy through the Aviation 2050 process. It has also stated that it will provide advice and a recommendation to the Secretary of State on whether the statutory criteria for a review of part or all of the Aviation National Policy Statement (the Government's national planning policy commitment to Heathrow third runway) are met and whether or not it is appropriate to carry out such a review.

In its 'Leading on Clean Growth - The Government Response to the Committee on Climate Change's 2019 Progress Report to Parliament – Reducing UK emissions' (October 2019), Government has stated that it will publish an ambitious Aviation Strategy next year and in doing so will 'continue to consider the implications of our 2050 net zero target.....'.

The consultation material states that the revised carbon legislation has not been specifically addressed in the greenhouse gas assessment 'due to the timing of its introduction into UK law', but recognises that 'this is a significant piece of legislation that will have an impact on the Proposed Development and as such will be further considered in the ES. Our assessment of greenhouse gas emissions will continue to be updated to consider the latest proposals and the developing government policy on the net-zero carbon target'.

It is clear that a state of considerable national uncertainty exists regarding the relationship between the Government's net zero declaration/legislation and the implications this has for both existing national aviation policy and its emerging Aviation Strategy.

Government has been called upon to intervene and restrict the grant of planning permission for aviation growth-related planning applications until new national aviation policy is in place.

Given the current programmed timeframe for the Development Consent Order (DCO) process, new national aviation policy should be in place and therefore national uncertainty resolved by the time a decision is made. However, should this prove not to be the case the County Council is strongly of the view that the proposed project timeframe should be reprogrammed to ensure that any decision is made in the context of new Government aviation policy, when published. Only in these circumstances can a properly informed and robust decision be made.'

23. In addition, of course, that national strategy/policy will now also need to reflect upon the implications of Covid-19 and develop policy that reflects how Government sees the aviation industry moving forward in response to and within a continuing Covid-19 environment – the implications of which, at least in the short term, are potentially profound.

24. Clarity in the form of revised national aviation policy would be a more preferable environment within which this proposal (and indeed those at other airports) could be brought forward and assessed. The County Council has sought an update on the timetable for production of Aviation 2050, but this has yet to be forthcoming. The process for master plan preparation and application submission would benefit from being aligned with the publication of new Government policy.

'19 mppa traffic horizon will be achieved around 2024'

25. The consultation material contains a number of statements with regard to the anticipated timeframe for LLA to potentially reach a throughput of pre-Covid levels and onward to 19 mppa. For example:

'In accordance with industry expectations and current pandemic situation, it is expected that the airport will recover to the 18mppa traffic horizon around 2023 and the 19mppa traffic horizon will be achieved around 2024.'

'In light of the COVID-19 pandemic, it is anticipated that the 19mppa traffic horizon will be reached around 2024 ("planning horizon").'

'Based on industry expectations and on current pandemic situation, it is expected that the airport will recover to the 18mppa traffic horizon around 2023 and the 19mppa traffic horizon will be around 2024.'

26. The consultation material provides little background intelligence about these 'industry expectations' and, importantly, whether and to what extent they are

considered plausible by the Department for Transport and compatible with any new national aviation forecasts it may be undertaking to inform the national aviation strategy process. As we know, IATA takes the view that traffic will not return to pre-COVID levels before 2024 (not 2023 assumed within these proposals), and this is view sits within a significant range of uncertainty – *‘upside could see travel demand return to 2019 levels in 2023, while the downside could be much more severe’*. The downside forecast indicates that in 2024 recovery will only be at 2015 levels globally.

27. Similarly, Eurocontrol's latest five-year forecast offers three scenarios for recovery from Covid-19:

- a most-optimistic forecast of a recovery to 2019 levels by 2024 assumes a vaccine is widely made available for travellers by summer 2021.
- should a vaccine only be widely available, or the pandemic end, by summer 2022, a recovery to 2019 levels may be pushed back to 2026.
- a worst-case scenario that there is no effective vaccine and the infection lingers suggests recovery could be delayed until 2029.

28. Despite recent Government announcements in relation to vaccine availability and deployment, there are significant further stages to come and considerable uncertainty exists in relation to the speed with which widespread access to and roll out a vaccine could be achieved. Moving forward there needs to be greater clarity on the reasons why LLA feels an optimistic scenario should be applied to growth of throughput.

Timing of the planning application

29. The consultation material states that the intention is to submit a planning application by the end of 2020. As discussed above, the County Council is of the view that the process for the preparation of the master plan should be given sufficient time to genuinely engage with communities and stakeholders, with a view to building a more productive and trusting relationship. To enable this to happen, the timeframe for submission of the planning application should be delayed. It would be advantageous for any such delay to be of sufficient length to allow Government to put in place its revised national aviation policy/strategy.

30. LLA's concerns in relation to it being prepared for renewed aviation growth (*‘If we do not plan for growth now we will limit our ability to play our part in the UK's economic recovery.....’*) need not be compromised. LLA will be aware of the Government's ‘planning guarantee’ that *‘no application should spend more than a year with decision-makers, including any appeal. In practice this means that planning applications should be decided in no more than 26 weeks, allowing a similar period for any appeal.....’* There appears to more than enough time for a master plan to be prepared and approved, a planning application and decision made, along with completion of any necessary works if permitted, within the next 4 years, in the event the optimistic approach to Covid recovery proves to be founded. If LLA has project management information to demonstrate that this is not tenable, then it would be useful if this could be shared.

Community funding and relationship to compensation schemes and FIRST proposals of LLA as part of the DCO

31. The consultation material is not as clear as it might be in relation to community funding. Much of the information within the 'Community Benefits' section of the Background section of the Consultation Document (page 8) relates to funding provided by the airport owner LLAL (albeit the origins of this funding come from the operator).

32. No reference is made to the community funding requirements to which LLAOL is committed to as part of the 2014 18 mppa planning consent and the consultation material is not as clear as it should be in relation to any additional community funding that might be being offered as part of this proposal. For example, the Consultation Document states:

'Findings of the Assessment

The initial conclusions of the noise assessment are that whilst no significant effects would be predicted in either 2021 or 2028, additional properties would experience noise above the SOAEL as a result of the proposed increase in passenger numbers.

To mitigate this effect, we are proposing the following operational measures:

.....

The following compensatory measures are also proposed:

.....

- *One off grants to local councils to provide community improvements.*

33. And the EIA Progress Report similarly states:

'7.5.3 Mitigation will also include compensatory measures as follows:

.....

- *one-off grants to local councils exposed to noise levels between LOAEL and SOAEL based on the predicted future noise contours. Grants are to be used to provide community improvements.'*

34. Further information is required on the scale and nature of the proposed grant scheme and how it is to operate.

35. You will be aware of LLAL's Future LuToN Impact Reduction Scheme for the Three counties ("FIRST") contained within its DCO proposal. This would be applied to growth in excess of the currently permitted 18 mppa '*.....We propose that FIRST will provide £1 in funding for every passenger over the current 18 mppa cap. This is substantially in excess of the existing community funding provided by LLAL (which in 2018/19 was approximately £0.53p per passenger). FIRST will run alongside LLAL's existing offering, which will remain unaffected by the introduction of FIRST.*'. The

consultation material provides no information on the relationship between the community benefits proposed as part of the 19 mppa proposal (whatever they may be) and the commitment of LLAL through the DCO process to introduce FIRST for growth beyond 18 mppa.

Noise management/mitigation

36. The consultation material states that none of the identified increases in noise level would be considered significant, but acknowledges that there will be a number (unspecified) of additional dwellings experiencing noise over SOAEL which constitutes a likely significant adverse effect. The master plan refers to a range of existing measures that are in place to manage noise at LLA. No reference is made to the current live application to discharge a requirement of Condition 10 of Planning Permission No. 15/00950/VARCON that a noise reduction strategy be submitted for approval of LBC of a noise reduction strategy (to reduce the area of the noise contours by 2028 for daytime noise to 15.2 sq km for the area exposed to 57 dB(A) Leq16hr (0700-2300) and above for nighttime noise to 31.6 sq km for the area exposed to 48 dB(A) Leq8hr (2300-0700) and above.'). The County Council's response to a consultation on that application is appended (as Appendix 4). In summary the response advises:

'11. The County Council had been expecting that to enable the effective discharge of Condition 10 requirements, LLAOL would submit for approval a clear, tangible and deliverable action plan to achieve the required 2028 noise contour reductions. But this is not what has happened. The submitted 'Strategy' appears to amount to little more than a wish list of things that might or might not happen and that might or might not result in delivery. This is totally unacceptable. The County Council supports the findings and conclusions of the independent expert noise advice (dated 23rd January 2020) secured by LBC to inform its consideration of this application, which in summary finds:

'Bickerdike Allen (BAP) have submitted an undated report entitled Application No: 15/00950/VARCON(FUL), Discharge of Planning Condition 10 (Pt. 3), Noise Strategy (w.r.t. 2028). We understand that the document is intended to secure discharge of the condition on the premise that it contains sufficient detail of the strategy to be adopted by LLOAL to ensure that daytime and night-time noise contours will meet the reduced limits set for 2028.

We do not believe that the report achieves this aim as it contains insufficient detail of the strategy to be adopted. Instead it contains a number of general and imprecise statements of intent, many of which are already contained in other documents submitted by the airport or by BAP on their behalf.'

The report indicates that the principle reasons that noise levels, and therefore noise contour areas, will reduce to meet the 2028 limits are twofold:

- The future fleet mix will contain a sufficiently large proportion of new generation, low noise aircraft;*
- Some improvements are expected as a matter of course from the NATS FASI-S airspace changes that are expected to occur.*

The main issue with this approach is that neither of these are under the control of the airport, and it is therefore inconsistent to suggest they can form part of the airport's strategy.

Another problem arises from the reliance placed on the current Noise Action Plan (NAP) as containing adequate descriptions of the measures that the airport will adopt in implementing the required strategy. The generic nature of the wording used in the NAP, repeated in the BAP report, is not adequate to describe the elements of the strategy the airport is expected to pursue. Furthermore, there is a circularity in relying on the NAP in that one of the Operational Restrictions described in the NAP (3.5) is to develop a noise contour reduction strategy, the very same strategy that, as currently drafted, relies on the measures defined in the NAP.'

12. *What is required is a strategy that will deliver, without question, the 2028 noise contour reduction requirements of Condition 10. Some of the principles and commitments within Heathrow's Environmentally Managed Growth approach are very much the kinds of things the County Council had expected to see in the strategy the subject of this application - clear, rigorous and transparent monitoring, ensuring public/community confidence and trust, environmental limits permanent and never exceeded, enforcement of environmental limits, investment in measures or commercial strategies which mitigate the effects of growth, encouraging airline environmental performance, 'look forward' to forecast growth relationship to limits, independent scrutiny, responding to feedback from monitoring evidence (Graphic 4.2 above), limiting the growth unless the environmental limits are met, and so on.*

13. *A strategy is required which sets out:*

- the range of measures/actions required to achieve contour reduction ('wish-list' items such as airspace modernisation can feature but cannot be relied upon until evidence is available – see 'strategy review' below.*
- details exactly what measures/actions will be introduced and when and who is responsible for their introduction - with indicators/targets for these.*
- how the indicators/targets are to be monitored and reported.*
- a contour reduction trajectory – with a phased timetable that enables progress to be tracked and to trigger remediation measures as necessary.*
- a commitment to transparency and community engagement.*
- a scrutiny/enforcement/management framework that clearly sets out the mechanisms to be engaged should monitoring demonstrate failure against trajectory (triggered remediation measures).*
- a clear commitment, similar to that within Heathrow's Environmentally Managed Growth, that contour reduction failure is not an option - 'The overall framework could have the effect of limiting the growth of the airport unless the Environmental Limits are observed.....'.*

- a commitment to strategy review (so that it can evolve and reflect changing circumstances – for example, if/when there is **evidence** in the future that airspace modernisation will have a positive impact on noise contour reduction.

14. The strategy submitted to discharge Condition 10 does not achieve these requirements and should be refused or a substantively revised strategy prepared and submitted by the applicant in response to and addressing the above concerns.'

37. The consultation material refers to a 'Noise Assessment' that 'identifies a number of specific mitigation measures which are recommended as a result of the increase in the number of properties exposed to noise at levels in excess of the SOAEL'. These are:

'6.2.14 In order to achieve this, LLAOL will enhance its existing noise mitigation measure as follows:

- increase the contribution to the Noise Insulation Fund
- The cost of insulation is given to the dwellings with highest noise levels as priority, and the increase in funding of the scheme will allow dwellings to receive insulation at an accelerated rate; and
- One-off grants to local councils exposed to noise levels between LOAEL and SOAEL based on the forecasted noise contours. Grants are to be used to provide community improvements.

6.2.15 In addition the following commitments will be made as part of the proposed variation to noise planning conditions

- For Summer 2020 and all subsequent seasons, no night-time (23:30 to 07:00) slots will be allocated to aircraft with a value greater than QC1;
- No further day time slots will be allocated to aircraft greater than QC1 (06:00-21:59 GMT 1st June – 30th September);
- No "non-emergency" Diverted Flights will be accepted;
- New airline / aircraft slots at night not to exceed QC 0.5; and
- Differential charging will be implemented to incentivise the rapid modernisation of fleet.'

[Draft Masterplan]

38. These measures appear to differ from/add to the contents of Condition 9 of the 2014 planning permission and the Noise Control Scheme the subject of that Condition. This raises the question as to whether a revised or rejuvenated Noise Control Scheme is required and as a consequence, whether planning permission should be sought to vary Condition 9.

39. Elsewhere in this response the County Council advises that a period of time is set aside to bring stakeholders and communities together in moving the master plan forward before any planning application is made. One of the key areas of focus for such a process would be in relation to noise management. As APF states:

'4.5 Airports, in partnership with local communities, should:

.....
review their consultative timetables, for example for master plans and Noise Action Plans, with a view to aligning these where possible and reducing the consultative burden on all concerned;
.....,

40. Whilst integration of the various noise plans/strategies may be difficult, the master plan process could provide a mechanism through which to provide greater clarity in terms of determining tangible actions, processes, responsibilities and penalties (see also Environmentally Managed Growth/Green Managed Growth) in relation to noise management at LLA – bringing together all those that already exist, those proposed as part of this process (along with sharing of the ‘Noise Assessment’) and how these amount to delivery of the existing and proposed requirements – see ‘An all-encompassing master plan’ above. Those commitments would then be transferred into the terms of any planning consent/legal agreement, should consent be granted.

Environmentally/Green Managed Growth

41. Paragraphs 4 and 5 above and related attachments raise fundamental concerns in relation to the ability of LLA to manage its operations in accordance with restrictions placed on its 2014 planning consent. The extract within paragraph 36 refers to the Environmentally Managed Growth (EMG) proposals of Heathrow Airport Ltd in relation to its 3rd runway proposal – the basic purpose of which is to have the effect of limiting the growth of the airport unless agreed Environmental Limits are observed. A similar approach is being taken by LLAL [Green Managed Growth (GMG)] in developing its DCO proposal. Given the historic failure of LLA to manage its operations to respect environmental limits, the County Council is of the view that it should explore with stakeholders and communities the extent to which it is possible to put in place an E/GMG approach for this 19 mmpa proposal – to ensure that key ‘limits’ (exploring those in relation to noise, surface access modal splits, air quality, GHG emissions) are set and respected. This could be articulated in the master plan and set in place upon the grant of planning permission, were this to be forthcoming.

Summary

42. In summary, the County Council’s position is as follows:

- i. The County Council has an in-principle objection to planning applications whose ‘need’ is generated by mismanagement of the Airport with regard to the expectations of the 2014 18 mppa planning consent. The impact Covid-19 has had on the aviation sector and on LLA presents an opportunity to recalibrate management and growth to that set out in the 2012 masterplan and the 2014 planning consent.
- ii. There should be further engagement on the preparation of the master plan, including sharing of the evidence underpinning the findings and mitigation proposals within the draft in advance of finalisation/publication/approval.

- iii. The finalised/published/approved master plan needs to contain evidence (along with technical appendices) to substantiate the findings and conclusions reached and to justify proposed mitigations.
- iv. The opportunity should be taken to take a fresh approach to the master plan preparation – with a view to putting in place an all-encompassing framework that draws the various strategies together into a whole and fronting up a range of subsidiary plans/strategies/evidence.
- v. Clarity is required with regard to the process for finalisation/publication/approval of the master plan
- vi. The master plan preparation and ‘approval’ process should be completed in advance of the submission of any planning application.
- vii. Given Luton Local Plan policy, the master plan should be approved by Luton Borough Council in advance of the submission of any planning application.
- viii. Clarity is required on community funding proposals and the relationship these have with the FIRST scheme being brought forward through the DCO process.
- ix. Further information and justification are required in relation to the assumptions underpinning the contention that the Airport will recover to 2019 levels by 2023 and proposed 19 mppa by 2024.
- x. Even if the 2024 19 mppa timeline is considered to be realistic there does not appear to be any immediate need for a planning application to be submitted by the end of 2020. The proposed timeframe for submission of a planning application should be reviewed with a view to it being substantively delayed facilitating meaningful engagement upon and approval of the master plan.
- xi. Consideration should be given to using the master plan process to provide greater clarity in terms of determining tangible actions, processes, responsibilities and penalties in relation to noise management at LLA. Commitments would then be transferred into the terms of any planning consent/legal agreement, should consent be granted.
- xii. LLAOL should explore with stakeholders and communities the extent to which it is possible to set up an Environmental Managed Growth approach for the 19 mppa proposal.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Derrick Ashley". The signature is written in a cursive style with a large initial "D" and "A".

Derrick Ashley

Executive Member for Growth, Infrastructure, Planning and the Economy

Appendix 1

**Hertfordshire County Council response to planning
application to vary condition 10 of planning permission
15/00950/VARCON**

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18th July 2019

Dear Ms Barnell,

Application to vary condition 10 of planning permission 15/00950/VARCON for a temporary period (to end of 2024) to enable the area enclosed by the 57 dB(A) daytime noise contour to increase from 19.4 sq km to 23.4 sq km and the area enclosed by the 48dB(A) night time contour to increase from 37.2 sq km to 44.1 sq km. 19/00428/EIA

Thank you for the opportunity to comment on the above.

Whilst this response is made on behalf of Hertfordshire County Council, it has the broad support of a number of Hertfordshire borough and district councils who will be responding to you separately.

1. Background Context

1.1 The original planning application was approved on the basis that growth in throughput would be accompanied by a range of safeguards to manage the noise impacts arising from the proposal and protect communities. This is clear from the following extracts from the report to Committee dated 20th December 2013 (text highlighted ***thus*** in this section and throughout represents emphasis added):

‘95. The timescales for the introduction of new aircraft (fleet modernisation) is to be secured both through condition and S106 Agreement attached to any permission.

110. An independent assessment of the ES in respect of the Noise implications of the development was carried out for LBC by Cole Jarman Ltd, Noise Consultants, and in so far as airborne aircraft noise is concerned there are no significant reservations about the methodology employed in the ES to quantify the expected noise levels. In numerical terms it was considered that the contours and footprints presented in the ES reasonably reflect the expected noise impact. However, in interpreting the findings it was considered that the following factors needed to be considered:

-
Controlling the noise impact to the levels indicated for 2028 requires that a substantial part of the airline fleet is changed to modern, low noise variants of types currently operating. **The primary mechanism put forward by the applicant for ensuring that this will happen is by way of a condition limiting the extent of key daytime and night time aggregated noise contours.**
- Current Government Policy in respect of aircraft noise is contained in the APF published in March 2013. This states that „Our overall objective on noise is to limit and where possible reduce the number of people in the UK significantly affected by aircraft noise.“ The predicted future noise impact with the development in place would be greater than that assessed as prevailing at the present time. One consequence of this finding is that the number of people significantly affected by aircraft noise might be neither limited nor reduced and as such this would not meet the objectives set out in the APF. **To address this the applicant has made a commitment that the Airport will seek to continually increase the percentage of flights undertaken by modernised low noise variants of relevant aircraft types and it is proposed to secure this commitment by way of a legal agreement (S106). This measure would facilitate a reduction in the overall noise levels and minimise the impact on local residents and therefore meet the objectives of the APF.**
- Luton Local Plan Policy LLA1 states.....By applying this tighter interpretation this would require lower noise levels in 2028 than are predicted for the partial modernisation scenario. Although this alternative interpretation is not accepted by the applicant, achieving the full modernisation scenario would ensure compliance with this alternative interpretation **and this would be likely to be secured by a commitment (in the S106 Agreement) by the Airport that they will continually increase the percentage of fights undertaken by modernised low noise variants of relevant aircraft types.**

111. Although the assessment of the ES in terms of noise did initially identify areas of concern relating to the interpretation of policy LLA1, predicted noise levels, night time noise issues and necessary mitigation measures, **further negotiation with the applicant has resulted in the applicant accepting additional controls and mitigation measures by way of condition and or inclusion within the S106 Agreement.**

112. **The Local Planning Authority, in consultation with its noise consultant Cole Jarman Ltd, considers that there is a remedy to ensure that the numbers of people affected by aircraft noise does not increase.** The two tables below show a comparison for daytime noise (Table 1) and night time noise (Table 2) for a number of years – including the predictive and actual noise levels in 1999. The 2028 predicted figures are taken from the ES

113. It can be seen that the predicted 1999 taken from the 1997 ES levels were higher than actual 1999 levels (0.2 square kilometres for daytime noise and 22.8 square kilometres for night time noise). Further it can also be seen that the current operation of the Airport is well below these levels. The requirement for Condition 12 for night time noise to be limited to an area of 37.2 sq.km for the 48-72 Leq dBA 8 hour (23.00 – 07.00) contour is ambitious but will ensure that lower noise levels are achieved in 2028 than currently predicted by LLAOL. **However with strict controls on growth and measures such as fleet modernisation being maximised, this lower area is considered to be practicable and achievable. It also ensures additional benefits in terms of residential amenity in accordance with policy.**

114. Even though some weight should be given to Local Plan Policy LLA1 as it is site specific and has been based on evidence the subject of previous planning decisions in relation to development of the Airport, it is considered that greater weight should be given to current Government policy, which is seeking where possible to reduce the number of people significantly affected by aircraft noise in the UK. It is therefore considered that the condition restricting the 57 dB daytime contour and the 48 dB night time contour could reflect the actual 1999 levels and thereby ensure that the area affected by aircraft noise would be any worse than at that time.

115. The applicant has raised concerns regarding the independent Noise assessment of the ES by Cole Jarman Ltd in terms of some of the conclusions reached in respect of issues relating to night time noise and the level of mitigation proposed. The applicant was of the view that this had been fully assessed within the ES. **However the purpose of LBC carrying out an independent assessment was to examine the proposal and proposed mitigation in terms of seeking to secure on balance the best practicable outcomes for the surrounding community while enabling the development to be implemented in accordance with government and local policy.** Clearly within this process there will be differences of opinion. The proposed modifications to the Noise Insulation Scheme are not at a scale that could be considered unreasonable given the potential long term impact of the development as proposed.

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

205. As set out within the report, the proposed expansion of the Airport will have an impact in terms of additional noise from aircraft movements and traffic generation. **However, the proposal does afford the opportunity to put in place a range of controls through the use of a mix of planning conditions and obligations contained within a S106 Agreement, in respect of issues such as night time noise, noise insulation, limitation on the passenger numbers and type of**

aircraft etc. Current controls are limited in their effectiveness and/or do not meet the requirements or objectives of current national aviation and planning policy.

1.2 Similarly, the Committee report relating to the Variation of condition 11 (i) – Noise Violation Limits states:

‘69. Commenting on condition 11(i), Cole Jarman Ltd note that the noise violation limits graduated according to the QC classification seek to ensure that all aircraft, and not just the noisiest, are operated in a manner that ensures the noise levels generated are commensurate with what is to be expected. However, they conclude from the analysis of the data that “setting noise violation limits based on the departure QC rating of an individual aircraft is unreliable. Transgression of a noise violation limit set in this way cannot be absolutely determined as evidence that any given aircraft is being operated in an unacceptable manner.” Consequently they confirm that the data indicates an alternative means of setting noise violation limits and controlling average noise levels generated in the community around the airport is required.

70. Cole Jarman Ltd state that “if condition 11(i) is to be modified to include absolute noise limits unrelated to the QC rating of aircraft, then it is vital that the noise envelope restrictions set out in condition 12 are applied using the full knowledge of the actual noise levels generated by aircraft operating at Luton Airport.” Condition 12 requires the area encapsulated by the 48dB L Aeq,8h contour to be reduced by the year 2028 from 37.2km² to 31.6km² for the night period and for the daytime the 57dB L Aeq,16h contour to be reduced from 19.4km² to 15.2km².

*79. With regard to LADACAN’s comments concerning the noise violation limits being a blunt tool that would not encourage a change to quieter aircraft, it should be noted that condition 11 is not the primary mechanism for constraining and reducing the overall levels of aircraft noise in the community. **Condition 12 is the main tool setting limits on the areas enclosed in the daytime (57dB L Aeq,16h) and night time (48dB L Aeq,16h) and also requiring the Airport to develop and implement a strategy for ensuring that the areas within these contours reduces by 22% and 15% respectively by 2028. Such a reduction in the areas means there will be a reduction in noise generated by aircraft overflying all locations in the community around the Airport.** This also addresses one of the concerns raised by the Chilterns Countryside Board.’*

1.3 The planning conditions/s106 agreements attached to the 2014 and 2016 planning consents (subsequently referred to as ‘the original approval, consent or permission) contain a suite of measures to restrict the noise impact of the development to safeguard potentially impacted communities and to make the development acceptable. The importance of and commitment to noise contours is clear from the decision-making process and these were duly incorporated into the planning consent.

1.4 The planning application summarises why the Airport has failed to comply with these key restrictions and why it is seeking them to be relaxed, as follows:

'In summary, the number of passengers has grown more quickly than that forecast at the time of the 2012 Environmental Statement, and the introduction of new generation aircraft has not kept pace. These factors, combined with unforeseen delays arising from European industrial issues and severe weather events, have resulted in a situation whereby the airport cannot operate to its full permitted limit whilst being confident that the restrictions of Condition 10 can be met.'

1.5 European industrial issues and severe weather events may well be outside the control of the Airport, but this statement seems to suggest that the Airport has no control over the growth in the number of passengers or the introduction of new generation aircraft. This is of course nonsense. The Airport has actively pursued throughput growth towards its 18 mppa planning restriction in the full knowledge this:

- was proceeding at a pace far in excess of that anticipated when the planning application was submitted;
- was not being accompanied by fleet modernisation assumptions set out within the planning application which were integral to the decision and planning conditions/agreement imposed;
- would inevitably result in a breach of the noise restrictions imposed by the planning consent;
- would inevitably result in adverse noise consequences on local communities.

1.6 The adverse implications arising from this failure are of course not confined to those communities within the noise contour areas subject to Condition 10 and its breach and the proposed new revised contours, but much further afield. A range of communities further afield in Hertfordshire have been subject to a significant and unacceptable worsening of their noise environment and quality of life. The significance of these impacts has been recognised by the Airport in pursuing Airspace Change processes to seek to address them.

1.7 The County Council is of the view that the behaviour of the Airport has not been within the spirit of the planning application originally submitted and the planning consent granted, represents an abrogation of its environmental responsibilities and is disrespectful of communities. The Airport should have proactively managed its operations to respect the regulatory regime imposed upon it. In failing to do so it has acted irresponsibly.

1.8 Within its emerging aviation policy (Aviation 2050), Government is clear that it supports aviation growth, but on the condition that it is sustainable, environmental impacts are managed better and that communities are protected from the adverse impacts of growth and should directly benefit from it. Key to delivery of Government expectations is a 'Partnership' approach involving all partners, including communities. The Government sees the setting of noise caps as part of planning approvals as a means to balance noise and growth and to provide future certainty over noise levels to communities. The 'contract' between the Partnership in this case (the Airport operator, the local planning authority, highways authorities, communities and others) entered into for growth of the Airport to 18 mppa and the setting of noise caps to provide certainty for communities is in large part the terms of the planning permission. In failing to manage its operations to comply with that consent and committing to comply with it in the future, the Airport has betrayed the

other partners, particularly those communities currently suffering from the adverse consequences of the breaches of planning control. The County Council is of the view that the actions of the Airport have fallen considerably short of Government expectations.

2. The Planning Application - The Planning Statement

2.1 The County Council is of the view that the Planning Statement is not fit-for-purpose. It is surprisingly poor in its assessment of the compliance or otherwise of the proposal with planning policy. It recites planning policy in Chapter 4 (but is occasionally selective in extracting relevant text from key local and national policies, is in parts wrong and in other parts misleading); Chapter 5 assesses the environmental and (briefly) the economic implications of the proposal but nowhere does it provide an assessment of the scheme against relevant planning policy. Only in Section 7 ("Planning Balance") does the Statement accept that the application may result in '*potential non-compliance*' with individual LLP6 criteria, without stating which ones or the degree of non-compliance. It argues that one should simply consider the '*wider emphasis of the plan as whole*' on economic development and the contribution of the Airport and such that there could be non-compliance, this must be '*balanced with a considered understanding of the economic benefits that the proposal would accommodate.*' Yet the Local Planning Authority (LPA) is provided with no information on which to base a '*considered understanding*'.

2.2 The following analysis of the Planning Statement is by way of example and does not represent an exhaustive critique. Your authority will, of course, identify for itself all relevant policy considerations and interpret and apply these accordingly, but the County Council would urge caution in relying in any substantive way on the Planning Statement accompanying the application.

3. Requirement to vary Condition 10

3.1 Rationale for variation

2.3 '*Requirement to vary Condition 10*' – it is not a 'Requirement'. The operator could simply comply with the planning permission. The terminology used in the planning statement that the applicant 'requires' the condition to be varied is inappropriate and seems to suggest that the breach is inevitable and that it is only by approving this variation that the Airport can continue to operate successfully. This seems to suggest that reverting to a different form of operation to comply with the existing condition is not possible and that the LPA have no choice but to approve the application. This cannot be the correct approach to considering this proposal. This is a 'request' to vary condition 10.

2.4 Paragraph 4 – details of the '*incentives to introduce the next generation aircraft*' should be provided by the applicant.

2.5 Paragraphs 5 – 8 – these paragraphs summarise the three main reasons why the night-time noise contours have been breached in recent years. What this section does not do is:

- assuming the Airport must have recognised that its operations were heading towards a breach of planning control, explain why measures were not introduced earlier to prevent breach.
- explain the rationale for proposals to amend the day-time noise contour of Condition 10 in circumstances where there has been no breach of restrictions and where no future breach is predicted.

2.6 This intelligence and explanation should be provided by the applicant.

3.2 Mitigation measures

2.7 Paragraph 1 states '*.....Following the breach in 2017, LLAOL took immediate action to reduce the number of flights.....The degree of seriousness which LLAOL take any breach of their obligations is demonstrated by the wide ranging restrictions implemented.*'

2.8 The applicant should be required to explain why measures were not introduced in advance of the breach in an attempt to ensure compliance with planning control and protect the amenity of communities.

2.9 The County Council would wish to be assured that the planning authority is content that the mitigation measures currently in use represent a robust response to breaches and that other potential measures (all other measures, including restricting flight numbers) have been explored to regularise operations at the Airport and enable compliance with the planning permission.

2.10 The Noise Control Scheme and Noise Management Plan required by the planning consent(s) specify a wide range of mechanisms necessary to restrict and regulate operations/noise at the Airport. These include arrangements for monitoring and reporting. Clearly, one of the main reasons for the monitoring and reporting process is for the operator and the LPA to be satisfied that the operations at the Airport were being managed in a manner to comply with the restrictions of the planning permission. It will surely have been very clear from this intelligence that the Airport was growing far more rapidly and without or in advance of fleet modernisation envisaged when consented.

2.11 Both the Airport and Luton Borough Council (LBC) must have been well aware that operations at the Airport were heading towards a potential breach of planning control. They were also very well aware that the operation of the Airport was creating very real and substantial adverse noise conditions for communities. Despite this, this section of the statement seems to take the breach as its starting point for the rationale for the proposed variation. To present a complete picture, the applicant should be required to provide:

- intelligence on the data provided within annual monitoring reports in relation to passenger growth and fleet modernisation.
- a summary of those matters within the approved Noise Control Scheme(s) and Noise Management Plan(s) of direct relevance to this planning application.
- a summary of the discussions/negotiations that have taken place between the applicant and the LPA in advance of the breach and the outcome of those discussions/negotiations.
- an explanation as to why the 'Mitigation measures' outlined in section 3.2 of the Planning Statement were not introduced in advance of the breach, and any other potential mitigations that may have been appropriate.
- the measures put in place in response to the letter from LBC to the Airport dated 16th February 2018 (and in response to any other correspondence from LBC).

- any further ongoing measures being explored/negotiated with LBC to restrict the scale of the on-going breach.

3.3 Proposed variation wording

2.12 Paragraph 1 states that *'LLAOL is committed to operating within the requirements of its relevant planning permissions and takes any actual or potential breach seriously'*. Clearly LLAOL is not committed to operating within its planning restrictions as it has not managed its operations in a manner to achieve this.

2.13 *'The breaches which did occur in 2017 and 2018 were the result of a number of factors which were outside the immediate control of the airport'*. This is not true. The most effective way in which the breaches could have been prevented would have been for the Airport to manage its operations in a manner which restricted the number of flights to those that would enable it to operate within its agreed environmental limits.

2.14 Paragraph 2 states that *'Whilst LLAOL now have the mitigation measures in place it does recognise that such measures restrict the operational movements of airlines and would represent a hiatus in the continued growth of the airport with the consequence that the airport would become potentially less attractive to airlines in the future'*. This seems to suggest that the intention, were permission to be granted for the Condition 10 variation, the Airport would simply abandon these mitigation measures with the consequential impact this would have on communities.

2.15 Paragraph 3 raises the proposal to also vary the day time noise contour. None of the preceding text provides any specific rationale or evidence to indicate why the existing day time restrictions should not remain in place. The applicant should be required to provide evidence and justification.

4. Planning Policy

4.1 National planning and aviation policy

National Planning Policy Framework (NPPF)

Building a strong, competitive economy

2.16 Reference is made to Paragraph 81. This is irrelevant to this planning application as it relates to the guidance on what planning policies should do. This process is not a planning policy formulation process.

2.17 Reference is made to paragraph 82 that decisions should recognise and address the specific location requirements of different sectors. This is irrelevant. There are no locational requirements for this planning application – the Airport is already in place.

Promoting sustainable transport

2.18 Reference is made to Paragraph 104e relating to large scale transport facilities. This is irrelevant to this planning application as it relates to the guidance on what planning policies should do. This is not a planning policy formulation process.

2.19 Reference is made to Paragraph 104f to suggest that the NPPF has strengthened policy in respect of aviation. This is misleading. 104f relates to general aviation, not large scale nationally significant airports like London Luton. It actually states:

‘recognise the importance of maintaining a national network of general aviation airfields, and their need to adapt and change over time – taking into account their economic value in serving business, leisure, training and emergency service needs, and the Government’s General Aviation Strategy’

2.20 Paragraph 104 is also irrelevant to this planning application as it relates to the guidance on what planning policies should do. This process is not a planning policy formulation process.

Conserving and enhancing the natural environment

2.21 The statement fails to recognise NPPF paragraph 170 which states that decisions should contribute to and enhance the natural and local environment by, amongst other matters:

‘.....
e) **preventing new and existing development from contributing to**, being put at unacceptable risk from, or being adversely affected by, **unacceptable levels of** soil, air, water or **noise pollution** or land instability. **Development should, wherever possible, help to improve local environmental conditions** such as air and water quality, taking into account relevant information such as river basin management plans; and.....’

NPPF conclusion

2.22 The application states *‘The presumption in favour of sustainable development recognises the need to balance social, economic and environment objectives but is sufficiently pragmatic to recognises that for some types of development there is a need to take into account the specific local opportunities that may present themselves’*. The NPPF does not state this - the presumption in favour of sustainable development:

- does not itself refer to the need to balance social, economic and environmental objectives. The objectives referred to are the objectives of the planning system to achieve sustainable development. The ‘balance’ between these objectives is within the supporting text and relates to achieving sustainable development more generally through the planning system.
- does not in any way recognise that some types of development need to take into account specific local opportunities that may present themselves.

2.23 Reference is made to ‘a recognition in the case of aviation that needs may not be fixed but may change over time’. The NPPF does no such thing – where it does comment on ‘the need to adapt and change over time’ is in relation to general aviation only.

2.24 ‘Nevertheless, aviation development should be environmentally appropriate and should undertake measures to mitigate potential adverse impacts from noise recognising that it could potentially give rise to significant adverse impacts upon health’. None of this features within the NPPF. The NPPF makes no reference to aviation development (only general aviation – see above), being ‘environmentally appropriate’ (whatever that is supposed to mean), to ‘undertake measures to mitigate’ or that it ‘could potentially give rise to significant adverse impacts upon health’.

National Planning Practice Guidance

2.25 Paragraph 2 states that ‘With specific regard to aviation and airport planning, the NPPG does not introduce any additional guidance beyond that which is already captured by the NPPF’. The NPPF does not provide any guidance specific to aviation and airport planning, other than general aviation.

2.26 No reference is made to the following in paragraph 005 Reference ID: 30-005-20140306:

‘At the highest extreme, noise exposure would cause extensive and sustained changes in behaviour without an ability to mitigate the effect of noise. The impacts on health and quality of life are such that regardless of the benefits of the activity causing the noise, this situation should be prevented from occurring.’

2.27 No reference is made to the following within paragraph 006 Reference ID: 30-006-20141224

‘The subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. This will depend on how various factors combine in any particular situation.

These factors include:

- *the source and absolute level of the noise together with the time of day it occurs. Some types and level of noise will cause a greater adverse effect at night than if they occurred during the day – this is because people tend to be more sensitive to noise at night as they are trying to sleep. The adverse effect can also be greater simply because there is less background noise at night;*
- *for non-continuous sources of noise, the number of noise events, and the frequency and pattern of occurrence of the noise;.....’*

Noise Policy Statement for England (NPSE)

2.28 The Planning Statement fails to recognise:

‘2.14 It is recognised that noise exposure can cause annoyance and sleep disturbance both of which impact on quality of life. It is also agreed by many experts

that annoyance and sleep disturbance can give rise to adverse health effects. The distinction that has been made between ‘quality of life’ effects and ‘health’ effects recognises that there is emerging evidence that long term exposure to some types of transport noise can additionally cause an increased risk of direct health effects. The Government intends to keep research on the health effects of long term exposure to noise under review in accordance with the principles of the NPSE.’

2.29 The Planning Statement does not highlight the aims of the NPSE:

‘The first aim of the Noise Policy Statement for England

Avoid significant adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

2.23 *The first aim of the NPSE states that significant adverse effects on health and quality of life should be avoided while also taking into account the guiding principles of sustainable development (paragraph 1.8).*

The second aim of the Noise Policy Statement for England

Mitigate and minimise adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

2.24 *The second aim of the NPSE refers to the situation where the impact lies somewhere between LOAEL and SOAEL. It requires that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development (paragraph 1.8). This does not mean that such adverse effects cannot occur.*

The third aim of the Noise Policy Statement for England

Where possible, contribute to the improvement of health and quality of life through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

2.25 *This aim seeks, where possible, positively to improve health and quality of life through the pro-active management of noise while also taking into account the guiding principles of sustainable development (paragraph 1.8), recognising that there will be opportunities for such measures to be taken and that they will deliver potential benefits to society. The protection of quiet places and quiet times as well as the enhancement of the acoustic environment will assist with delivering this aim.’*

Aviation Policy Framework (APF)

2.30 The second paragraph in this section repeats from paragraph 1.24 the following:

'1.24 The Government wants to see the best use of existing airport capacity.'

2.31 Strangely this paragraph then fails to go on to repeat the text immediately following this sentence which is very relevant context for this planning application:

*'1.24 The Government wants to see the best use of existing airport capacity. We support the growth of airports in Northern Ireland, Scotland, Wales and airports outside the South East of England. **However, we recognise that the development of airports can have negative as well as positive local impacts, including on noise levels. We therefore consider that proposals for expansion at these airports should be judged on their individual merits, taking careful account of all relevant considerations, particularly economic and environmental impacts.**'*

2.32 The APF contains a whole chapter on 'Noise and other local environmental impacts' and yet no reference of this is made within the planning statement. Some of the most relevant highlights of Government policy include:

*'3.1 **Whilst the aviation industry brings significant benefits to the UK economy, there are costs associated with its local environmental impacts which are borne by those living around airports, some of whom may not use the airport or directly benefit from its operations.** This chapter considers noise, air quality and other local environmental impacts.*

Noise

3.2 The Government recognises that noise is the primary concern of local communities near airports. The extent to which noise is a source of tension between airports and local communities will vary depending on factors such as the location of an airport in relation to centres of population and the quality of its relations and communications with its local communities. We are aware that many airports already make considerable efforts to engage their local communities and that the relationship is well managed.

*3.3 **We want 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. As a general principle, the Government therefore expects that future growth in aviation should ensure that benefits are shared between the aviation industry and local communities. This means that the industry must continue to reduce and mitigate noise as airport capacity grows. As noise levels fall with technology improvements the aviation industry should be expected to share the benefits from these improvements.***

3.7 The Government fully recognises the ICAO Assembly 'balanced approach' principle to aircraft noise management. The 'balanced approach' consists of identifying the noise problem at an airport and then assessing the cost-effectiveness of the various measures available to reduce noise through the exploration of four principal elements, which are:

- *reduction at source (quieter aircraft);*
- *land-use planning and management;*

- noise abatement operational procedures (optimising how aircraft are flown and the routes they follow to limit the noise impacts); and
- operating restrictions (preventing certain (noisier) types of aircraft from flying either at all or at certain times).

Policy objective

3.12 The Government's overall policy on aviation noise is to limit and, where possible, reduce the number of people in the UK significantly affected by aircraft noise, as part of a policy of sharing benefits of noise reduction with industry.

3.13 This is consistent with the Government's Noise Policy, as set out in the Noise Policy Statement for England (NPSE) which aims to avoid significant adverse impacts on health and quality of life.

3.14 Although there is some evidence that people's sensitivity to aircraft noise appears to have increased in recent years, there are still large uncertainties around the precise change in relationship between annoyance and the exposure to aircraft noise. **There is evidence that there are people who consider themselves annoyed by aircraft noise who live some distance from an airport in locations where aircraft are at relatively high altitudes.** Conversely, some people living closer to an airport seem to be tolerant of such noise.

3.15 To provide historic continuity, the Government will continue to ensure that noise exposure maps are produced for the noise-designated airports on an annual basis providing results down to a level of 57dB LAeq 16 hour. To improve monitoring of the specific impact of night noise, we will also ensure that separate night noise contours for the eight-hour night period (11pm–7am) are produced for the designated airports.

3.17 We will continue to treat the 57dB LAeq 16 hour contour as the average level of daytime aircraft noise marking the approximate onset of significant community annoyance. However, this does not mean that all people within this contour will experience significant adverse effects from aircraft noise. Nor does it mean that no-one outside of this contour will consider themselves annoyed by aircraft noise.

3.19 Average noise exposure contours are a well established measure of annoyance and are important to show historic trends in total noise around airports. **However, the Government recognises that people do not experience noise in an averaged manner and that the value of the LAeq indicator does not necessarily reflect all aspects of the perception of aircraft noise. For this reason we recommend that average noise contours should not be the only measure used when airports seek to explain how locations under flight paths are affected by aircraft noise. Instead the Government encourages airport operators to use alternative measures which better reflect how aircraft noise is experienced in different localities,** developing these measures in consultation with their consultative committee and local communities. **The objective should be to**

ensure a better understanding of noise impacts and to inform the development of targeted noise mitigation measures.

Measures to reduce and mitigate noise – the role of industry

3.24 The acceptability of any growth in aviation depends to a large extent on the industry tackling its noise impact. The Government accepts, however, that it is neither reasonable nor realistic for such actions to impose unlimited costs on industry. Instead, efforts should be proportionate to the extent of the noise problem and numbers of people affected.

3.25 As a general principle, **the Government expects that at the local level, individual airports** working with the appropriate air traffic service providers **should give particular weight to the management and mitigation of noise**, as opposed to other environmental impacts, in the immediate vicinity of airports, where this does not conflict with the Government's obligations to meet mandatory EU air quality targets. Any negative impacts that this might have on CO₂ emissions should be tackled as part of the UK's overall strategy to reduce aviation emissions, such as the EU Emissions Trading System (ETS). Further guidance on this principle will be published when the Department for Transport updates its guidance to the Civil Aviation Authority (CAA) on environmental objectives relating to the exercise of its air navigation functions (see Chapter 5).

3.27 As part of the range of options available for reducing noise, airports should consider using differential landing charges to incentivise quieter aircraft. The Government has asked the CAA to investigate the use of these charges and the CAA will be publishing its findings later this year.

3.28 The Government expects airports to make particular efforts to mitigate noise where changes are planned which will adversely impact the noise environment. This would be particularly relevant in the case of proposals for new airport capacity, changes to operational procedures or where an increase in movements is expected which will have a noticeable impact on local communities. In these cases, it would be appropriate to consider new and innovative approaches such as noise envelopes or provision of respite for communities already affected.

Night noise

3.34 The Government recognises that the costs on local communities are higher from aircraft noise during the night, particularly the health costs associated with sleep disturbance. Noise from aircraft at night is therefore widely regarded as the least acceptable aspect of aircraft operations. However, we also recognise the importance to the UK economy of certain types of flights, such as express freight services, which may only be viable if they operate at night. As part of our current consultation on night flying restrictions at the noise-designated airports, we are seeking evidence on the costs and benefits of night flights.

3.35 In recognising these higher costs upon local communities, we expect the aviation industry to make extra efforts to reduce and mitigate noise from night flights through use of best-in-class aircraft, best practice operating

procedures, seeking ways to provide respite wherever possible and minimising the demand for night flights where alternatives are available. We commend voluntary approaches such as the curfew at Heathrow which ensures that early morning arrivals do not land before 4.30am.

Noise insulation and compensation

3.36 The Government continues to expect airport operators to offer households exposed to levels of noise of 69 dB LAeq,16h or more, assistance with the costs of moving.

3.37 The Government also expects airport operators to offer acoustic insulation to noise-sensitive buildings, such as schools and hospitals, exposed to levels of noise of 63 dB LAeq,16h or more. Where acoustic insulation cannot provide an appropriate or cost-effective solution, alternative mitigation measures should be offered.

3.38 If no such schemes already exist, airport operators should consider financial assistance towards acoustic insulation for households. Where compensation schemes have been in place for many years and there are few properties still eligible for compensation, airport operators should review their schemes to ensure they remain reasonable and proportionate.

3.39 Where airport operators are considering developments which result in an increase in noise, they should review their compensation schemes to ensure that they offer appropriate compensation to those potentially affected. As a minimum, the Government would expect airport operators to 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 LAeq,16h or more.

3.40 Any potential proposals for new nationally significant airport development projects following any Government decision on future recommendation(s) from the Airports Commission would need to consider tailored compensation schemes where appropriate, which would be subject to separate consultation.

3.41 Airports may wish to use alternative criteria or have additional schemes based on night noise where night flights are an issue. Airport consultative committees should be involved in reviewing schemes and invited to give views on the criteria to be used.

Planning policies

5.6 In preparing their local plans, local authorities are required to have regard to policies and advice issued by the Secretary of State. This includes the Aviation Policy Framework, to the extent it is relevant to a particular local authority area, along with other relevant planning policy and guidance. The Aviation Policy Framework may also be a material consideration in planning decisions depending on the circumstances of a particular application.'

Aviation 2050: The Future of UK Aviation

2.33 Paragraph 3 summarises the content of part of paragraph 1.21 as follows ‘The need for further aviation capacity is highlighted and the Government is supportive of a new runway at London Heathrow Airport as well as other airports throughout the UK making best use of their existing runways’. Unfortunately the statement fails to recognise what paragraph 1.21 goes on to say in relation to best use of existing runways. Paragraph 1.21 states:

*‘1.21 This is why the government is supportive of the development of a third runway at Heathrow Airport..... It is also supportive of airports throughout the UK making best use of their existing runways, **subject to environmental issues being addressed. However, there is a need for clarity on what the future framework will be for providing additional capacity to meet demand, while managing environmental and community impacts.***

2.34 Paragraph 4 at least recognises that there is a ‘Managing noise’ section within Aviation 2050, but its analysis amounts to simply stating that the section ‘notes that the Government is looking into creating new enforcement powers for Independent Commission on Civil Aviation Noise or Civil Aviation Authority if other measures prove insufficient to drive the outcome it wants’. This reference is of virtually no relevance to this planning application in terms of Government policy direction. Some much more relevant policy within the ‘Managing noise’ section of the Aviation 2050 and elsewhere within it includes:

‘Environmental impacts

*1.26 **Disturbance from aircraft noise has negative impacts on the health and quality of life of people living near airports and under flightpaths.** There is also evidence that the public is becoming more sensitive to aircraft noise, to a greater extent than noise from other transport sources, and that there are health costs associated from exposure to this noise. The government is supporting the industry to deliver airspace modernisation and has also established a new Independent Commission on Civil Aviation Noise (ICCAN), but efforts to reduce and manage noise impacts must continue.*

What this means for Aviation 2050

*1.33 Together, these trends present significant opportunities to be exploited, but also challenges to overcome and manage. Global and domestic trends show that with the right economic conditions, the year-on-year growth in passenger numbers and air freight can be expected to continue. There are also signs of change in the market which could which transform business models and the offer for consumers. **Meeting this increased demand will require a new partnership between the government, the industry, the regulator and communities that balances the economic benefits of growth with its impact on communities and the environment.***

1.34 The eastward shift in aviation markets and the growth in new technologies mean that aviation could look very different to how it does today, both globally and domestically. To remain competitive on the global stage, and to safeguard its role as one of the leaders in both aviation and aerospace, the UK must be well positioned to

take advantage of these new opportunities, while managing the potential economic, political and environmental headwinds along the way.

1.35 This is the motivation behind a new Aviation Strategy which will:

- ensure that aviation can grow sustainably – moving beyond an artificial ‘choice’ between growth and environmental protection by building a new partnership that actively supports sustainable growth with actions taken to mitigate environmental impacts
- **support regional growth and connectivity** – ensuring aviation enables all regions of the UK to prosper and grow, providing jobs and economic opportunities and a meaningful contribution to the life of communities up and down the country

Ensure aviation can grow sustainably

3.3 **Even with these improvements there are challenges that need to be addressed. Growth can have significant environmental impacts which affect local communities and increase emissions.** There are also significant infrastructure constraints which require urgent attention, such as the need to modernise our airspace, improve transport links to airports and consider whether new runways are required. **Therefore, while the government supports continued growth in aviation over the next 30 years, it also believes that the UK must be more ambitious on environmental protection to ensure that growth is sustainable.**

A partnership for sustainable growth

3.5 The government’s forecasts show that demand for aviation will continue to grow in the period to 2050. The government intends to discuss its modelling approach with stakeholders in the first half of 2019, which will inform future decisions on whether there is a case for additional runways.

3.6 The government accepted the independent Airports Commission’s conclusion that there is a need to increase capacity in the South East of England by 2030 by constructing one new runway and supports a new Northwest runway at Heathrow Airport, through the designation of the Airports National Policy Statement (NPS). This sets out the requirements that an applicant will need to meet in order for development consent to be granted. **The government has also expressed support for other airports making best use of their existing runway capacity, subject to economic and environmental issues being addressed.**

Managing noise

The impact of aviation noise

3.102 **The growth of the aviation sector brings many benefits but the government recognises that disturbance from aircraft noise has negative impacts on the health and quality of life of people living near airports and under flightpaths.**

3.105 **However, the government recognises that statistics showing past and future improvements in noise do not necessarily match the experience of some people living under flightpaths, for whom the benefits of quieter aircraft can be cancelled out by greater frequency of movements or the effects of concentrated traffic associated with more accurate navigation technology (see paragraph 3.19).** The CAA's report also shows that the number of people affected will be higher as a result of population increases.

3.106 There is also evidence that the public is becoming more sensitive to aircraft noise, to a greater extent than noise from other transport sources, and that there are health costs associated from exposure to this noise.

3.112 **The government expects the industry to show continuing commitment to noise reduction and mitigation as part of its contribution to the partnership for sustainable growth.** The government has shown that it is committed to this by setting out in the Airports NPS its expectations that the developer put in place a comprehensive mitigations package. The proposals in this consultation are aligned with the principles in the NPS, but the implementation of those document principles must be proportionate to the local situation (recognising that the scale of the noise impacts at Heathrow is much greater than at other airports due to the number of movements and local population density). The picture below shows a noise monitor at Heathrow Airport.

Towards a stronger noise policy framework

3.113 The government sets the high level policy framework on aviation noise and also sets noise controls at Heathrow, Gatwick and Stansted. The current overarching policy, originally set out in the 2013 Aviation Policy Framework, 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 in support of sustainable development."

3.114 The government recognises that there has been uncertainty on how this policy should be interpreted, measured and enforced. **The government intends to put in place a stronger and clearer framework which addresses the weaknesses in current policy and ensures industry is sufficiently incentivised to reduce noise, or to put mitigation measures in place where reductions are not possible.**

3.115 The proposed new measures are:

- **setting a new objective to limit, and where possible, reduce total adverse effects on health and quality of life from aviation noise. This brings national aviation noise policy in line with airspace policy updated in 2017**
- **developing a new national indicator to track the long term performance of the sector in reducing noise.** This could be defined either as a noise quota or a total contour area based on the largest airports
- **routinely setting noise caps as part of planning approvals (for increase in passengers or flights).** The aim is to balance noise and growth and to provide

future certainty over noise levels to communities. It is important that caps are subject to periodic review to ensure they remain relevant and continue to strike a fair balance by taking account of actual growth and the introduction of new aircraft technology. It is equally important that there are appropriate compliance mechanisms in case such caps are breached and the government wants to explore mechanisms by which airports could 'pay for' additional growth by means of local compensation as an alternative to the current sanctions available

- **requiring all major airports to set out a plan which commits to future noise reduction, and to review this periodically.** This would only apply to airports which do not have a noise cap approved through the planning system and would provide similar certainty to communities on future noise levels. **The government wants to see better noise monitoring and a mechanism to enforce these targets as for noise caps.** The noise action planning process could potentially be developed to provide the basis for such reviews, backed up by additional powers as necessary for either central or local government or the CAA

3.121 The government is also:

- **proposing new measures to improve noise insulation schemes for existing properties, particularly where noise exposure may increase in the short term or to mitigate against sleep disturbance**

3.122 Such schemes, while imposing costs on the industry, are an important element in giving impacted communities a fair deal. The government therefore proposes the following noise insulation measures:

- **to extend the noise insulation policy threshold beyond the current 63dB LAeq 16hr contour to 60dB LAeq 16hr**
- **to require all airports to review the effectiveness of existing schemes. This should include how effective the insulation is and whether other factors (such as ventilation) need to be considered, and also whether levels of contributions are affecting take-up**
- **the government or ICCAN to issue new guidance to airports on best practice for noise insulation schemes, to improve consistency**
- **for airspace changes which lead to significantly increased overflight, to set a new minimum threshold of an increase of 3dB LAeq, which leaves a household in the 54dB LAeq 16hr contour or above as a new eligibility criterion for assistance with noise insulation**

Support regional growth and connectivity

4.3 The government has also confirmed that it is supportive of airports beyond Heathrow making best use of their existing runways, subject to proposals being assessed in light of environmental and economic impacts.'

Airports National Policy Statement (ANPS)

2.35 No reference is made to relevant text within the ANPS. For example:

*‘1.39 On 21 July 2017, the Government issued a call for evidence on a new Aviation Strategy. **Having analysed the responses, the Government has confirmed that it is supportive of airports beyond Heathrow making best use of their existing runways. However, we recognise that the development of airports can have positive and negative impacts, including on noise levels. We consider that any proposals should be judged on their individual merits by the relevant planning authority, taking careful account of all relevant considerations, particularly economic and environmental impacts.**’*

Noise

Introduction

*5.44 **The impact of noise from airport expansion is a key concern for communities affected, and the Government takes this issue very seriously. High exposure to noise is an annoyance, can disturb sleep, and can also affect people’s health. Aircraft operations are by far the largest source of noise emissions from an airport,** although noise will also be generated from ground operations and surface transport, and during the construction phase of a scheme.*

5.45 Aircraft noise is not only determined by the number of aircraft overhead, but also by engine technologies and airframe design, the paths the aircraft take when approaching and departing from the airport, and the way in which the aircraft are flown.

Decision making

5.67 The proposed development must be undertaken in accordance with statutory obligations for noise. Due regard must have been given to national policy on aviation noise, and the relevant sections of the Noise Policy Statement for England, the National Planning Policy Framework, and the Government’s associated planning guidance on noise. However, the Airports NPS must be used as the primary policy on noise when considering the Heathrow Northwest Runway scheme, and has primacy over other wider noise policy sources.

5.68 Development consent should not be granted unless the Secretary of State is satisfied that the proposals will meet the following aims for the effective management and control of noise, within the context of Government policy on sustainable development:

- **Avoid significant adverse impacts on health and quality of life from noise;**
- **Mitigate and minimise adverse impacts on health and quality of life from noise; and**
- **Where possible, contribute to improvements to health and quality of life.**

Air Navigation Guidance 2017 (ANG)

2.36 The Planning Statement references the ANG objective to ‘ensure that aviation can continue to make its important contribution to the UK economy and at the same time seek to improve the sustainable development and efficiency of our airspace.’

2.37 What the Planning Statement fails to recognise is that one of the other three key objectives of ANG is to:

‘emphasise that the environmental impact of aviation must be mitigated as much as is practicable and realistic to do so.’

2.38 The Planning Statement fails to reference other relevant aspects of ANG. For example:

Assessing the noise implications of proposed airspace changes

3.4 As stated in section 1.2(a) of this guidance, one of the government’s three key environmental objectives is to limit and, where possible, reduce the number of people in the UK significantly affected by adverse impacts from aircraft noise.

3.5 For the purpose of assessing airspace changes, the government wishes the CAA to **interpret this objective to mean that the total adverse effects on people as a result of aviation noise should be limited and, where possible, reduced, rather than the absolute number of people in any particular noise contour.** Adverse effects are considered to be those related to health and quality of life. There is no one threshold at which all individuals are considered to be significantly adversely affected by noise. **It is possible to set a Lowest Observed Adverse Effect Level (LOAEL) that is regarded as the point at which adverse effects begin to be seen on a community basis.** As noise exposure increases above this level, so will the likelihood of experiencing an adverse effect. In line with this increase in risk, the proportion of the population likely to be significantly affected can be expected to grow as the noise level increases over the LOAEL. **For the purposes of assessing and comparing the noise impacts of airspace changes, the government has set a LOAEL of 51dB LAeq16hr for daytime noise and 45dB LAeq8hr for night time noise and the CAA should ensure that these metrics are considered.**

3.11 For communities further away from airports that will not be affected by noise above the LOAELs identified above, it is important that other aspects of noise are also taken into account where the total adverse effects of noise on people between different options are similar. **Metrics that must be considered for these purposes include the overall number of overflights and number above metrics: N65 for daytime noise and N60 for night time noise.** The CAA’s overflights metric is a means of portraying those locations where residents will experience being overflown. These supplementary metrics must also be used to inform communities about the likely impact of proposed changes.

3.12 The CAA should also verify that sponsors have used any other noise metrics that may be appropriate for allowing communities to understand the noise impacts that could result from the proposed change. This could include the use of 100% mode contours for average noise or frequency-based metrics, or consideration of the

interaction with other sources of aircraft noise, such as those from other local airports.

Introduction

4.1 For communities living close to airports, and some further away under arrival and departure routes, aircraft noise is one of the most important environmental impacts created by the aviation sector. **The government's long-term view, most recently expressed in the 2013 Aviation Policy Framework, is that there must be a fair balance between the economic benefits derived from the aviation industry, and the negative impacts of noise for affected communities. The benefits of any future growth in aviation and/or technological development must be shared between those benefitting from a thriving aviation industry and those close to the airports that experience its impacts.**

Beyond the Horizon The Future of UK Aviation – Making best use of existing runways June 2018

2.39 No reference is made within the Planning Statement to Government policy contained within 'Beyond the Horizon The Future of UK Aviation – Making best use of existing runways', which contains some very relevant policy context for this planning application. For example:

'1.5 The Aviation Strategy call for evidence set out that government agrees with the Airports Commission's recommendation and was minded to be supportive of all airports who wish to make best use of their existing runways, including those in the South East, subject to environmental issues being addressed. The position is different for Heathrow, where the government's proposed policy on expansion is set out in the proposed Airports NPS.

Call for evidence response summary

1.6 The Aviation Strategy call for evidence document asked specifically for views on the government's proposal to support airports throughout the UK making best use of their existing runways, subject to environmental issues being addressed.

.....
1.8 The main issues raised included the need for environmental issues such as noise, air quality, and carbon to be fully addressed as part of any airport proposal; the need for improved surface access and airspace modernisation to handle the increased road / rail and air traffic; and clarification on the planning process through which airport expansion decisions will be made.

Role of local planning

1.9 Most of the concerns raised can be addressed through our existing policies as set out in the 2013 Aviation Policy Framework, or through more recent policy updates such as the new UK Airspace Policy or National Air Quality Plan. **For the majority of environmental concerns, the government expects these to be taken into account as part of existing local planning application processes. It is right that decisions on the elements which impact local individuals such as noise**

and air quality should be considered through the appropriate planning process and CAA airspace change process.

1.10 Further, local authorities have a duty to consult before granting any permission, approval, or consent. This ensures that local stakeholders are given appropriate opportunity to input into potential changes which affect their local environment and have their say on airport applications.

Local environmental impacts

1.22 The government recognises the impact on communities living near airports and understands their concerns over local environmental issues, particularly noise, air quality and surface access. 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.

1.23 For the majority of local environmental concerns, the government expects these to be taken into account as part of existing local planning application processes.

1.24 As part their planning applications airports will need to demonstrate how they will mitigate local environmental issues, which can then be presented to, and considered by, communities as part of the planning consultation process. This ensures that local stakeholders are given appropriate opportunity to input into potential changes which affect their environment and have their say on airport applications.

Policy statement

1.25 As a result of the consultation and further analysis to ensure future carbon emissions can be managed, **government believes there is a case for airports making best of their existing runways across the whole of the UK.....**

1.26 Airports that wish to increase either the passenger or air traffic movement caps to allow them to make best use of their existing runways will need to submit applications to the relevant planning authority. We expect that applications to increase existing planning caps by fewer than 10 million passengers per annum (mppa) can be taken forward through local planning authorities under the Town and Country Planning Act 1990. As part of any planning application **airports will need to demonstrate how they will mitigate against local environmental issues, taking account of relevant national policies, including any new environmental policies emerging from the Aviation Strategy.** This policy statement does not prejudge the decision of those authorities who will be required to give proper consideration to such applications. It instead leaves it up to local, rather than national government, to consider each case on its merits.

1.29 Therefore the government is supportive of airports beyond Heathrow making best use of their existing runways. However, we recognise that the development of airports can have negative as well as positive local impacts, including on noise levels. We therefore consider that any proposals should be

judged by the relevant planning authority, taking careful account of all relevant considerations, particularly economic and environmental impacts and proposed mitigations. This policy statement does not prejudge the decision of those authorities who will be required to give proper consideration to such applications. It instead leaves it up to local, rather than national government, to consider each case on its merits.'

A Green Future: Our 25 Year Plan to Improve the Environment November 2017 HMG

2.40 No reference is made to the Government's 25 Year Plan, which states:

*'Over the next 25 years, we must significantly cut all forms of pollution and ease the pressure on the environment. **We must ensure that noise and light pollution are managed effectively.***

4.2 National planning and aviation policy conclusions

2.41 The first paragraph states that *'The NPPF does however recognise that in some cases, the benefits to one of the three objectives of sustainable development may give rise to consequential negative effects upon another. However, it might be considered that the wider need for the development and specific local circumstances may still justify a consent'*. The NPPF does not say this. What the NPPF does say is that the three objectives are interdependent and mutually supportive:

'8. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):.....'

2.42 This section does not present an adequate representation of national policy and guidance. From the above it is clear that Government national policy and guidance:

- is supportive of aviation growth and the economic benefits it generates.
- is supportive of airports making best use of their existing runways but recognises that development can have negative local impacts, including on noise levels. As such proposals need to be judged on their individual merits taking careful account of economic and environmental impacts.
- there must be a fair balance between the economic benefits derived from the aviation sector and the negative impacts of noise for affected communities.
- managing increased demand will require a new partnership between the government, the industry, the regulator and communities that balances the economic benefits of growth with its impact on communities and the environment.
- the UK must be more ambitious on environmental protection to ensure that growth is sustainable.
- industry must show continuing commitment to noise reduction and mitigation as part of its contribution to the partnership for sustainable growth.
- development should contribute to and enhance the natural and local environment by preventing new and existing development from contributing or being

put at unacceptable risk from or being adversely affected by unacceptable levels of noise pollution.

- the overall noise policy objective is to limit and where possible reduce the number of people in the UK significantly affected by aircraft noise, but this is moving towards a new objective to limit and where possible reduce the total adverse effects on health and quality of life from aviation noise.
- the setting of noise caps on planning approvals should provide certainty over noise levels to communities.
- the 57dB LAeq 16 hour contour is the average noise level of daytime noise marking the approximate onset of significant community annoyance.
- people do not experience noise in an averaged manner and recommend that average noise contours should not be the only measure used to explain how locations under flight paths are affected by aircraft noise. Encouragement of the use of alternative measures.
- the costs on local communities are higher from aircraft noise during the night, particularly the health costs associated with sleep disturbance. Government expects the industry to make extra efforts to reduce and mitigate noise from night flights.
- airport operators to offer acoustic insulation to noise-sensitive buildings exposed to levels of noisier of 63 dB LAeq or more. Where insulation cannot provide an appropriate or cost-effective solution, alternative mitigation measures should be offered. Government is moving towards lowering this threshold to 60dB LAeq 16hr.
- avoid significant adverse impacts on health and quality of life from noise, mitigate and minimise adverse impacts and where possible contribute to improvement of health and quality of life through effective management and control of noise.
- the Lowest Observed Adverse Effect Level should be taken to be 51 for day and 45 for night.
- increasing noise exposure will at some point cause the Significant Observed Adverse Effect Level (SOAEL) boundary to be crossed. Above this level the noise causes a material change in behaviour. The planning process should be used to avoid this effect occurring, by use of appropriate mitigation.
- For communities further away from airports that are not affected by LOAEL, metrics must include the overall number of overflights and number above metrics (N65 for daytime and N60 for night time).

4.3 The development plan

2.43 Given that the noise impacts of the Airport and of this planning application are felt much further afield than the administrative boundary of the LBC, the County Council would have expected the Planning Statement to have reviewed and summarised any relevant development plan policies in the wider sub region (Local Plans and Neighbourhood Plans). By way of example:

Stevenage Local Plan

'Policy FP7: Pollution

All development proposals should minimise, and where possible, reduce air, water, light and noise pollution. Applications for development where pollution is suspected

must contain sufficient information for the Council to make a full assessment of potential hazards and impacts.

Planning permission will be granted when it can be demonstrated that the development will not have unacceptable impacts on:

- a. The natural environment, general amenity and the tranquillity of the wider area, including noise and light pollution;*
- b. Health and safety of the public; and*
- c. The compliance with statutory environmental quality standards.*

13.41 *Air, water, light and noise pollution arising from new development can individually and cumulatively have a significantly damaging impact on the countryside, on peoples' living environment and on wildlife. Whilst lighting is desirable for safety, recreation and the enhancement of some buildings, inappropriate lighting can cause sky glow, glare and light spill and represents energy waste.*

13.42 *We will seek to ensure that levels of pollution are kept to a minimum and are acceptable to human health and safety, the environment and the amenity of adjacent or nearby land users. Environmental Health legislation regulates many forms of pollution, but it is clearly preferable to prevent conflict from new development arising in the first place. The weight given to each criterion will depend on the particular circumstances and relevant control authorities will be consulted as necessary.*

Policy FP8: Pollution sensitive uses

Planning permission for pollution sensitive uses will be granted where they will not be subjected to unacceptably high levels of pollution exposure from either existing, or proposed, pollution generating uses. Planning permission in areas having the potential to be affected by unacceptable levels of aircraft noise will be subject to conditions or planning obligations to ensure an adequate level of protection against noise impacts.

13.45 *Pollution sensitive uses, such as housing, schools and hospitals, should ideally be separated from pollution generating uses, such as industrial units and airports, wherever possible.*

13.46 *Stevenage is located in close proximity to London Luton Airport and is, therefore, affected by aircraft noise generated from it. The direction of the runway means that some planes fly over Stevenage to take off and land. However, national guidance defines the levels of noise experienced as being acceptable. An application has been granted for work to facilitate the growth of London Luton Airport. This would see the airport cater for up to 18 million passengers per annum before the end of our Local Plan period.*

13.47 *Noise contours identified in the London Luton Noise Action Plan, 2013 - 2018, extend in close proximity to the western extent of the proposed development west of Stevenage. Development in this area, particularly, will need to ensure that any noise impacts are mitigated.'*

Dacorum Core Strategy 25th September 2013

'Pollution and Waste Management

18.33 *The planning system plays a key role in the location and standard of development. Together with other consent regimes and processes, it can limit the impact of (and prevent) polluting emissions – i.e. noise, light, fumes, chemicals, noxious and hazardous substances and waste in general. Standards set nationally should continue to be achieved. When standards become more stringent, efforts must be made to enhance the quality of the air, water and/or soils.*

18.34 *In Dacorum special consideration needs to be given to:*

- *the quality of the groundwater supplying the chalk aquifer;*
- *protecting the habitat and biodiversity of chalk streams;*
- *the maintenance of higher quality agricultural areas and the sand and gravel belt;*
- *limiting the effects of noise and air pollution along major routes (i.e. road, rail and aircraft from Luton Airport);*
- *retaining tranquil parts of the Chilterns Area of Outstanding Natural Beauty and Boarscroft Vale; and*
- *the risks associated with Buncefield Oil Terminal.*

18.35 *The planning system has a role to play in the minimization of waste at or near source and in the disposal of household, commercial and construction waste. Unnecessary waste should be reduced and managed nearer to its source. To avoid unnecessary waste going to landfill sites, developers will be expected to avoid potentially polluting developments, the creation of additional waste, and the location of new development near existing sources of pollution. Where waste is unavoidable it will need to be transferred and managed. Waste recycling and management will be appropriate in many General Employment Areas. New facilities may be provided through the relocation of the existing Household Waste Recycling Centre and Waste Disposal Centre in East Hemel Hempstead.*

.....

POLICY CS32: Air, Soil and Water Quality

Development will be required to help:

- (a) support improvements in identified Air Quality Management Areas and maintain air quality standards throughout the area;*
- (b) maintain soil quality standards and remediate contaminated land in line with Environment Agency, Defra and Natural England guidance; and*
- (c) improve water quality standards in line with the Water Framework Directive, Environment Agency and Natural England guidance.*

Any development proposals which would cause harm from a significant increase in pollution (into the air, soil or any water body) by virtue of the emissions of fumes,

particles, effluent, radiation, smell, heat, light, noise or noxious substances, will not be permitted.

Advice on the storage and handling of hazardous substances will be taken from the Health and Safety Executive.'

North Hertfordshire District Council Local Plan 2011-2031 Proposed Submission October 2016

'Policy SP19: Sites EL1, EL2 and EL3 – East of Luton

Land to the east of Luton, as shown on the Proposals Map, is allocated as a Strategic Housing Site for a new neighbourhood of approximately 2,100 homes.

Planning permission for residential-led development will be granted where the following site-specific measures requirements are met:

.....
j. Appropriate noise mitigation measures, to potentially include insulation and appropriate orientation of living spaces;

.....

4.224 The site is in close proximity to the Luton Airport noise corridors and mitigation measures may be required, particularly towards the south-east of the site which lies closest to the flight path.

King's Walden

Infrastructure and mitigation

13.180 Breachwood Green is located on the approach and departure flightpaths from Luton airport and any schemes will need to demonstrate that noise issues have been appropriately addressed and that internal noise levels within any new homes are within relevant guideline levels.

Policy D3: Protecting living conditions

Planning permission will be granted for development proposals which do not cause unacceptable harm to living conditions.

Where the living conditions of proposed developments would be affected by an existing use or the living conditions of an existing development would be affected by a proposed use, the Council will consider whether there are mitigation measures that can be taken to mitigate the harm to an acceptable level. If the Council is not satisfied that mitigation proposals would address the identified harm, development proposals will not be permitted.

9.19 All development has the potential to have an adverse impact on its neighbours, in a wide variety of ways. Such harm may arise from traffic generation, parking, loss

of daylight and sunlight, noise, overlooking, pollution (including light pollution) and dominance as well as other issues.

9.22 There are two ways mitigation may occur. Either the development can incorporate measures to reduce the effect it has, or it can fund works off site to reduce the impact on those affected by it. This latter course of action may be appropriate for development such as the expansion of airfields, where there will inevitably be an increase in noise, but it may be possible to provide sound protection to those buildings affected by that noise.'

Noise and Vibration

5.47 Noise can have a detrimental effect on the environment and on quality of life. PPG 24 'Noise' provides guidance on the use of planning powers to minimise the adverse impact of noise. In accordance with that advice the Council will seek to ensure that noise-sensitive developments, such as housing, are separated from major sources of noise. It will also seek to ensure that new development with a potential for causing noise nuisance is sited away from noise-sensitive land uses, both existing and known proposed developments. Noise can be accompanied by vibration that can cause disturbance. British Standard 6472:1992 will be used to evaluate exposure to vibration in buildings. The Council has powers under Environmental Health legislation in respect of statutory noise nuisances.

5.48 In considering proposals for development the Council will take into account:

- Possible future increases in noise levels;*
- That the introduction of noisy activities into some residential and rural areas can be especially disruptive because of their existing very low background noise levels;*
- That intermittent sources of noise can be more disruptive than constant sources;*
- That particular difficulties are posed by fast food restaurants, public houses, night clubs etc, both from noise generated within the establishments and by customers in the vicinity, traffic and parking, especially in view of their evening and late night activity;*
- That whilst design measures such as orientation, layout and double-glazing can reduce noise levels within buildings, such measures are less effective in reducing the level of noise experienced in public or private amenity areas.'*

Welwyn Hatfield District Plan 2005

'Policy R19 - Noise and Vibration Pollution

Proposals will be refused if the development is likely:

- i. To generate unacceptable noise or vibration for other land uses; or*
- ii. To be affected by unacceptable noise or vibration from other land uses.*

Planning permission will be granted where appropriate conditions may be imposed to ensure either:

- iii. *An adequate level of protection against noise or vibration; or*
- iv. *That the level of noise emitted can be controlled.*

Proposals should be in accordance with the Supplementary Design Guidance.'

The East Herts District Plan 2018

'24 Environmental Quality

24.1 Introduction

24.1.1 The control of pollution is critical to achieving the District Plan's strategic objectives by promoting healthy lifestyles and an enhanced quality of life for residents and visitors to the district. Pollution control through development also plays a significant role in planning for climate change and working in harmony with the environment to conserve natural resources and increase biodiversity.

24.1.2 Proposals for all types of development must therefore take into account nearby land uses to ensure that the right development is located in the right place across the district, in order to safeguard the quality of the environment. Policies relating to water quality and water pollution are contained within Chapter 23: Water.

.....

24.3 Noise Pollution

24.3.1 The impact of noise on the environment can be detrimental to health and quality of life. There is therefore a need to control the introduction of noise sources into the environment, as well as ensuring that new noise sensitive development is located away from existing sources of significant noise.....

Policy EQ2 Noise Pollution

I. Development should be designed and operated in a way that minimises the direct and cumulative impact of noise on the surrounding environment. Particular consideration should be given to the proximity of noise sensitive uses, and in particular, the potential impact of development on human health.

II. Applications should be supported by a Noise Assessment in line with the Council's Noise Assessment Planning Guidance Document.

III. Noise sensitive development should be located away from existing noise generating sources or programmed developments where possible to prevent prejudicing the continued existing operations. The use of design, layout, landscaping tools and construction methods should be employed to reduce the impact of surrounding noise sources.'

London Luton Airport Development Brief September 2001

2.44 This Development Brief is out of date and is no longer listed by LBC as Supplementary Planning Guidance:

[https://www.luton.gov.uk/Environment/Planning/Planning%20applications%20\(Building%20Control\)/Planning%20application%20forms%20and%20validation%20guidance/Supplementary%20planning%20documents/Pages/default.aspx](https://www.luton.gov.uk/Environment/Planning/Planning%20applications%20(Building%20Control)/Planning%20application%20forms%20and%20validation%20guidance/Supplementary%20planning%20documents/Pages/default.aspx)

2.45 Nevertheless, some of the more relevant aspects of the Brief not included in the Planning Statement include:

'Non-Technical Summary

.....

Growth in business at LLA will assist the economy of the Luton and Dunstable conurbation which is one of the South East's Priority Areas for Economic Regeneration.

.....

Current Government policy on airports **supports demand-led growth within acceptable environmental limits**. This policy is now under review. Various options for addressing airport development in the South East and throughout the country are under consideration.

Within the Brief LLAOL advocates a "capacity approach" to environmental management, which allows the company greater flexibility and creativity in meeting the agreed thresholds than controls on passenger throughput. That system is essentially the method in operation with the current Phase 1 developments and LLAOL believes that this approach will foster development of the airport in a manner that combines economic and social benefits, with environmental responsibility.

The London Luton Airport Development Brief outlines a future form for the airport in which the benefits of its **future expansion can be shared between the operating company, the local community, and the travelling public, in an environmentally responsible manner.**

8.6 Airports are major generators of local employment and wealth, and **growing airports impact positively by providing more jobs, greater economic growth, and continued local investment and partnership.**

8.7 **Airports also bring with them a number of other environmental and community impacts**, including impacts on water, air and soil quality; noise; local transport system; landscape and ecology, and demand on utilities. In general, growing airports are likely to cause growing impacts, although the rate of growth of each impact will differ.

8.16 Since LLA is located very close to a major conurbation, **aircraft noise and its impact on local communities has been, and will continue to be, the most significant environmental impact**. Of rising importance are the issues of surface transport; air quality; and ecology. Improvements to these aspects, plus waste and

energy management, emissions to water, air and land, and chemicals handling, are targeted within the LLAOL Environmental Management System (EMS) summarised later.

8.42 The most useful policy element on sustainable development for the Brief is contained in the World Bank definition of 1991, where it is stated that the **rate of pollution emission should not exceed the assimilative capacity of the environment.**

8.43 This then relates to the previous section on environmental capacity; **the non-excedence of agreed limits on environmental capacity implies that one component of sustainable development (under the World Bank definition) is thereby achieved.**

8.58 **Sustainable airport development can be attained by the non-excedence of agreed limits on environmental capacity (under the World Bank definition); and by balancing economic, social and environmental considerations (UK Government strategy for sustainable development).**

ENVIRONMENTAL CAPACITY

9.21 The principle of Environmental Capacity is explored in Chapter 8 above and is specifically detailed in terms of noise issues in Appendix B.

9.22 The concept that **noise is an issue in terms of sustainable development** is being addressed by the Government's Round Table on Sustainability, **as one of the environmental concerns that must be considered in balancing the economic, social and environmental effects of development. This suggests that in creating economic or social benefits from a development, such as the expansion of LLA, some environmental burden will result.**

9.23 The principle being adopted by LLAOL is that seeking this balance will be one of the key criteria that will provide the framework for any ES to accompany a future planning application.'

9.24 The ES to accompany the future planning application will fully assess noise impact of both ground and air activities.

9.25 In terms of air noise it is anticipated that LLAOL will use the INM model and, following Government criteria together with 'best practice' that has arisen from the Heathrow and Manchester proposals, the assessment will:

9.25.1 develop day and night noise contours for air traffic using both easterly and westerly modes;

9.25.2 enable comparison with both the 1984 noise levels and the relevant current (baseline) levels; and

9.25.3 assess the impact at specific locations to be agreed with the local authorities.

9.26 Full use would be made of the data obtained from the fixed and mobile monitors to assist with the assessment process.

9.27 The use of potential mitigation measures for all forms of noise impacts will be considered in relation to the specific forecast noise impact. **Appropriate measures will be proposed directed at addressing any predicted significant impact whilst taking into account the principles of sustainability.**

London Luton Airport Operations Limited Revised Masterplan document Consultation prior to submission of planning application - London's local airport – September 2012

2.46 No reference is made within the Planning Statement to the latest up to date masterplan for the Airport dated September 2012. This was the framework within which the original planning application was made and consent granted. The Noise and Vibration section of the masterplan is particularly relevant.

'Noise and vibration

9.27 **The management and control of noise continues to be a major element of the Airport's policy of seeking to be the best neighbour it can be.** *The Airport's approach to noise management was recently reviewed, and led to the production of the Luton Airport Noise Action Plan 2010-2015 (NAP), which was approved by the DfT and Defra. In its recent consultation on airport development, LLAOL made clear that the 55 action items identified in the approved NAP should be developed and supplemented to address "possible" future noise impacts. The NAP therefore forms the first part of the approach to noise management contained in this revised masterplan and will be reviewed on a five yearly cycle. However, LLAOL has identified six new initiatives all designed to supplement the content of the NAP with the intention of both reducing and mitigating airport related noise. These initiatives also respond to the consultation undertaken in Spring 2012 and are described below.*

9.28 **A key issue for LLAOL is to minimise and manage all noise but in particular night noise. Future aircraft operations are likely to be inherently less noisy as a result of re-engining of the fleet at Luton, in particular the Boeing 737 and Airbus A320 family of aircraft. However, the timing of these changes is not certain.** *As a result, LLAOL seeks to deliver improvements that will be effective regardless of fleet mix. Figure 9.4 highlights certain current NAP actions, and those supplementary measures (in italics) we now propose, which are related to the planning application to grow the Airport to accommodate 18 mppa.*

9.29 **The development and inclusion of supplementary measures, are proposed in order to minimise noise impact from the proposed growth of the Airport. The measures will be subject to regular review such that future changes can be incorporated if found beneficial. It is anticipated that the measures will be incorporated into conditions and/or a section 106 agreement associated with the grant of any planning permission.**

9.30 Together these measures constitute a robust and comprehensive approach, responding to the government's clearly stated objective of achieving tougher noise management regimes at airports.'

Noise Action Plan 2019-2023

2.47 No reference is made within the Planning Statement to the Noise Action Plan for the Airport, which has been approved by DEFRA. Particularly relevant extracts from the Noise Action Plan include:

'London Luton Airport is committed to being a good neighbour and endeavours to minimise the impact of its operations on local communities. Continued and enhanced consultation with the community is essential so that an appropriate balance can be struck between the socio-economic benefits of airport operations and its environmental impacts. This Noise Action Plan, once adopted by DEFRA, will provide a meaningful framework for London Luton Airport and its Consultative Committee to build upon its established approach to the proactive management of aircraft noise in and around the airport.'

'Framework for Noise Management

*Demand for air travel across the UK is increasing rapidly. In response to increased demand, we are making the biggest investment in LLA's history to transform the airport. The redevelopment of our terminal will bring huge benefits for passengers, but it is vitally important to us that the local community also shares in the success of the airport. **At LLA, our aim is always to work constructively with the local community and our partners to strike the right balance between maximising the positive social and economic benefits to the local area and the UK as a whole while minimising the impact of aircraft noise.***

*Once the current development is complete, LLA will contribute £1.4billion per year to the local economy and £2.3billion nationally. By 2031 we expect to support over 37,700 jobs, which on average pay £11,000 per year more than the national average wage. **But we recognise that the airport's growth may give rise to questions about noise levels. LLA already operates under the most stringent noise restrictions of any major UK airport. But we are continually looking to do more. As the airport continues its growth and development, we are evolving our approach to noise management and this can be seen through the development of our Noise Action Plan.***

*'.....This plan details our actions over a five year period (2019-2023) and the policy framework that would support these actions. **It is aligned with London Luton Airport's S106 Legal Agreement (2014) with Luton Borough Council which outlines how the airport's operation, growth and environmental impacts will be managed responsibly and laid the foundation of our Noise Action Plan.***

'Action ref 3.4 We will operate within our agreed contour area limits'

'KP3 Population inside 45dB LAeq (8hr) Night time contour – limit and where possible reduce the population within the contour over the course of the action plan.'

4.4 Development plan conclusion

2.48 The Planning Statement presents a poor reflection of the conclusions that should be reached from analysis of the development plan and local documents associated with it/of relevance.

2.49 The Luton Local Plan supports the safeguarding of LLA's existing operations and its sustainable growth over the Plan period based on its strategic importance in support of Luton's important sub-regional role, subject to a range of criteria, the most relevant of which are:

- that they are directly related to the use of the Airport.
- must comply with national policy.
- are in accordance with an up-to-date masterplan published and adopted by LBC.
- would not adversely affect the amenities of surrounding occupiers or the local environment.
- achieve further reduction or no increase in day or night time noise in accordance with any imposed planning condition or otherwise cause excessive noise and be in accordance with the Airport's most recent Noise Action Plan.
- include noise control, monitoring and management scheme that ensures the current and future operations are fully in accordance with the policies of the Local Plan and planning permission.
- include proposals which will over time result in a significant diminution and betterment of the effects of aircraft operations on the amenity of local residents through measures to include fleet modernisation.

2.50 In addition the Luton Local Plan requires proposals to demonstrate they will not result in significant adverse effects, including noise, on neighbouring development.

2.51 Relevant policies in adjoining local plans seek to minimise and protect the impact of the Airport on development in their areas and policies relating to noise generally seek to reduce noise pollution and keep it to a minimum, to levels acceptable to human health and safety and refusal of proposals that would cause harm from a significant increase in noise pollution.

2.52 The masterplan for the Airport stresses that the management and control of noise continues to be a major element of the Airport's policy of seeking to be the best neighbour it can be. The key issue is to minimise and manage all noise, but in particular night noise.

2.53 The NAP approved by DEFRA contains specific commitments to operate within agreed contour area limits and to limit and where possible reduce the population within the night time contour over the course of the plan.

5.6 Economic Impacts

Economic contributions/Passenger forecasts

2.54 This analysis simply repeats generic economic statements at a strategic level and are of very little relevance to this planning application.

Economic impacts of no variation

2.55 No evidence is presented that the original economic benefits of the planning application as assessed and judged when planning permission was granted will not be forthcoming. It must therefore be assumed that all these economic gains will ultimately materialise.

2.56 The alleged economic disbenefits presented are the direct consequence of irresponsible management of the operations of the Airport and are not robustly quantified.

6. Section 106 deed of variation

2.57 For the reasons set out in paragraph 4.5 the proposed sound insulation mitigation is entirely insufficient in its scale and completely ineffective in mitigating against the significant impacts arising.

7. Planning balance/8. Conclusion

2.58 For the reasons set out in section 4, the alleged planning balance and conclusion set out in these sections is considered to be inadequate and wrong.

3. The Planning Application - The Environmental Statement (ES)

3.1 The ES states that:

2.2 Consideration of alternatives

'Alternatives to varying Condition 1 have not been considered as part of this assessment. A 'do-nothing' scenario would mean that the airport operates in line with the 2012 consented scheme, already assessed within the 2012 ES but would result in either an unacceptable economic impact resulting from restrictions that would be placed on operators or repeated breaches of Condition 10.

Only where alternatives have been considered do they need to be assessed. As no reasonable alternatives to the proposed variation to Condition 10 have been considered by the Client, this ES is compliant with the requirements relating to alternatives under the EIA Regulation.'

3.2 The County Council is of the view that the applicant should indeed have considered at least one obvious reasonable alternative – one involving the applicant reversing its irresponsible behaviour and scaling back its operations to a point that would bring it within the terms of the planning consent, not breaching Condition 10. Had this reasonable alternative been considered and assessed, it would have been possible for the ES to have assessed that alternative and meaningfully compared it with the proposal the subject of this planning application.

3.3 Without this alternative the ES fails to present a picture of the socio-economic consequences of restricting operations.

3.4 *'...but would result in either an unacceptable economic impact resulting from restrictions.....'* - without an assessment of the economic consequences of continuing with the present restrictions compared to the economic benefits of approval of this application it is impossible for the applicant to claim that there will be an *'unacceptable economic impact'* or for the decision maker to assess whether there will be. Moreover, only when armed with this information can the local planning authority itself reach any reasonable conclusion.

5. Legislative and policy overview

3.5 For the reasons set out in section 2 the planning context for the planning application is inadequate.

6. Topics Scoped-out of Further Assessment

6.8 Traffic and transport

3.6 It is true that this planning application does not introduce any additional total vehicular movements on the highways network in addition to those assessed as part of the original planning application and the mitigation measures introduced into the planning consent. However, the applicant should also be required to present a

rationale (and evidence if necessary) for why the enhanced rate in growth of the Airport in excess of that assumed when the original planning permission was granted does not impact upon the original surface access assessment and mitigations secured.

Section 7. Noise

3.7 The County Council welcomes the advice secured by LBC with regard to the noise implications of the proposal and the analysis provided and conclusions reached. The County Council broadly supports the findings of that advice.

Mitigation Hierarchy

3.8 The Environmental Statement should have considered more explicitly as a matter of standard practice, the mitigation hierarchy, namely ensuring that the key focus of mitigation actions are on:

- preventative measures that avoid the occurrence of environmental impacts and thus avoid harm or even produce positive outcomes.
- measures that focus on managing the severity and the duration of the impacts.
- compensatory mitigation of those impacts that are unavoidable and cannot be reduced further.

3.9 It is unclear if or how this hierarchy has been deployed in order to minimise the extent of the breach of condition 10 now proposed. It is also unclear as to how the compensatory mitigation (an additional for noise insulation £100,000) has been arrived and whether this will be sufficient.

4. The County Council's position

4.1 The planning application focusses on two main planning issues that need to be accounted for in coming to a view on the planning application – economic and noise. The County Council would agree with this – they are two key themes running through policy and guidance at both local and national level. Given their fundamental importance in the interpretation of policy in determining this application, the County Council's position is as follows:

Economy

4.2 The County Council is of the view that:

- the economic benefits associated with the original planning application were a key consideration in the decision to grant planning permission for the growth of the Airport.
- the application does not contain any evidence to indicate that the economic benefits originally envisaged will not materialise were this planning application to vary condition 10 refused. It must therefore be assumed these will still be forthcoming.
- the application suggests that there will be adverse economic consequences were permission not to be granted for a variation of Condition 10. But these economic consequences are generic in nature, not robustly quantified or evidenced, and in part appear to amount to the applicant having had a discussion with businesses operating at the Airport. Neither the Planning or the Environmental Statement robustly quantify the economic implications of:
 - scaling back operations to remedy the breach.
 - managing future operations to ensure no further breach occurs.
 - allowing the Airport to vary condition 10.
- any economic consequences of refusal of the planning application would be the direct responsibility of the failure of the applicant to manage the operation of the Airport in accordance with the terms of the planning consent.
- the applicant makes a rather sweeping claim that the economic benefits can compensate for the health effects of increased noise as '*the continued economic benefits to the local communities that the airport would generate if the proposal were approved would bring health benefits in themselves through improved lifestyles and living conditions.*' This is very high level and unevidenced.
- the Airport will have operated in the full knowledge that remedying breaches in in planning control would have economic consequences, and will presumably have fully accounted for this in its forward-looking financial planning/business management.

4.3 The County Council is strongly of the view that the 'case' presented in relation to the economic benefits of the proposal (or the economic disbenefits of regularising the breach of planning control) have not been robustly assessed and cannot be relied upon in any way as a justification for overriding the significant environmental consequences of the proposal. A proper robust economic impact assessment is required which should look at the impact of approval as against refusal on the basis usual economic indicators including job creation and GVA generated by the Airport during the years where the restriction could limit ATMs, etc.

Noise

4.4 The County Council welcomes the commissioning by the LPA of expert specialist aviation noise advice to assist it in coming to a suitably informed position on the planning application. The County Council is broadly supportive of these findings, which in summary are:

'We therefore believe that the noise assessment reported in the ES is inadequate in that it does not provide a sufficient description of the adverse effects likely to arise and offers no effective means of mitigating significant adverse effects.

We reach this view in the context of the government's policy regarding the use of noise envelopes, namely that they give local communities certainty about the levels of noise they can expect in the future. That certainty has clearly vanished given that breaches of the night-time noise envelope have already occurred, and this application now seeks to formalise a position whereby breaches are effectively permitted for a number of years.

In supporting such an application, we would expect the ES to clearly describe the full implications of the noise changes. It should then go on to set out what practical and effective measures can be implemented to mitigate or compensate for noise levels that are higher than the affected community had a right to expect. In our opinion it fails to deliver on either of these counts. Instead it gives the impression that since predicted noise level changes are small, and people in the surrounding areas will therefore hardly notice, minor tweaks to operational controls and a completely ineffective change to the sound insulation grant scheme are all that are required to make it acceptable.

We do not consider that to be an adequate position given that the application tests the robustness of an important strand of government policy on aviation noise.'

4.5 Specifically, in relation to effects and mitigation the findings are:

Residential receptors

- during daytime the proposal would increase the number of dwellings exposed to noise levels above LOAEL constituting a likely adverse effect by 5,760 and 213 dwellings exposed to noise levels above SOAEL constituting a likely significant adverse effect.
- during night-time the proposal would increase the number of dwellings exposed to noise levels above LOAEL constituting a likely adverse effect by 5,893 and 470 dwellings exposed to noise levels above SOAEL constituting a likely significant adverse effect (but these figures could actually be 6,388 and 1,047 respectively).
- during the daytime the N65 contour at all values (25, 50, 100 and 200) would encompass a substantially increased number of dwellings with the value at 200 events increasing by 15,300%. No intelligence is provided on what this means, who is affected and what can be done about it.

- during the night dwellings are only affected at N60 values of 25 and 50 events, very substantial increases would arise.
- it is unacceptable to present such limited information about the N60 and N65 noise metric that can provide an important insight into the likely effects of the proposed changes. It is even more unacceptable to undertake no analysis and provide no commentary whatsoever on the implications of these changes.

Non-residential receptors

- the assessment of non-residential noise sensitive receptors is incoherent and cannot be accepted – it confuses impact for effect, no reference is made to the thresholds for significant effects and fails to anywhere near adequately identify receptors by type or assess them against assessment criteria.

Mitigation

Greater than SOAEL

- no changes are proposed to the existing Sound Insulation Grant Scheme (SIGS) beyond the enhanced contribution to funding of £100,000 per annum.
- the proposition that the existing SIGS with enhanced funding is sufficient to address the assessed significant adverse effects is fundamentally flawed.
- for daytime, the total cost of applying SIGS to all of the 213 dwellings newly exposed to SOAEL would cost £639,000 (higher when index linked). At a funding rate of £200,000 per annum it would take 3 years and 2 months to insulate all newly eligible properties.
- for night-time the situation is materially worse. The total cost of applying SIGS to all of the 1,047 dwellings newly exposed to SOAEL would cost £3,141,000 (higher when index linked). At a funding rate of £200,000 per annum it would take 15 years and 8 months to insulate all newly eligible properties.
- the enhanced funding proposed to protect dwellings affected will not be available by summer operations this year. Only if funds of more than £3 million had been made available in time to ensure that all residences newly affected by noise above the night-time SOAEL could have had sound insulation installed in advance of summer 2019 would SIGS have been a viable response to the forecast significant effects.

Greater than LOAEL

- the mitigation proposals to address the substantial numbers of people affected by aircraft noise above LOAEL do not appear to introduce anything substantive in addition to existing commitments/requirement.

4.6 The specialist noise advice to LBC does not comment upon the applicant's view:

'.....The proposed variation would.....cause an additional 470 dwellings to be within the SOAEL area than at present.....In effect, the noise increase

requested would comprise an increase of 1dB, which is unlikely to be distinguishable.....'

'.....the effect of moving properties from one noise threshold to another, whilst accepting that the new threshold is significant, would in practice result in a 1dB change in their day to day experience of noise.'

'whilst the change in noise levels may have some effects on human health, the impact is reported to be slight-moderate and measures to mitigate the impact are being provided.'

4.7 The County Council is of the view that whilst it may well be true that it is not possible to distinguish a 1db change in noise levels, this is of little relevance. What is relevant is that the increase results in individuals/communities being subjected to significant adverse noise impacts and that those generate health impacts up to moderately significant. Also, communities do not hear in averages, they perceive the peak noise of individual flights and numbers of flights. The adverse noise and health impacts cannot be mitigated for the reasons set out by LBC's noise advisers. In the absence of effective mitigation, potentially significant adverse health impacts arise.

4.8 Given this the County Council is strongly of the view that:

- the application is fundamentally flawed in its assessment of the noise impacts of the proposal.
- on the basis of evidence currently available, the scale of noise and health impacts on individuals/communities is totally unacceptable.
- the application fails to introduce any practical and effective mitigation against adverse noise and health impacts and is unable to do so.

The development plan and material considerations

4.9 To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise [section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004].

Development Plan

4.10 The development plan for this planning application is predominantly the Luton Local Plan 2011-2031 dated November 2017. This is the key policy context against which this planning application needs to be assessed. The development plan making up the wider sub-region over which the proposal would have impacts is also relevant.

Material considerations:

4.11 Material considerations are likely to include:

- National Planning Policy Framework

- Aviation Policy Framework
- National Planning Practice Guidance
- Aviation 2050: The Future of UK Aviation
- Beyond the Horizon The future of UK Aviation Making best use of existing runways
- Airports National Policy Statement
- A Green Future: Our 25 Year Plan to Improve the Environment
- Noise Policy Statement for England
- Air Navigation Guidance
- London Luton Airport Development Brief
- London Luton Airport Operations Limited Revised Masterplan
- Environmental Noise Directive Noise Action Plan 2019-2023 London Luton Airport

Development Plan

Luton Local Plan

Policy LLP6 - London Luton Airport Strategic Allocation

Airport Expansion

B. Proposals for expansion of the airport and its operation, together with any associated surface access improvements, will be assessed against the Local Plan policies as a whole taking account of the wider sub-regional impact of the airport. Proposals for development will only be supported where the following criteria are met, where applicable/appropriate having regard to the nature and scale of such proposals:

i. they are directly related to airport use of development;

4.12 The proposal is related to use of the Airport.

ii. they contribute to achieving national aviation policies;

4.13 For the reasons set out below in relation to compliance with national policy, the application is not consistent with LLP6 B. ii).

iii. are in accordance with an up-to-date Airport Master Plan published by the operators of London Luton Airport and adopted by the Borough Council;

4.14 The up-to-date Airport Master Plan has not been adopted by the Borough Council. Policy LLP6 B. iii) is not relevant.

iv. do not result in a significant increase in Air Transport Movements that would adversely affect the amenities of surrounding occupiers or the local environment (in terms of noise, disturbance, air quality and climate change impacts);

4.15 The proposal does not seek to increase Air Transport Movements above those contained within the extant planning permission. It does, however, seek to remedy a breach of planning control brought about by a significant rate of increase in Air Transport Movements in excess of those assumed when permission was granted. For the reasons set out in paragraphs 4.4-4.7 above this has resulted in the amenity of surrounding occupiers and the local environment being adversely affected. The proposal is contrary to LLP6 B. iv).

v. Achieve further noise reduction or no increase in day or night time noise in accordance with any imposed planning condition or otherwise cause excessive noise including ground noise at any time of the day or night and in accordance with the airport's most recent Airport Noise Action Plan;

4.16 The proposal is in contradiction to condition 10 of the planning consent in that it will not achieve a reduction in day or night time noise and proposes to increase it. The proposal is not in accordance with the Airport's most recent Airport Noise Action Plan (it is fundamentally at odds with Action ref 3.4 and KP3).

4.17 The application is contrary to LLP6 B. v).

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:

4.18 A noise control, monitoring and management scheme was put in place by the original planning consent (as amended). The planning application is designed to seek to remedy an historic, existing and anticipated future breach of a condition attached to the planning permission. As a consequence the planning application is contrary to LLP6 B. vi.

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

4.19 The application is designed to seek to remedy an historic, existing and anticipated future breach of a condition attached to the planning permission. It will not result in a significant diminution and betterment of the effects of aircraft operations on the amenity of local residents and users of sensitive premises. The planning application is contrary to LLP6 B. vii).

viii.

4.20 not relevant.

ix.

4.21 not relevant.

4.22 The proposal does not meet **all** LLP6 B policy criteria. The proposal is not in accord with the key Development Plan policy applying to this proposal.

'Policy LLP38

Policy approach

11.62 Government policy requires development plans to include policies to minimise waste and pollution (NPPF paragraph 7, bullet 3 and paragraph 17, bullet 7).

11.63 The planning authority should prevent both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate (NPPF paragraph 109).'

4.23 For the reasons set out in paragraph 4.4-4.7, the application is considered to be in conflict with Policy LLP38 due to existing development being put at an unacceptable risk from and being adversely affected by unacceptable levels of noise pollution.

'Policy LLP38 - Pollution and Contamination Pollution

Evidence on the impacts of development will need to demonstrate whether the scheme (individually or cumulatively with other proposals) 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 mitigation will be required. This policy covers chemical, biological, and radiological contamination and the effects of noise, vibration, light, heat, fluid leakage, dust, fumes, smoke, gaseous emissions, odour, explosion, litter, and pests.'

4.24 For the reasons set out in paragraph 4.4-4.7, the planning application will have a significant adverse impact on neighbouring development and the wider environment and does not contain proposals for appropriate mitigation. The application is in conflict with Policy LLP38 of the adopted Luton Local Plan.

'Economic Strategy

Strategic Objectives

Strategic Objective 1: *Retain and enhance Luton's important sub-regional role as a place for economic growth and opportunity including the safeguarding of London Luton Airport's existing operations and to support the airport's sustainable growth over the Plan period based on its strategic importance.*

Strategic Objective 2: *To utilise Luton's economic, social and environmental resources efficiently and sustainably including appropriate mitigation within the limited physical land capacity of the borough whilst ensuring the permanence of the Green Belt.*

5.7 The development of, and improved access to, the London Luton Airport Strategic Allocation, which includes Century Park, is needed to serve aviation engineering, business and logistics related growth and some small scale B2 accommodation for local businesses.

Policy LLP13: Economic Strategy

A. Planning applications will be granted where they deliver sustainable economic growth and prosperity to serve the needs of Luton and the wider sub region Jobs will be generated through business and industry development on strategic employment allocations,..... The strategic allocations for delivery are:

.....

ii. London Luton Airport (Century Park): mixed aviation related B1b-c, B2 and B8, small scale ancillary service uses and hotel use (see Policy LLP6);.....’

4.25 Whilst the application is not in conflict with Policy LLP13, neither does the policy provide sufficient justification for the application, for the following reasons:

- the contribution that growth at the Airport to 18mppa was a key consideration in determining the original planning application.
- this planning application is not required to achieve the economic benefits of growth to 18 mppa anticipated when the original planning application was approved.
- the economic consequences of the restricting the Airport’s operations to bring it in line with the planning consent have not been properly quantified to a sufficiently robust degree for these to be used by the LPA as justification to overcome environmental and health disbenefits/impacts.

The Development Plan of adjoining districts

4.26 As highlighted in paragraph 2.43, relevant policies in adjoining existing and emerging local plans seek to minimise and protect the impact of the Airport on development in their areas and policies relating to noise generally seek to reduce noise pollution and keep it to a minimum, to levels acceptable to human health and safety and refusal of proposals that would cause harm from a significant increase in noise pollution.

4.27 For the reasons set out in paragraph 4.4-4.7, the planning application is considered not to be compatible with the thrust of the development plan of adjoining areas.

National Policy and Guidance

National Planning Policy Framework

Presumption in favour of sustainable development

4.28 Criteria a and b of the presumption in favour of sustainable development relate to plan-making and criteria d) relates to circumstances in which there is not an up to date development plan in place or where policies are out of date, neither of

which apply in this case. Only criteria c), requiring approval of development proposals without delay where they accord with an up-to-date development plan is of relevance to this planning application. For the reasons set out above in paragraphs 4.12-4.27 this planning application is not in accordance with the development plan.

4.29 Paragraph 170 states that decisions should contribute to and enhance the natural and local environment by, amongst other matters:

‘.....
e) *preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and.....*’

4.30 For the reasons set out in paragraphs 4.4-4.7, this proposal would not prevent development from contributing to existing development being put at unacceptable risk from or being adversely affected by noise pollution, nor would it improve local environmental conditions.

4.31 Paragraph 180 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. In doing so they should:*

‘a) 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;’

4.32 For the reasons set out in paragraphs 4.4-4.7 this proposal is not appropriate for its location as a consequence of its impact on pollution and health and living conditions. It does not and cannot successfully mitigate against adverse noise impacts. The proposal does not seek to reduce to a minimum potential adverse impacts because it requests an extended day time noise contour even though there is no forecast future breach.

Aviation Policy Framework (APF)

4.33 At paragraph 3.3 the APF states:

‘3.3 We want 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. As a general principle, the Government therefore expects that future growth in aviation should ensure that benefits are shared between the aviation industry and local communities. This means that the industry must continue to reduce and mitigate noise as airport capacity grows. As noise levels fall with technology improvements the aviation industry should be expected to share the benefits from these improvements.’

4.34 For the reasons set out in paragraphs 4.2-4.3 the alleged economic benefits of allowing this proposal have not been robustly quantified and any disbenefits of refusal of planning permission would only be temporary. There is no robust economic case for this proposal.

4.35 This proposal does not propose to reduce noise – the opposite in fact.

4.36 This proposal does not and cannot mitigate against noise impacts created by it.

4.37 At paragraph 3.12 the APF states:

3.12 The Government's overall policy on aviation noise is to limit and, where possible, reduce the number of people in the UK significantly affected by aircraft noise, as part of a policy of sharing benefits of noise reduction with industry.

4.38 This proposal seeks to increase the number of people significantly affected by aircraft noise at the Airport. As a consequence the Airport is not contributing to a national policy objective to reduce the number of people in the UK significantly affected by aircraft noise.

4.39 Paragraph 3.19 of the APF states:

3.19 Average noise exposure contours are a well established measure of annoyance and are important to show historic trends in total noise around airports. However, the Government recognises that people do not experience noise in an averaged manner and that the value of the LAeq indicator does not necessarily reflect all aspects of the perception of aircraft noise. For this reason we recommend that average noise contours should not be the only measure used when airports seek to explain how locations under flight paths are affected by aircraft noise. Instead the Government encourages airport operators to use alternative measures which better reflect how aircraft noise is experienced in different localities, developing these measures in consultation with their consultative committee and local communities. The objective should be to ensure a better understanding of noise impacts and to inform the development of targeted noise mitigation measures.

4.40 For the reasons set out in paragraphs 4.4-4.7 this planning application fails to present evidence on a range of measures alternative to LAeq noise contours to ensure a better understanding of noise impacts to inform the development of targeted noise mitigation measures.

4.41 At paragraph 3.24 the APF states:

'3.24 The acceptability of any growth in aviation depends to a large extent on the industry tackling its noise impact. The Government accepts, however, that it is neither reasonable nor realistic for such actions to impose unlimited costs on industry. Instead, efforts should be proportionate to the extent of the noise problem and numbers of people affected.'

4.42 For the reasons set out in paragraphs 4.4-4.7 this proposal fails to identify proportionate mitigation for the scale of the noise problem created and the numbers of people affected.

4.43 At paragraphs 3.37-3.41 the APF states:

‘3.37 The Government also expects airport operators to offer acoustic insulation to noise-sensitive buildings, such as schools and hospitals, exposed to levels of noise of 63 dB LAeq,16h or more. Where acoustic insulation cannot provide an appropriate or cost-effective solution, alternative mitigation measures should be offered.

3.38 If no such schemes already exist, airport operators should consider financial assistance towards acoustic insulation for households. Where compensation schemes have been in place for many years and there are few properties still eligible for compensation, airport operators should review their schemes to ensure they remain reasonable and proportionate.

3.39 Where airport operators are considering developments which result in an increase in noise, they should review their compensation schemes to ensure that they offer appropriate compensation to those potentially affected. As a minimum, the Government would expect airport operators to 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 LAeq,16h or more.

.....’

4.44 For the reasons set out in paragraphs 4.4-4.7 this proposal does not and cannot compensate impacted communities in the form of insulation.

National Planning Practice Guidance (NPPG)

4.45 Amongst other matters, NPPG states:

‘Local planning authorities’ plan-making and decision taking should take account of the acoustic environment and in doing so consider:

- *whether or not a significant adverse effect is occurring or likely to occur;*
- *whether or not an adverse effect is occurring or likely to occur; and*
- *whether or not a good standard of amenity can be achieved.*

.....

As the exposure increases further, it crosses the lowest observed adverse effect level boundary above which the noise starts to cause small changes in behaviour and attitude, for example, having to turn up the volume on the television or needing to speak more loudly to be heard. The noise therefore starts to have an adverse effect and consideration needs to be given to mitigating and minimising those effects (taking account of the economic and social benefits being derived from the activity causing the noise).

.....

Increasing noise exposure will at some point cause the significant observed adverse effect level boundary to be crossed. Above this level the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. If the exposure is above this level the planning process should be used to avoid this effect occurring, by use of appropriate mitigation such as by altering the design and layout. Such decisions must be made taking account of the economic and social benefit of the activity causing the noise, but it is undesirable for such exposure to be caused.

.....

At the highest extreme, noise exposure would cause extensive and sustained changes in behaviour without an ability to mitigate the effect of noise. The impacts on health and quality of life are such that regardless of the benefits of the activity causing the noise, this situation should be prevented from occurring.

.....

In cases where existing noise sensitive locations already experience high noise levels, a development that is expected to cause even a small increase in the overall noise level may result in a significant adverse effect occurring even though little to no change in behaviour would be likely to occur.

.....

.....In general, for noise making developments, there are 4 broad types of mitigation:

.....

- *mitigating the impact on areas likely to be affected by noise including through noise insulation when the impact is on a building.'*

4.46 This proposal does not introduce any additional mitigation measures for those newly subjected to LOAEL and is unable to avoid the Airport crossing the SOAEL threshold and cannot provide effective mitigation. The application is unacceptable for the reasons set out in paragraphs 4.4-4.7.

Aviation 2050: The Future of UK Aviation (A2050)

4.47 At paragraph 1.21 A2050 states:

'1.21 This is why the government is supportive of the development of a third runway at Heathrow Airport..... It is also supportive of airports throughout the UK making best use of their existing runways, subject to environmental issues being addressed. However, there is a need for clarity on what the future framework will be for providing additional capacity to meet demand, while managing environmental and community impacts.'

4.48 For the reasons set out in paragraphs 4.4-4.7, this proposal does not and cannot adequately manage environmental and community impacts.

4.49 At paragraph 1.33, 1.35 and 3.112 A2050 states:

‘1.33 Together, these trends present significant opportunities to be exploited, but also challenges to overcome and manage. Global and domestic trends show that with the right economic conditions, the year-on-year growth in passenger numbers and air freight can be expected to continue. There are also signs of change in the market which could which transform business models and the offer for consumers. Meeting this increased demand will require a new partnership between the government, the industry, the regulator and communities that balances the economic benefits of growth with its impact on communities and the environment.

1.35 This is the motivation behind a new Aviation Strategy which will:

.....

- **ensure that aviation can grow sustainably** – moving beyond an artificial ‘choice’ between growth and environmental protection by building a new partnership that actively supports sustainable growth with actions taken to mitigate environmental impacts
- **support regional growth and connectivity** – ensuring aviation enables all regions of the UK to prosper and grow, providing jobs and economic opportunities and a meaningful contribution to the life of communities up and down the country
-

3.112 The government expects the industry to show continuing commitment to noise reduction and mitigation as part of its contribution to the partnership for sustainable growth.....’

4.50 The County Council believes that a partnership was entered into when the original planning permission was granted which balanced the economic benefits of growth with the impacts upon communities and the environment. For the reasons set out in paragraphs 4.4-4.7 this proposal betrays that partnership. It cannot be considered to rise to Government expectations for the industry to commit to noise reduction and mitigation.

4.51 At paragraphs 3.114 and 3.115 A2050 state:

3.114 The government recognises that there has been uncertainty on how this policy should be interpreted, measured and enforced. The government intends to put in place a stronger and clearer framework which addresses the weaknesses in current policy and ensures industry is sufficiently incentivised to reduce noise, or to put mitigation measures in place where reductions are not possible.

3.115 The proposed new measures are:

- *setting a new objective to limit, and where possible, reduce total adverse effects on health and quality of life from aviation noise. This brings national aviation noise policy in line with airspace policy updated in 2017.*

- *routinely setting noise caps as part of planning approvals (for increase in passengers or flights). The aim is to balance noise and growth and to provide future certainty over noise levels to communities. It is important that caps are subject to periodic review to ensure they remain relevant and continue to strike a fair balance by taking account of actual growth and the introduction of new aircraft technology.*
.....’

4.52 For the reasons set out in paragraphs 4.4-4.7 this proposal is not consistent with Government intentions to put in place a stronger and clearer framework where industry reduces noise/puts in place mitigation measures where reductions are not possible. The original planning consent put in place appropriate limits to restrict adverse effects on health and quality of life from aviation noise. The noise contour restrictions put in place in the original planning consent are consistent with Government expectations that noise caps are set as part of planning approvals to balance noise and growth and to provide future certainty over noise levels to communities. This proposal seeks to increase limits and take away certainty to communities achieved by the original planning consent. The proposal is not consistent with paragraphs 3.114 and 3.115 of A2050 and is considered to be unacceptable for the reasons set out in paragraphs 4.4-4.7.

4.53 Paragraphs 3.121 and 3.122 of A2050 state:

‘3.121 The government is also:

proposing new measures to improve noise insulation schemes for existing properties, particularly where noise exposure may increase in the short term or to mitigate against sleep disturbance

3.122 Such schemes, while imposing costs on the industry, are an important element in giving impacted communities a fair deal. The government therefore proposes the following noise insulation measures:

- *to extend the noise insulation policy threshold beyond the current 63dB LAeq 16hr contour to 60dB LAeq 16hr*
- *to require all airports to review the effectiveness of existing schemes. This should include how effective the insulation is and whether other factors (such as ventilation) need to be considered, and also whether levels of contributions are affecting take-up*
- *the government or ICCAN to issue new guidance to airports on best practice for noise insulation schemes, to improve consistency*
- *for airspace changes which lead to significantly increased overflight, to set a new minimum threshold of an increase of 3dB LAeq, which leaves a household in the 54dB LAeq 16hr contour or above as a new eligibility criterion for assistance with noise insulation’*

4.54 For the reasons set out in paragraphs 4.4-4.7 the noise insulation mitigation package presented in the proposal is inadequate and ineffective. The ES takes the level of 63dB LAeq, 16hr as a suitable value for the SOAEL for the assessment of likely significant adverse effects. This is based on paragraphs 3.37-3.39 of the APF and is the level at which the Government expects airport operators to offer acoustic

insulation to noise-sensitive buildings, such as schools and hospitals and residential properties exposed to levels of noise of 63 dB LAeq,16h or more. A2050 proposes to extend the noise insulation policy threshold beyond the current 63dB LAeq 16hr contour to 60dB LAeq 16hr and sees this is *'an important element in giving impacted communities a fair deal'*. The County Council is of the view that the planning application should also have used the 60dB LAeq 16hr as an alternative suitable value for SOAEL for the assessment of likely significant adverse effects as it represents an indication of where Government currently stands on protection of communities in terms of mitigation.

4.55 At paragraph 4.3 A2050 states:

'Support regional growth and connectivity

4.3 The government has also confirmed that it is supportive of airports beyond Heathrow making best use of their existing runways, subject to proposals being assessed in light of environmental and economic impacts.'

4.56 For the reasons set out in paragraphs 4.2-4.3 the potential adverse economic impacts of this proposal have not been robustly assessed, if they exist are considered to be temporary and have arisen as a consequence of the Airport failing to responsibly manage its operations. The adverse environmental impacts are considered to be unacceptable for the reasons set out in 4.4-4.7.

Beyond the Horizon The future of UK Aviation Making best use of existing runways (MBUER) June 2018

4.57 Paragraphs 1.22 and 1.24 of MBUER state:

'Local environmental impacts

1.22 The government recognises the impact on communities living near airports and understands their concerns over local environmental issues, particularly noise, air quality and surface access. 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.

1.24 As part their planning applications airports will need to demonstrate how they will mitigate local environmental issues, which can then be presented to, and considered by, communities as part of the planning consultation process. This ensures that local stakeholders are given appropriate opportunity to input into potential changes which affect their environment and have their say on airport applications.'

4.58 For the reasons set out in paragraphs 4.2-4.3, the economic benefits to be shared on growth of the Airport were assessed when permission was granted and those economic benefits are assumed to continue to be forthcoming. Adverse impacts were also assessed when permission was granted and mitigation put in

place. This proposal seeks to increase adverse noise impacts and does not and cannot bring forward meaningful effective mitigation.

4.59 At paragraph 1.29 MBUER states:

'1.29 Therefore the government is supportive of airports beyond Heathrow making best use of their existing runways. However, we recognise that the development of airports can have negative as well as positive local impacts, including on noise levels. We therefore consider that any proposals should be judged by the relevant planning authority, taking careful account of all relevant considerations, particularly economic and environmental impacts and proposed mitigations. This policy statement does not prejudge the decision of those authorities who will be required to give proper consideration to such applications. It instead leaves it up to local, rather than national government, to consider each case on its merits.'

4.60 The economic benefits of growth in the Airport were assessed and accepted when planning permission was granted. These economic benefits will continue to come forward as anticipated. There is no economic case to override the environmental impacts for the reasons set out in paragraphs 4.2-4.3.

Airports National Policy Statement (ANPS)

4.61 The ANPS states:

'1.39 On 21 July 2017, the Government issued a call for evidence on a new Aviation Strategy. Having analysed the responses, the Government has confirmed that it is supportive of airports beyond Heathrow making best use of their existing runways. However, we recognise that the development of airports can have positive and negative impacts, including on noise levels. We consider that any proposals should be judged on their individual merits by the relevant planning authority, taking careful account of all relevant considerations, particularly economic and environmental impacts.'

Noise

Introduction

5.44 The impact of noise from airport expansion is a key concern for communities affected, and the Government takes this issue very seriously. High exposure to noise is an annoyance, can disturb sleep, and can also affect people's health. Aircraft operations are by far the largest source of noise emissions from an airport, although noise will also be generated from ground operations and surface transport, and during the construction phase of a scheme.

5.45 Aircraft noise is not only determined by the number of aircraft overhead, but also by engine technologies and airframe design, the paths the aircraft take when approaching and departing from the airport, and the way in which the aircraft are flown.

Decision making

5.67 *The proposed development must be undertaken in accordance with statutory obligations for noise. Due regard must have been given to national policy on aviation noise, and the relevant sections of the Noise Policy Statement for England, the National Planning Policy Framework, and the Government's associated planning guidance on noise. However, the Airports NPS must be used as the primary policy on noise when considering the Heathrow Northwest Runway scheme, and has primacy over other wider noise policy sources.*

5.68 *Development consent should not be granted unless the Secretary of State is satisfied that the proposals will meet the following aims for the effective management and control of noise, within the context of Government policy on sustainable development:*

- *Avoid significant adverse impacts on health and quality of life from noise;*
- *Mitigate and minimise adverse impacts on health and quality of life from noise; and*
- *Where possible, contribute to improvements to health and quality of life.'*

4.62 For the reasons set out in paragraphs 4.4-4.7 the proposal would result in significant adverse effect on health and quality of life, cannot effectively mitigate/minimise adverse impacts and will not contribute to improvements to health and quality of life.

A Green Future: Our 25 Year Plan to Improve the Environment

4.63 The 25 year Plan states:

*'Over the next 25 years, we must significantly cut all forms of pollution and ease the pressure on the environment. **We must ensure that noise and light pollution are managed effectively.***

4.64 For the reasons set out in paragraphs 4.4-4.7 the proposal would not ensure that noise pollution is effectively managed.

Noise Policy Statement for England (NPSE)

4.65 The NPSE states:

'Noise Policy Aims

Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:

- *avoid significant adverse impacts on health and quality of life;*
- *mitigate and minimise adverse impacts on health and quality of life; and*
- *where possible, contribute to the improvement of health and quality of life.*

The first aim of the Noise Policy Statement for England

Avoid significant adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

2.23 The first aim of the NPSE states that significant adverse effects on health and quality of life should be avoided while also taking into account the guiding principles of sustainable development (paragraph 1.8).

The second aim of the Noise Policy Statement for England

Mitigate and minimise adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

2.24 The second aim of the NPSE refers to the situation where the impact lies somewhere between LOAEL and SOAEL. It requires that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development (paragraph 1.8). This does not mean that such adverse effects cannot occur.

The third aim of the Noise Policy Statement for England

Where possible, contribute to the improvement of health and quality of life through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

2.25 This aim seeks, where possible, positively to improve health and quality of life through the pro-active management of noise while also taking into account the guiding principles of sustainable development (paragraph 1.8), recognising that there will be opportunities for such measures to be taken and that they will deliver potential benefits to society. The protection of quiet places and quiet times as well as the enhancement of the acoustic environment will assist with delivering this aim.'

4.66 For the reasons set out in paragraphs 4.4-4.7 the proposal would result in significant adverse effect on health and quality of life, cannot effectively mitigate/minimise adverse impacts and will not contribute to improvements to health and quality of life.

Air Navigation Guidance 2017 (ANG)

4.67 One of the four key objectives of ANG is to:

'• emphasise that the environmental impact of aviation must be mitigated as much as is practicable and realistic to do so.'

4.68 For the reasons set out in paragraphs 4.4-4.7 this proposal does not and cannot mitigate against the environmental impact.

4.69 ANG goes on to state:

'Assessing the noise implications of proposed airspace changes

3.4 As stated in section 1.2(a) of this guidance, one of the government's three key environmental objectives is to limit and, where possible, reduce the number of people in the UK significantly affected by adverse impacts from aircraft noise.

3.5 For the purpose of assessing airspace changes, the government wishes the CAA to interpret this objective to mean that the total adverse effects on people as a result of aviation noise should be limited and, where possible, reduced, rather than the absolute number of people in any particular noise contour. Adverse effects are considered to be those related to health and quality of life. There is no one threshold at which all individuals are considered to be significantly adversely affected by noise. It is possible to set a Lowest Observed Adverse Effect Level (LOAEL) that is regarded as the point at which adverse effects begin to be seen on a community basis. As noise exposure increases above this level, so will the likelihood of experiencing an adverse effect. In line with this increase in risk, the proportion of the population likely to be significantly affected can be expected to grow as the noise level increases over the LOAEL. For the purposes of assessing and comparing the noise impacts of airspace changes, the government has set a LOAEL of 51dB LAeq16hr for daytime noise and 45dB LAeq8hr for night time noise and the CAA should ensure that these metrics are considered.

3.11 For communities further away from airports that will not be affected by noise above the LOAELs identified above, it is important that other aspects of noise are also taken into account where the total adverse effects of noise on people between different options are similar. Metrics that must be considered for these purposes include the overall number of overflights and number above metrics: N65 for daytime noise and N60 for night time noise. The CAA's overflights metric is a means of portraying those locations where residents will experience being overflown. These supplementary metrics must also be used to inform communities about the likely impact of proposed changes.

3.12 The CAA should also verify that sponsors have used any other noise metrics that may be appropriate for allowing communities to understand the noise impacts that could result from the proposed change. This could include the use of 100% mode contours for average noise or frequency-based metrics, or consideration of the interaction with other sources of aircraft noise, such as those from other local airports.

4. Detailed Management of aircraft noise: guidance for airports, airlines and air navigation service providers and CAA in respect of CAA's noise management function

Introduction

4.1 For communities living close to airports, and some further away under arrival and departure routes, aircraft noise is one of the most important environmental impacts created by the aviation sector. The government's long-term view, most recently expressed in the 2013 Aviation Policy Framework, is that there must be a fair

balance between the economic benefits derived from the aviation industry, and the negative impacts of noise for affected communities. The benefits of any future growth in aviation and/or technological development must be shared between those benefitting from a thriving aviation industry and those close to the airports that experience its impacts.'

4.70 For the reasons set out in paragraphs 4.4-4.7 this proposal would have significant and unacceptable adverse noise impacts upon communities. This does not represent a fair balance between the economic benefits and the negative impacts of noise.

London Luton Airport Development Brief September 2001 (LLADB)

4.71 The LLADB does not feature on the LBC list of Supplementary Planning Guidance, though it appears from the LBC Regulation 25 request that it has not been revoked. The adopted Luton local Plan makes no reference to the Development Brief and instead refers to *'This is supported by Policy LLP6, which includes criteria to allow additional proposals to be considered in accordance with the most up-to-date Master Plan (i.e. that Master Plan which is applicable at the time of determining any planning application)'*. The County Council is of the view that the Development Brief can only be considered to carry limited weight in decision-making given its age and that it has been superseded by the London Luton Airport Operations Limited Revised Masterplan document Consultation prior to submission of planning application - London's local airport – September 2012.

4.72 Nevertheless, some of the more relevant aspects of the Brief are highlighted in paragraph 2.45. Of particular relevance to this planning application are the following extracts:

Within the Brief LLAOL advocates a "capacity approach" to environmental management, which allows the company greater flexibility and creativity in meeting the agreed thresholds than controls on passenger throughput. That system is essentially the method in operation with the current Phase 1 developments and LLAOL believes that this approach will foster development of the airport in a manner that combines economic and social benefits, with environmental responsibility.

The London Luton Airport Development Brief outlines a future form for the airport in which the benefits of its future expansion can be shared between the operating company, the local community, and the travelling public, in an environmentally responsible manner.

8.6 Airports are major generators of local employment and wealth, and growing airports impact positively by providing more jobs, greater economic growth, and continued local investment and partnership.

8.16 Since LLA is located very close to a major conurbation, aircraft noise and its impact on local communities has been, and will continue to be, the most significant environmental impact. Of rising importance are the issues of surface transport; air quality; and ecology. Improvements to these aspects, plus waste and energy

management, emissions to water, air and land, and chemicals handling, are targeted within the LLAOL Environmental Management System (EMS) summarised later.

8.42 The most useful policy element on sustainable development for the Brief is contained in the World Bank definition of 1991, where it is stated that the rate of pollution emission should not exceed the assimilative capacity of the environment.

8.43 This then relates to the previous section on environmental capacity; the non-exceedence of agreed limits on environmental capacity implies that one component of sustainable development (under the World Bank definition) is thereby achieved.

8.58 Sustainable airport development can be attained by the non-exceedence of agreed limits on environmental capacity (under the World Bank definition); and by balancing economic, social and environmental considerations (UK Government strategy for sustainable development).

ENVIRONMENTAL CAPACITY

9.21 The principle of Environmental Capacity is explored in Chapter 8 above and is specifically detailed in terms of noise issues in Appendix B.

9.22 The concept that noise is an issue in terms of sustainable development is being addressed by the Government's Round Table on Sustainability, as one of the environmental concerns that must be considered in balancing the economic, social and environmental effects of development. This suggests that in creating economic or social benefits from a development, such as the expansion of LLA, some environmental burden will result.

9.23 The principle being adopted by LLAOL is that seeking this balance will be one of the key criteria that will provide the framework for any ES to accompany a future planning application.'

9.27 The use of potential mitigation measures for all forms of noise impacts will be considered in relation to the specific forecast noise impact. Appropriate measures will be proposed directed at addressing any predicted significant impact whilst taking into account the principles of sustainability.'

4.73 The Brief recognises the economic and social benefits of the Airport and its growth. For the reasons set out in paragraphs 4.2-4.3 the potential adverse economic impacts of this proposal have not been robustly assessed, if they exist are considered to be temporary and have arisen as a consequence of the Airport failing to responsibly manage its operations.

4.74 In terms of 'sustainable development the environmental concerns that must be considered in balancing the economic, social and environmental effects of development..... creating economic or social benefits from a development, such as the expansion of LLA, some environmental burden will result – that 'balance' and 'environmental burden' was established when the original consent was granted. For the reasons set out in paragraphs 4.4-4.7 this proposal would have significant and unacceptable adverse noise impacts upon communities – the

environmental burden is unacceptable and would introduce an imbalance in the *'balancing the economic, social and environmental effects of development'*.

4.75 In terms of *'the non-excedence of agreed limits on environmental capacity implies that one component of sustainable development (under the World Bank definition) is thereby achieved'* the noise contours attached to the original consent represent a key element of the *'agreed limits'* attached to the original planning consent. The Brief sees the *'non-excedence'* of limits as one of the components of sustainable development. This planning application proposes to exceed agreed limits and for the reasons set out in paragraphs 4.4-4.7 would have significant and unacceptable adverse noise and health impacts upon communities. It is therefore not consistent the definition of sustainable development within the Brief.

4.76 In terms of introducing *'Appropriate measures directed at addressing any predicted significant impact.....'*, for the reasons set out in paragraphs 4.4-4.7 the proposal would result in significant adverse noise impacts, up to moderate health impacts and cannot effectively mitigate/minimise these impacts. In the absence of effective mitigation, the health impacts potential rise to likely significant adverse health impact.

London Luton Airport Operations Limited Revised Masterplan document Consultation prior to submission of planning application - London's local airport – September 2012 (AMP)

4.77 Paragraphs 9.26 and 9.27 of the AMP state:

'Noise and vibration

9.26 Noise and vibration is a key issue with the majority of aviation developments, particularly where there is residential development in the vicinity of the airport. As discussed in section 3 of this masterplan, LLAOL takes a proactive approach to the monitoring and management of noise associated with airport activities and actively engages with the local community on this issue. An objective of the masterplan development is that the Airport continues to be a good neighbour and the potential changes in the local noise environment have been an important factor in determining the proposed scale of development.

9.27 Whilst there will be increases in the number of flights, the proposed magnitude of this increase will be within acceptable limits. It is also likely that other improvements associated with the development proposals such as the more effective taxiway and dualling of Airport Way will help to reduce noise levels in these areas.

9.28 We understand the impact of night flights on our neighbours and commit to reducing the current proportion of night flights. We will seek to balance the commercial value of operational flexibility against the community disturbance we recognise it can cause, in order to deliver socially as well as environmentally sustainable growth at the Airport.'

4.78 For the reasons set out in paragraph 4.4-4.7 above, the application is considered to be in conflict with paragraph 9.27 of the masterplan in that it would not keep the noise implications of the Airport *'within acceptable limits'* and in not maintaining an appropriate balance between commercial value and community disturbance is not consistent with paragraph 9.28.

Environmental Noise Directive Noise Action Plan 2019-2023 London Luton Airport (NAP)

4.79 The NAP states:

'London Luton Airport is committed to being a good neighbour and endeavours to minimise the impact of its operations on local communities. Continued and enhanced consultation with the community is essential so that an appropriate balance can be struck between the socio-economic benefits of airport operations and its environmental impacts. This Noise Action Plan, once adopted by DEFRA, will provide a meaningful framework for London Luton Airport and its Consultative Committee to build upon it's established approach to the proactive management of aircraft noise in and around the airport.'

'Framework for Noise Management

Demand for air travel across the UK is increasing rapidly. In response to increased demand, we are making the biggest investment in LLA's history to transform the airport. The redevelopment of our terminal will bring huge benefits for passengers, but it is vitally important to us that the local community also shares in the success of the airport. At LLA, our aim is always to work constructively with the local community and our partners to strike the right balance between maximising the positive social and economic benefits to the local area and the UK as a whole while minimising the impact of aircraft noise.

Once the current development is complete, LLA will contribute £1.4billion per year to the local economy and £2.3billion nationally. By 2031 we expect to support over 37,700 jobs, which on average pay £11,000 per year more than the national average wage. But we recognise that the airport's growth may give rise to questions about noise levels. LLA already operates under the most stringent noise restrictions of any major UK airport. But we are continually looking to do more. As the airport continues its growth and development, we are evolving our approach to noise management and this can be seen through the development of our Noise Action Plan.'

4.80 The balance to be struck between the economic benefits of growth at the Airport and the management of noise and protection of communities was established when the original planning permission was granted. The NAP commits to the restrictions placed on the planning permission:

'.....This plan details our actions over a five year period (2019-2023) and the policy framework that would support these actions. It is aligned with London Luton Airport's S106 Legal Agreement (2014) with Luton Borough Council which outlines how the airport's operation, growth and environmental impacts will be managed responsibly and laid the foundation of our Noise Action Plan.'

4.81 Key to achieving the balance between the economic benefits of growth and managing adverse environmental impacts was the imposition of a noise contour condition on the planning permission. This NAP contains a commitment in Action ref 3.4:

'We will operate within our agreed contour area limits'

4.82 It also contains a Key Performance Indicator (KP3):

'Population inside 45dB LAeq (8hr) Night time contour – limit and where possible reduce the population within the contour over the course of the action plan.'

4.83 The NAP was developed and submitted to DEFRA under the full knowledge that operations at the Airport were failing to comply with night time noise contour restrictions and that a planning application was in preparation to seek to vary both day and night noise contour areas. The planning application is fundamentally at odds with Action ref 3.4 and KP3 of the Noise Action Plan 2019-2023 approved by DEFRA.

In summary:

4.84 As a matter of principle, for the reasons set out in paragraphs 1.1-1.8 the County Council very strongly objects to this planning application. The original proposal to grow the Airport to 18 mppa weighed up the economic benefits and environmental impacts. The balance achieved resulted in a planning permission incorporating appropriate environmental safeguards required to protect communities against the adverse impacts of noise. Night and day time noise contours are fundamental safeguards. The planning consent is fundamental to the 'Partnership' approach promoted by Government and crucial to offering the certainty to communities that Government expects to secure their health and well-being. The applicant has operated the Airport in the full knowledge that its operations would lead to a breach of the safeguards in the planning consent and its commitment to protect communities from the adverse impacts of growth. The actions of the applicant represent a betrayal of the other partners of the Partnership, particularly communities.

4.85 Notwithstanding this, the County Council is fully aware that every planning application must be considered on its own merits. For the reasons set out above, the County Council is of the view that on balance the planning application is not in accordance with the up to date development plan, with national planning policy and planning practice guidance and with other material policy and guidance. As such the application should be refused.

4.86 The County Council is aware that further information has been sought from the applicant with respect to both the noise and economic implications of the proposal. Assuming the applicant provides additional material and further public consultation follows, the County Council will review its position at that time and respond further as necessary.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Derrick Ashley". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Derrick Ashley
Executive Member for Growth, Infrastructure, Planning and the Economy

Appendix 2

**Hertfordshire County Council response to London Luton
Airport Limited - Future LuToN Making best use of our
runway Public consultation – 16 October to 16 December
2019**

FREEPOST FUTURE LUTON LLAL

**Derrick Ashley
County Councillor
Executive Member
Growth, Infrastructure, Planning
& the Economy**

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24th December 2019

Dear Sir/Madam,

**London Luton Airport Limited - Future LuToN Making best use of our runway
Public consultation – 16 October to 16 December 2019**

Thank you for the opportunity to comment on the above and for your extension to the consultation deadline until 24th December.

This County Council response is separate and in addition to the collective response '*Response to Statutory Consultation on behalf of the Host Authorities*' (dated 23rd December 2019) of Central Bedfordshire, Luton, North Hertfordshire and Hertfordshire County councils.

National aviation policy and the Climate Change Act 2008

The consultation material assesses the proposal in terms of its compatibility with existing national aviation policy [Aviation Policy Framework (APF) (2013), Making best use of existing runways (MBUER) (June 2018) and the Airports National Policy Statement (ANPS) (June 2018)] and the carbon budgets set in accordance with the historic Climate Change Act 2008 target of an 80% reduction of greenhouse gas emissions compared to 1990 levels (with the 5th Carbon Budget setting a limit that aviation emissions for the UK being capped at 37.5MtCO₂ in 2050 based on 2005 levels, excluding emissions from international aviation).

The assessment concludes that the increase in carbon emissions resulting from the proposed development is considered (with mitigations in place) not to have a material impact on the ability of Government to meet its carbon reduction targets,

including carbon budgets. This conclusion is consistent with that of the Government more generally in terms of the compatibility between policy to make best use of existing runways/Heathrow third runway and 80% reduction Climate Change Act target and related carbon budgets.

In a joint letter (15th October 2018) to the Committee on Climate Change (CCC) the Governments of the UK, Scotland and Wales requested advice from the Committee on their respective long-term CO₂ emissions targets:

1. the date by which the UK should achieve (a) a net zero greenhouse gas target and/or (b) a net zero carbon [dioxide] target in order to contribute to the global ambitions set out in the Paris Agreement.
2. whether now is the right time for the UK to set such a target.
3. the range which UK greenhouse gas emissions reductions would need to be within, against 1990 levels, by 2050 as an appropriate contribution to the global goal of limiting global warming to well below 2°C” and “towards global efforts to limit the increase to 1.5°C.
4. how reductions in line with your recommendations might be delivered in key sectors of the economy.
5. the expected costs and benefits across the spectrum of scenarios in comparison to the costs and benefits of meeting the current target.
6. updated advice on the long-term emissions targets for Scotland and Wales provided with regards to the respective devolved statutory frameworks on climate change.

In December 2018 Government consulted on its Aviation Green Paper ‘*Aviation 2050 - The future of UK aviation*’, reaffirming Government’s commitment to provide additional capacity through the development of a third runway at Heathrow Airport and airports throughout the UK making best use of their existing runways. The Strategy is based on the 80% reduction Climate Change Act target and related planning assumptions. In its response (February 2019) to the consultation the CCC stated that it would write to Government specifically about the implications of its forthcoming net-zero recommendations for the emerging national Aviation Strategy.

‘The UK’s currently legislated 2050 target is to reduce economy-wide greenhouse gas emissions by at least 80% from 1990 levels. Since the Climate Change Act became law, the UK has ratified the Paris Agreement, implying even stronger action. You will be aware that my Committee has been asked by Ministers to offer advice on the implications of the Paris Agreement for the UK’s statutory framework, including when ‘net-zero’ emissions can be achieved. A stronger UK target would require more effort from all sectors, including aviation. We intend to provide an updated view on the appropriate long-term ambition for aviation emissions within our advice on the UK’s long term targets. We will publish our report in spring. Following that, we will write to you directly to set out the implications for the Aviation Strategy.’

Our present planning assumption, which underpins the fifth carbon budget and the current 2050 target, is that UK aviation emissions in 2050 should be around their 2005 level (i.e. 37.5 MtCO₂e). Your acceptance of this planning assumption in the consultation is a very welcome step. The final white paper

should further clarify that this will be met on the basis of actual emissions, rather than by relying on international offset credits.

Aviation emissions in the UK have more than doubled since 1990, while emissions for the economy as a whole have fallen by around 40%. Achieving aviation emissions at or below 2005 levels in 2050 will require contributions from all parts of the aviation sector, including from new technologies and aircraft designs, improved airspace management, airlines' operations, and use of sustainable fuels. It will also require steps to limit growth in demand. In the absence of a true zero-carbon plane, demand cannot continue to grow unfettered over the long-term.'

In May 2019, the CCC published its report ('Net Zero The UK's contribution to stopping global warming Committee on Climate Change' May 2019) to the UK Governments. Its overarching recommendation was that the UK should amend its legislation to commit to net zero greenhouse gas emissions by 2050 and in relation to aviation, that this target should include the UK's share of international aviation and be met through domestic action rather than international offset credits – 'This will require immediate steps from Government, industry and the public. Challenges that have not yet been confronted – such as aviation and shipping emissions – must now be addressed'. The UK should legislate as soon as possible to reach net-zero greenhouse gas emissions by 2050. The target can be legislated as a 100% reduction in greenhouse gases (GHGs) from 1990 and should cover all sectors of the economy, including international aviation and shipping.'

'We will set out our recommended policy approach for aviation in follow-up advice to the Government later in 2019.....Reducing emissions from aviation will require a combination of international and domestic policies, and these should be implemented in ways that avoid perverse outcomes (e.g. carbon leakage). A package of policy measures should be put in place that include carbon pricing, support for research, innovation and deployment, and measures to manage growth in demand.'

In May 2019 Parliament declared an environment and climate emergency and in June The Climate Change Act 2008 (2050 Target Amendment) Order 2019 came into force, revising the 2050 GHG target of an 80% reduction of GHG emissions compared to 1990 levels to a net zero carbon target. In July 2019 the County Council joined the ranks of over 200 local authorities across the country in declaring a climate emergency.

In September 2019 the CCC wrote to the Secretary of State for Transport advising that the planning assumption for international aviation should be to achieve net-zero emissions by 2050 and that this should be reflected within the Government's forthcoming Aviation Strategy. To achieve this would require reduction in actual emissions and would be likely to require some use of greenhouse gas removals to offset remaining emissions. Key to reducing emissions will be limiting demand growth to at most 25% above current levels, with potential to reduce emissions further with lower levels of demand. The CCC advises that 'The Government should assess its airport capacity strategy in this context. Specifically, investments will need to be demonstrated to make economic sense in a net-zero world and the transition towards it.'

All in force and emerging national aviation policy precedes the June 2019 Climate Change Act net-zero declaration/legislation. The Department of Transport has stated that the implications of the declaration/legislation and the CCC's recommended policy approach to aviation will be taken into account in further developing aviation policy through the Aviation 2050 process. It has also stated that it will provide advice and a recommendation to the Secretary of State on whether the statutory criteria for a review of part or all of the Aviation National Policy Statement (the Government's national planning policy commitment to Heathrow third runway) are met and whether or not it is appropriate to carry out such a review.

In its *'Leading on Clean Growth - The Government Response to the Committee on Climate Change's 2019 Progress Report to Parliament – Reducing UK emissions'* (October 2019), Government has stated that it will publish an ambitious Aviation Strategy next year and in doing so will *'continue to consider the implications of our 2050 net zero target.....'*

The consultation material states that the revised carbon legislation has not been specifically addressed in the greenhouse gas assessment *'due to the timing of its introduction into UK law'*, but recognises that *'this is a significant piece of legislation that will have an impact on the Proposed Development and as such will be further considered in the ES. Our assessment of greenhouse gas emissions will continue to be updated to consider the latest proposals and the developing government policy on the net-zero carbon target'*.

It is clear that a state of considerable national uncertainty exists regarding the relationship between the Government's net zero declaration/legislation and the implications this has for both existing national aviation policy and its emerging Aviation Strategy.

Government has been called upon to intervene and restrict the grant of planning permission for aviation growth-related planning applications until new national aviation policy is in place.

Given the current programmed timeframe for the Development Consent Order (DCO) process, new national aviation policy should be in place and therefore national uncertainty resolved by the time a decision is made. However, should this prove not to be the case the County Council is strongly of the view that the proposed project timeframe should be reprogrammed to ensure that any decision is made in the context of new Government aviation policy, when published. Only in these circumstances can a properly informed and robust decision be made.

The need for substantive further technical work and engagement with the host authorities and other partners/Scope for further public consultation

The County Council appreciates that the scheme is still within its development stages – further evidence and material to support it is not yet available. The Planning Inspectorate's *'Advice Note two: The role of local authorities in the development consent process'* states the following:

'Engaging in developer consultation'

6.1 Local authorities are able to influence the preparation of the developer's application. The preparation of the application will be an iterative process which means that the amount of detail should increase as the preparation proceeds.

6.2 Local authorities should engage proactively with a developer even if they disagree with the proposal in principle. It is important to recognise that a local authority is not the decision maker but will want to contribute towards the development of the emerging proposals with the benefit of their detailed local knowledge. Local authorities are not undermining any 'in principle' objections to a scheme by engaging with a developer at the pre-application stage.

6.3 Nothing is to be gained by disengaging from the pre-application consultation process. It is in a local authority's own interests to engage in shaping a scheme. Once an application has been submitted it cannot be changed to the extent that it would be a materially different application, so as to constitute a new application. It is therefore important for local authorities to put any fundamental points to the developer during the pre-application stage.'

Government guidance '*Planning Act 2008: Guidance on the pre-application process*' states the following:

'The pre-application consultation process'

15. Pre-application consultation is a key requirement for applications for Development Consent Orders for major infrastructure projects. Effective preapplication consultation will lead to applications which are better developed and better understood by the public, and in which the important issues have been articulated and considered as far as possible in advance of submission of the application to the Secretary of State. This in turn will allow for shorter and more efficient examinations.

16. The Planning Act regime provides the ability to anyone interested in or affected by a major infrastructure proposal to both object in-principle to a proposed scheme and at the same time suggest amendments to design out unwelcome features of a proposal. Engaging in a developer's preapplication consultation including for example offering constructive mitigations to reduce a scheme's impact on the local community, does not per se undermine any submission on the principle of whether or not development consent should be granted.

18. Early involvement of local communities, local authorities and statutory consultees can bring about significant benefits for all parties, by:

- helping the applicant identify and resolve issues at the earliest stage, which can reduce the overall risk to the project further down the line as it becomes more difficult to make changes once an application has been submitted;*

- *enabling members of the public to influence proposed projects, feedback on potential options, and encouraging the community to help shape the proposal to maximise local benefits and minimise any downsides;*
- *helping local people understand the potential nature and local impact of the proposed project, with the potential to dispel misapprehensions at an early stage;*
- *enabling applicants to obtain important information about the economic, social and environmental impacts of a scheme from consultees, which can help rule out unsuitable options;*
- *enabling potential mitigating measures to be considered and, if appropriate, built into the project before an application is submitted; and*
- *identifying ways in which the project could, without significant costs to promoters, support wider strategic or local objectives.*

19. The pre-application consultation process is crucial to the effectiveness of the major infrastructure consenting regime. A thorough process can give the Secretary of State confidence that issues that will arise during the six months examination period have been identified, considered, and – as far as possible – that applicants have sought to reach agreement on those issues. Without adequate consultation, the subsequent application will not be accepted when it is submitted. If the Secretary of State determines that the consultation is inadequate, he or she can recommend that the applicant carries out further consultation activity before the application can be accepted.'

It is within this context that the County Council is engaging with you on your proposal. You will be aware of the resources the County Council and other host authorities have committed to the process to date and, in relation to this consultation, the commissioning of specialist independent technical advice. That advice, the views of the host authorities articulated in their collective response and the responses of the individual hosts will hopefully provide a positive platform from which to further engage over the coming months in shaping the scheme in preparation for the further stages of the DCO process to come.

As the host authority collective response indicates, in some areas considerable further evidence and engagement is required. In particular, the County Council will expect there to be a substantive focus on noise - (including the rationale for why a ban on night flights is not being considered), surface access impacts in Hertfordshire and mitigations (the impacts on the network and potential mitigations required, for all modes, are currently not satisfactorily evidenced and explored), employment and skills strategy (which is not yet even in draft form), bringing forward a comprehensive monitoring, mitigation and compensation strategy [including exploring how to apply the principles of environmentally managed growth (growth conditional upon environmental and other limits/targets/parameters being met) and unforeseen local impacts mitigation]; the scale, geographic scope and proposed operating mechanisms of the proposed FIRST scheme; air quality (aircraft and road traffic-related), specific analysis as to how the scheme in terms of its development/design/mitigation will minimise the impact on the aim and purposes of the Green Belt; the purpose and future management of the Wigmore Valley Park and associated open space, etc.

In relation to surface access, the *'Response to Scoping Report on behalf of the Host Authorities'* highlighted concerns in relation to the Hertfordshire road network relating to the A505 (Hitchin), the A1081 (Harpenden), B653 (Wheathampstead), A602 (Hitchin to Stevenage), M1 and A1(M) junctions, the heavily trafficked Hitchin routes (the A505, A600 and A602), and the rural roads around Breachwood Green. It also identified the need for bus and coach service improvements to bring passengers and staff to the airport from areas not linked directly to Luton by rail (for example east-west in Hertfordshire, from Stevenage, Hitchin, Welwyn Garden City, Hatfield, Hemel Hempstead and Watford). Such improvements would be important mitigation and at present remain under-developed. In terms of rail, the impact on passengers travelling from St Albans and Harpenden, particularly commuters in the peak, is not reflected in the Surface Access Strategy. There is mention that there will be insufficient seats for passengers getting on at Luton Parkway, but it fails to acknowledge that this means less or no seats from stations south. Considerable further technical work is required in relation to the surface access implications of the proposal on the Hertfordshire networks.

The County Council is strongly of the view that, moving forward, there needs to be a step-change in the level of technical engagement and that serious consideration needs to be given to appropriately informed political processes.

The majority, if not all, of the evidence and material identified as required by the host authorities will also be of interest to other local authorities, other parties and to communities. Given the scale of this material and evidence still to be compiled to underpin the scheme and to address its impacts, there would appear to be a strong case, within the spirit of national guidance, for a further period of statutory consultation to be programmed into the DCO process. The purpose of such further consultation would be to engage parties more meaningfully with a more advanced scheme.

The County Council's position

You will be aware that recent history of operations at London Luton Airport, from a Hertfordshire perspective, has been one that could hardly be more negative. Unmanaged accelerated growth at the Airport has proceeded in the full knowledge that restrictions on operations to safeguard communities from adverse noise impacts would be compromised. Breaches of planning control have occurred, are occurring and are predicted to continue to do so. There is a current live planning application seeking planning permission to, in effect, authorise those breaches for a temporary period of 5 years. Meanwhile, airspace change processes continue to seek to address the adverse noise impacts of an airspace change brought into effect in 2015 – impacts exacerbated by the mismanagement of recent accelerated growth. On top of this, communities are now expecting a planning application to raise the consented passenger throughput cap from 18 mppa to 19 mppa - again, because the Airport has mismanaged growth.

The consultation material states:

'Since the conclusion of our first round of consultation, we have published our Sustainability Strategy. This sets out a range of targets over the medium and long

term. We will work with the airport operator, London Luton Airport Operations Limited (LLAOL), to deliver against the targets. Our aims are to be a better neighbour, protect our planet, and enable growth and support for our future communities.'

Whilst the commitment to be a better neighbour is welcomed, Hertfordshire communities do not consider London Luton Airport to be a good, considerate, neighbour. The County Council has every sympathy with that view.

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

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Derrick Ashley', with a stylized flourish at the end.

Derrick Ashley
Executive Member for Growth, Infrastructure, Planning and the Economy

Appendix 3

Comments on the consultation material

Consultation Document

'Introduction

.....

'To ensure the airport continues to thrive we are preparing for a period of recovery from the impacts of the COVID-19 pandemic. For us to do this we need to ensure that we accommodate the need for future growth. An important step will be increasing the airport's capacity from 18 to 19mppa. This is a key element of our strategy for recovery and future growth and will help to support the local, regional and national economy as air traffic movements become more frequent. If we do not plan for growth now we will limit our ability to play our part in the UK's economic recovery.

To achieve this, we must submit a planning application to Luton Council. Before we do this, we want to hear your views on our emerging proposals.'

A3.1 Government policy within the APF states:

'Airport master plans

4.11 Currently over 30 airports across the UK have adopted master plans. They do not have a statutory basis, but the primary objective of master plans is to provide a clear statement of intent on the part of an airport operator to enable future development of the airport to be given due consideration in local planning processes. They also provide transparency and aid long-term planning for other businesses.

.....

4.13 Government also recommends that airport operators consult on proposed changes to master plans, and engage more widely with local communities prior to publication, for example liaising more closely with local authorities and also through drop-in sessions and public meetings. Airport operators should notify the DfT or Devolved Administration when plans are revised, and highlight any material changes. Airport operators are also encouraged to advertise the publication of any revisions to their plans widely in their local area.'

A3.2 LLA will be aware that Luton Local Plan Policy LLP6 states:

'Policy LLP6 - London Luton Airport Strategic Allocation

Airport Expansion

B. Proposals for expansion of the airport and its operation, together with any associated surface access improvements, will be assessed against the Local Plan policies as a whole taking account of the wider sub-regional impact of the airport. Proposals for development will only be supported where the following criteria are met, where applicable/ appropriate having regard to the nature and scale of such proposals:

.....

iii. are in accordance with an up-to-date Airport Master Plan published by the operators of London Luton Airport and adopted by the Borough Council;
.....'

A3.3 The consultation is not as clear as it should be on the relationship between and the timing of the master plan and planning application processes. The normal course of events is for an airport to consult widely upon its direction of future operations and growth set out in a draft master plan. The approved/published master plan then forms the framework within which an airport moves forward, including the submission of planning applications for growth. Indeed, this is what happened in the last master plan/planning application cycle at LLA.

A3.4 There is currently no in-force LBC-approved master plan that provides for growth of LLA to 19 mppa. Without this, any future planning application will inevitably be in conflict with the development plan.

A3.5 Moving forward there needs to be a much greater degree of transparency on the process for 'approval/publication' of the master plan and the relationship of that process to the proposed end of 2020 timeframe for submission of a planning application.

'Background

London Luton Airport today'

A3.6 There is no reference to the consequences of mis-management of growth at LLA that has resulted in breaches of noise controls. Moving forward, the master plan and any planning application need to acknowledge this as it is a critical factor in relation to the degree of confidence that exists that LLA is able to manage its activities responsibly and that it is committed and willing to operate in a manner that respects regulatory controls and its commitments to protecting communities. LLA cannot simply ignore the problems it has created.

'Planning for the future

Before the COVID-19 pandemic, passenger numbers at the airport had increased every year for the last four years. This rate of increase was much faster than we expected and meant that the airport was operating close to its 18mppa capacity in late 2019.'

A3.7 This section contains no intelligence on the environmental implications of this accelerated growth, the breaches in planning control that have occurred and the

proposal to seek to relax the environmental restrictions put in place by the 2014 planning consent.

'Community Benefits

Local benefits

London Luton Airport contributes more than £1.1 billion.....'

A3.8 Doesn't mean anything as a statement – the sentence needs completing.

'Enabling growth to 19mppa

The planning process

Our proposals to increase passenger capacity will involve the submission of a planning application to Luton Council.

Before we submit our application, we would like to hear your views. Your comments will help shape our proposals before we submit them. Details of how to respond are set out in the Have your say section.'

A3.9 See above in relation to clarification of the role of the proposed master plan. 'The Planning process' section could usefully have been preceded by a section 'The master plan process'.

'Our proposals

We have developed a Master Plan to serve as a framework to guide the increase of the airport's capacity to 19mppa. The Master Plan is presented in a separate document which provides the results of the analyses undertaken as part of the Master Plan assessment.'

A3.10 See above in relation to clarification of the role of the proposed master plan.

'This application will seek to vary existing conditions attached to the planning permission which granted consent in 2012 for the airport to operate up to 18mppa.'

A3.11 The planning permission was granted in 2014, not 2012.

'Due to factors outside of the airport's control, passenger numbers cannot be increased to 19mppa in line with the current wording of Condition 10. This is due to the number of passengers growing more quickly than originally forecast and the introduction of next generation quieter aircraft not becoming available in line with passenger growth.'
(page 12)

A3.12 See A3.6 in relation to LLA's mismanagement operations.

'Aviation strategy and government policy

On 5 June 2018 the Government confirmed its support for UK airports making best use of their existing runways. This policy statement is set out in the Government's publication 'Beyond the horizon – The future of UK aviation – Making best use of existing runways'.

A3.13 No reference is made here to the process by Government of a complete overhaul of national aviation policy through the Aviation 2050 process.

'There are three Air Quality Management Areas (AQMAs) within the Borough of Luton. The AQMAs cover part of Luton town centre, approximately 2km west of the runway, and locations around the M1 motorway near Junction 11, approximately 6km west of the airport.'
(Page 15)

A3.14 There are other AQMAs in the wider sub-region, including Stevenage Road and Payne's Park roundabout, Hitchin.

'For those emissions that we are only able to influence, we are proposing the following mitigation to support an overall reduction in GHG emissions from all sources in the period to 2028:

- ***A travel plan has been produced, which sets out actions to help achieve reductions in emissions from surface access.***
- ***Incentivising airlines to reduce aircraft emissions through the use of more modern aircraft.'*** (Page 16)

A3.15 Further details required on proposed incentives and the travel plan and these need to be released and used to inform the master plan preparation process.

'Findings

The health assessment is currently in its preliminary stages. Effects on human health resulting from air quality, climate change, and traffic and transport are anticipated to be limited. However, based on preliminary information on the potential changes to the noise environment and the public health evidence, effects on human health from noise cannot be ruled out and will require further assessment.' (Page 17)

A3.16 There needs to be substantive engagement with health agencies in developing the HIA and it should be available to inform the master plan preparation process.

'Noise

The assumptions made in the assessment have proven to be optimistic in terms of aircraft modernisation and pessimistic in terms of demand. As a result, the reductions expected in noise levels at the time of the

previous application have not been forthcoming to the extent envisaged.’ (Page 18)

A3.17 There are paragraphs missing here relating to mis-management of operations, breaches of planning control, the s73 planning application, etc. The dates of these should be placed on the timeline graphic, with appropriate annotations.

‘Findings of the Assessment

The initial conclusions of the noise assessment are that whilst no significant effects would be predicted in either 2021 or 2028, additional properties would experience noise above the SOAEL as a result of the proposed increase in passenger numbers.’ (Page 19)

A3.18 Noise assessment needs to be released to inform the master plan preparation process.

‘To mitigate this effect, we are proposing the following operational measures:

- ***Restrictions on daytime and night-time flights based on a reduced quota.***
- ***Restrictions on non-emergency flights during the night-time.***
- ***Charging to incentivise the use of modern aircraft.***

The following compensatory measures are also proposed:

- ***An enhanced noise insulation fund, to increase protection of properties.***
- ***One off grants to local councils to provide community improvements.’***

A3.19 Further details required and see A3.26.

‘Findings of Assessment

The transport assessment shows.....’ (Page 20)

A3.20 Transport Assessment needs to be released and used to inform the master plan preparation process.

‘However, this increase will be small and will only result in a small increase in vehicle movements during peak periods of the day. This increase can be accommodated without causing any significant negative impacts on the capacity of the existing transport network.

Given the increase in the use of public transport by airport colleagues over the last decade, more ambitious sustainable mode share targets have been set. These are presented in our Travel Plan. The introduction of the Luton DART in 2021 will have a further positive effect on the number of colleagues and passengers using public transport.

No new parking spaces are proposed to accommodate the increase in passengers. The existing available parking will be managed with controlled capacity and pricing through the ASAS and Car Parking Management Plan.'

A3.21 Travel Plan and Car Parking Management Plan need to be released and used to inform the master plan preparation process.

Growing Sustainably (Page 21)

A3.22 Should this section refer to noise?

Environmental Impact Assessment Progress Report

*‘1.1.13 It is proposed that variation to Condition 24 is as follows (variations to the existing condition are noted in **red bold text**, with the text to be replaced shown as strikethrough):*

*“The Passenger and Staff Travel Plan shall be implemented in accordance with the details approved on 23 September 2015 (re: 15/00761/DOC) **to accommodate up to 18 million passengers per annum.***

Beyond the passenger throughput of 18 million passengers per annum, the Travel Plan shall be complied with to accommodate up to 19 million passengers per annum.”

A3.23 Later, the EIA Progress report states:

‘8.1.1 To carry out an assessment of the transport related impacts of an increase in passenger numbers three main documents were prepared to support the Project, these are a Transport Assessment (TA), a Travel Plan (TP) and a Car Parking Management Plan (CPMP).

8.1.3 The TP has been developed with the objective of reviewing the latest Airport Surface Access Strategy Report (ASAS) 2018 - 2022 (2019 Reissue) and updating objectives, targets and measures based on a policy appraisal and site assessment. This analysis has been translated into a concrete action plan to be monitored periodically.’

A3.24 A new/revised Travel Plan and Car Parking Management Plan have been/are being produced, to which the proposed revisions to Condition 22 and 24 refer. The reference to ‘Car Parking Management Plan’ and ‘Travel Plan’ in the proposed new wording to Conditions 22 and 24 presumably relate to these new Plans, and as a consequence will need to be referenced and dated (unless the intention is to manage 19 mppa documentation entirely through revisions to Condition 28).

A3.25 The consultation material refers to a ‘Noise Assessment’ that ‘*identifies a number of specific mitigation measures which are recommended as a result of the increase in the number of properties exposed to noise at levels in excess of the SOAEL.*’. These are:

‘6.2.14 In order to achieve this, LLAOL will enhance its existing noise mitigation measure as follows:

- increase the contribution to the Noise Insulation Fund*
- The cost of insulation is given to the dwellings with highest noise levels as priority, and the increase in funding of the scheme will allow dwellings to receive insulation at an accelerated rate; and*
- One-off grants to local councils exposed to noise levels between LOAEL and SOAEL based on the forecasted noise contours. Grants are to be used to provide community improvements.*

6.2.15 In addition the following commitments will be made as part of the proposed variation to noise planning conditions

- For Summer 2020 and all subsequent seasons, no night-time (23:30 to 07:00) slots will be allocated to aircraft with a value greater than QC1;
- No further day time slots will be allocated to aircraft greater than QC1 (06:00-21:59 GMT 1st June – 30th September);
- No “non-emergency” Diverted Flights will be accepted;
- New airline / aircraft slots at night not to exceed QC 0.5; and
- Differential charging will be implemented to incentivise the rapid modernisation of fleet.’

[Draft Masterplan]

A3.26 These measures appear to differ from/add to the contents of Condition 9 of planning permission and the Noise Control Scheme which is the subject of that Condition. This raises the question as to whether a revised or rejuvenated Noise Control Scheme is required and as a consequence, whether planning permission should be sought to vary Condition 9.

‘4.1.6 LBC has identified two main areas where NO2 concentrations exceed, or are likely to exceed, the annual mean AQO of 40 µg m⁻³. As a result, these areas have been declared as Air Quality Management Areas (AQMAs). They are:

- ***along the length of the M1 Motorway; and***
- ***along the A505 (Dunstable Road) in part of Bury Park and the Town Centre.***

4.1.7 Elsewhere in Luton, concentrations of NO2 are below the AQO.’

A3.27 Moving forward the EIA process should pick up AQMA’s in the wider sub-region, where these are associated with road traffic on routes used for Airport access - Stevenage Road and Payne's Park roundabout, Hitchin (both of which involve nitrogen dioxide was being measured at concentrations above the standard set to be protective of human health).

‘4.2.2 Two future scenarios have been assessed:

- ***the year 2024 assuming the airport remains capped at 18 mppa;***
- ***the year 2024 assuming the airport grows to 19 mppa.’***

A3.28 The assessment should be released and used to inform the master plan preparation process.

‘5.3.9 The only receptor for the climate change assessment.....’

A3.29 The climate change assessment should be released and used to inform the master plan preparation process.

‘Surface access emissions

5.5.3 The Travel Plan sets out objectives and targets with a series of measures around the promotion of walking, cycling, use of public transport and reducing single car occupancy for both passengers and staff. The Surface Access Strategy includes the following targets which are embedded into the climate change assessment:

- **passengers travelling to and from the airport by rail will increase from 21 % in 2019 to 24 % in the 19 mppa scenario by 2022;**
- **staff travelling to and from the airport by Single Occupancy Vehicles (SOVs) will reduce from 66 % in 2019 to 64 % in the 19 mppa scenario by 2022; and**
- **increase employee travel by sustainable modes of transport including increasing staff travelling to and from the airport by rail from 7 % to 9 % in the 19 mppa scenario by 2022 and by bus and coach from 9 % to 11 % in the 19 mppa scenario by 2022.'**

A3.30 The highway authorities need to be consulted/engaged in the Travel Plan and it needs to be released and used to inform the master plan preparation process.

'6.1.1 As part of the EIA process an assessment of human health effects is being undertaken to understand the potential health and wellbeing effects that the proposed variations to Conditions 8 and 10 may have on the surrounding community, including those along flightpaths and major roads to and from LLA. This assessment of human health effects follows a health impact assessment (HIA) methodology.'

A3.31 The health effects assessment should be released and used to inform the master plan preparation process.

'Planning policy context

6.3.5 There are a number of policies and guidance at the international, national, and local level. Planning policy related to human health is outlined in Table 8.1.'

A3.32 Sections 4, 5, 7 and 8 do not appear to have taken a similar approach to summarising the key policy context for their topics.

'6.4 Initial findings

6.4.1 At this stage, based on preliminary information on the potential changes in the noise environment associated with the Project, and the public health evidence on the potential for these changes to have adverse effects on human health, potential significant effects on human health are judged to be plausible and likely and will be considered for further assessment.

6.4.2 The information that is available on the potential air quality, climate change, and traffic and transport effects associated with the Project, and the potential for these to cause associated effects on human health is currently limited. Therefore, it does not yet allow for a robust conclusion

to be reached on whether the related effects on human health are, or are not, likely to be significant. As such, these potential effects on human health are, at this stage, taken forward for further assessment. As further information becomes available from the other environmental topic assessments, a decision will be made on whether associated health effects are to be assessed as part of the EIA or to be scoped out.'

A3.33 There needs to be substantive engagement with health agencies in developing the HIA.

'7.1.1Noise modelling and assessments are currently being undertaken to analyse the effects of increased passenger numbers, a methodology and initial results of which follows.'

'7.2.1 Initial assessments have been undertaken to review likely effects from the proposed passenger increase associated with the Project.....'

A3.34 Noise modelling and assessments should be made available as soon as possible and used to inform the master plan preparation process.

'7.5.1 Luton Airport has an established programme of noise mitigation to minimise noise emissions, and any resulting effects, as part of its obligations to meet the requirements within the Environmental Noise (England) Regulations. These mitigation measures will be enhanced to include residences newly predicted to be in areas with noise levels above the SOAEL.'

A3.35 7.4 Initial findings doesn't say anything about addition SAOEL.

'7.5.3 Mitigation will also include compensatory measures as follows:

- an enhanced Noise Insulation Fund to provide additional attenuating measures to increase protection of residences internal noise environments; and***
- one-off grants to local councils exposed to noise levels between LOAEL and SOAEL based on the predicted future noise contours. Grants are to be used to provide community improvements.'***

A3.36 Further details on these measures required to inform the master plan preparation process.

'8.1.1 To carry out an assessment of the transport related impacts of an increase in passenger numbers three main documents were prepared to support the Project, these are a Transport Assessment (TA), a Travel Plan (TP) and a Car Parking Management Plan (CPMP).'

A3.37 The TA, TP and CPMP should be released and used to inform the master plan preparation process.

'8.5.1 From the analysis carried out it can be concluded that the net increases in total flows (passengers and employees) will not cause significant effects in terms of network operational capacity. This is based on our knowledge of the network and traffic flow thresholds which are likely to have a significant impact on its capacity. It has been agreed with HE and LBC that this level of traffic flow increase is not significant enough to warrant any further traffic modelling at this stage. Thus, it is concluded that the highway network will not show any significant change from the 18 mppa at a 2024 design year level.'

A3.38 The assumptions that underpin this agreement need to be clearly set out (presumably in the Transport Assessment) and made available.

'8.5.2 It is extremely encouraging that the airport has already met its key primary sustainable transport targets that were originally set for 2022 in 2019, three years ahead of schedule. As such the latest results have been used to set new stretching TP objectives and targets focusing around three key areas: reduction in private car travel, increase in sustainable travel and a focus on reducing carbon emissions derived from surface access to the airport.'

A3.39 What are the new stretching TP objectives and targets? These need to be available and used to inform and be integrated with, as appropriate, the master plan preparation process.

'9. EIA process: next steps

9.1.1 EIA process is on-going, we are currently carrying out the 'Impact Assessment' of the 'Environmental Assessment and Evaluation' stage (see Graphic 1.1). Next, we will take on-board the responses attained through this consultation. In doing so, your comments and concerns will shape the 'Impact Assessment' and 'Mitigation' put forward to avoid, reduce, and minimise any adverse effects of the Project.'

A3.40 The EIA process and indeed the process as a whole, including master plan and planning application preparation would benefit from sharing of all assessments and evidence as soon as possible with key stakeholders.

MASTERPLAN

'EXECUTIVE SUMMARY

IDOM Consulting, Engineering, Architecture, SAU (IDOM) has been appointed by London Luton Airport Operations Limited (LLAOL) to develop a Master Plan for London Luton Airport in connection with the planning application under the Town and Country Planning Act (TCPA) to increase capacity at the airport to 19 million passengers per annum (mppa). In light of the COVID-19 pandemic, it is anticipated that the 19mppa traffic horizon will be reached around 2024 ("planning horizon").'

A3.41 A master plan should provide a framework for a future planning application, not be *'in connection with'*. This is more accurate (third paragraph in the summary):

'This Master Plan is intended to serve as a framework for guiding the short-term development of the airport to increase its capacity from 18 million annual passengers to 19 million annual passengers.'

'0.1 Forecast

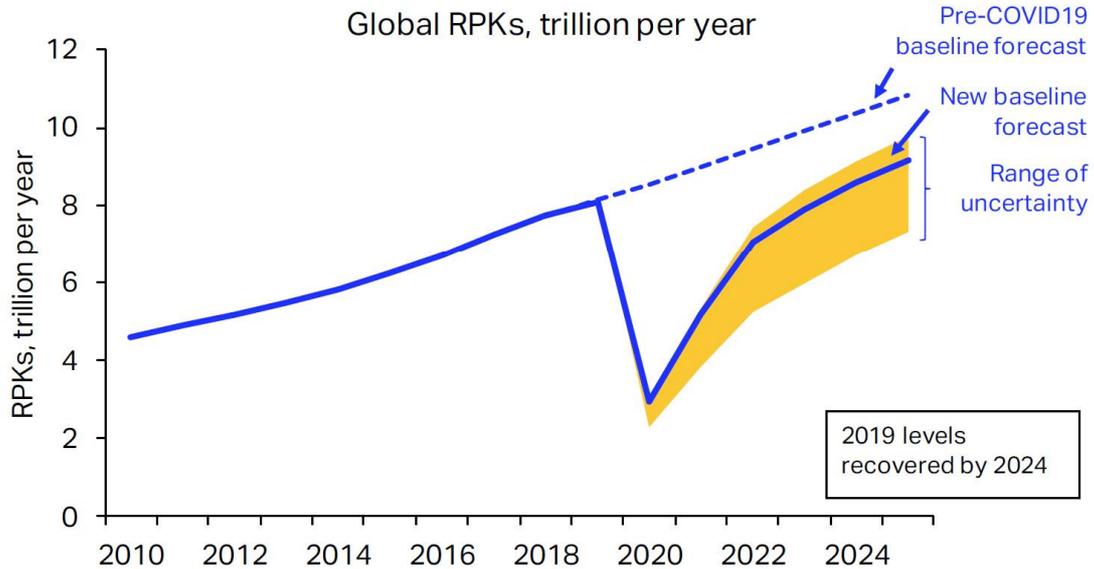
0.1.1 Due to the short-term nature of the Master Plan.....'

A3.42 It is not a short term masterplan – it provides the framework for the future of LLA at a proposed elevated capacity (subject of course to Government expectations that master plans be reviewed every 5 years).

'In accordance with industry expectations and current pandemic situation, it is expected that the airport will recover to the 18mppa traffic horizon around 2023 and the 19mppa traffic horizon will be achieved around 2024.'

A3.43 The consultation material provides little background intelligence about these *'industry expectations'* and, importantly, whether and to what extent they are considered plausible by the Department for Transport and compatible with any new national aviation forecasts it may be undertaking to inform the national aviation strategy process. As we know, IATA takes the view that traffic will not return to pre-COVID levels before 2024 (not 2023 assumed within these proposals), and this is view sits within a significant range of uncertainty – *'upside could see travel demand return to 2019 levels in 2023, while the downside could be much more severe'*. The downside forecast indicates that in 2024 recovery will only be at 2015 levels globally.

Five years to return to the pre-pandemic level of passenger demand



Source: IATA/ Tourism Economics Air Passenger Forecasts

A3.44 Similarly, Eurocontrol's latest five-year forecast offers three scenarios for recovery from Covid-19:

- a most-optimistic forecast of a recovery to 2019 levels by 2024 assumes a vaccine is widely made available for travellers by summer 2021.
- should a vaccine only be widely available, or the pandemic end, by summer 2022, a recovery to 2019 levels may be pushed back to 2026.
- a worst-case scenario that there is no effective vaccine and the infection lingers suggests recovery could be delayed until 2029.

A3.45 Despite recent Government announcements in relation to vaccine availability and deployment, there are significant further stages to come and considerable uncertainty exists in relation to the speed with which widespread access to and roll out a vaccine could be achieved. Moving forward there needs to be greater clarity on the reasons why LLA feels an optimistic scenario should be applied to growth of throughput.

'1.1 Need for a masterplan'

A3.46 There is no reference in this section to the existing master plan for LLA. The main reason there is a 'need for a masterplan' is that the current master plan only provides for growth to 18 mppa, and so a revised or new master plan is required.

A3.47 No reference is made to APF expectations that:

'Airport master plans'

4.11 Currently over 30 airports across the UK have adopted master plans. They do not have a statutory basis, but the primary objective of master plans

is to provide a clear statement of intent on the part of an airport operator to enable future development of the airport to be given due consideration in local planning processes. They also provide transparency and aid long-term planning for other businesses.

.....

4.13 Government also recommends that airport operators consult on proposed changes to master plans, and engage more widely with local communities prior to publication, for example liaising more closely with local authorities and also through drop-in sessions and public meetings. Airport operators should notify the DfT or Devolved Administration when plans are revised, and highlight any material changes. Airport operators are also encouraged to advertise the publication of any revisions to their plans widely in their local area.'

A3.48 So there is a need for a new master plan because it is a Government expectation.

A3.49 No reference is made to Luton Local Plan LLP6. LLP6 requires any growth proposals to be in accordance with a master plan produced by LLA and adopted by Luton Borough Council. LLP6 generates a need for the production of a master plan.

'1.2.2 It is important to note that a Master Plan is intended to serve as an airport short-term development guide and not as a design or implementation programme.'

A3.50 It is not a short term master plan – it provides the framework for the future of LLA at a proposed elevated capacity (subject of course to Government expectations that master plans be reviewed every 5 years).

'2.3.3 Based on industry expectations and on current pandemic situation, it is expected that the airport will recover to the 18mppa traffic horizon around 2023 and the 19mppa traffic horizon will be around 2024.'

A3.51 See paragraph A3.38-39 above.

'Figure 2.14 and 2.19'

A3.52 '2.19' should read '2.15'.

'2.6 Potential Changes in Activity

2.6.1 This study has been finished in the middle of the COVID-19 outbreak. Despite this being an unprecedented situation in the aviation history where considered relevant, consideration has been given in the Master Plan to the impact on traffic scenarios based on current pandemic situation and industry expectations. However, it should be noted this forecast is dependent on the evolution of the pandemic.'

'5.2.5 LLAOL has commissioned Wood to undertake a Noise Impact Assessment for the expansion to 19 mppa. The increase in total passengers from the currently permitted 18 mppa to 19 mppa can be achieved with only very modest increase in the number of annual air traffic movements (ATM) The increase in passenger numbers can be achieved by the combined effects of increasing the occupancy levels of flights currently operated and by migration in the average passenger capacity of flights by adoption of large aircraft.'

'5.2.10 The Noise Assessment considers the impacts of the increase from consented 18 mppa to 19 mppa with respects to various receivers. It concludes that there is a negligible impact at receptors so additional significant adverse effects are not identified as a result of magnitude of change in noise level.'

A3.53 The Noise Impact Assessment should be released and used to inform the master plan preparation process.

'5.3.2 An Air Quality Assessment has been produced by Wood. The assessment considers the forecast effects of the development on the emissions from operations at the airport.'

A3.54 The Air Quality Assessment should be released and used to inform the master plan preparation process.

'5.5.2 A Greenhouse Gas Assessment has been undertaken by Wood. The assessment shows that in all cases modelled the largest contribution to greenhouse gas emissions is from air traffic. Surface transport accounts for the next largest contribution.'

A3.55 The Greenhouse Gas Assessment should be released and used to inform the master plan preparation process.

'6.2.2 Noise generation and impact is strictly controlled by the planning permissions under which the airport operates.'

A3.56 But LLA operations have breached the controls put in place by the 2014 18 mppa planning consent and there is a live planning application to have these controls relaxed. See A3.17 above.

'6.2.13 The Noise Assessment identifies a number of specific mitigation measures which are recommended as a result of the increase in the number of properties exposed to noise at levels in excess of the SOAEL.'

A3.57 Noise Assessment should be released and used to inform the master plan preparation process.

'6.2.14 In order to achieve this, LLAOL will enhance its existing noise mitigation measure as follows:

- **increase the contribution to the Noise Insulation Fund**
- **The cost of insulation is given to the dwellings with highest noise levels as priority, and the increase in funding of the scheme will allow dwellings to receive insulation at an accelerated rate; and**
- **One-off grants to local councils exposed to noise levels between LOAEL and SOAEL based on the forecasted noise contours. Grants are to be used to provide community improvements.'**

A3.58 Details should be provided and used to inform the master plan preparation process.

'6.2.15 In addition the following commitments will be made as part of the proposed variation to noise planning conditions proposed variation to noise planning conditions

- **For Summer 2020 and all subsequent seasons, no night-time (23:30 to 07:00) slots will be allocated to aircraft with a value greater than QC1;**
- **No further day time slots will be allocated to aircraft greater than QC1 (06:00-21:59 GMT 1st June – 30th September);**
- **No "non-emergency" Diverted Flights will be accepted;**
- **New airline / aircraft slots at night not to exceed QC 0.5; and**
- **Differential charging will be implemented to incentivise the rapid modernisation of fleet.'**

A3.59 Clarification is required on the extent to which these commitments amend/add to those that are embedded within the consent regime and whether they prompt a requirement to vary Condition 9 of the 2014 18 mppa consent.

'6.3.1 The increase in maximum capacity of passengers from 18 mppa to 19 mppa, whilst modest in percentage terms, may entail an increase in road transport related air emissions and it will be necessary to undertake a detailed assessment of the likely impact of this when the formal planning application is made.'

A3.60 There needs to be some degree of certainty/provision of evidence with regard to emissions to inform the master plan preparation process.

'6.3.3 Other mitigation measures available will include:

- **Preparation of a travel plan; and**
- **Financial incentives and/or penalties to encourage sustainable means of transport.'**

A3.61 The Travel Plan and proposed incentives/penalties need to be released and used to inform the master plan preparation process.

Appendix 4

Hertfordshire County Council response to application to discharge of Condition No. 10 (Noise Strategy) of Planning Permission No. 15/00950/VARCON dated 13th October 2017. London Luton Airport, Airport Way, Luton

Manager
Development Control
Luton Council
Town Hall
George Street
Luton
Bedfordshire
LU1 2BQ

County Hall
Postal Point: CH216
Pegs Lane
Hertford
SG13 8DE

Tel: 01992 556289

email: paul.donovan@hertfordshire.gov.uk

Date: 28th February 2020

Dear Sir/Madam,

20/00131/DOC - Full planning application for dualling of Airport Way/Airport Approach Road and associated junction improvements, extensions and alterations to the terminal buildings, erection of new departures/arrivals pier and walkway, erection of a pedestrian link building from the short-stay car park to the terminal, extensions and alterations to the mid-term and long-term car parks, construction of a new parallel taxiway, extensions to the existing taxiway parallel to the runway, extensions to existing aircraft parking aprons, improvements to ancillary infrastructure including access and drainage, and demolition of existing structures and enabling works. Outline planning application for the construction of a multi-storey car park and pedestrian link building (all matters reserved) 12/01400/FUL - Variation of Condition 11 (i) - Noise violation limits. - Discharge of Condition No. 10 (Noise Strategy) of Planning Permission No. 15/00950/VARCON dated 13th October 2017. London Luton Airport, Airport Way, Luton

1. Thank you for the opportunity to comment on the above. The following are officer comments only.

2. The original planning application was approved on the basis that growth in throughput would be accompanied by a range of safeguards to manage the noise impacts arising from the proposal and protect communities. This is clear from the following extracts from the report to Committee dated 20th December 2013 (text highlighted ***thus***):

'95. The timescales for the introduction of new aircraft (fleet modernisation) is to be secured both through condition and S106 Agreement attached to any permission.

110. An independent assessment of the ES in respect of the Noise implications of the development was carried out for LBC by Cole Jarman Ltd, Noise Consultants, and in so far as airborne aircraft noise is concerned there

are no significant reservations about the methodology employed in the ES to quantify the expected noise levels. In numerical terms it was considered that the contours and footprints presented in the ES reasonably reflect the expected noise impact. However, in interpreting the findings it was considered that the following factors needed to be considered:

- Controlling the noise impact to the levels indicated for 2028 requires that a substantial part of the airline fleet is changed to modern, low noise variants of types currently operating. **The primary mechanism put forward by the applicant for ensuring that this will happen is by way of a condition limiting the extent of key daytime and night time aggregated noise contours.**
- Current Government Policy in respect of aircraft noise is contained in the APF published in March 2013. This states that „Our overall objective on noise is to limit and where possible reduce the number of people in the UK significantly affected by aircraft noise.“ The predicted future noise impact with the development in place would be greater than that assessed as prevailing at the present time. One consequence of this finding is that the number of people significantly affected by aircraft noise might be neither limited nor reduced and as such this would not meet the objectives set out in the APF. **To address this the applicant has made a commitment that the Airport will seek to continually increase the percentage of flights undertaken by modernised low noise variants of relevant aircraft types and it is proposed to secure this commitment by way of a legal agreement (S106). This measure would facilitate a reduction in the overall noise levels and minimise the impact on local residents and therefore meet the objectives of the APF.**
- Luton Local Plan Policy LLA1 states.....By applying this tighter interpretation this would require lower noise levels in 2028 than are predicted for the partial modernisation scenario. Although this alternative interpretation is not accepted by the applicant, achieving the full modernisation scenario would ensure compliance with this alternative interpretation **and this would be likely to be secured by a commitment (in the S106 Agreement) by the Airport that they will continually increase the percentage of fights undertaken by modernised low noise variants of relevant aircraft types.**

111. Although the assessment of the ES in terms of noise did initially identify areas of concern relating to the interpretation of policy LLA1, predicted noise levels, night time noise issues and necessary mitigation measures, **further negotiation with the applicant has resulted in the applicant accepting additional controls and mitigation measures by way of condition and or inclusion within the S106 Agreement.**

112. **The Local Planning Authority, in consultation with its noise consultant Cole Jarman Ltd, considers that there is a remedy to ensure that the numbers of people affected by aircraft noise does not increase.**

The two tables below show a comparison for daytime noise (Table 1) and night time noise (Table 2) for a number of years – including the predictive and actual noise levels in 1999. The 2028 predicted figures are taken from the ES

113. It can be seen that the predicted 1999 taken from the 1997 ES levels were higher than actual 1999 levels (0.2 square kilometres for daytime noise and 22.8 square kilometres for night time noise). Further it can also be seen that the current operation of the Airport is well below these levels. The requirement for Condition 12 for night time noise to be limited to an area of 37.2 sq.km for the 48-72 Leq dBA 8 hour (23.00 – 07.00) contour is ambitious but will ensure that lower noise levels are achieved in 2028 than currently predicted by LLAOL. **However with strict controls on growth and measures such as fleet modernisation being maximised, this lower area is considered to be practicable and achievable. It also ensures additional benefits in terms of residential amenity in accordance with policy.**

114. Even though some weight should be given to Local Plan Policy LLA1 as it is site specific and has been based on evidence the subject of previous planning decisions in relation to development of the Airport, it is considered that greater weight should be given to current Government policy, which is seeking where possible to reduce the number of people significantly affected by aircraft noise in the UK. It is therefore considered that the condition restricting the 57 dB daytime contour and the 48 dB night time contour could reflect the actual 1999 levels and thereby ensure that the area affected by aircraft noise would be any worse than at that time.

115. The applicant has raised concerns regarding the independent Noise assessment of the ES by Cole Jarman Ltd in terms of some of the conclusions reached in respect of issues relating to night time noise and the level of mitigation proposed. The applicant was of the view that this had been fully assessed within the ES. **However the purpose of LBC carrying out an independent assessment was to examine the proposal and proposed mitigation in terms of seeking to secure on balance the best practicable outcomes for the surrounding community while enabling the development to be implemented in accordance with government and local policy.** Clearly within this process there will be differences of opinion. The proposed modifications to the Noise Insulation Scheme are not at a scale that could be considered unreasonable given the potential long term impact of the development as proposed.

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

205. As set out within the report, the proposed expansion of the Airport will have an impact in terms of additional noise from aircraft movements and traffic generation. **However, the proposal does afford the opportunity to**

put in place a range of controls through the use of a mix of planning conditions and obligations contained within a S106 Agreement, in respect of issues such as night time noise, noise insulation, limitation on the passenger numbers and type of aircraft etc. Current controls are limited in their effectiveness and/or do not meet the requirements or objectives of current national aviation and planning policy.

3. Similarly, the Committee report relating to the Variation of condition 11 (i) – Noise Violation Limits states (text highlighted ***thus***):

‘69. Commenting on condition 11(i), Cole Jarman Ltd note that the noise violation limits graduated according to the QC classification seek to ensure that all aircraft, and not just the noisiest, are operated in a manner that ensures the noise levels generated are commensurate with what is to be expected. However, they conclude from the analysis of the data that “setting noise violation limits based on the departure QC rating of an individual aircraft is unreliable. Transgression of a noise violation limit set in this way cannot be absolutely determined as evidence that any given aircraft is being operated in an unacceptable manner.” Consequently they confirm that the data indicates an alternative means of setting noise violation limits and controlling average noise levels generated in the community around the airport is required.

70. Cole Jarman Ltd state that “if condition 11(i) is to be modified to include absolute noise limits unrelated to the QC rating of aircraft, then it is vital that the noise envelope restrictions set out in condition 12 are applied using the full knowledge of the actual noise levels generated by aircraft operating at Luton Airport.” Condition 12 requires the area encapsulated by the 48dB L Aeq,8h contour to be reduced by the year 2028 from 37.2km² to 31.6km² for the night period and for the daytime the 57dB L Aeq,16h contour to be reduced from 19.4km² to 15.2km².

*79. With regard to LADACAN’s comments concerning the noise violation limits being a blunt tool that would not encourage a change to quieter aircraft, it should be noted that condition 11 is not the primary mechanism for constraining and reducing the overall levels of aircraft noise in the community. **Condition 12 is the main tool setting limits on the areas enclosed in the daytime (57dB L Aeq,16h) and night time (48dB L Aeq,16h) and also requiring the Airport to develop and implement a strategy for ensuring that the areas within these contours reduces by 22% and 15% respectively by 2028. Such a reduction in the areas means there will be a reduction in noise generated by aircraft overflying all locations in the community around the Airport.** This also addresses one of the concerns raised by the Chilterns Countryside Board.’*

4. The planning conditions/s106 agreements attached to the 2014 and 2016 planning consents contain a suite of measures to restrict the noise impact of the development to safeguard potentially impacted communities and to make the development acceptable. The importance of and commitment to noise contours is clear from the decision-making process and these were duly incorporated into the planning consent. Key amongst these controls are the 22% and 15% reductions in

day and night-time contours by 2028 and the requirement for the submission of a strategy to demonstrate how this will be achieved.

5. There has been considerable progress in national aviation policy and Government expectations of the aviation industry since consent was granted and there has also been substantive movement on best/better practice in relation to ensuring compliance with and enforcement of prescribed environmental limits.

6. Some of the particularly key aspects of Government national policy change/development are as follows.

7. At paragraphs 3.114 and 3.115 the Government's emerging Aviation Strategy (Aviation 2050) state:

3.114 The government recognises that there has been uncertainty on how this policy should be interpreted, measured and enforced. The government intends to put in place a stronger and clearer framework which addresses the weaknesses in current policy and ensures industry is sufficiently incentivised to reduce noise, or to put mitigation measures in place where reductions are not possible.

3.115 The proposed new measures are:

- *setting a new objective to limit, and where possible, reduce total adverse effects on health and quality of life from aviation noise. This brings national aviation noise policy in line with airspace policy updated in 2017.*
- *routinely setting noise caps as part of planning approvals (for increase in passengers or flights). **The aim is to balance noise and growth and to provide future certainty over noise levels to communities.** It is important that caps are subject to periodic review to ensure they remain relevant and continue to strike a fair balance by taking account of actual growth and the introduction of new aircraft technology.'*

8. We can also see from the ANPS the Government's commitment to noise envelopes, packages of mitigation measures, community/stakeholder engagement, working with partners to secure delivery and how measures are to be secured and enforced.

*'5.60 The applicant should put forward plans for a noise envelope. Such an envelope should be tailored to local priorities and include clear noise performance targets. As such, the design of the envelope should be defined in consultation with local communities and relevant stakeholders, and take account of any independent guidance such as from the Independent Commission on Civil Aviation Noise. **The benefits of future technological improvements should be shared between the applicant and its local communities,** hence helping to achieve a balance between growth and noise reduction. **Suitable review periods should be set in consultation with the parties mentioned above to ensure the noise envelope's framework remains relevant.***

5.62 The Government also expects a ban on scheduled night flights for a period of six and a half hours, between the hours of 11pm and 7am, to be implemented. The rules around its operation, including the exact timings of such a ban, should be defined in consultation with local communities and relevant stakeholders, in line with EU Regulation 598/2014. In addition, outside the hours of a ban, **the Government expects the applicant to make particular efforts to incentivise the use of the quietest aircraft at night.**

5.63 It is recognised that Heathrow Airport already supports a number of initiatives to mitigate aircraft noise, such as developing quieter operating procedures (like steeper descent approaches) and keeping landing gear up as long as possible. The applicant is expected to continue to do so, **and to explore all opportunities to mitigate operational noise in line with best practice. The implementation of such measures may require working with partners to support their delivery.**

.....

5.66 The Secretary of State will expect **the applicant to put forward proposals as to how these measures may be secured and enforced, including the bodies who may enforce the measures. These bodies might include the Secretary of State, local authorities (including those over a wider area), and / or the Civil Aviation Authority.**

9. The Airports National Policy Statement (ANPS) and the Heathrow Third Runway Development Consent Order process pursuant to it are perhaps where one should look for evidence of best/better practice in relation to ensuring compliance with and enforcement of prescribed environmental limits. Heathrow has set out its emerging proposals to deliver on Government ANPS environmental requirements of a third runway in its 'Environmentally Managed Growth – Our Framework for Growing Sustainably, June 2019'. Amongst other things, this makes a range of commitments:

'Environmental performance would be central to the way in which we run the airport in the future and our objectives would be closely aligned with those of our local communities.'

'Those communities would be given confidence that the approved effects of expansion would never be exceeded.'

'To operate the framework effectively we will commit to a rigorous and transparent monitoring process, which would be independently reviewed – and we propose that an Independent Scrutiny Panel (ISP) is established to hold us to account.'

2.1.3 This framework provides the mechanism to ensure that the main operational effects of Heathrow's growth **will remain within acceptable environmental limits**, having regard to the Airports NPS.'

2.1.6 This framework formalises Heathrow's **commitment to operate within defined environmental limits** that accord with the relevant requirements of the Airports NPS. It establishes **comprehensive and transparent monitoring and enforcement processes for the long term**. It commits Heathrow to a future in which managing the airport's environmental effects will be central to day to day and longer term strategic decisions about how the airport operates and grows.'

2.1.8 The framework set out in this document complements those measures by putting in place an **effective long-term monitoring and management regime to assure that the effects of Heathrow's long-term growth permanently remain within acceptable limits** having regard to Government policy as set out in the Airports NPS. The regime will hold Heathrow to account. It will mean that the effects of the growth of the **airport's operations will always stay within environmental limits. It will involve clear and transparent reporting, so that local communities and the general public can understand the effects of our operation. It is aimed at creating public confidence and trust between the community and the airport, that the effects of the growth of the airport's operations will always stay within clear environmental limits.**

2.2.9 Directly in line with the Government's objectives, these envelopes or limits would enable the airport to continue to grow, i.e. handling more flights and passengers, as long as the environmental envelopes or limits are not exceeded. **This commitment gives certainty to Heathrow's local communities, local authorities, Government, and wider stakeholders who will know what the maximum effects of Heathrow's growth will be into the long term. It also incentivises both Heathrow and its airlines to optimise their environmental performance, so that the airport operations can continue to grow within those envelopes or limits.**

2.2.10 **The effect of this framework is to encourage airlines to operate the best performing aircraft on Heathrow routes and drive further technological innovation to reduce effects. The framework has the effect of incentivising Heathrow to adopt operational measures to optimise the number of flights and passengers that the airport can host. It also encourages Heathrow to invest in measures or commercial strategies which mitigate the effects of growth,** such as investment in public transport.

2.2.11 This approach is aligned to the most up to date Government policy set out in the **emerging Aviation Strategy green paper, which proposes the use of noise caps to balance noise and growth with appropriate compliance mechanisms in place.** The draft explains:

"...a noise cap (also known as a noise envelope) is any measure which restricts noise. In its crudest form this could be a simple movement cap, but the Government proposes advocating caps which are based on setting maximum noise exposure levels (such as a contour area or noise quota)."

2.3.3 In order to implement such a framework at Heathrow, it is necessary to put in place the following:

- **a clear, enforceable definition of the environmental envelopes or limits;**
- **a monitoring, reporting and modelling regime which enables the impacts of Heathrow's growth to be accurately recorded and predicted; and**
- **an independent body to scrutinise the monitoring and enforce the limits.**

4.1 Monitoring

4.1.1 Heathrow already publishes a large volume of monitoring data about the effects of the airport's operations. For the purposes of this framework, however, Heathrow will prepare a document titled *Environmentally Managed Growth – Our Monitoring* which will set out the detail of how the effects of the airport's expansion will be monitored in relation to the four principal topic areas covered by this Framework. **This will enable the airport's performance against the limits identified in Appendix A to be monitored and enforced.**

4.1.2 We propose that monitoring data will be updated regularly on Heathrow's website and will be the subject of a formal **Monitoring Report** published annually and submitted to the Independent Scrutiny Panel (see further below).

4.1.3 **The Monitoring Report would include all relevant data and identify the relevant impacts of Expansion. It will place those impacts in the context of the environmental limits or envelopes and will contain a 'look forward' discussing how Heathrow's forecast growth relates to those limits, taking account of any existing or planned mitigation measures.**

4.2 Independent Scrutiny Panel

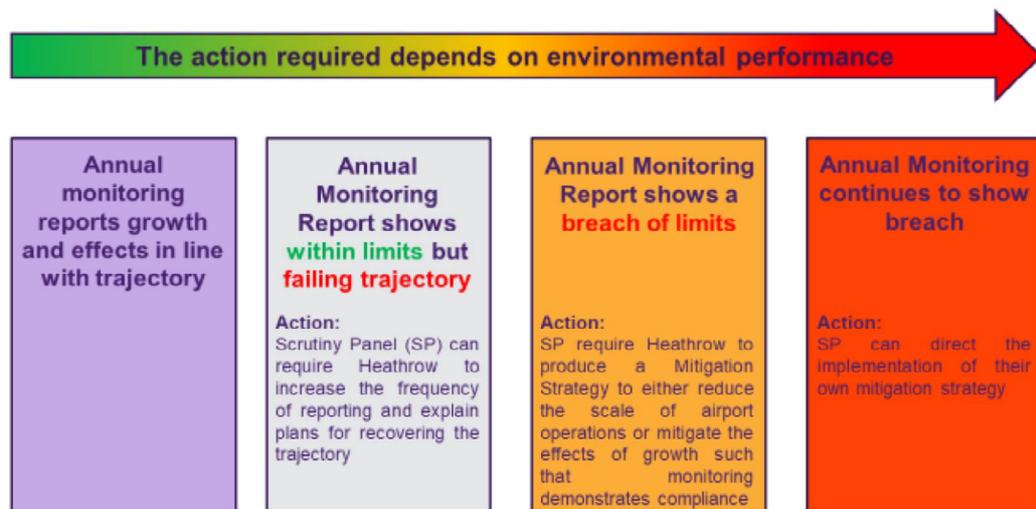
4.2.1 Appendix C comprises a potential constitution for an Independent Scrutiny Panel (ISP). The establishment of the ISP will be committed to within the DCO in accordance with that constitution. **It is important for public confidence that Heathrow's Environmentally Managed Growth framework is overseen and enforced independently by an organisation which is technically capable and appropriately resourced.**

4.2.2 The precise details of the membership of the Independent Scrutiny Panel (ISP) need to evolve through consultation feedback and direct discussion with stakeholders. **The purpose, however, is to gather together in one enforcement body all specialist agencies who may have a role in assessing and enforcing the environmental limits to Heathrow's growth, so that Heathrow can be held to account in a comprehensive and coordinated way.**

4.3.4 The overall framework could have the effect of limiting the growth of the airport unless the Environmental Limits are observed. Rather than growth being allowed to continue, the framework (and particularly the powers available to the ISP) would prevent its growth beyond a certain point until further mitigation can be found..... [emphasis added]

Graphic 4.2 Environmentally Managed Growth – Illustration of monitoring response

ENVIRONMENTALLY MANAGED GROWTH – MONITORING



10. This revised national policy context and emerging best/better practice is very relevant to this discharge application. The requirement to reduce noise contours is a critical requirement imposed on the Airport and is entirely consistent with Government expectation that *'noise capsprovide future certainty over noise levels to communities'*. Unfortunately, historic and ongoing mismanagement of growth at the Airport has served to ensure that the **'certainty'** expected by Government is exactly what communities adversely impacted by aircraft noise associated with the Airport have not experienced. In-force noise contour restrictions the subject of Condition 10 have been breached for multiple years. A planning application to regularise and extend the breaches has been submitted to Luton Borough Council (LBC) and a decision is awaited. The ongoing unsatisfactory situation in terms of failure of environmental responsibilities makes the strategy to secure the noise contour reductions required by Condition 10 of utmost significance.

11. The County Council had been expecting that to enable the effective discharge of Condition 10 requirements, LLAOL would submit for approval a clear, tangible and deliverable action plan to achieve the required 2028 noise contour reductions. But this is not what has happened. The submitted 'Strategy' appears to amount to little more than a wish list of things that might or might not happen and that might or might not result in delivery. This is totally unacceptable. The County Council supports the findings and conclusions of the independent expert noise advice (dated 23rd January 2020) secured by LBC to inform its consideration of this application, which in summary finds:

'Bickerdike Allen (BAP) have submitted an undated report entitled Application No: 15/00950/VARCON(FUL), Discharge of Planning Condition 10 (Pt. 3), Noise Strategy (w.r.t. 2028). We understand that the document is intended to secure discharge of the condition on the premise that it contains sufficient detail of the strategy to be adopted by LLOAL to ensure that daytime and night-time noise contours will meet the reduced limits set for 2028.

We do not believe that the report achieves this aim as it contains insufficient detail of the strategy to be adopted. Instead it contains a number of general and imprecise statements of intent, many of which are already contained in other documents submitted by the airport or by BAP on their behalf.'

The report indicates that the principle reasons that noise levels, and therefore noise contour areas, will reduce to meet the 2028 limits are twofold:

- The future fleet mix will contain a sufficiently large proportion of new generation, low noise aircraft;*
- Some improvements are expected as a matter of course from the NATS FAS1-S airspace changes that are expected to occur.*

The main issue with this approach is that neither of these are under the control of the airport, and it is therefore inconsistent to suggest they can form part of the airport's strategy.

Another problem arises from the reliance placed on the current Noise Action Plan (NAP) as containing adequate descriptions of the measures that the airport will adopt in implementing the required strategy. The generic nature of the wording used in the NAP, repeated in the BAP report, is not adequate to describe the elements of the strategy the airport is expected to pursue. Furthermore, there is a circularity in relying on the NAP in that one of the Operational Restrictions described in the NAP (3.5) is to develop a noise contour reduction strategy, the very same strategy that, as currently drafted, relies on the measures defined in the NAP.'

12. What is required is a strategy that will deliver, without question, the 2028 noise contour reduction requirements of Condition 10. Some of the principles and commitments within Heathrow's Environmentally Managed Growth approach are very much the kinds of things the County Council had expected to see in the strategy the subject of this application - clear, rigorous and transparent monitoring, ensuring public/community confidence and trust, environmental limits permanent and never exceeded, enforcement of environmental limits, investment in measures or commercial strategies which mitigate the effects of growth, encouraging airline environmental performance, 'look forward' to forecast growth relationship to limits, independent scrutiny, responding to feedback from monitoring evidence (Graphic 4.2 above), limiting the growth unless the environmental limits are met, and so on.

13. A strategy is required which sets out:

- the range of measures/actions required to achieve contour reduction ('wish-list' items such as airspace modernisation can feature but cannot be relied upon until evidence is available – see 'strategy review' below.

- details exactly what measures/actions will be introduced and when and who is responsible for their introduction - with indicators/targets for these.
- how the indicators/targets are to be monitored and reported.
- a contour reduction trajectory – with a phased timetable that enables progress to be tracked and to trigger remediation measures as necessary.
- a commitment to transparency and community engagement.
- a scrutiny/enforcement/management framework that clearly sets out the mechanisms to be engaged should monitoring demonstrate failure against trajectory (triggered remediation measures).
- a clear commitment, similar to that within Heathrow’s Environmentally Managed Growth, that contour reduction failure is not an option - *‘The overall framework could have the effect of limiting the growth of the airport unless the Environmental Limits are observed.....’*
- a commitment to strategy review (so that it can evolve and reflect changing circumstances – for example, if/when there is **evidence** in the future that airspace modernisation will have a positive impact on noise contour reduction).

14. The strategy submitted to discharge Condition 10 does not achieve these requirements and should be refused or a substantively revised strategy prepared and submitted by the applicant in response to and addressing the above concerns.

Yours sincerely,

Paul Donovan

**Spatial Planning and the Economy Unit
Environment and Infrastructure Department**