Department for Levelling Up, Housing & Communities

Department for Transport

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Our ref: APP/B0230/V/22/3296455

13 October 2023

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION MADE BY LONDON LUTON AIRPORT OPERATIONS LTD (LLAOL)
LONDON LUTON AIRPORT, AIRPORT WAY, LUTON, LU2 9LY
APPLICATION REF: 21/00031/VARCON

This decision was made by the Parliamentary Under Secretary of State for Local Government and Building Safety, Lee Rowley on behalf of the Secretary of State for Levelling Up, Housing and Communities, and by Parliamentary Under Secretary of State for roads and local transport, Richard Holden MP, on behalf of the Secretary of State for Transport

1. I am directed by the Secretaries of State to say that consideration has been given to the report of Richard Clegg BA(Hons) DMS MRTPI, Sheila Holden BSc(Hons) MSc CEng MICE CTPP FCIHT MRTPI and Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC (the Panel), who held a public inquiry between September and November 2022 into your client's planning application for the variation of five conditions (8, 10, 22, 24 and 28) attached to previous planning permission, Ref 15/00950/VARCON, dated 13 October 2017. The planning application is dated 8 January 2021, reference 21/00031/VARCON, and seeks the 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; and 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.

Departments for Levelling Up, Housing & Communities and Transport
Andrew Lynch & Claire Moody, Decision Officers
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2. On 6 April 2022, the Secretary of State for Levelling Up, Housing and Communities directed, in pursuance of section 77 of the Town and Country Planning Act (TCPA) 1990, that your client's application be referred to him instead of being dealt with by the local planning authority. On 11 May 2022, the Secretary of State for Transport made a direction under section 226(1A) of the TCPA 1990 for a joint determination of the application.

Panel's recommendation and summary of the decision

3. The Panel recommended that the application be approved, and planning permission granted subject to conditions.

4. For the reasons given below, the Secretaries of State agree with the Panel's conclusions and agrees with its recommendation. They have decided to grant planning permission for the proposal. A copy of the Panel's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Environmental Statement

5. In reaching this position, the Secretaries of State have taken into account the Environmental Statement (ES) and addenda ESA1 to ESA4 as described in IR 5.1. As set out in IR 5.2, those parts of the ES and addenda which are extant and are relevant to the current application include sections ESA2 and ESA3 and all of ESA4, submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). Having taken account of the Inspector's comments at IR5.1-5.6, the Secretaries of State are satisfied that the ES complies with the EIA Regulations and that sufficient information has been provided for them to assess the environmental impact of the proposal**.**

Matters arising since the close of the inquiry

6. The Secretaries of State note at IR1.10 that the North Hertfordshire Local Plan was adopted shortly before the inquiry closed, and that the Luton Direct Air-Rail Transit (DART) has become operational since the inquiry closed.

7. The Secretaries of State are satisfied that these issues do not affect their decision, and no other new issues were raised in correspondence to warrant further investigation or necessitate additional queries or consultation with the parties. A list of representations which have been received since the inquiry is at Annex A. Copies of these letters may be obtained on request to the email address at the foot of the first page of this letter.

Policy and statutory considerations

8. In reaching their decision, the Secretaries of State have had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

9. In this case the development plan consists of the Luton Local Plan 2011-2031. The Secretaries of State consider that relevant development plan policies include those set out at IR6.1-6.2.

10. Other material considerations which the Secretaries of State have taken into account include the National Planning Policy Framework (NPPF) and associated planning guidance (the Guidance) (IR6.3), as well as national aviation policy as described in IR6.4-6.9, the Noise Policy Statement for England, the London Luton Airport Noise Action Plan 2019-2023, and the London Luton Airport Master Plan 19MPPA (IR6.10-6.12).

11. On 5 September 2023 the Secretary of State for Levelling Up, Housing and Communities issued a written ministerial statement to update policy on planning for onshore wind development in England. A revised NPPF was published on the same day. The Secretaries of State are satisfied that the publication of the revised NPPF does not affect their decision, and does not raise issues necessitating referral back to parties.

Emerging plan

12. While a Local Plan Review is envisaged, no publication or consultation has yet taken place.

Main issues

Preliminary Matters

13. For the reasons given in IR15.3-15.8, the Secretaries of State agree with the Panel that the appropriate baseline for use in consideration of the various effects of growth at the airport is provided by the 2017 permission (IR15.8). Like the Panel, for the reasons given in IR 15.9-15.15, the Secretaries of State place more reliance on the modernisation forecasts submitted by the Applicant than the alternatives put forward (IR15.14). They also agree that, should the fleet modernisation programme change, a noise contour condition as proposed would still be capable of application, and that the likely consequence would be a need to curtail passenger throughput until the predicted number of quieter aircraft had been introduced (IR15.15).

Noise

14. For the reasons given in IR15.18-15.22, the Secretaries of State agree with the Panel that equivalent continuous A-weighted sound pressure level (L_{Aeq}) is of importance in considering the noise effects of the proposal, with other metrics of assistance in contributing to the overall picture (IR15.22). They further agree, for the reasons given in IR15.23-15.27 that the noise assessment reported in the ES provides a reasonable basis for assessing the effects of the noise levels of the proposal (IR15.25), and that a proportionate approach has been taken to assessing significance of the noise experienced in respect of this proposal (IR15.27).

15. The Secretaries of State have carefully considered the Panel's assessment of aviation noise levels at IR15.28-15.36. As in paragraph 13 above, the Secretaries of State are satisfied that the 2017 permission (Ref 15/00950/VARCON) provides the correct baseline for the purpose of comparison, and that the noise levels given in the ES are those which should be used in assessing the effect of the proposal. They agree with the findings as reported by the Panel in IR15.29-15.36.

16. With regard to the effect of aviation noise, for the reasons given in IR15.39-15.40 the Secretaries of State, like the Panel, do not consider that noise resulting from the proposal would lead to harm to amenity in the wider area around the airport (IR15.39), and that it is reasonable to assume that the airlines would be keen to implement the modernisation programmes which they have announced, (IR15.40) leading to quieter aircraft. They

further agree for the reasons given in IR15.41-15.44 that an increase in noise above the lowest observed adverse effect level (LOAEL), would only occur in a small part of the Chilterns AONB, and that this increase would be limited and only for a temporary period.

17. The Secretaries of State have considered the noise mitigation measures described in IR15.50-15.57. For the reasons given in 1R15.55-15.57, they agree with the Panel that it would be unnecessary to specify strategy milestones in a condition, and that in this case, there is a role for a condition concerning the Noise Management Plan to sit alongside the planning obligation.

18. Overall, the Secretaries of State agree with the Panel's conclusions on noise for the reasons set out in IR15.58-15.62, that no material increases in day or night-time noise would be caused by the proposal, and that in this respect it would accord with part B(v) of Policy LLP6. The proposal would not conflict with paragraph 185(a) of the NPPF with regards to significant adverse effects on health and the quality of life. They further agree that the limited increases in noise and air traffic movements would not cause material harm to the character of the Chilterns AONB. As such, there would be no conflict with Policy LLP29 of the Local Plan or paragraphs 176 and 185(b) of the NPPF.

19. However, like the Panel, the Secretaries of State consider that noise levels would increase, albeit for a temporary period, leading to further disturbance and annoyance, with some additional dwellings being brought up to the significant observed adverse effect level (SOAEL) threshold. Taking all of these considerations into account, the Secretaries of State conclude that noise generated by the proposal would cause moderate harm to the quality of life of people in the area around London Luton Airport. They attach moderate weight to this harm. For the reasons given in IR15.62, the Secretaries of State agree with the Panel that if fleet modernisation were not to proceed as expected, in order to achieve compliance with the proposed variation to the noise contours condition it would be necessary for consideration to be given to reducing the number of flights.

Climate change

20. The Secretaries of State note that it was not in dispute between parties that the proposal would result in an increase in greenhouse gases (GHG) including CO_2 compared to the *without proposal* situation, and that the main contributors to emissions would be in terms of aviation activity and surface access, with emission from ground operations and buildings representing a much smaller proportion of existing and anticipated emissions (IR15.65). Nor was there any disagreement between parties that national aviation policy supports aviation growth and making best use of existing runways, subject to account being taken of local environmental effects (IR15.66).

21. For the reasons given in IR15.66-15.69, the Secretaries of State agree with the Panel that the principle of a 1 million passengers per annum (mppa) increase would not run contrary to national policy and strategies, nor the Government's priorities to reduce emissions (IR15.67). In addition, the aviation emissions arising from the proposal would be within assumptions within the Government's policies and strategies, particularly the Making Best Use of existing runways (MBU) and Jet Zero Strategy (JZS), no material adverse effects would arise. Therefore, the proposal would not impede the Government in achieving its emissions reductions targets, including through the sixth Carbon Budget and the Jet Zero trajectory, either by itself or in combination with other expansion proposals (IR15.69).

22. For the reasons given in IR15.70-15.74, the Secretaries of State agree with the Panel that the UK Emissions Trading Scheme and carbon offsetting and reduction scheme for international aviation (CORSIA) regimes provide the separate pollution control regimes which the NPPF assumes will operate effectively (IR15.71), and that the evidence does not suggest the proposal would either harm the implementation or trajectory of the Jet Zero Strategy, nor that the proposal could not operate within its approach (IR15.74).

23. The Secretaries of State agree with the Panel for the reasons given in IR15.77-15.82 that the evidence before them does not point towards the Institute of Environmental Management and Assessment (IEMA) guidance being incorrectly applied with the effect that the ES cannot be relied upon (IR15.81). They also note that the ES identifies an increase in emissions compared to the baseline, and that this remains an important consideration that needs to be taken into account (IR15.82).

24. With regard to surface access emissions, for the reasons given in IR15.83-15.94, the Secretaries of State agree with the Panel that, subject to the provisions in the obligation and condition, the Carbon Reduction Strategy and Updated Sustainability Strategy would provide a robust framework to ensure that action to focus on reducing non-aviation emissions can be maximised and effects mitigated (IR15.90), and that the proposal would therefore accord with LLP Policy LLP37 (IR15.91), and would go beyond the requirement of LLP Policy LLP 6 B (iv) (IR15.92).

25. Overall on issues relating to climate change, the Secretaries of State are satisfied that the aviation emissions which would arise from the proposal are not so significant that they would have a material impact on the Government's ability to meet its climate change targets and budgets (IR15.96), and that the planning obligation and suggested conditions 18 and 19 would provide for a robust series of mechanisms for addressing and reducing ground operations and surface access emissions through the provision of an updated Travel Plan (TP), the Airport Surface Access Strategy, the Updated Sustainablliy Strategy and the Carbon Reduction Strategy (IR15.96).

26. The Secretaries of State conclude that the proposal would accord with national and Development Plan policies which seek to reduce greenhouse gas (GHG) emissions and mitigate against climate change, but recognise that there would be an increase in GHG emissions compared to the "without proposal" scenario (IR15.97). For the reasons given in IR15.95-15.97, the Secretaries of State agree with the Panel that higher-level emissions would be a negative aspect of the proposal to be considered in the planning balance, that they would be less than significant and short-term, and are a matter that carries limited weight against the proposal (IR15.97).

Transport

27. The Secretaries of State have carefully considered the assessment of highway impacts set out in IR15.106-15.118. For the reasons given there, the Secretaries of State agree with the Panel that there is reasonable evidence that the M1 would provide the best route choice for most car journeys by staff and passengers (IR15.114), and that distributing the additional traffic movements in the a.m. and p.m. peaks would have only a minimal effect on the performance of any of the junctions in the study area (IR15.115). Like the Panel, the Secretaries of State conclude that the effects of the additional traffic arising from the proposal would not result in significant adverse effects on the operation of the highway network during the average peak periods. They agree with the Panel for the reasons given in IR15.118 that it is appropriate for the Applicant to continue encouraging

increased use of public transport for passengers and staff and active travel options for staff.

28. For the reasons given in IR15.131-15.137, the Secretaries of State agree with the Panel in its support for the Car Parking Management Plan being part of an updated TP and agree that to do so effectively it would need to be more wide-ranging, including in respect of estimating and managing demand, charging and incentives (IR15.137).

29. With regard to the airport's staff, the Secretaries of State agree with the Panel for the reasons given in IR15.138-15.141, that the actions set out in Section 10 of the TP to encourage cycling should be prioritised (IR15.40), actions to promote and encourage take up of staff discounts on public transport would continue to be appropriate, and that activities to secure increased participation in car sharing would be welcome (IR15.141).

30. For the reasons given in IR15.142-15.145, the Secretaries of State conclude that the provision of Schedule 2 of the planning agreement for an update to the TP to be submitted for approval prior to the passenger throughput exceeding 18mppa is considered a necessary provision (IR15.145).

31. Overall with regard to transport matters, the Secretaries of State agree with the Panel that the proposal would not give rise to significant adverse effects on the operation of the highway network during average peak periods (IR15.146), and they are satisfied that the targets set out in the revised TP are an appropriate means of ensuring that the growth in passenger numbers could be accommodated on the surrounding transport network throughout the year (IR15.147).

32. For the reasons given in IR15.148, the Secretaries of State agree with the Panel in IR15.149 that the proposal would comply with criterion viii) of Policy LLP6 and would accord with the objectives and requirements of paragraphs 110-113 of the NPPF. Subject to an updated TP being approved by the Local Planning Authority, the proposal would not have a harmful effect on sustainable transport objectives and transport infrastructure. The Secretaries of State conclude that the effects on transport would be neutral in the planning balance.

Air quality

33. The Secretaries of State note that the increase in the passenger cap to 19mppa would generate additional surface access movements and could therefore adversely affect air quality. Future scenarios were assessed in ESA2 and updated in ESA4 (IR15.153).

34. For the reasons given in IR15.154-15.162, the Secretaries of State agree with the Panel that the application would not cause any significant adverse effect on air quality, complying with Policy LLP38 of the Local Plan and that it would also accord with the NPPF's objective of preventing unacceptable air pollution (IR15.163). However, they also agree that, in contrast to a "without proposal" scenario, the proposal would increase pollutants, albeit marginally, thereby slowing the trajectory of improvement in air quality, at odds with the NPPF's aim that development, where possible, should help to improve local environmental conditions such as air quality (IR15.163).

35. The Secretaries of State therefore conclude that notwithstanding compliance with the Development Plan, the proposal would cause very limited harm and would not fully

accord with the objectives of the NPPF to improve air quality where possible, and that this carries limited weight against the scheme (IR15.164).

Socio-economic effects

36. The Secretaries of State note the socio-economic context and policy, and strategy context as set out by the Panel at IR15.165-15.174. For the reasons given in IR15.175-15.182, the Secretaries of State agree with the Panel that establishing a definitive figure for the net increase in the number of jobs that would be brought about by the proposal is not straightforward (IR15.177), that even if the actual number of jobs created were in line with the lower numbers suggested by those opposing the scheme, several hundred additional jobs would result (IR15.181), and that any job creation would be within the existing employment context in Luton, and the wider benefits through increased gross value added (GVA), even if passenger numbers were lower than expected (IR15.182).

37. For the reasons given in IR15.183-15.185, the Secretaries of State agree with the Panel that the proposal would be unlikely to constrain domestic tourism (IR15.183), and that any potential for displacement of passengers or spending does not weigh against the proposal (IR15.185). They further agree, for the reasons given in IR15.188-15.191 that the absence of an appraisal following a web-based transport analysis guidance (WebTAG) or similar methodology does not weigh against the proposal (IR15.190).

38. For the reasons given in IR15.192-15.196, the Secretaries of State agree with the Panel that considerations about the extent to which Luton Borough Council may be dependent on the airport for economic support are not material in this case (IR15.193), and that concerns about the socio-economic effects of not granting permission cannot carry any significant weight in support of the proposal (IR15.196).

39. Overall, for the reasons given above and in IR15.197-15.200, the Secretaries of State agree with the Panel that there would be a direct relationship between an increase in passenger numbers and increases in both jobs and GVA (IR15.197), and that given the levels of unemployment and deprivation locally, even relatively modest jobs growth would have a particularly important positive economic impact. They conclude that the proposal would accord with LLP Policies LLP6 and LLP13, and that the socio-economic effects carry considerable weight in favour of the proposal (IR15.200).

Other matters

40. For the reasons given in IR15.223-15.230, the Secretaries of State agree with the Panel that the application proposal would not have a materially adverse effect on the character and appearance of the area outside the Chilterns AONB (IR15.224), and that there is no indication that the scheme would result in material harm to biodiversity and nature conservation interests (IR15.225), nor any evidence that it would cause any harm to the setting, and therefore the significance, of Luton Hoo, Someries Castle, or any other heritage assets (IR15.226). Nor do issues relating to flood risk, drainage and concerns around incremental growth count against the application.

Planning conditions

41. The Secretaries of State have given consideration to the Panel's analysis at IR15.239-15.249, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the NPPF and the relevant Guidance. They are satisfied that the conditions recommended by the Panel comply with the policy

test set out at paragraph 56 of the NPPF and that the conditions set out at Annex B should form part of their decision.

Planning obligations

42. Having had regard to the Panel's analysis at IR15.231-15.238, the planning obligations dated 9 December 2022, paragraph 57 of the NPPF, the Guidance and the Community Infrastructure Levy (CIL) Regulations 2010, as amended, the Secretaries of State agree with the Panel's conclusion for the reasons given in IR15.237 that, with the exception of the obligation in Schedule 4 concerning a carbon reduction strategy, the obligation complies with regulation 122 of the CIL Regulations and the tests at paragraph 57 of the NPPF.

43. In the interests of clarity, and in line with the Panel's recommendation in IR15.238, the Secretaries of State consider that it is necessary to update the TP, and that the requirement in paragraph 2.2 of Schedule 2 of the Planning Agreement should have effect.

Planning balance and overall conclusion

44. For the reasons given above, the Secretaries of State consider that the application is in accordance with Policies LLP6, LLP13, LLP29, LLP37 and LLP38 of the development plan, and is in accordance with the development plan overall. They have gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.

45. The socio-economic effects of the scheme carry considerable weight in favour of the proposal.

46. Noise impacts carry moderate weight against the scheme, and climate change and air quality impacts both carry limited weight against the scheme.

47. Transport matters are neutral in the planning balance.

48. Overall, the Secretaries of State conclude that the accordance with the development plan and the material considerations in this case indicate that permission should be granted.

Formal decision

49. Accordingly, for the reasons given above, the Secretaries of State agree with the Panel's recommendation. They hereby grant planning permission subject to the conditions set out in Annex B of this decision letter for the full planning application for dualling of the airport way/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-term 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; and outline planning permission granted for the construction of a multi-storey car park and pedestrian link building, at London Luton Airport, Airport Way, Luton, LU2 9LY, in accordance with the terms of the application Ref 21/00031/VARCON, dated 8 January 2021.

50. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the TCPA 1990.

Right to challenge the decision

51. A separate note is attached setting out the circumstances in which the validity of the Secretaries of States' decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.

52. A copy of this letter has been sent to Luton Borough Council, Luton and District Association for the Control of Airport Noise and Campaign for the Protection of Rural England Hertfordshire, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Andrew Lynch Natasha Kopola

Andrew Lynch DLUHC **Natasha Kopola DfT**

Decision officers

This decision was made by:

The Parliamentary- Under Secretary of State for Local Government and Building Safety, Lee Rowley, on behalf of the Secretary of State for Levelling Up, Housing and Communities, and by

The Parliamentary- Under Secretary of State for Roads and Local Transport, Richard Holden MP, on behalf of the Secretary of State for Transport;

and signed on their behalves.

Annex A Schedule of representations

SCHEDULE OF REPRESENTATIONS

General representations

Party	Date
D Gurtler, Luton Council	01/06/23
B Afolami MP	23/06/23
A Martin, London Luton Airport	23/06/23
R Hopkins MP (2 letters, 1 each to to SoS DLUHC and SoS DfT)	28/06/23
D Oakley-Hill, Luton FoE	13/07/23
A Paul, Herbert Smith Freehills	26/07/23
J Richardson, Bedfordshire Chamber of Commerce	08/08/23
M Geoffroy, WizzAir	30/08/23

Annex B List of conditions

1. The development hereby permitted shall be carried out in accordance with the As-Built Master Plan (CD1.02).

   Reason: To provide certainty.

2. Details of the timescale for the commencement of Phase 3 works comprising (i) Taxiway 26 (Golf) and (ii) north apron extension, as shown on As Built Masterplan Plan with Phases Labelled drawing, received November 2023 (INQ-86) (hereinafter referred to as Phase 3) of the development shall be submitted to and approved in writing by the Local Planning Authority prior to its commencement. The scheme as approved shall be implemented in accordance with the approved timescales.

   Reason: To provide certainty.

3. Phase 3 of the development shall be carried out in accordance with the details contained in the Protected Species Management Plan approved on 8 May 2017 (ref: 17/00459/DOC).

   Reason: To ensure any protected species affect by the development are effectively protected.

4. Details of the lighting scheme for Phase 3 of the development shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be implemented in accordance with the approved scheme and subsequently maintained and reviewed in accordance with the approved scheme. Any external lighting previously installed in accordance with details approved on 4 June 2015 for Phase 1 (ref: 15/00451/DOC) and 25 September 2019 for Phase 2 (ref: 19/00954/DOC) shall be maintained and reviewed in accordance with those schemes.

   Reason: In the interests of ensuring aircraft and public safety and mitigating effects on the character and appearance of the area and living conditions of occupiers of nearby residential properties.

5. Phase 3 of the development shall be carried out in accordance with the Construction Environmental Management Plan approved on 8 May 2017 (ref: 17/00460/DOC).

   Reason: To minimise environmental impacts and disturbance to residents, vegetation and wildlife during construction.

6. Phase 3 of the development shall be carried out in accordance with the archaeological Written Scheme of Investigation approved on 24 December 2014 (ref: 14/01496/DOC).

   Reason: To ensure that any archaeological remains, evidence or information is properly recorded.

7. At no time shall the commercial passenger throughput of the airport exceed 19 million passengers in any twelve-month period.

   From the date of this permission the applicant shall every quarter report in writing to the Local Planning Authority the moving annual total numbers of passengers through the airport (arrivals plus departures). The report shall be made no later than 28 days after the end of each quarter to which the data relates.

   Reason: In the interests of certainty and to enable the Local Planning Authority to exercise proper control over the development, in the interests of securing a satisfactory operation of the development, and to safeguard the living conditions of occupiers of residential properties and the amenities of the surrounding area.

8. The development hereby approved shall be operated in accordance with Sections 5, 6, 7 & 8 of the London Luton Airport 2022 Noise Management Plan Technical Document or the equivalent provisions in any successor document which shall first have been submitted to and approved in writing by the Local Planning Authority.

   Reason: to safeguard the living conditions of occupiers of residential properties.

9. The area enclosed by the 57dB L_{Aeq}(16hr) (0700-2300 hrs) contour shall not exceed 21.1km^2 for daytime noise, and the area enclosed by the 48dB L_{Aeq}(8hr) (2300- 0700 hrs) contour shall not exceed 42.1km^2 for night-time noise, when calculated by the Federal Aviation Authority Integrated Noise Model version 7.0-d (or as may be updated and amended) for the period up to the end of 2027.

   The commercial passenger throughput at London Luton Airport shall not exceed 18 million passengers in a twelve-month period until a strategy has been submitted to and approved in writing by the Local Planning Authority which defines the methods to be used by LLAOL or any successor or airport operator to reduce the area of the noise contours by 2028 for daytime noise to 15.5km^2 for the area exposed to 57dB L_{Aeq}(16hr) (0700- 2300 hrs) and above and for night-time noise to 35.5km^2 for the area exposed to 48dB L_{Aeq}8hr (2300-0700) and above.

   Post 31 December 2027 the area enclosed by the 57dB L_{Aeq}16hr (0700-2300 hrs) contour shall not exceed 15.5 km^2 for daytime noise, and the area enclosed by the 48dB L_{Aeq}(8hr) (2300-0700hrs) contour shall not exceed 35.5 km^2 for night-time noise.

   Post 31 December 2030 the area enclosed by the 57dB LA_{eq}16hr (0700- 2300) contour shall not exceed 15.1km^2 for daytime noise, and the area enclosed by the 48dB L_{Aeq}(8hr) (2300- 0700 hrs) contour shall not exceed 31.6km^2 for night-time noise.

   A report on the actual and forecast aircraft movements and consequential noise contours (Day, Night and Quota Periods) for the preceding and forthcoming calendar year shall be reported on 1 December each year to the Local Planning Authority, which shall utilise the standard 92 day summer contour.

   Reason: To safeguard the living conditions of residents and the character of the surrounding area.

10. The development shall be implemented and managed in accordance with the Comprehensive Surface Water Management Strategy approved on 18 May 2015 (ref: 15/00187/DOC).

    Reason: To prevent surface and ground water pollution.

11. The detailed surface water drainage scheme for Phase 3 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be generally in accordance with the Flood Risk Assessment (FRA) prepared by Jacobs, reference B1074100/22.2, issue 3, dated November 2012 (within Technical Appendix J of the Environmental Statement submitted with application 12/01400) and the scheme shall include details of soakaways and a restriction in run-off and surface water storage on site. The scheme as approved shall be implemented in full before completion of the phase and managed in accordance with the approved scheme thereafter.

    Reason: To prevent any increased risk of flooding, and to improve and protect water quality, habitats and amenity.

12. Phase 3 of the development shall be carried out in accordance with the Contamination Risk Assessment Report approved on 7 April 2017 (ref: 17/00173/DOC).

Reason: to prevent contamination, in particular dues to the site's location in a sensitive groundwater area over a Principal Chalk Aquifer within a source protection zone 3.

13. Phase 3 of the development shall not be brought into use until a verification report demonstrating i) completion of works set out in the approved remediation strategy and ii) the effectiveness of the remediation for the phase, has first been submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a "long-term monitoring and maintenance plan" (the Plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The Plan shall be implemented as approved.

    Reason: To prevent contamination, in particular to protect groundwater.

14. If contamination not previously identified is found to be present at the site during the construction of Phase 3 of development, no further development of that phase shall be carried out until a remediation strategy has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

    Reason: To prevent contamination, in particular as intrusive investigations may not necessarily have captured all contaminants present, hence the need to appropriately address any new source discovered during excavation and development.

15. No infiltration of surface water drainage into the ground shall take place other than in accordance with a scheme, including timescales and phasing as appropriate, which has been submitted to and approved in writing by the Local Planning Authority in advance of any discharge. The development shall be carried out in accordance with the approved scheme, timescale and phasing.

    Reason: To protect ground water.

16. Phase 3 of the development shall be carried out in accordance with the Borehole Protection Report approved on 28 March 2017 (17/00176/DOC). [*20*]

    Reason: To protect groundwater, particularly as piling has the potential to create new pathways for pollutants and introduce new contaminants into the subsurface.

17. The areas within the application site which are shown to be in use for car parking on the As-built Master Plan (CD1.02) shall not be used for any other purpose other than the parking of vehicles by passengers, staff and contractors servicing the airport.

    Reason: To ensure that adequate provision is made for vehicles to park off road and away from residential area in the interest of road safety and to prevent unacceptable environmental impact on occupiers of neighbouring residential areas.

18. Prior to the commercial passenger throughput at London Luton Airport exceeding 18 million passengers in a twelve-month period, an updated travel plan shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the airport shall be operated in accordance with the approved travel plan.

    Reason: To encourage modal shift away from private cars to improve levels of use of sustainable and low carbon modes of transport for all users of the airport and to reduce congestion on the Highway.

19. Prior to the commercial passenger throughput at London Luton Airport exceeding 18 million passengers in a twelve-month period, a Carbon Reduction Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.

The approved Carbon Reduction Strategy and its outcomes shall be informed by the carbon mitigation targets and measures in the London Luton Airport 19 mppa: Outline Carbon Reduction Plan, Wood Group UK Limited - May 2021. The approved Carbon reduction Strategy shall be reviewed in accordance with the following provisions:

i. Annually: independent verification by the Airports Carbon Accreditation Scheme with the results being made available to the Local Planning Authority for their review and written approval;

ii. Annually: publication as part of the Airport's Sustainability Report, available for review by all stakeholders, including the Local Planning Authority;

iii. Every three years: independent audit and inspection by the Airports Carbon Accreditation Scheme with the results being made available to the Local Planning Authority for their review and written approval; and,

iv. Every five years: the airport operator review and update, including consultation with stakeholders and submission to the local planning authority for their review and written approval.

v. As and when new national polices or targets are published: the Carbon Reduction Strategy shall be updated to reflect those new polices and targets.

The reviewed and/or updated Carbon Reduction Strategy shall be submitted to and approved in writing by the Local Planning Authority in accordance with the above provisions. The methodology and/or interim targets may be amended and approved in writing beforehand by the Local Planning Authority to include any updates to best practice. All approved measures in the Carbon Reduction Strategy, and any subsequent approved updates, shall be implemented and complied with.

Reason: To ensure that levels of CO_2 and other greenhouse gasses emitted by the airport and associated activities are reduced in line with challenging targets to maximise low and zero carbon activities, mitigates the effects of climate change and drives a radical reduction in carbon emissions overall.

The Planning Inspectorate

Report to the Secretaries of State for Levelling Up, Housing & Communities and for Transport

by Richard Clegg BA(Hons) DMS MRTPI, Sheila Holden BSc(Hons) MSc CEng MICE CTPP FCIHT MRTPI and Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

Inspectors appointed by the Secretary of State for Levelling Up, Housing & Communities

Date 23 May 2023

TOWN AND COUNTRY PLANNING ACT 1990

LUTON BOROUGH COUNCIL

APPLICATION BY

LONDON LUTON AIRPORT OPERATIONS LIMITED

Inquiry held between 27 September and 18 November 2022, site visits made on 16 & 17 November 2022 and on 16 & 17 January 2023

London Luton Airport, Airport Way, Luton, LU2 9LY

File Ref: APP/B0230/V/22/3296455

Contents

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London Luton Airport, Airport Way, Luton, LU2 9LY

- The planning application was called in for decision by the Secretary of State for Levelling Up, Housing and Communities by a direction made under section 77 of the Town and Country Planning Act 1990 (the Act), on 6 April 2022.
- On 11 May 2022, the Secretary of State for Transport made a direction under section 226(1A) of the Act for a joint determination of the application.
- The application is made by London Luton Airport Operations Ltd (LLAOL) to Luton Borough Council.
- The application Ref 21/00031/VARCON is dated 8 January 2021.
- The application seeks the variation of five conditions attached to a planning permission, Ref 15/00950/VARCON, dated 13 October 2017, for development described as '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; and 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'.
- The conditions concerned are Nos 8, 10, 22, 24 and 28. Their subject matter is summarised in paragraph 1.5 of the report, and the conditions and reasons are set out in full in core document 7.03.
- The reason given for making the call-in direction was, that the Secretary of State decided, in the light of his policy on calling in planning applications, that the application should be called in.
- On the information available at the time of making the call-in direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:
  a) The extent to which the proposed development is consistent with Government policies for meeting the challenge of climate change, flooding and coastal change (NPPF Chapter 14);
  b) The extent to which the proposed development is consistent with Government policies for conserving and enhancing the natural environment (NPPF Chapter 15);
  c) The extent to which the proposed development is consistent with the development plan for the area; and,
  d) Any other matters the Inspector considers relevant.
- The inquiry sat for 19 days: 27-30 September; 5-8 & 20 October; and 1-4, 8-11, 15 & 18 November 2022.
  .

Summary of Recommendation: The application be approved, and planning permission granted subject to conditions.

1. PROCEDURAL MATTERS

1.1 In the light of the scale of the inquiry, it was decided that the application would be considered by a Panel of three Inspectors.

1.2 Luton And District Association for the Control of Aircraft Noise (LADACAN) and the CPRE Hertfordshire (CPRE Herts) had served statements of case in accordance with Rule 6(6) of the Town and Country Planning (Inquiries procedure) (England) Rules 2000, and both parties took a full part in the proceedings of the inquiry. Together with the Appellant and the LPA they are main parties in the consideration of this application.

1.3 A pre-inquiry meeting was held on 6 July 2022 to consider arrangements for the management of the inquiry, including the submission of documents. There was no discussion of the merits of any parties' cases at the meeting. A note of the meeting was posted on the inquiry website. The Panel undertook accompanied site visits on 16 and 17 November 2022, and further unaccompanied site visits to the surrounding area were carried out on 16 and 17 January 2023. The programme of site visits took account of locations suggested by the parties.

1.4 Planning permissions for extensions and alterations to the airport were granted in 2014 and 2017 (below, paras 3.3 & 3.5). This application seeks a fresh permission for these works without complying with five conditions imposed on the 2017 permission. At the pre-inquiry meeting, the Panel suggested that the proposal would be more accurately described as:

Full planning application for dualling of the airport way/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-term 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; and outline planning application for the construction of a multi-storey car park and pedestrian link building, without complying with conditions 8, 10, 22, 24 & 28 of planning permission ref 15/00950/VARCON.

There was no disagreement with the suggested description, and the proposal has been considered on this basis.

1.5 The conditions imposed on the 2017 permission which this application seeks to vary are concerned with the following matters:

No 8: a limit on commercial passenger throughput of 18 million passengers per annum (mppa).
No 10: the size of noise contours.
No 22: the provision of parking areas.
No 24: a passenger and staff travel plan (TP).
No 28: approved plans and documents.

1.6 A planning agreement has been submitted, which has been made between the Applicant, London Luton Airport Ltd (LLAL, the owner of the airport), Natwest Markets PLC (the mortgagee), and the LPA[1]. The agreement includes obligations concerning noise mitigation, a transport forum and travel plan, the Airport Consultative Committee, a sustainability strategy, local employment and procurement, the community fund, and monitoring and reporting.

[1] INQ39.3.

1.7 A document library was established in advance of the inquiry, and this can be accessed at https://gateleyhamer-pi.com/en-gb/luton-airport/. Documents submitted after the inquiry opened are detailed in a list appended to this report[2].

1.8 This report contains a description of the site and its surroundings, an explanation of the proposal, identification of relevant planning policies, details of agreed matters, and the gist of the submissions made at the inquiry and in writing, followed by the Panel's conclusions and recommendation. Sections 8-13 set out the material points of the parties' cases, and do not form part of the Panel's conclusions. Lists of possible conditions, appearances, inquiry documents and a list of abbreviations used in the report are appended.

1.9 The matters on which the Secretaries of State particularly wish to be informed refer to Chapters 14 and 15 of the National Planning Policy Framework (NPPF). Not all the content of these chapters is relevant to the application (for example coastal change), and we have framed our main considerations accordingly (below, para 15.1).

1.10 The Panel understands that the North Hertfordshire Local Plan was adopted shortly before the inquiry closed, and subsequent to the inquiry a consultation draft for an update to the NPPF and a Written Ministerial Statement - *Final Environment Targets under the Environment Act 2021* - have been published. None of these documents were before the inquiry, and we simply draw the Secretaries of States' attention to their publication. Similarly, at the time of the inquiry the Luton Direct Air-Rail Transit (DART) was not operational and this report is written on that basis. However, the Panel understands that it has since become operational.

2. THE SITE AND SURROUNDINGS

2.1 The airport is located approximately 45km north of central London and covers a site of approximately 245 hectares[3]. The ES describes the general topography of the area to the south and east of Luton consisting of a series of generally parallel ridges and valleys that run from north-west to south-east. Luton lies in the Lea Valley in a gap between high ground to the north and south-west, both of which include the Chilterns Area of Outstanding Natural Beauty[4] (AONB) (see map below). The airport is in an elevated situation relative to Luton town centre but is predominantly level itself being on a raised plateau between 150m and 160m AOD with the highest point approximately halfway along the runway[5].

2.2 It is bounded by open countryside to the south and east. Industrial and commercial areas lie to the west with housing to the north. The application site is located entirely within Luton Borough but situated close to the Borough boundary with Central Bedfordshire Council to the south and North Hertfordshire District to the east. The airport is approximately 4.5km north-east of Junction 10 of the M1 motorway, and about 1.6km east of Luton Airport Parkway railway station.

[2] Documents which were subsequently superseded are not generally listed.
[3] CD6.02.
[4] INQ-68.
[5] CD6.02.

2.3 The airport has one runway, which runs along a roughly east-west axis. This is located to the south of the aprons and the majority of the airport's buildings including the terminal, hangars, maintenance facilities and multi-storey car parks[6].

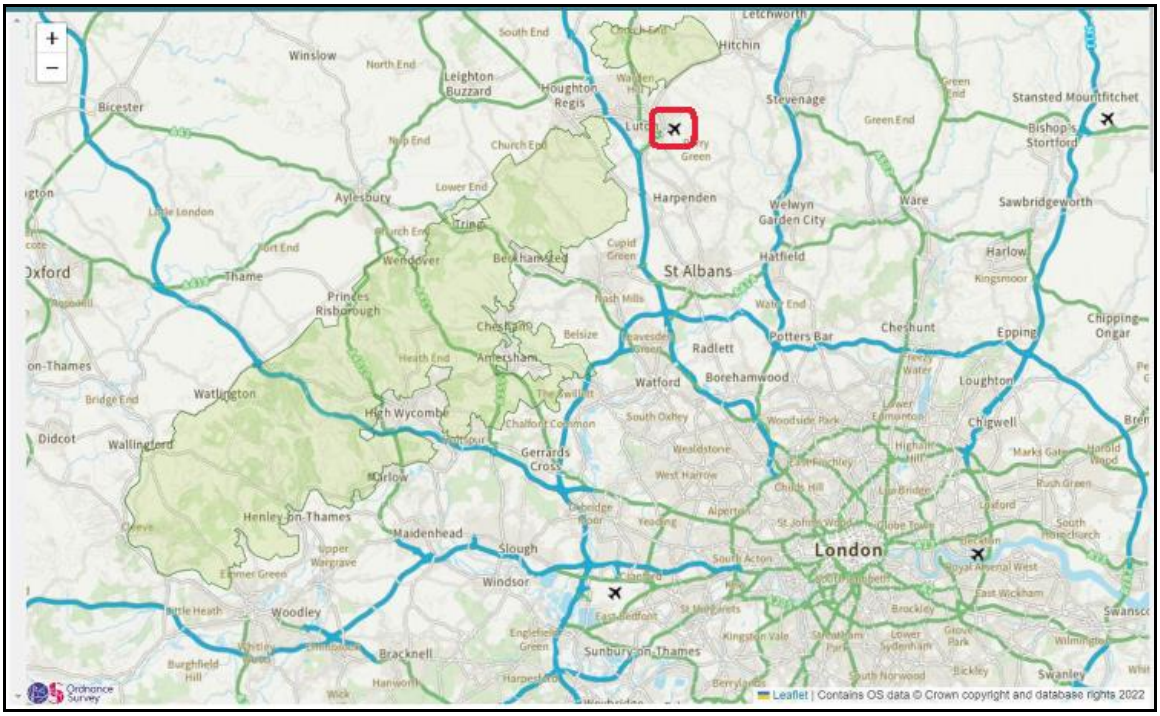
2.4 DART will connect the station to the central terminal area (CTA). There is a bus and coach terminus outside the terminal building which provides local, regional and national links.

2.5 London Luton Airport (LLA) is owned by London Luton Airport Limited, which has the trading name Luton Rising, and is a company wholly owned by Luton Borough Council (LBC). London Luton Airport Operations Ltd (LLAOL), the Applicant, currently operates and manages the airport. LBC is not a shareholder of LLAOL[7].

2.6 The scheduled monument of Someries Castle is situated close to the south-east boundary of the airport, and Luton Hoo, a grade I listed building with a grade II* registered park is about 1km to the south-west[8].

2.7 East Hyde sewage treatment works is situated to the south of the airport. There is limited capacity here, and the airport is subject to a Thames Water restriction that there should be no more passenger throughput per hour than the peak level in 2019[9].

London Luton Airport and the wider surrounding area



LLA (in red), Chilterns AONB (in green), motorway network (in blue) and other major south-east England airports: London Stansted, London Heathrow, London City (black symbols)[10].

[6] CD1.02.
[7] INQ-06.
[8] CD6.02, paras 7.18, 7.34-7.36, 7.39 & 7.40.
[9] CD1.14 page 3, and APP-W2.1, appendix 1, para 58.
[10] INQ-68.

3. RELEVANT PLANNING HISTORY

3.1 Prior to this application LLA had grown incrementally over many years. By 2011 it was handling 9.5m passengers[11]. It was anticipated that with minor amendments to the terminal, existing infrastructure would be capable of handling a maximum passenger throughput of about 12.4mppa. However, LLAOL considered this was insufficient to accommodate the predicted growth in passenger numbers and enable the airport to contribute to the demand for travel through all London's airports[12].

3.2 It was in this context that the first application of relevance to the current proposal was submitted in December 2012, Ref: 12/01400/FUL[13]. This was for a substantial expansion to improve passenger facilities and extend the capacity of LLA to 18mppa. Full permission was granted in June 2014[14] 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 taxi-way, extensions to the existing taxiway parallel to the runway, extensions to existing aircraft aprons, improvements to ancillary infrastructure including access and drainage, and demolition of existing structures and enabling works. Outline permission was also granted for the construction of a multi-storey car park and pedestrian link building (all matters reserved).

3.3 The application was accompanied by an Environmental Statement[15] and planning permission was granted subject to a series of 30 conditions (the 2014 permission). Those which are relevant to this application are: Condition 10 – the passenger cap of 18mppa, Condition 12 – noise contours, Condition 24 – car parking, Condition 26 – travel plan and Condition 30 – approved documents. The permission was also subject to planning obligations.

3.4 The noise controls imposed by Condition 12 of the 2014 permission restricted the area within the 57dB $L_{Aeq\ 16hr}$ day-time (0700-2300) noise contour to 19.4km^2 and that within the 48dB $L_{Aeq\ 8hr}$ night-time (2300-0700) noise contour to 37.2km^2. The condition also required a strategy to be approved for reducing the area enclosed by those respective noise contours to 15.2km^2 and 31.6km^2 by 2028.

3.5 The second relevant permission relates to a further application for extensions and alterations at the airport without complying with the terms of Condition 11 which related to the noise control scheme. This was submitted in June 2015 and was accompanied by an Addendum to the Environmental Statement[16]. It was approved in October 2017[17] (the 2017 permission), subject to 28 conditions Ref: 15/00950/VARCON (CD7.03). At that time the

[11] CD6.02, 1.13.
[12] CD6.02 paras 1.12 and 1.14.
[13] CD6.01.
[14] CD6.03.
[15] CD6.02.
[16] CD7.02.
[17] CD7.03.

other conditions which had been attached to the 2014 permission were updated to reflect the extent of agreement that had been reached on other matters, including the implementation of the development in 3 phases. The controls relating to the passenger cap (Condition 8) and the noise contours (Condition 10) remained unchanged.

3.6 Much of the 2014 permission has now been implemented, as illustrated on an annotated version of the As-Built Master Plan[18], although some elements of Phase 3 remain outstanding. Other applications have been approved between 2015 and 2019, including those which relate to multi-storey car parks 1 and 2, the Drop Off Zone and DART. Further proposals have been implemented as permitted development, and there have been applications for discharging conditions. Limited details of these permissions and consents were set out in the Planning Statement submitted with the application[19].

3.7 The expansion of the airport, combined with increased demand across the aviation sector[20], meant that passenger numbers grew more quickly than had been forecast at the time of the 2014 permission. Subsequently, towards the end of 2016, noise monitoring indicated to LLAOL and the LPA that a breach of the noise contours set out in Condition 10 was likely to occur. This proved to be the case. Breaches occurred at night in 2017 and 2018, and during both the day and night in 2019[21]. Discussions took place between the Applicant and the LPA to consider the impact of these breaches and potential remedies. It was agreed by those parties that a planning application to vary the contours for a temporary period would be the most appropriate course of action. An application (Ref:18/00428/EIA) to increase the 57dB(A) daytime noise contour by 2km^2 and the night-time one by 6.9km^2 was submitted in March 2019. However, this was subsequently withdrawn following the receipt of more than 550 objections[22] to the proposed changes to the noise contours.

3.8 In July 2020, and when operations had been curtailed due to the COVID-19 pandemic, the Applicant sought an Environmental Impact Assessment (EIA) screening opinion from the Council to determine whether an increase in the passenger cap from 18mppa to 19mppa, combined with temporary increases in the areas included in the daytime and night-time noise contours, would constitute EIA development. The Council concluded that such a development would require an addendum to the ESA, and the topics to be included within it were agreed: namely, climate change, noise, transport, air quality and health. Topics that were scoped out of the EIA were waste, water, biodiversity, ground conditions, historic environment, landscape and visual, major incidents and disasters, and socio-economics[23].

3.9 A separate Development Consent Order (DCO) application for substantial operational and built development and expansion to 32mppa at the airport is being put forward. However, this is being proposed by Luton Rising, the owner of the airport, and not by LLAOL the Applicant for this application,

[18] INQ-86 and CD1.02 showing phases 1, 2 and 3.
[19] CD1.07, section 3.
[20] CD10.13, diagram on page 4.
[21] CD8.24, CD8.25 and CD8.26.
[22] CD5.08, para 8.
[23] CD1.10, page 144.

which is a separate standalone proposal.[24] That DCO proposal has been subject to preliminary consultation and has been referred to in some of the representations made in respect of this application.

4. THE PROPOSAL

4.1 The current application follows directly from discussions with the LPA, the outcome of the screening opinion and the requirement for an EIA. It was submitted on 11 January 2021. The application seeks to vary 5 of the conditions on the 2017 permission which relate to the passenger cap (Condition 8), noise contours (Condition 10), car parking management (Condition 22), the TP (Condition 24) and approved plans and documents (Condition 28). Following discussion at the inquiry, the Applicant and the LPA suggested that condition 28 be deleted, and set out the proposed text for the other conditions in INQ-82.

4.2 The proposed change to Condition 8 would increase the permitted passenger numbers by 1mppa from 18mppa to 19mppa. No additional infrastructure is proposed either on or off the site. It is anticipated by the Applicant that the extra 1mppa would be accompanied by the increasing use of more modern aircraft with additional capacity.

4.3 The proposed change to Condition 10 would provide less restrictive day and night-time noise contours for a temporary period up to 2031. When the airport has operated at its current throughput limit of 18mppa, breaches of the noise contours condition occurred, since modernisation of the fleet with quieter aircraft had not kept pace with the earlier than anticipated growth in passenger demand: reference is also made to flight delays due to disruption in European air traffic control from significant weather events and industrial action as contributory factors. The Applicant's Planning Statement acknowledges that there is a need to enlarge the noise contours, irrespective of the proposal to raise the passenger cap to 19mppa[25].

4.4 Table 1 overleaf sets out the noise contours that were permitted by the 2017 permission, were applied for within this application and subsequently amended during the LPA's consideration of the proposal. It also sets out how it is proposed that the contours would be initially increased and then reduced in the future with changes predicted to arise from the modernisation of the aircraft fleet between now and 2031[26].

4.5 No changes were proposed to the airport's existing car parking facilities. However, amendments to Condition 22 to ensure their retention and use may be necessary.

4.6 An updated TP to accommodate the increased passenger numbers would be needed, requiring a variation to Condition 24.

4.7 The proposal does not involve any changes to airspace: such changes are the subject of a separate regulatory regime[27].

[24] INQ-06.
[25] CD1.07, para 4.3.2.
[26] CD7.03.2015, CD5.08 para 13, APP-W3.1 paras 3.3-3.6.
[27] CD5.08, paras 178 & 179.

Areas to be enclosed by noise contours.	**Daytime 57dB L_{Aeq} (0700-2300)**	**Night-time 48dB L_{Aeq} (2300-0700)**
With existing 2017 permission	19.4km^2	37.2km^2
From 2028 in accordance with 2017 permission	15.2km^2	31.6km^2
Applied for with immediate effect	21.6km^2	42.9km^2
As amended during application process	21.1km^2	42.1km^2
Proposed areas from 2028	15.5km^2	35.5km^2
Proposed areas by 2031	15.1km^2	31.6km^2

Table 1: Comparison of Noise Contours from 2017 permission

5. THE ENVIRONMENTAL STATEMENT

5.1 The 2012 application for alterations and extensions to the airport was accompanied by an environmental statement (ES)[28]. Subsequently, the 2015 application for a fresh permission for that development without complying with condition 11(i), was submitted with an addendum to the original ES (ESA1)[29]. The current application was accompanied by a further addendum (ESA2)[30]. In response to a request from the LPA, an update to the noise chapter of this addendum was produced (ESA3)[31]. Finally, due to the passage of time since ESA2 was prepared in January 2021, another addendum, ESA4[32], was prepared prior to the inquiry in July 2022. ESA4 was the subject of public consultation, and responses have been received from several interested parties. Accordingly, we are satisfied that no prejudice would be caused by taking ESA4 into account in consideration of the application.

5.2 As a consequence of the preparation of a series of addenda, not all of the ES documentation remains extant. Those parts which are extant and are relevant to the current application are identified in a note on ES documentation prepared by the Applicant[33]: they include sections of ESA2 and ESA3 and all of ESA4.

5.3 A group of Hertfordshire local authorities expressed concern about the inclusion of information referring to significant economic benefits and disbenefits in evidence prepared on behalf of the Applicant, despite these matters having been scoped out of the process of environmental impact analysis[34]. It was pointed out that, as a result of this approach, this information had not been subject to public consultation. The ES explains that as there are no material changes to the overall built infrastructure of the

[28] CD6.02.
[29] CD7.02.
[30] CD1.08, CD1.09 & CD1.10.
[31] CD4.06.
[32] CD1.16, CD1.17 & CD1.18.
[33] CD1.19.
[34] Document RAES-16.1, section 6.

airport, or construction activities associated with the proposal, there are no changes to the conclusion of the ES relating to the 2014 permission that the effects upon employment and the local economy would be substantial and significant[35]. That assessment was made in respect of a scheme involving an increase in the number of passengers from 9.5mppa in 2011 to 18mppa[36], together with substantial operational development (above, para 3.2), and no additional significant socio-economic effects were anticipated with the current application.

5.4 At the inquiry, the Panel acknowledged that socio-economic matters are of relevance to this case, but ruled that, insofar as the adequacy of the environmental impact assessment (EIA) was concerned, it was not necessary to request further information (as defined in Regulation 25 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regs)) on this topic. However, evidence of the Applicant's socio-economic witness[37] was substantive information related to the ES, which would be taken into account as any other information, as specified in Regulation 2. There was the opportunity to debate the Applicant's socio-economic material at the inquiry, and accordingly, although this opportunity was declined by the Hertfordshire authorities[38], no prejudice was caused to any parties by this approach.

5.5 In a similar vein, LADACAN queried whether the ES complied with paragraph 3 of the EIA Regs (below, para 10.12), since it does not contain Appendix 1 to the proof of evidence of the Applicant's socio-economic witness, which is a statement relating to operations at the airport and forecasting. Forecasting is covered in the ES[39], and the separate submission of the information in Appendix 1 does not call into question the adequacy of the ES as a basis for assessing the current application. As already mentioned (above, para 5.4), the Applicant's socio-economic evidence was taken into account as any other information, and at the inquiry it was the subject of cross-examination by LADACAN. We do not consider that any prejudice was caused to it or other parties by consideration of the material in Appendix 1 in this way.

5.6 We are satisfied that, as required by Regulation 3, an EIA has been carried out in respect of the proposal, and that the ES includes the material specified in Regulation 18(3). In considering this application and arriving at our recommendation, we have taken into account all of the environmental information before us, including the ES, any other information produced by the Applicant, and all other environmental information submitted or produced.

[35] CD1.09, paras 4.4.33 & 4.4.34.
[36] CD6.02, para 3.49.
[37] APP-W2.1 & APP-W2.3.
[38] RAES-16.1.
[39] CD1.16, section 2.3. and CD1.17, appendix 8B (updated by CD1.21).

6. THE POLICY CONTEXT

The Development Plan

6.1 The Development Plan comprises the *Luton Local Plan 2011-2031*[40]. Policy LLP6 is concerned with the strategic allocation of London Luton Airport, and the explanatory text points out that the policy makes provision for the airport to respond positively to future growth, thereby helping to safeguard Luton's sub-regional contribution to jobs and wealth creation. Airport expansion is the subject of Part B. This part of the policy sets out a series of criteria against which proposals for development are to be assessed. Amongst other matters these include requirements to fully assess the impacts of any increase in air traffic movements on surrounding occupiers and/or the local environment, to at least cause no material increase in noise, to include an effective noise control, monitoring and management scheme, and to include proposals which will result in a significant diminution of the effects of aircraft operations on the amenity of local residents.

6.2 Other policies of relevance to the application include Policies LLP13, LLP29, LLP31, LLP37 and LLP39. Policy LLP13 is concerned with an economic strategy and supports proposals which would deliver economic growth and prosperity to serve Luton and the sub-region. The Chilterns AONB extends to the south-west and north-east of Luton and is overflown by aircraft arriving at and leaving the airport[41]. The special character and setting of the AONB are to be protected under Policy LLP29. A sustainable transport strategy is promoted by Policy LLP31: the policy explains that support for the success of the airport as a transport hub will be delivered through measures to ensure capacity at strategically important junctions, and the enhancement of sustainable modes of transport via the Airport Surface Access Strategy (ASAS). Policy LLP37 provides support for proposals which would contribute towards mitigation and adaptation in respect of climate change. Under Policy LLP38, evidence is required to demonstrate whether a scheme would result in any significantly adverse effects with regard to air, land or water, and where adverse impacts are identified, appropriate mitigation is required. Policy LLP39 supports proposals which would provide or adequately contribute towards the infrastructure and services needed to support them.

National planning policy and guidance

6.3 The Panel has had regard to national planning policy and guidance contained in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG)[42].

National aviation policy

6.4 Those aviation policy documents of most relevance include the *Aviation Policy Framework* (APF), the *Airports National Policy Statement: new runway capacity and infrastructure at airports in the South East of England* (ANPS), *Beyond the horizon – The future of UK aviation- Making best use of existing*

[40] CD0.07.
[41] The plans at CD68 and CD69 show the relationship of the AONB to the airport and those in sections 4.1 and 4.2 of Document INQ-44 show the flight paths of aircraft.
[42] The NPPF is CD9.05; extracts from PPG are at CDs 9.06 and 9.09-9.12.

runways (MBU), *Flightpath to the Future* (FTTF), and the *Jet Zero Strategy* (JZS)[43].

6.5 The APF, published by the Government in 2013, sets out the benefits in connectivity and to the economy of the aviation sector. In the short to medium term a key priority is to make better use of existing runway capacity at all UK airports. Objectives include ensuring that the aviation sector makes a significant and cost-effective contribution towards reducing global emissions, and limiting, and where possible reducing, the number of people in the UK significantly affected by aircraft noise.

6.6 In 2018, the Department for Transport (DfT) published the ANPS. This policy statement sets out the Government's proposal for a new runway at Heathrow airport. It also refers to the importance of making more intensive use of existing airports other than Heathrow and Gatwick to enable the UK to continue to expand its domestic and international connectivity in the period before a new runway would open.

6.7 At about the same time as the ANPS was produced, the Government published MBU. MBU makes it clear that there is a case for airports making the best use of their existing runways across the whole of the UK[44]. As part of any planning application, airports will need to demonstrate how they will mitigate against local environmental issues; account should also be taken of economic impacts.

6.8 In 2022, FTTF was published as a strategic framework for the aviation sector, looking ahead over ten years. Aviation is identified as having a key role in delivering benefits, including championing the levelling-up agenda, boosting economic success, and supporting local jobs. Growth in capacity is supported where this is justified. Reference is made to the intention to achieve the Jet Zero target for aviation emissions (below, para 6.9) by 2050, and to support for the sector in delivering an airspace modernisation strategy to achieve quicker, quieter, and cleaner flights.

6.9 JZS, published by the DfT last year, sets out the Government's vision for decarbonising aviation, whilst maintaining the benefits of air travel. In addition to a target of net zero UK aviation emissions by 2050, domestic flights and airport operations are expected to attain the position of zero emissions by 2040.

Other policy documents

6.10 Other policy documents are also of relevance for the application. Aims of the *Noise Policy Statement for England* (NPSE)[45] include to avoid significant adverse impacts and to mitigate and minimise adverse on health and quality of life.

6.11 The *LLA Noise Action Plan 2019-2023*[46] puts forward a series of measures to address noise at the local level. Amongst other matters, the Plan states that

[43] APF: CD10.04, ANPS: CD10.15, MBU: CD10.13, FTTF: CD11.15 & JZS: CD11.19.
[44] The position is different for Heathrow, for which an additional runway is proposed in the Airports National Policy Statement.
[45] CD13.06.
[46] CD13.11.

the Airport will operate within its agreed contour area limits (action 3.4), and develop a noise contour reduction strategy (action 3.5). Action 2.1 refers to working with partners to encourage the introduction of quieter aircraft.

6.12 In 2021, the Airport produced the final version of the London Luton Airport Master Plan 19MPPA[47], which was adopted by the LPA later that year. Non-statutory public consultation on the draft Master Plan had taken place in 2020[48]. The Master Plan is specifically concerned with the proposed increase in capacity to 19mppa. Most facilities have adequate capacity to cope with the forecast demand, and the shortfall in respect of some passenger terminal facilities would be addressed by minor refurbishment works. Mitigation measures for noise are necessary: the Master Plan explains that there are measures available within the existing noise action plan, but that in the longer term, mitigation is likely to include the migration of the fleet to more modern and quieter aircraft. Insofar as air quality is concerned, mitigation measures include the opening of the DART, a reduction in road vehicles and a travel plan. Waste and climate change impacts are intended to be mitigated by the Airport's ongoing waste and energy policies.

7. AGREED MATTERS

7.1 The LPA and the Applicant advise that there is no disagreement between them with regard to the application, with previous concerns of the LPA being addressed by ESA4.

7.2 A signed Statement of Common Ground (SoCG)[49] between the LPA and the Applicant sets out matters agreed by those parties, prior to the opening of the inquiry. However, neither Rule 6 party was party to that SoCG. Matters agreed between the LPA and the Applicant include:

- No built development is proposed as part of the application.
- The proposal was classed as an EIA development. LBC identified that topics covered within the EIA should be air quality, carbon and greenhouse gases, transport, and noise, with other topics scoped out (above, para 3.8).
- APF and MBU are the most up to date aviation policies which support increased use of runway capacity. MBU provides that increased carbon emissions resulting from airport development will be dealt with at the national level. The development is supported by APNS and JZS (and the consultation documents that underpin it).
- The proposal is supported by The Clean Growth Strategy, 2017, A Green Future: Our 25 Year Plan to Improve the Environment, 2018, Build Back Better: Our Plan for Growth, 2021, Decarbonising Transport: A Better Greener Britain, 2021, and Net Zero Strategy: Build Back Greener, 2021.
- The proposal would comply with LLP Policies LLP1, LLP2, LLP6, LLP13, LLP31, LLP 32, LLP36, LLP37, LLP38 and LLP39.

[47] CD5.05, appendix 1.
[48] LPA-W5.1, para12.23.
[49] APP/LPA-04.

- No significant adverse airborne aircraft noise effects would occur from the proposal.
- The effects of the proposal on ground and traffic noise would be negligible.
- The outline Carbon Reduction Plan (OCRP) sets out a framework to achieve net zero for scope 1 and 2 emissions which would achieve carbon neutrality by 2026 and net zero by 2040 across direct operations in LLAOL's control. It also sets out measures to influence Scope 3 emissions and commit to a carbon reduction strategy (CRS). The CRS forms part of a commitment to reach more ambitious levels of certification within the Airport Carbon Accreditation Scheme, would include measures to estimate and report non-CO_2 effects and to ensure any carbon reduction measures adopted do not exacerbate non-CO_2 effects. It will include engagement with key stakeholders including local authorities, transport providers, aviation sector organisations and airlines.
- Measures embedded within the proposal would ensure that air quality in the vicinity of the airport is maintained.
- No further capacity increases in car parking are proposed. The Applicant has already met the key surface access targets on sustainable transport for 2022 in the ASAS for both staff and passengers and more ambitious targets have been set in the submitted TP focusing on reduction in private car travel, increasing sustainable travel and reducing carbon emissions from surface access to the airport[50]. LBC's support is subject to the ASAS being reviewed within twelve months and further strengthening the TP to set targets for the provision of additional cycle parking for staff and further electric charging points to encourage more sustainable transport options.
- There would be no significant impacts on human health either as a result of any increase in air traffic movements (ATMs) as the spatial pattern of aircraft movements would not change, or as a result of any air quality or transport impact. Effects on residents who are exposed to noise at or above the daytime and night-time Significant Observed Adverse Effect Levels (SOAEL) (63 and 55 dB L_{Aeq}) will be mitigated by noise insulation which would minimise the increase in noise when windows are closed, avoiding adverse health effects.
- The proposed conditions and planning agreement would include additional measures to secure noise, transport, human health and climate change mitigation measures beyond those embedded in the scheme design. By the close of the inquiry the Applicant and LPA had effectively agreed a revised schedule of conditions in light of the Panel's questions and reflecting the discussion at a round table session[51].
- The proposal provides for an enhanced Noise Insulation Scheme (NIS), secured by planning conditions and obligations, providing a fund of £4,500 per property (index linked) with an uncapped annual fund. The Applicant

[50] LBC's support is subject to the ASAS being reviewed within twelve months and further strengthening the TP to set targets for the provision of additional cycle parking for staff and further electric charging points to encourage more sustainable transport options.
[51] INQ-84.

intends to allocate £8.5M to the scheme to ensure all properties meeting the relevant criteria can be insulated within 5 years. This is compared to the existing NIS which has an annual capped fund of £100,000pa (index linked) and a 'per property' fund of £3,000 (index linked). A current estimate is that it would take 33 years to complete with a fund of approximately £3.5M (based on current uptake of the scheme of approximately 50%), at best deployment could take 16 years.

- Galley and Warden Hills Site of Special Scientific Interest is located approximately 6km north of the site. It has been designated for calcareous grassland and plants, which are not considered to be sensitive to changes in noise. There would be no significant effects on biodiversity, ecology or any protected site.
- The proposal would not cause any perceptible increase to noise (not expected to be over 1dB) at any designated heritage asset, and so would not affect any such asset or its setting.
- The airport is in Flood Zone 1, at low risk of flooding, and there are no likely significant effects on flooding or water resources. On-site drainage and water supply networks are assessed as capable of accommodating the proposed increase in passenger numbers without further infrastructure or reinforcement being required.
- There would be no likely significant effects on ground conditions.
- There is no longer any disagreement between the applicant and LBC on noise effects. Therefore, there is no disagreement about compliance with LLP Policies LLP6B and LLP38 in light of ESA4 which now confirms day and night time airborne aircraft noise increases would be less than 1dB $L_{Aeq,\ T}$. The effects would not be significant, mitigation measures would be in place and fleet modernisation would result in significant diminution and betterment over time.

7.3 The applicant and the LPA produced a Joint Statement on Air Quality[52] (JSAQ). This summarises the air quality impact assessments in ESA2 and ESA4. It reported that, overall, ESA2 concluded that the air quality impacts of the proposed scheme were not significant as all impacts were negligible, and that this was the case for human health and ecological receptors. Air quality would remain at acceptable levels with the proposal.

7.4 Following LADACAN's noise witness giving evidence at the inquiry it appeared that there were some aspects of common ground between all the main parties. The Panel requested a Noise SoCG[53] between those parties and a draft was provided. However, the parties were unable to provide an agreed version by the close of the inquiry.

8. THE CASE FOR THE APPLICANT

8.1 The application is for a modest expansion and temporary variations to noise contours. This would be delivered by making better use of existing facilities

[52] APP/LPA-01.
[53] INQ-87.

without any operational development and would be achieved without any significant environmental effects. It would do so in exactly the way that national policy supports sustainable aviation growth to address the fundamentally constrained capacity that continues to be a basic problem for the nation.

8.2 The LPA carefully scrutinised the application over eleven months and engaged independent expert consultants to review noise, climate change and planning aspects. Contrary to assertions that it did not do so, the LPA carried out a rigorous examination of the proposals, testing them correctly against the relevant policies and objectively examining the technical evidence. They resolved to approve the application in accordance with officers' recommendations on the basis that although, at that time, there was Development Plan conflict in respect of anticipated noise effects, other material considerations indicated it should be permitted. Since then, further technical evidence has shown that no perceptible noise effects would occur and therefore the proposal would fully comply with the Development Plan.

8.3 The proposal would make better use of LLA's existing runway without giving rise to any significant effects in terms of noise for EIA purposes and any noise changes would be imperceptible. The proposal would result in more stringent noise contours in the long-term than currently apply, coupled with a significantly enhanced NIS.

8.4 Raising the passenger cap by 5.6%[54] would also speed up the rate of modernisation at LLA, with the obvious benefits of more modern aircraft being more efficient and less noisy. There would be no significant impacts to the road network in terms of capacity or safety, as agreed by LBC Highways and National Highways (NH). The revised TP would introduce stretching targets that would markedly increase the number of passengers and staff using sustainable transport to access LLA.

8.5 Around 900 additional jobs and c£44m Gross Value Added (GVA) for Luton would result. These are particularly weighty benefits in the context of the Government's Levelling Up Agenda and the need to speed up recovery from COVID-19.

Relevant legal principles

8.6 LADACAN's witnesses expressed disagreement with national aviation policy. However, as a matter of law, the merits or otherwise of policy is not a matter for the inquiry[55]. As such, evidence presented on whether or not measures, such as JZS, will be realised, are irrelevant.

8.7 In terms of consistency with other airport expansion decisions, no good reason has been given for departing from the position adopted by Inspectors

[54] In their closing submissions (Document INQ-91, para 16), the Applicant's advocates refer to an increase of 5.5%, but the increase rounds to 5.6%.
[55] Bushell & Anr v Secretary of State for the Environment [1981] AC 75.

at Stansted[56], Bristol[57] or the Secretary of State at Manston[58] in relation to the application of Government policy. That point applies equally to the High Court decision on Southampton Airport[59] and the High Court order in relation to Stansted Airport[60].

Principle of development

8.8 Strategic Objective 1 to the LLP supports sustainable growth of LLA and emphasises its strategic importance for the Borough[61]. LLP Policy LLP6 supports expansion where certain criteria are met[62]. The proposal would deliver growth without any significant adverse effects and bring economic benefits through jobs and economic growth (GVA) to an area which has priority 1 status in the Government's Levelling Up Agenda. It includes stretching and ambitious commitments to secure uplift in sustainable travel which would bind not only the additional 1mppa but the entire throughput of the Airport (19mppa). For example, an uplift in the use of sustainable transport modes by passengers by 4% over that achieved in 2019 would result in a reduction of 1.19mppa using the private car to access LLA; more than the increase of 1mppa being sought.

8.9 The proposal is supported by a raft of Government policy including APF[63], MBU[64], FTTF[65] and JZS[66]. Importantly, the analysis which underpins JZS has been done on the assumption that LLA could expand to 32mppa[67], so this proposal is well within the Government's modelling and trajectory. Government policy expressly connects aviation growth with levelling up[68] and the proposal's economic benefits are needed now.

8.10 Although LADACAN's climate change and socio-economics witnesses expressed disagreement with Government policy, their planning witness stated that Government policy on aviation growth should be given full weight. He further agreed that if the proposal results in no significant adverse effects and no material adverse effects then it would enjoy strong support from national policy.

Climate change

The international context and national legislation

8.11 The UK's commitment to meeting the 'long term temperature goal' set out in the Paris Agreement is incorporated in the Climate Change Act 2008 (CCA).

[56] CD15.01.
[57] CD15.05.
[58] CD15.06.
[59] CD15.03.
[60] CD15.04.
[61] CD9.07, page 14.
[62] *ibid*, page 32.
[63] CD8.05, para. 5.
[64] CD8.09.
[65] CD11.15.
[66] CD11.19.
[67] APP-W4.1, Annex A.
[68] CD11.15, page 26.

Section 1 of the CCA places an unqualified duty upon the Secretary of State (SoS) for Business, Energy and Industrial Strategy[69] (BEIS) to achieve net-zero by 2050 and to set 5 yearly Carbon Budgets. Net Zero Strategy: Build back Greener, 2021 (NZS)[70] shows this duty is not sector specific and applies overall.

8.12 In accordance with NPPF paragraph 188, decision makers should assume that the Climate Change Act 2008 (CCA) regime will operate effectively. It should be assumed that the SoS for BEIS will meet their duties under the CCA, as was accepted by LADACAN's climate witness and applied in the Bristol Airport appeal decision[71]. That assumption relates to both aviation and road traffic emissions. Paragraph 188 applies to all pollution control regimes and there is no policy basis for applying it to some and not others.

8.13 LADACAN's cross-examination of the Applicant's climate witness appeared to suggest that paragraph 188 did not apply in this case as the measures relied upon in assisting in the achievement of net zero were in development or yet to be realised. This was rightly disputed, and it highlighted that the same issues of uncertainty and technology development exist in the permitting regime.

8.14 Neither the CCA nor any other Act prescribes how the SoS is to meet each Carbon Budget and the overall target of net zero. In particular, there is no legislation which sets out the reductions which each sector of the UK economy must deliver. There is no requirement that each sector must be net zero, rather the net zero target must be met across the entirety of the UK. Therefore, it is a matter of political choice as to which sectors of the economy are expected to deliver greater or lesser reductions to meet the requirements of the CCA. Further, if one sector (e.g. aviation) were to emit more carbon than forecast in any budgetary period the Government would be able to balance this by reductions from other sectors (e.g. energy supply sources) in order to balance the budget. All of these are matters for Government and not for consideration with this application.

8.15 Even if paragraph 188 was ignored in this context, it has been clearly demonstrated that the scheme would not have any material impact on the ability to meet any of the carbon targets.

8.16 Unlike the Sixth Carbon Budget (2033-2037), the Government's Fifth Carbon Budget (2028-2032) does not formally include emissions from international aviation and shipping. Rather, these emissions were taken into account by setting the budgets at a level which allowed headroom for those sectors. The headroom for international aviation in the first five budgets was 37.5MtCO_2 pa (the 'planning assumption').

[69] At the time of the inquiry, now Energy Security and Net Zero.
[70] CD11.09.
[71] CD15.05, para. 162.

The Climate Change Committee

8.17 The Climate Change Committee's (CCC) role is advisory, non-binding and they do not make policy; that is a matter for the Government and not open to question in determining planning applications of this kind. LADACAN's and CPRE Herts' reference to the CCC and the advice it provides is misplaced in this context. The CCC's earlier suggestion of a no net expansion of airport capacity policy has been rejected by Government as can be seen from JZS and FTTF. The expansion of airport capacity which the Government has envisaged in achieving Jet Zero far exceeds anything at issue in this case. For example, the Government has assumed expansion of LLA's capacity to 32mppa. Further, the CCC's latest report from June 2022[72] represented a change in position. It recommends that there should be no net expansion of UK airport capacity 'unless the carbon intensity of aviation can accommodate additional demand'[73]. JZS seeks to do exactly that, to reduce the carbon intensity in aviation.

Policy context – aviation emissions

8.18 Government policy is that airport growth is not to be capped by reason of aviation emissions but supported on the basis that such growth has been modelled and accounted for in the models that underpin both MBU and JZS. APF supports making best use of existing capacity. MBU re-states the policy to make best use of existing runways and that the compatibility of this with the UK's climate commitments is a matter for national policy. FTTF re-states the commitment to growth by confirming MBU. JZS makes clear that the sector can achieve Jet Zero without the Government intervening to limit aviation growth, with that growth modelled assuming that all airports would expand consistent with existing permissions or draft proposals, including the growth to 32mppa at LLA.

8.19 Greenhouse gas (GHG) emissions from aviation have been, and are, addressed through national policy. It is clear from the fact that both MBU and JZS have been developed on the basis of a model and analysis which assesses the impact of the Government's making best use policy being implemented at all UK airports, that the support for such expansion caters for the consequential GHG emissions. A central tenet of LADACAN's case has been to attempt to challenge the efficacy of the measures set out in JZS and the weight that can be given to the policy. This is an attack on Government policy which is contrary to the approach established in case law[74]. That position is also directly contrary to that of LADACAN's own planning witness who confirmed in cross-examination that central Government policy should be given full weight.

[72] CD11.40.
[73] CD11.40, p348.
[74] see *Bushell & Anor v SSE* [1981] AC 75 *per* Lord Diplock.

Policy context – surface access emissions

8.20 Certain matters relating to surface access emissions are for Government and the current policy is set out in the Transport Decarbonisation Plan (TDP)[75]. NPPF paragraph 105 sets out what is expected of individual planning proposals which includes focusing significant development on sustainable locations and offering a genuine choice of transport modes. No main party has disputed that this is the correct approach nor alleged any breach of the TDP, the NPPF or local policy as a result of surface access emissions. LADACAN's climate witness expressly confirmed that she did not take issue with surface access emissions.

8.21 The Applicant's approach to the assessment of surface access emissions has been robust in any event by assuming that all additional trips to LLA from the extra 1mppa would be additional trips generating GHG emissions. If the extra 1mppa are not permitted to fly from Luton, they are likely to fly from other airports elsewhere.

LADACAN's policy case

8.22 LADACAN's climate and socio-economics witnesses' evidence was put forward on the basis of disagreement with Government policy, presenting the views of the Aviation Environment Foundation (AEF) and the New Economics Foundation (NEF) respectively. The AEF is seeking a change in aviation policy, does not support JZS and is seeking a moratorium on expansion and aviation growth. One of NEF's mission statements is to stop airport expansion, opposing government policy on airport expansion and their witness opposes JZS.

8.23 LADACAN's climate witness incorrectly asserted that the technologies relied upon by JZS are only speculative or aspirational. On the contrary, the Applicant's climate witness gave evidence as to their efficacy including that fuel efficiency is improving, different types of sustainable aviation fuels (SAF) are already being produced and others tested. SAF is not an innovative technology and is already available on the market. Furthermore, airspace management and modernisation are happening now, and there is no early reliance on electric aircraft or hydrogen fuel coming into play (being commercialised in the 2030s and 2040s). They are not experimental technologies but ones in the process of coming to market whose ongoing development and exploitation timings have been recognised in JZS. Carbon capture technology is developing with at least 44 carbon capture plants already in existence.

8.24 Both LADACAN's and the Applicant's climate witnesses appeared to agree that the UK Emissions Trading Scheme (UK ETS)[76], the one mechanism which the Government has chosen to control aviation carbon emissions, is already an effective method of reducing carbon emissions. Whilst it is recognised that

[75] CD11.12.
[76] Applying to a to all flights departing from UK airports either to other UK airports or airports within the EEA (and therefore the vast majority of LLA flights).

the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) currently has some shortcomings, these are well recognised and are the subject of current talks.

8.25 In the UK, GHG emissions are measured and reported so the Government is therefore able to compare emissions against its own trajectory, and to review and tailor its policy accordingly. The LPA's climate witness stressed that the review mechanism in JZS gave them 'a lot of comfort' and if one part of JZS does not deliver, or over delivers, then there is an opportunity for review. Aviation policy is no different from other areas of climate change policy with no area fixed indefinitely, but under review to ensure that the package is delivered.

8.26 The policy measures which the Government has put in place to address carbon from aviation growth are not for debate. The inquiry was not party to all the consultation responses and assessments available to Government. It is not the job of the inquiry to seek to go beneath the policy and to challenge its merits. This would be impractical and unlawful.[77]

8.27 LADACAN's climate witness conceded that they were not aware of any evidence which would allow the Inspectors to come to a different view to that in Government policy as to the effectiveness of, for example, SAF. They confirmed that the application is in line with the NZS and consistent with MBU and FTTF. There is no reason why these policy documents should not be applied and given full weight, as confirmed by LADACAN's planning witness. This is the position which has been taken by Inspectors and the Secretary of State in relation to recent airport expansion decisions even before JZS.

8.28 The decisions and approach taken for Bristol Airport in relation to the long line of policy consistent with MBU, and in respect of Manston Airport in relation to Jet Zero are sound approaches to those strategies that there is no good reason to depart from. Some reference has been made to a potential legal challenge to Jet Zero, but this is incapable of altering the position. And even if JZS were ignored, the Bristol appeal decision was made in a policy context which included all the same policy documents apart from FTTF and JZS, which are even more affirmative of growth. Previous decisions all point to the policy approach to adopt in relation to emissions and climate change, including aviation emissions, in that they are a matter for Government.

Non-CO_2 emissions

8.29 LADACAN conceded that there is no government target or requirement to assess non-CO_2 effects as a matter of national policy. The Government's considered approach is to continue to investigate and research non-CO_2 impacts. As accepted by LADACAN's climate witness under cross examination, some measures directed at addressing CO_2 emissions will also cover non-CO_2 effects[78]. Regarding SAF, for example, the Bristol decision held that, given

[77] See *Bushell & Anor v SSE* [1981] AC 75.
[78] APP.-W4.2, section 2.9.

the extent of scientific uncertainty and the intention of the Climate Change Action Plan to consider the effects further, it would be unreasonable to weigh that in the balance of that proposal. The same approach is true in this case. The Applicant's climate witness identifies that there is no reason why the CRS could not consider the effects further as understanding of non-CO_2 effects develops. There is no reasonable reason for refusing permission on the basis of non-CO_2 effects.

LBC Climate Emergency Declaration January 2020

8.30 LADACAN mistakenly assert that aviation emissions fall within the scope of Luton Borough Council's Climate Emergency Declaration[79]. This states[80] that *"…emissions of greenhouse gasses from international aviation are not counted as emissions from sources in the UK for the purposes of carbon reduction targets. … the [CCA] gives the Secretary of State the power to make regulations to include them. If they were to be included, it is likely this would have an impact on the Council's targets and policy because of its ownership of LLAL."*

The scheme's emissions

8.31 The emissions reported in the ES are precautionary. They assume that all emissions are net additional, i.e. that each one of the additional 1mppa would not fly from elsewhere if they could not fly from LLA. However, in reality a very large proportion of that extra 1mppa would fly from another airport if they could not fly from LLA thereby generating the same or very similar aviation emissions, or alternative emissions if they travelled by different modes. If those using alternative airports required a longer trip to reach them, surface access emissions would be greater. These assumptions attribute emissions to the scheme which are likely to arise anyway even if the application is not permitted. Also, the calculation of emissions from passengers has been based on a less ambitious modal split than a more challenging TP would aim for, and ignores any of the effects of DART in reducing emissions.

8.32 Given that Government policy has already assumed growth of up to 32mppa at LLA, it is obvious that the emissions of operating LLA at 19mppa rather than 18mppa would be incapable of having a material impact on the Government's ability to meet its climate change targets and budget. LADACAN's climate witness's approach that any development causing an increase in CO_2 emissions would need to prove a very strong case for proceeding flies in the face of national aviation policy. She did not take issue with the emissions calculations presented in the ES.

8.33 The most recent Institute of Environmental Management & Assessment (IEMA) guidance states that impacts which are minor adverse or negligible, as they would be in this case, are not significant. CPRE Herts contended that

[79] CD11.42.
[80] *Ibid.*, p.7.

there was a 'policy gap' or 'policy lag' and therefore the IEMA guidance indicated that there might be a need to go beyond or behind policy in this case. However, FTTF and JZS were published in 2022 so aviation policy is up to date, and there is no policy gap in this case.

8.34 The same approach to that set out in the IEMA guidance was applied in the Bristol Airport decision (prior to JZS) where it was found that measures already in place, and potential future ones, meant that aviation emissions in that case would not be so significant as to have a material impact on the Government's ability to meet its climate change target and budget. There is no evidence to support CPRE Herts' assertion that the IEMA guidance has been incorrectly applied in this case.

	% Emissions reduction from 2019 for the Central Scenario (range: Upper and Lower Scenarios)				
	2025	**2028**	**2032**	**2040**	**2050**
Aviation	1% (0%-1%)	6% (4%-9%)	9% (4%-15%)	14% (4%-26%)	31% (12%-80%)
Surface access	30% (30%-32%)	35% (35%-44%)	45% (41%-63%)	68% (50%-87%)	82% (54%-92%)
Airport buildings and ground operation	32% (20-32%)	47% (35%-47%)	49% (37%-49%)	54% (42%-62%)	54% (49%-74%)
Total	**9% (9%-10%)**	**15% (13%-19%)**	**20% (15%-29%)**	**29% (18%-43%)**	**46% (24%-84%)**

Table 2: Summary of % emission reduction from 2019 to 2050 Consented Development

	% Emissions reduction from 2019 for the Central Scenario (range: Upper and Lower Scenarios)				
	2025	**2028**	**2032**	**2040**	**2050**
Aviation	-1%[1] (-2%-0%[1])	4% (1%-7%)	6% (1%-12%)	11% (2%-23%)	29% ([2]9%-80%)
Surface access	13% (13%-16%)	20% (20%-30%)	32% (27%-55%)	61% (38%-85%)	79% (43%-92%)
Airport buildings and ground operation	28% (15%-28%)	44% (32%-44%)	46% (34%-46%)	51% (39%-60%)	51% (46%-73%)
Total	**4% (3%-5%)**	**9% (7%-14%)**	**14% (9%-25%)**	**26% (12%-41%)**	**44% (19%-83%)**
Notes: 1) increased emissions. *2) ESA4 included a minor error reporting this value as 10% rather than 9%.*					

Table 3: Summary of % emission reduction from 2019 to 2050 Proposed Development

8.35 In all cases, either for the *with* or *without proposal* scenarios, total emissions are predicted to fall from the 2019 baseline. ESA4 reports that GHG emissions in the with proposal scenario peak in 2025. At their peak in that

year, the total GHG emissions associated with the proposed scheme would be 47-71 $ktCO_2e/yr$ lower than the 2019 baseline (dependent upon the future scenario considered). Tables 2 and 3 above present a summary of emissions reductions in the without proposal[81] and with proposal[82] scenarios.

8.36 Whether emissions are considered against the planning assumption up to the Fifth Carbon Budget, the Sixth Carbon Budget, the Jet Zero trajectory, individually with recent planning approvals or cumulatively with all those recent planning approvals, emissions from the proposal would not impede, nor have a material impact on, the UK's climate policy in reaching carbon net zero by 2050 and the achievement of Carbon Budgets. Table 4 below[83] compares the consented and proposed schemes against the Fourth and Fifth Carbon Budgets and the planning assumption.

Aviation emissions ($KtCO_2$)	**2023 – 2027 Fourth Carbon Budget**			**2028 – 2032 Fifth Carbon Budget**					
	2025 consented	**2025 proposed**	**2025 diff.**	**2028 consented**	**2028 proposed**	**2028 diff.**	**2032 consented**	**2032 proposed**	**2032 diff.**
Domestic	39.8	39.8	0.0	38.8	38.2	-0.6	37.0	36.9	-0.1
EEA	823.6	832.0	8.4	781.2	788.6	7.4	757.4	768.6	11.2
Rest of world	183.4	192.2	8.8	168.4	186.3	17.9	163.9	181.6	17.7
Total	**1046.8**	**1064.0**	**17.2**	**988.4**	**1013.1**	**24.7**	**958.3**	**987.2**	**28.9**
% of planning assumption	2.79%	2.84%	0.05%	2.64%	2.70%	0.07%	2.56%	2.63%	0.08%

Table 4: Significance of aviation emissions – fourth and fifth Carbon Budget periods

8.37 The scheme would result in emissions taking up 0.014-0.015% of the Sixth Carbon Budget. Expressed as a percentage of the JZS in-sector carbon trajectory the proposed scheme would represent 0.076 – 0.112% as shown in table 5 below[84].

Year	In-sector trajectory ($KtCO_2$)	Proposed Scheme ($KtCO_2$)	%
2030	35,400	26.8	0.076
2040	28,400	28.8	0.101
2050	19,300	21.7	0.112

Table 5: % emissions of JZS in-sector trajectory

8.38 The only reason that the proposal appears to drop behind the Jet Zero trajectory is because the ES was written prior to JZS and therefore does not use the latest assumptions, in particular in relation to SAF take up. If the ES

[81] APP-W4.1, table 3.2.
[82] *ibid*, table 3.3.
[83] *ibid*, table 3.4.
[84] INQ11.

were to adopt the same assumptions in JZS, then the Airport would also be on the same trajectory. These percentages demonstrate that the emissions are insignificant and would not materially impede the UK's trajectory towards net zero.

8.39 The emissions from the proposed scheme would be the lowest of any of the projects which have been recently consented, as shown in table 6 below, all of which decisions found that their emissions are not reasons for refusing the schemes. There can be no rational basis for reaching a different conclusion in this case, even if all the emissions from the permitted schemes were assessed cumulatively.[85]

Airport	**Passenger Growth**	**2050 total aviation emissions (Proposed Scheme) $KtCO_2/yr$**	**2050 incremental increase in aviation emissions $KtCO_2/yr$**	**Increase in aviation emissions as a % of 37.5 $MtCO_2$ planning assumption**	**Status**
London Stansted	8 mppa (35 to 43 mppa)	1130 – 1860	70 – 120	0.187 – 0.320	Approved with 43 mppa cap (subject to S106 Agreement)
Southampton International	1mppa (2 to 3mppa)	367	Cannot be determined	Cannot be determined	Approved with 3 mppa cap (subject to S106 Agreement)
Bristol	2mppa (10 to 12mppa)	413 – 488	66 – 78	0.175 – 0.207	Approved at Appeal
Manston	Not applicable (freight only)	730 (in 2040)	730 (in 2040)	1.95	Approved (subject to S106 Agreement)
London Luton Airport	1mppa (18 to 19mppa)	[1]208 - 955	[1]6 - 28	[1]0.017 – 0.074	Pending
Total	**15 mppa**	**2848 - 4400**	**872 - 956**	**2.325 – 2.549**	
Note: 1. Based on Table 5A.7 of ESA4.					

Table 6: Significance of aviation emissions – recent planning approvals

8.40 LADACAN's climate witness conceded that there was no reason for departing from the approach at Bristol Airport and that the Inspectors' conclusion[86] that decision applies 'with even greater force' to these proposals. She also agreed that in light of the JZS growth assumption of 32mppa at LLA it was impossible for this proposal for a 1mppa increase to impact or materially harm the assumptions in JZS and there is nothing in the proposal that would

[85] APP-W4.1, paras 3.2.9-10.
[86] CD15.05, para 216.

conflict with JZS. She ultimately accepted that the proposal was not in conflict with national policy but was supported by it.

8.41 Whatever benchmark or target is used, this proposal cannot reasonably be considered to be capable of impeding the Government from achieving net zero and there can be no proper basis for refusing this proposal on the basis of aviation emissions.

8.42 The LPA's climate witness made clear that, the fact that this proposal would lead to some additional emissions when compared with the *without proposal* scenario, is entirely in line with the Jet Zero trajectory as JZS is predicated upon achieving and supporting a 70% growth in air traffic. LADACAN's case boils down to an objection to government policy to allow aviation growth, the merits of which are not relevant to this application.

Surface access, ground operations and buildings emissions

8.43 LADACAN's objection and evidence did not take any issue with ground source or other emissions. Non-aviation emissions are predicted to fall between 2019 and 2050. Reductions in surface access emissions would largely reflect the decarbonisation of the road transport sector in the UK and the increased provision of public transport.

8.44 The CRS[87], which would be required by a suggested condition, would set out short, medium and long term measures designed to ensure that LLAOL achieves carbon neutrality no later than 2026 and to deliver net zero carbon for its direct operational emissions by 2040. The Airport is not currently subject to such obligations and so the CRS (which, like the TP would apply to the whole Airport and not just the additional 1mmpa) would be a significant benefit in its own right in terms of additional measures to address emissions.

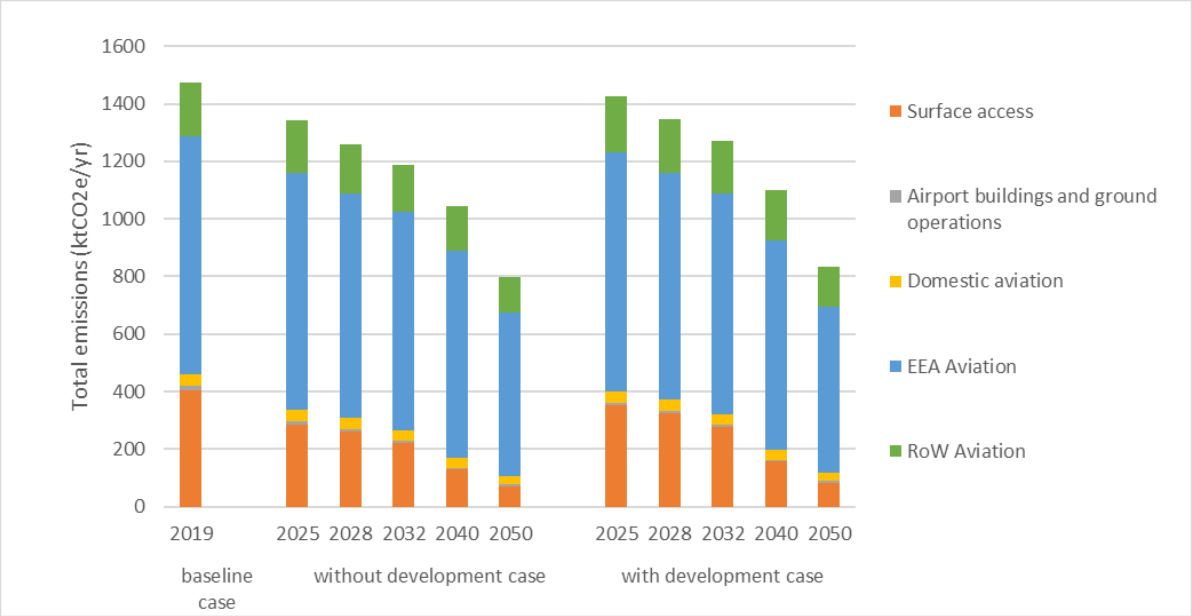
8.45 Measures proposed by LLAOL to reduce emissions from surface access, airport buildings and ground operations are in line with national policy and local transport policy, as well as the Government's aspirations for zero carbon airports by 2040. Emissions from surface access, although increased in the short term will reduce over time with the move to electric vehicles and stricter emission controls. Fig 5.1 from ES4[88] (overleaf) shows how emissions from various sources, with and without the scheme, change over time.

8.46 Residual emissions would not be material in preventing the UK Government policies from meeting successive Carbon Budgets or reaching carbon net zero. No main party has produced any evidence or case to challenge this conclusion.

8.47 Climate change emissions have been thoroughly and robustly assessed. Any emissions resulting from the scheme do not provide a basis for refusing the scheme. Rather, the scheme offers the opportunity to secure benefits in

[87] Based on the Draft Carbon Reduction Plan, CD4.05.
[88] CD1.16, page 36.

terms of conditions requiring a reduction in non-aviation emissions which would not apply if the scheme were refused.



Total GHG emissions for the 2019 baseline, the 'without development' and 'with development' cases for the central scenario, figure 5.1, ESA4

Air quality

8.48 None of the main parties to the Inquiry presented any evidence to suggest that the proposal should be refused because of any impacts upon air quality. The assessment in the JSAQ was carried out by the Applicant and was reviewed by the LPA who were satisfied with the methodology used and agreed the outcomes of the assessment. The JSAQ concluded[89] that the proposal is predicted to result in negligible changes in pollutant concentrations at receptors and that there would not be significant adverse impacts. It found that air quality is generally improving and would be better in future than in recent years, both with the approved and proposed schemes.

8.49 ESA2 and ESA4 provided a detailed and robust air quality assessment, in compliance with the requirements of the EIA Regs. ESA2[90] concluded that the air quality impacts of the proposal were negligible and therefore not significant. Concentrations of all pollutants were forecast to be well below their respective Air Quality Objectives (AQOs) in 2024 and impacts would be of negligible magnitude. ESA4 considered the impact of a change in the year when 19mppa would be reached from 2024 to 2025. As a result of changes, such as the replacement of older vehicles with newer ones that meet tighter emission standards or with electric vehicles, both emission rates and

[89] APP/LPA-01,paras 4.1.2 - 4.1.4.
[90] Section 6.3 sets out the legislative, regulatory and policy context for the assessment of air quality.

background pollutant concentrations are expected to be lower in 2025 than in 2024. The conclusions of ESA2 therefore remain valid.

8.50 Criteria and limits which are of the greatest relevance to assessing human health impacts of the proposal are: NO_2 - annual mean concentration of 40µg/m^3; PM_{10} particulates - annual mean concentration of 40µg/m^3, and daily mean concentration of 50µg/m^3 not to be exceeded more than 35 times a year; and $PM_{2.5}$ particulates - annual mean concentration of 20µg/m^3. The airport itself is not subject to these limit values as it is a 'workplace' and subject to a different regulatory framework. Relevant receptors under the statutory guidance tend to be where people spend a long time, or where a receptor is particularly vulnerable (e.g. schools and hospitals).

8.51 The EA provides guidance on appropriate screening for designated ecological sites. These are SPAs, SACs, Ramsar sites within 10Km and SSSIs and local nature sites (ancient woods, local wildlife sites and national and local nature reserves) within 2Km of the proposal[91]. The only ones that meet the criteria in this case were several ancient woodlands, and receptors were chosen to represent these sites[92]. The criteria of greatest relevance for assessing the potential ecological impacts of the proposal are: NO_x - annual mean concentration of 30 µg/m^3; Nutrient nitrogen - annual deposition rate of 10KgN/ha; and acid deposition (nitrogen and sulphur) - site specific critical loads are included in ESA2, expressed in terms o (kilograms of H+ ion equivalents per hectare per year (Keq/Ha/year).

Context

8.52 The three Air Quality Management Areas (AQMA)[93] in Luton are all the result of road traffic emissions and annual mean concentrations being observed above the Air Quality Standard (AQS) of 40 µg/m^3. Two of these are adjacent to junction 11 of the M1 motorway and the third is within the town centre. Monitoring by LBC and LLAOL includes four automatic sites for NO_2, PM_{10}, $PM_{2.5}$ and other pollutants, 84 diffusion tube sites for NO_2 and six adsorption tubes sites for volatile organic compounds.

8.53 All sites exhibit a reduction in annual mean concentrations of NO_2 over the five-year period 2016 to 2020, with the AQO met at the majority of roadside locations, at all non-roadside locations outside the Airport and at most locations within the Airport. In 2020, the annual mean AQO was exceeded at only one site (L7, a non-AQMA roadside site on Vauxhall Way, at 49.7 µg/m^3). This is not considered representative of relevant exposure due to being situated away from both amenities and residential accommodation. Annual, mean and 24-hour mean PM_{10} concentrations observed at the automatic sites over the five-year period 2016 to 2020 all met the relevant AQOs of 40 µg/m^3 annual mean and the 24-hour mean.

[91] CD1.09, paras 6.7.10-11 and APP/LPA-01, para 2.3.4-2.3.5
[92] CD1.10, appendix 6c, Figure 6C.4 showing ancient woodland sites.
[93] CD14.07.

8.54 Roadside monitoring of annual mean $PM_{2.5}$ over the five-year period 2016 to 2020 was in the range 8.3 to 10.0 µg/m^3. Annual mean $PM_{2.5}$ concentrations observed within the Airport were in the range 9.6 to 11.6 µg/m^3. These observed concentrations are within the AQO of 20 µg/m^3 and within or very close to the proposed target value of 10 µg/m^3 to be achieved by 2040. There were no monitored exceedances of any AQO at any relevant receptor in 2021.

Air quality assessment

8.55 The assessment set out in ESA2 and ESA4 is conservative. It is based on the 2019 modal share rather than any expected improved modal share and therefore over-predicts any potential adverse air quality effects. It does not reflect the improvements in air quality that will have been achieved. It has not taken into account any of the positive changes which the TP would require, nor DART and its positive effects on achieving modal shift and improving air quality, nor any of the positive measures which the CRS would require and which would also benefit air quality.

8.56 ESA2 predicts that the impact of the proposed scheme would be negligible at all modelled receptors using the Institute of Air Quality Management (IAQM) criteria for human health. In the assessment year of 2024, predicted annual mean concentrations of NO_2 were predicted to increase by, at most, 0.7 µg/m^3 at any of the modelled receptors where humans may be exposed over the course of a year. The maximum concentration was predicted at receptor H83 close to the M1 motorway near Junction 11, where the total NO_2 concentration was modelled to be 22 µg/m^3. Predicted annual mean NO_2 concentrations at all receptors would remain well below the AQO. The greatest predicted total concentration of annual mean PM_{10} was 20 µg/m^3 or 50% of the AQM. The greatest predicted concentration of annual mean $PM_{2.5}$ was 13 µg/m^3 or 65% of the AQO.

8.57 Existing background sources of $PM_{2.5}$ including, for example, industrial and agricultural emissions from the UK and continental Europe, and sandstorms from the Middle East, make the greatest contribution. The scheme would have no material impact on $PM_{2.5}$. The local contribution to $PM_{2.5}$ is much less than the contribution to NO_2 and therefore NO_2 tends to be the focus locally. National and international measures are in place to reduce $PM_{2.5}$ but it is difficult to have a discernible impact locally, albeit, certain NO_2 mitigation measures will also reduce $PM_{2.5}$ as well.

8.58 Moving on to consider the scheme's effect on ecological receptors, the maximum predicted contribution from the Airport to annual mean NO_x concentrations would be only 2.5 µg/m^3, 8.3% of the Air Quality Assessment Level (AQAL)[94]. Predicted maximum contributions from the Airport to annual nitrogen deposition would be only 0.37KgN/ha; 3.7% of the AQAL of 10 KgN/ha. The maximum predicted contribution from the Airport to acid deposition would only be 0.3 Keq/ha/year; 1.4% of the critical load. The

[94] APP/LPA-01, para 3.2.10

impact on ecological receptors arising from the proposal was therefore considered to be negligible[95].

8.59 Air quality in the UK is generally improving as a result of controls on the sources of emissions (such as engines meeting tighter emission standards in new road vehicles). As such, when the 2024 emission factors used in ESA2 are compared with those from 2025 used in ESA4 the PM emissions are marginally lower and the NO_x emissions are 11% lower[96]. ESA4 also found that background concentrations are expected to be lower in 2025 than in 2024. The magnitude of impact for ESA4 is expected to be very similar to that in ESA2, i.e. negligible in all circumstances[97].

8.60 The difference in concentration in the *with proposal* and *without proposal* scenarios would notionally increase by a very small amount. However, as significance criteria take account of the total pollutant concentrations with the proposed scheme before considering the magnitude of impact it was confirmed that all impacts on human health and ecological receptors would still be negligible[98].

8.61 The proposal's negligible impact upon air quality fully accords with national policy. The test in LLP Policy LLP38 is that a proposal should not have 'significantly adverse effects' on air quality, with which the proposal would comply. The proposal would accord with NPPF paragraph 186's requirement that proposals should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants. Even without proposed mitigation the scheme would be policy compliant.

8.62 However, approval would require further measures to be implemented which will improve local air quality. The revised TP sets out targets which are to be met across the entire 19mppa, not just the additional 1mppa. A 4% increase in passengers using public transport equates to an additional 1.19mppa passengers out of the 19mppa overall using sustainable transport modes, more than the total additional number of new passengers proposed. Similarly, targets relating to staff travel will apply across all staff and not merely the additional staff members which this application will lead to. Measures in the CRS, such as the replacement of diesel engines and the use of SAF, would have positive impacts for air quality as well as carbon. Measures in the TP and the CRS would be a benefit of the proposal in relation to air quality, mitigating the impact of the Airport's whole operation, not just the 1mppa increase.

Transport

8.63 No main party to the Inquiry has raised any issue with regard to the transport impact of the proposal. Both NH and LBC, as the relevant highway

[95] *ibid*, para 3.2.11.
[96] *ibid*, para 3.3.2.
[97] *ibid*, para 3.3.4.
[98] APP/LPA-01, para 3.4.2.

authorities, have concluded that the transport impact of the proposal would be acceptable, views that carry significant weight as statutory consultees.

Policy context

8.64 The 18mppa scheme originally permitted in 2014 was required to mitigate its own impact on the network and did so, including highway works and junction improvements and a Framework TP[99]. LLP Policy LLP31B(iii), requiring reduction of road congestion particularly at peak times, cannot be read as requiring this application for a variation of conditions to provide mitigation for development that has already been consented, carried out and mitigation provided. The lawful interpretation of the policy is that a development is only required to reduce congestion directly and related to its own scheme. Going beyond that would not be consistent with The Community Infrastructure Levy Regulations 2010 (as amended) (CIL Regs) tests. Nevertheless, the revised TP will deliver benefits that go beyond this requirement as it will directly benefit the existing operations and usage of LLA by the 18mppa already permitted.

8.65 The Transport Assessment (TA) accompanying the application meets the requirements set out in Appendix 7 of the LLP, including that the scope, content and standard be agreed in advance with the relevant Highways Authorities, including Highways England[100] if required. Therefore, as the scope had been agreed and there is no requirement in Appendix 7 to provide absolute figures, the percentages of passenger flows presented were acceptable, and had further information been required it could have been requested by LBC or NH.

Highway Impacts assessed in the TA and the ES

8.66 The assessment has been undertaken on a robust basis without taking into account the effects of DART. Nor has it taken into account the beneficial impacts of the measures proposed in the revised TP, and it has been conducted using the maximum passenger and flight volumes projected to occur. The applicant used LBC's traffic model. Flight estimates were based on a typical October average weekday aircraft movement, avoiding half terms and weekends when background traffic could be expected to be lower. The average load factor used was assumed to be 90% (as the summer peak) to ensure that any individual peaks and troughs in the day were not underestimated.

8.67 This shows that in such peaks of activity, the total two-way traffic increase would only be 121 vehicles in the AM peak and 93 vehicles in the PM peak[101]. These figures, based on the assumption that 85% of traffic would approach the airport via the M1[102] and Airport Way, would not be significant for the network. Only 15% of the additional trips would use other local roads. Even if

[99] CD6.03.
[100] Now National Highways.
[101] APP-W5.1, tables 3-3 and 3-4 and CD1.13, tables 10.4 and 10.7.
[102] *ibid*, para 3.89.

these were doubled, there would be no significant impact on local roads in terms of queues, delays or congestion over and above conditions in the base year, when the airport handled 18mppa. On this basis NH and LBC agreed that no further detailed transport modelling was required[103].

8.68 Although junctions 10 and 12 of the M1 have slow moving traffic they are not at capacity and there is room for vehicles to queue. This proposal would not affect how any of the junctions perform. Had the highway authorities been concerned about the capacity of any junction then they would have insisted on individual modelling of those junctions.

8.69 The TA shows that no material impact on the operation of the highway network would arise from the proposal, even prior to taking into account DART or the measures in the revised TP.

8.70 The highway impacts of the proposal are acceptable and would not lead to the breach of any policy. Further, there is no lawful basis for requiring any contribution to provide additional highway capacity and neither LBC nor NH were seeking any contributions to junction improvements from this proposal. In such circumstances any such contributions would not be compliant with the test set out in the CIL Regs[104].

TP and surface access

8.71 A planning obligation would provide for the current airport surface access strategy (ASAS) to be updated and submitted to the LPA for approval. This would be done within 12 months of the implementation of any permission granted and, in any event, prior to exceeding 18mppa. A revised version of the TP would embody significant benefits delivered by the proposal and meet the relevant policy tests. An updated and enhanced Car Park management Plan (CPMP) would be submitted to the LPA for approval as part of the revised TP. This would ensure that there is co-ordination and consistency between the ASAS, the TP and the CPMP. Should the Secretaries of State consider that a further revision or an enhanced, updated TP is necessary this is provided for in the planning obligation.

8.72 The revised TP contains stretching targets to achieve modal shift amongst staff and passengers. This includes achieving 35% of staff travelling to LLA by sustainable transport modes, a 7% increase above the 2022 target which the Airport is currently subject to. There is a stretch target of 37% by 2028. For passengers, the revised TP includes a target of 47% by sustainable transport modes by 2024, 11% above the current 2022 target. It is a 4% increase over and above that which was achieved in 2019. This is significant since, as the new target would apply to all 19mppa it would result, in absolute terms, in a 1.19m net decrease in passengers travelling by non-sustainable modes (since that achieved in 2019).

[103] *ibid*, para 3.38.
[104] Regulation 122.

8.73 That benefit should not be underestimated. The airport is not currently subject to such targets and this level of modal shift would have a material beneficial impact on emissions and traffic impacts. The revised TP ensures that the proposal will meet the terms of LLP Policy LLP31 part B and all relevant paragraphs of the NPPF.

8.74 Not only are the transport impacts of the scheme acceptable, but the scheme would deliver significant benefits in terms of enhancing the sustainability of LLA in transportation terms through the revised TP and the stretching targets to improve the modal split, and consequently contributing to the reduction of congestion and emissions from the airport's existing permitted operations.

Car parking

8.75 This proposal does not include any new car parking. Around 3-4,000 staff tend to be on site each day. 775 spaces are already provided for LLAOL employees, with around three parking permits for every space. There are a further 1,657 staff parking spaces which are associated with buildings leased by companies and organisations whose work is associated with airport operations. Not all staff are on site at any one time either due to working from home or due to shift patterns (three per day).

8.76 There have been no reports that staff are parking elsewhere or on local roads. Neither the Applicant nor the LPA considers more staff spaces are necessary which is consistent with a general emphasis on encouraging travel to work patterns using the alternative modes available.

8.77 LLAOL operates four public car parks with a total of 9,055 spaces. There is also third party operated off-site public car parking linked with shuttle buses with 1,500 such spaces having been added since 2019. Since 2019, when LLA managed a throughput of 18mppa, public car parking capacity has increased by 22.3%. There is sufficient capacity to accommodate the additional passengers.

8.78 In 2017 LBC carried out a consultation in respect of parking restrictions following complaints from the Vauxhall Park area of Luton relating to Lineham and Eaton Green Roads and the area between. One area did request parking restrictions, but the wider area did not want them. It was concluded that some non-residential parking occurring on the estate did not relate to the Airport. Additional parking restrictions were not taken forward at the time, but LBC can always decide to introduce such measures in the future if needed, and parking is still being monitored. LBC has been considering expansion of the controlled parking zone for a number of years but there are no current plans to take this step.

Noise

8.79 One of the singular features and compelling benefits of this proposal is that it proposes to make better use of an existing airport to accommodate a modest expansion of 1mppa, with all the socio-economic benefits that would bring, but without having any material adverse effects on the noise environment. At

the same time, it would deliver enhanced mitigation measures for the existing noise environment through what is now proposed under the NIS.

8.80 Changes in noise levels for residential receptors in the key assessment years are set out in the ES[105]. It was agreed by all the noise experts who appeared at the inquiry that the noise effects of the proposal would be imperceptible to anyone (constituting less than 1dB increase in the L_{Aeq} level) even for those currently subject to higher levels of noise, but at the same time it would offer an enhanced noise insulation package in a number of important respects. The case for granting permission in such circumstances is overwhelming, even before one considers the other benefits of the proposal in the planning balance.

8.81 LADACAN's entire case was originally predicated on the basis that this application would cause unacceptable noise. Its assertions have been contradicted by the expert evidence that LADACAN itself called. The common ground reached by the noise experts was a fundamental change in LADACAN's original asserted case.

8.82 Through the inquiry process and the testing of the evidence, the following points are now agreed or not disputed by the main parties:

a. the Applicant's assessments of noise had used the correct thresholds for Lowest Observed Adverse Effect Level (LOAEL) and SOAEL (for LOAEL these are 51dB $L_{Aeq,16h}$ for day-time noise and 45dB $L_{Aeq,8h}$ for night-time noise, and for SOAEL values of 63dB $L_{Aeq,16h}$ and 55dB $L_{Aeq,8h}$ for day-time and night-time respectively[106]);

b. there is a considerable body of evidence that supports the use of L_{Aeq} metrics in the assessment of aviation noise due to its correlation with annoyance;

c. LADACAN was not alleging that the application would result in any significant impacts as a result of considering either the L_{Amax} or N above contours;

d. The Applicant's noise witness had identified all of the correct national and local policies for the assessment of noise;

e. where noise levels are above SOAEL, policy allows for mitigation, including in the form of NISs to address exceedances;

f. ESA4 identifies that no residential or non-residential receptor would be affected by 1dB compared with a condition 10 compliant baseline;

g. a change of less than 1dB would be 'negligible' and 'imperceptible', and would not be 'material';

h. any noise impact would be the temporary variations to noise contour requirements;

i. this application does not involve airspace change;

[105] CD1.16, tables 6.3-6.14.
[106] APP-W1.1, para 3.8.2. Agreed by LADACAN's professional noise witness at LADACAN-W1.1, para7.8.

j. even if the assessment methodology for the new runways at Gatwick and Heathrow had been applied there would be no change to the conclusion that the noise impact would be negligible and imperceptible in this case;

k. subject to his assertions about what baseline to use, LADACAN's professional noise witness agreed all of the conclusions of the applicant's noise witness if the baseline for comparison was what is currently permitted to operate at LLA under the existing permission for 18mppa;

l. LADACAN's planning witness subsequently accepted that their noise witness's suggested use of a baseline of 12.4 mppa was wrong in principle (applying the EIA Regs correctly) and that the Applicant's baseline of the 18mppa was the correct one to use;

m. it is unusual to have an application for an expansion of an airport which has negligible effects on all receptors which are going to be affected;

n. a significant benefit of the proposal is that it can achieve additional passengers with negligible effects on anyone in the area in terms of noise;

o. If there are no unacceptable impacts then there is no reason why the contours cannot expand;

p. LADACAN does not dispute or contradict the benefits of the enhanced noise mitigation scheme; and

q. If ESA4's conclusions are accepted there is no environmental reason relating to noise to refuse permission.

8.83 Where there would be increases in aviation noise for residential receptors of at least 3dB above LOAEL and at least 1dB above the SOAEL, a notable exceedance of criteria is deemed to occur. For non-residential receptors any increase of at least 1dB where the noise level is above the threshold criterion is considered significant[107]. The World Health Organisation (WHO) Night Noise Guidelines for Europe refer to adverse health effects above 40dB. There are studies which point to a potential increased risk of certain health conditions with increased levels of noise[108].

8.84 LADACAN's noise witness identified only three issues of dispute with the assessments of the effects of noise by the Applicant's noise consultants and their, and LBC's, noise witnesses. These were: (a) whether to use 12.4mppa or 18mppa as the correct baseline; (b) questions about the calibration of the noise model; and (c) questions over the use of the metric However, issue (c) fell away during their evidence when they confirmed that they did not dispute the assessments of the Applicant that no material noise increase would arise whether one used the L_{Aeq} metric, the L_{max} or N- contour metrics and the baseline of 18mppa.

8.85 LADACAN's noise witness was unable to justify the use of 12.4mppa as a baseline as it was based on his misreading of the EIA Regs. LADACAN's

[107] CD4.06, paras 8.8.17 & 8.8.18.
[108] APP-W1.1, table 1 and section 8.5.

planning witness subsequently confirmed that this interpretation of EIA Regs was incorrect and the 18mppa was the only correct baseline to be used.

8.86 LADACAN's sole remaining issue was over the calibration of the noise model historically. This concern does not stand up to scrutiny. The noise model is verified each year. It was corrected in 2015 as a result of that verification exercise. The verification exercise compares the noise model predictions against actual noise monitoring. It demonstrates that the noise model is producing accurate results. If it were not, the verification exercise conducted each year would reveal a discrepancy, which it does not.

8.87 Consequently, LADACAN's case is reduced to residual concerns about the calibration of the model that took place in 2015, coupled with an assertion that the noise monitor NMT03 is over-estimating noise levels, and concerns that the contours will not be complied with in the future. On the first point LADACAN's noise witness accepted that this would mean that the applicant's assessments are over-robust. Similarly, if NMT03 is overestimating actual aircraft noise occurring, it would mean that operations are actually quieter than assumed, confirming LLAOL's approach is robust.

8.88 An offer for LADACAN to meet with the Applicant's independent noise consultants was not taken up. Had such a meeting happened it is quite possible that a lot of time and energy expended at this inquiry could have been saved.

8.89 Whatever LADACAN's remaining points of dispute, the agreed position is that noise impacts of this proposal would be negligible, insignificant in EIA terms, imperceptible, non-material and temporary. On that basis there is no noise-related reason on which to refuse permission for this scheme.

Forecasts

8.90 Updated passenger numbers are included in ESA4[109]. Prior to the COVID-19 pandemic, the cap of 18mppa was reached in 2019. Numbers are expected to return to this level (18.1mppa) by 2024, and to reach 19mppa by the following year. During the 92 days peak period, additional ATMs are forecast, rising from 39,522 in 2019 to 40,338 in 2025 with 19mppa, with a reduced level of 39,851 in 2028[110].

8.91 The proposal seeks a temporary increase in the size of the noise contour areas that are the subject of existing conditions, in the short-term of 2023-2030, after which the contour areas would return to and be below those already set. It is not a proposal for a significant expansion of LLA operations seeking to change the surrounding noise environment long into the future, and the Applicant has produced all necessary environmental information to

[109] CD1.16, table 2.3 and paragraphs 2.3.12 & 2.3.13. The table in paragraph 60 of appendix 1 to Mr Hunt's proof of evidence (APP-W2.1) also gives actual and forecast passenger numbers. In this table, the actual figure for 2021 is given as 4.6mppa and the forecast figure for 2025 with the scheme is given as 18.9mppa, whereas the ES records 4.7mppa and 19mppa respectively. The Panel used the higher figures from the ES, but the discrepancy is not significant.
[110] CD1.16, table 2.2.

show any effects of this, including forecasts based on its own knowledge of its operations and the operating airlines. The ES is based on those forecasts.

8.92 Any type of forecasting involves uncertainty, this is inherently reduced in this case due to a much shorter period and a confined increase in operations. LLAOL has the best evidence available to produce such forecasts which it is committing itself to, as the noise contour areas it is proposing are based on those operations.

8.93 LADACAN tried to pursue late in the day questions about the forecasts via their Information Note[111] based on the Harpenden Society's fleet forecasting predictions[112], information in the latter of which was clarified and corrected by the Applicant in a subsequent note[113].

8.94 LADACAN's note purported to show the ratio of Wizz Air A320neo and ceo variants was different to that being predicted by the Applicant in 2028[114]. However, they confirmed that no airlines had been contacted in conducting this exercise and no assumptions were made about the retirement of aircraft. Wizz are expected to fly a greater proportion of A320s (than A321s) from LLA as some smaller aircraft on certain routes will enable Wizz to maintain frequency and the breadth of the network which they fly to. Were they to fly entirely larger A321s from LLA, due to the additional seat capacities on the flights and the passenger cap, Wizz would have to reduce their flight numbers by around one tenth. This would be impossible on routes which are only served by two flights a week. No weight can be placed upon that document.

8.95 The ES L_{Amax} assessment shows that the number of dwellings within contours above 80dB would be greater for older than newer aircraft[115]. In 2023, 2,347 ATMs by older aeroplanes are expected during the night-time in 2023, and 1,790 by the newer aircraft. By 2031, these ATMs are expected to be 0 and 4,309 respectively[116].

8.96 LADACAN made a further allegation that the Airport had not consulted upon its forecasts. However, ESA4, which had been consulted upon, contains details of the forecasts and the evidence upon which they were based[117]. The forecasts are consistent with those which are contained in Appendix 1 of the Applicant's socio-economic witness's proof[118].

8.97 Even if the Harpenden's Society's conclusions, based on an incorrect prediction of fleet mix, are that the contours applied for are too large, this would effectively mean that the applicant would be over predicting its own

[111] INQ54.
[112] INQ27.
[113] INQ62.
[114] CD1.21.
[115] CD1.17, tables 8F.3 & 8F.4.
[116] CD1.16, table 6.17.
[117] *Ibid*.
[118] APP-W2.1.

noise impact and the actual operations would be quieter than those which have been assessed in the ES, and there would be no harm.

8.98 LADACAN have sought to rely on the forecasting exercise in 2012 not coming to fruition exactly as expected and that this somehow means that these forecasts cannot be relied upon. That is wrong, and a number of factors relating to these forecasts are likely to reduce the uncertainty experienced in 2012. In this case the length of time projected forward would be shorter (9 as opposed to 16 years), there would be fewer additional passengers (1mppa with only 400,000 on additional flights, as opposed to 6.5mppa). There is no need to rely on new aircraft types as they fly from LLA currently, as compared with the situation in 2012 which relied upon the future introduction of the neo and max variants.

8.99 The trend of modernisation is already occurring. The current replacement schemes of airlines using London Luton Airport show that 6% of the overall fleet comprised modernised aircraft in 2019, but this proportion is expected to have increased to 32% this year, and to reach 88% by 2028[119].

8.100 Information from the main operators at the airport indicates their commitment to the modernisation of their fleets[120]. Over 86% of the Wizz fleet are expected to be A320neos and A321neos by 2027-28, with the latter accounting for the majority of their aircraft. A clarification response on noise issues by the Applicant indicates that the proportion of A320neos in the fleet would be reflected at Luton. Both easyJet and Ryanair have announced plans to acquire more modern aircraft, with easyJet committing to 56 A320neo and 18 A321neos between 2026 and 2029, and Ryanair were expected to take delivery of 2-3 B737-8-200(MAX) per month.

8.101 More modern aircraft are more economic to run, use less fuel and therefore produce less carbon. Low-cost airlines, which predominate at LLA, modernise their fleets more quickly than airlines flying trans-Atlantic routes, and easyJet make it clear that it is uneconomic to use older aircraft[121]. It is acknowledged, however, that the A321neo is not as quiet as other modern planes[122].

8.102 Furthermore, the proposal would encourage fleet modernisation through the draft CRP[123] which would commit LLAOL to incentivise implementation of more efficient aircraft through contractual agreements. The Airport's landing charges include reduced charges for quieter aircraft and there is no suggestion that this will not continue. This can also be addressed in the final CRS if necessary.

8.103 LADACAN referred to the rapid growth of LLA between 2014 and 2019 and a Growth Incentive Scheme which ran for 6 years. In fact, as the DfT's own material demonstrates, growth at all airports during that period was 9%

[119] CD1.16, table 2.2 and paras 2.3.5-2.3.7.
[120] APP-W2.1, paras 21-34, appendices 6, 2 & 5.
[121] INQ27, appendix 7.
[122] See the responses to technical queries in section 3 of CD4.09.
[123] CD4.05, table 4.1.

greater than expected. However, the Growth Incentive Scheme ended in 2020 so it is not relevant to forecasting. It is not part of any main party's case that the proposal requires growth to be held back to meet contours. The airport is projected to reach 18.9 million passengers by 2025[124].

8.104 Although CPRE Herts suggested that the forecasts were not realistic, based on the financial situation of the airlines, there was no evidence to justify this view and their planning witness refused to answer any questions upon it.

8.105 The expected fleet mix for the with and without-proposal scenarios is based on the airlines' own evidence[125]. This anticipates no A320 and A321 ceo variants flying from Luton by 2031 and 2028 respectively having been replaced by neo variants. The Airport regularly undertakes forecasting exercises which have involved a relatively low level of uncertainty. This is due to confidence that current operators will continue to use LLA so as not to lose slots and that the relatively small percentage increase in passengers is unlikely to attract new airlines. Growth is expected to come from new movements from aircraft already based at the airport but which were not used in 2019, and aircraft modernisation[126].

8.106 600,000 of the additional 1mppa will be accommodated within existing movements, as aircraft modernisation generally allows for larger aeroplanes accommodating more passengers[127]. Only 400,000 passengers would be served through additional ATMs, emphasising the low level of uncertainty with the forecasts.

8.107 Suggestions that forecasting figures in Appendix 1 of the Applicant's socio-economic witness's proof[128] differ materially from that which is in the ES are incorrect. Table 8B1 of ESA4 sets out, in detail, the forecasts which have been modelled. Appendix 1 explains how the forecasts have been arrived at. Although the ES has assumed the same rates of modernisation in the baseline and the *with proposal* scenario, in reality the passenger cap is suppressing modernisation.

8.108 No main party has provided any credible reason why the Airport's forecasts for this application cannot be relied upon. In any event, the forecasts have been used in order to assess the noise impact and set the noise contours applied for. As operations would be required to meet those contours, any concern about the forecasts would be addressed by the terms of the suggested new condition 10 which controls noise contours and not aircraft types or numbers.

[124] APP-W2.1, appendix 1, table 1.
[125] CD1.17, table 8B.1.
[126] APP-W2.1, appendix 1, para 45.
[127] CD1.16, para 2.3.3, and table 1 in para 39 of Document APP-W2.1, appendix 1.
[128] APP-W2.1.

Enforcement

8.109 There has been a misleading narrative by LADACAN regarding the breaches of condition 10 that occurred in 2017, 2018 and 2019. It was the Airport itself through its own retention of expert noise consultants and an effective monitoring system that identified those breaches. Both LLAOL and the LPA scrutinised the effect of those breaches occurring to see if any material harm was occurring. It was established that none of the breaches resulted in material harm, as the effect of the breaches was an increase in noise levels experience of 1dB or below which would have been imperceptible[129]. Consistent with the PPG, they followed an entirely orthodox, proportionate and lawful approach of responding to the breaches by requiring a planning application to be made to regularise the position.

8.110 LADACAN's planning witness confirmed that it would have been disproportionate for the LPA to have taken enforcement action. Further, that in a situation where breaches had been identified by the Airport, there was an assessment of effects, and then an application to regularise the breach, which was entirely in accordance with what one would expect under the PPG.

8.111 LADACAN's case has also focussed heavily on the fact that LBC owns the airport. The suggestion appears to be that this somehow means that there has been less scrutiny of the Airport than there might be with any other development. This allegation is wholly unfounded. LLAOL is a private, independent operating company that operates LLA under agreement. It is not LBC and it is independent from it. LBC's ownership of LLA itself is separate from LLOAL.

8.112 LBC's land-owning function of LLA itself is kept separate from its very different function of acting as the LPA. The applicant currently pays (and will continue to pay) a monitoring fee to LBC under the extant planning agreement[130]. LBC has engaged external independent consultants to scrutinise the Airport, including this application. Far from there being any basis for suggesting any improper or less than exacting process of scrutiny of the Airport, the whole history has been characterised by exactly the opposite. The Airport has never sought to deny, downplay or minimise the fact that breaches of the conditions did occur in the years identified.

8.113 LADACAN argued that the contour condition for this application should include financial penalties for any future breaches. The Town and Country Planning Act 1990 (TCPA) includes a raft of statutory measures which can be used to address a breach of condition (including enforcement notices, stop notices and breach of condition notices). Breaches of those notices can end up with criminal sanctions and fines. LADACAN's planning witness accepted that it was not necessary for a condition to include a penalty regime because the regime to ensure compliance is in the TCPA.

[129] LPA-W2.1, pages 24 and 25.
[130] CD8.42, page 19.

8.114 LADACAN incorrectly stated that the noise reduction strategy required by Condition 10 of the 2017 permission remains outstanding. It was submitted in 2019, but has been held in abeyance as a result of this application.

Baseline

8.115 The correct baseline against which the effects of the proposal should be considered is the development approved by the 2017 permission, as made clear by the EIA Regs[131]. LADACAN's suggestions and reference to the 2014 permission was incorrect as the airport is not operating under that permission but the 2017 one.

8.116 In that context, the Airport has come up against the 18mppa limit and the noise contours much earlier than expected and it has exceeded its existing contours. Whether it addressed this by way of a fresh planning application or, as it did by a section 73 application to vary conditions (which, if granted, would create a new planning permission), the relevant baseline for the purposes of the EIA Regs is the 2017 planning permission that is in operation. The baseline noise contours have used the 2019 actual aircraft movements, but, as the actual fleet mix led to a breach in the conditioned contours, with an adjustment to enable the contours to meet the limits in condition 10[132].

8.117 LADACAN's professional noise witness's evidence against the scheme was dependent upon comparing the scheme with a situation that existed in 2012 and ignoring the 2014 and 2017 permissions. That is an exercise which has no basis in law or logic and the witness confirmed that if they were wrong about the baseline then they agreed with the conclusions of the Applicant's noise witness.

8.118 In oral evidence, LADACAN's professional noise witness suggested that it was necessary to use a baseline prior to the 2014 permission because without doing so there was a risk of an applicant continually applying for small changes to a proposal and thereby incrementally increasing its contours inappropriately, referring to this as 'salami slicing'. However, this confused two different concepts and no-one had suggested that 'salami-slicing' in the commonly held sense was occurring.

8.119 The issue of 'salami slicing' arises from those cases where an applicant seeks to avoid its obligations under the Environmental Assessment Directive and Regulations altogether by artificially dividing a single project into smaller ones. That concern does not arise here, as this is the first application seeking to adjust the noise contours since the 2014 planning permission so there is no incremental change to take into account. The change sought is temporary, and by 2031 the noise contours would decrease to those which are currently required beyond 2028[133].

[131] Schedule 4, para 3.
[132] CD1.16, para 3.2.7.
[133] APP-W1.1, para 8.1.10.

8.120 The ES is necessarily addressing a realistic worst case scenario in terms of identifying potential noise effects of an application so as to be robust. When comparing the noise impacts of the scheme (19mppa) as against the baseline (18mppa), it is obviously robust for these purposes to assume that the same rate of modernisation would occur in the *with scheme* scenario and in the baseline scenario. It means that one is assuming that the baseline situation would benefit from the same rate of modernisation (with quieter aircraft and a less noisy environment) as would be generated in the *with scheme world* even if that assumption for the baseline situation is optimistic and less likely to arise. For assessment purposes, it means assuming that the baseline is quieter than it is likely to be, so that the impacts of noise between the baseline and the proposed scheme are assessed on a worst case basis.

8.121 LADACAN's criticism of a swifter rate of modernisation set out in Appendix 1 of the Applicant's socio-economic witness's proof of evidence[134] is misconceived. Rather it reinforces the robustness of the ES assessment. Fleet modernisation would not occur as quickly in the baseline situation if this scheme is turned down. If so, the baseline situation would not be as quiet as has been assumed for ES purposes, such that the effect of the scheme's noise increases will be less than has been assumed for assessment purposes. In simple terms, if the ES assumed a slower rate of modernisation in the baseline, then the noise effects attributable to the scheme would be even lower.

8.122 Accordingly, this further confirms the robustness of the assessment in the ES. It assumes the baseline would benefit from the same rate of modernisation when it is unlikely to do so. If the rate of modernisation in the baseline is in fact lower, the baseline noise will be higher, and the noise impacts of the scheme will be even less than is being assessed in the ES.

Calibration

8.123 The noise model and consequently contours presented in the ES were not based on or calibrated using the 2015 noise measurements from Ludlow Avenue as LADACAN claims. Year on year, the noise model's outputs are verified against actual noise monitoring on the ground. It is impossible to see how any valid criticism can be made of the model based on one year given that it is verified year on year in this way. Calibration exercises occur at least annually and this includes an annual review of profiles.

8.124 It is best practice to adjust the model to reflect how aircraft fly and then to check whether these occur with the monitor and this is what occurred in 2015. As the calibration exercise takes account of data across a year that data is much more robust than data from two weeks in March. The Applicant's noise witness explained that the 2015 Ludlow Avenue results were not a cause for concern but rather a good illustration of looking at the output of the noise monitors and updating the calibration of the model which

[134] APP-W2.1.

improves results. He confirmed that if aircraft changed the way they behaved then that would, through that process, be picked up in the model.

8.125 LADACAN also attempted to draw conclusions from comparing readings of the 'loudness' of the A320 from a variety of sources to undermine the calibration exercise. However, readings of an aircraft taken at different locations on different days are simply not comparable and similarly different locations will yield different results so residential and non-residential receptor locations are not comparable.

8.126 LADACAN sought to allege that it was possible that there had been an operational change to the way in which the Boeing 737-800 was flown in 2019 and data should be checked to see if there were other changes. However, as the model goes through an annual validation exercise, and annual profile checks are taken regularly, operational changes are reflected in the model as necessary. The model is properly reflecting reality and no evidence has been produced to the contrary. LADACAN are incorrect to state that the Applicant's noise witness agreed that there were deficiencies in their consultants' checking of aircraft types.

8.127 Even if LADACAN had been correct with regards to its assessment of the 2015 calibration exercise it is also clear that this point goes nowhere. Their noise witness accepted that even if the Ludlow Avenue point were correct it could not have an impact upon the assessment of the difference between 18mppa and 19mppa as the change in noise would not be affected.

Noise monitor NMT03

8.128 When the airport is operating westerly flight routes, about 70% of the time[135], departing planes pass between fixed noise monitoring terminals (NMTs) 02 and 03[136]. LADACAN asserted that NMT03, which is on the west side of the M1, to the south of junction 10, regularly records higher noise readings than it should. If this were correct the model would be over-predicting noise impact and the noise impact of the scheme reported in the ES would, in fact be lower not higher. LADACAN raised concerns orally and in a note[137] including that NMT03's proximity to the M1 and distance from overflying aircraft meant including data from NMT03 was inappropriate. However, even taken at face value LADACAN's note showed that for some aircraft the highest L_{Amax} readings were at NMT03 and for others they were higher at NMT02, situated at Grove Farm near Slip End.

8.129 The assertion being made by LADACAN was that NMT03's results were disproportionately high given its relative distance from aircraft. But this ignored a number of factors which influence which monitor reads higher results in relation to any given flight. Distance is not the only variable, others include wind, other meteorological conditions, vortices and banking, and, in

[135] CD8.26, page 13.
[136] See plan on page 6 of INQ-44.1.
[137] INQ44.

cross-examination, LADACAN's professional noise witness acknowledged that noise results would be affected by other variables, and that there was no suggestion that NMT03 was inaccurate.

8.130 LADACAN's noise witness stated that aeroplanes would be banking between NMT02 and NMT03. However, LADACAN's data was taken from the Flightradar24 app which uses signals from transponders in aircraft. This is less accurate than the Airport's own radar system (TRAVIS). The Annual Monitoring Reports (AMR) contain more accurate track data. The 2019 AMR[138] shows that many aircraft are indeed banking between NMT02 and NMT03. When banking, the aircraft requires more thrust and the positioning of the airframe has an effect on noise propagation, and one would expect there to be differences between the readings at NMT02 and NMT03. The effect of banking would be expected to lead to louder results at NMT03 but wind has an impact which modifies the symmetry of noise propagation. Moreover the trigger for NMT03 had been set at a higher level because of the presence of the motorway, but this did not affect the L_{Amax} or single event level (SEL) measurements.

8.131 LADACAN also failed to take into account the fact that aircraft fly in three dimensions. Any given reading may not be taken where the aeroplane is situated perpendicular to the monitors and their exercise was crude. It is wrong to conclude that merely because an aeroplane is further from a monitor the reading should be quieter as a number of variables come into play.

8.132 If NMT03 were faulty, as LADACAN alleged, there would be no signal at all or totally incorrect numbers being registered. The Applicant's noise witness had never come across any monitor which consistently recorded the wrong readings and therefore he considered that the numbers can be taken as being valid. The motorway will have an effect in the way the duration of noise is measured but this does not impact the noise model.

8.133 Given that both the LPA and the Applicant's noise witnesses held the noise consultants carrying out the monitoring in high regard, it is inconceivable that if there was an issue with the accuracy of readings from NMT03 that they would not know about it.

8.134 Even if LADACAN's point with regards to NMT03 was correct then the only conclusion must be that the noise modelling and noise readings are over-predicting aircraft noise which is in fact less than is being modelled. If there were an issue with NMT03 and its reading, it would make no difference to the assessment of the noise impact difference of the baseline 18mppa and the proposed scheme of 19mppa. Both use the same data and any correction for NMT03 would apply to both, so that the noise impact difference would be the same.

[138] CD8.26, page 24.

The EIA – Gatwick and Heathrow

8.135 LADACAN criticised the ES for not following the same format as that carried out in relation to proposed new runways at Heathrow and Gatwick[139]. However, those proposals are for far more significant applications which also involve airspace changes. The same information for such assessments has been provided in the ES (for example N-contours etc., numbers of dwellings). Applying exactly those methodologies set out in the Gatwick and Heathrow documents, the same negligible conclusion would be reached. Under either methodology a change of less than 1dB is 'negligible' and 'not significant' in EIA terms regardless of the number of properties or the number of people affected[140].

The EIA – secondary metrics

8.136 LADACAN were incorrect to suggest that the ES had not used secondary metrics in the assessment of noise and criticised the ES for a lack of 'assessment criteria'. There was no evidence that the Gatwick and Heathrow documents set criteria or thresholds for judging N-contours or L_{Amax} either. As LADACAN's noise witness accepted, if the Applicant's baseline was correct then there would be no challenge to the Applicant's noise witness's evidence including that which relates to the other metrics. He further confirmed that LADACAN was not alleging any significant impact as a result of considering the L_{Amax} or N-contours.

8.137 It is incorrect to simply see the L_{Aeq} as an average of sound intensity. Rather, the L_{Aeq} is strongly driven by short term events at a high level. It is an index which is sensitive to high noise events within the period of the time it is measuring. Any noise reading is meaningless unless one understands the relationship between the occurrence of noise, the varying levels of the index and the response of populations. This is the subject of extensive scientific research which has led to a consensus on the importance and validity of L_{Aeq} as a metric for assessing the impacts of aviation noise.

8.138 L_{Aeq} is shown by studies to correlate with annoyance and sleep disturbance. The relevant guidance all considers the L_{Aeq}. Whilst it was not argued that aircraft are not perceived as individual events, the issue is with drawing equivalence to annoyance and sleep disturbance. To do so it was not appropriate to look at individual events (and L_{Amax}), but the metric that does allow assessment of impact is L_{Aeq} and it is a valid metric to use. This metric was used to assign values to the LOAEL and SOAEL (concepts of noise exposure set out in PPG – Noise) in the recent Bristol Airport appeal decision[141]. In cross-examination, LADACAN's professional noise witness acknowledged its use as best practice.

[139] LADACAN-W1.3, Appendix 1.
[140] *ibid*, graphic 17.11 and table 17.15 in the Heathrow methodology and 14.4.88 in the Gatwick methodology.
[141] CD15.05, paras 237-257.

8.139 The Applicant has not solely considered the L_{Aeq} metric, but has also produced N contours. Number above contours outline the extent of an area exposed to a certain L_{Amax} noise level at least a certain number of times, and they can be very sensitive to small changes in the number of noise events close to the threshold[142]. The N contour system only just works at LLA because the number of movements is right on the edge of triggering the values that are plotted. Although one could see some change in the N60 night-time contours[143], they have been generated overlaying both easterly and westerly operations. Whilst it is not theoretically impossible that the wind changes during the night at just the right time to get such an overlap, in fact for most nights all movements will either be easterly or westerly and experienced by individuals accordingly.

8.140 Without an overlap there would be no N 25 contours at all as, taking a single mode, there are no cases of more than 25 movements in a night[144]. Whilst a simpler index may be perceived to be preferable, there is not enough aircraft noise activity for the N contour system to have application at LLA and it is on the verge of breaking down as a relevant metric. Unless LLA were operating both westerlies and easterlies in one night there would be no N65-25 contour at all. Westerly arrivals are projected to increase from 21 to 24 and westerly departures from 16 to 18 per night. Unsurprisingly, no witness stated that the N metrics were showing a significant effect.

8.141 For the N65 day-time contours, increases in area and the number of dwellings for values of 25, 50, 100 and 200 events are predicted in both 2023 and 2028[145]. For night-time the assessment relates to the N60 contours. There would be insufficient events to generate 100 or 200 value contours or for 50 value contours under the permitted scheme. For the 25 contour value, the additional area covered would be 15.2km^2 with 1,635 more dwellings in 2023, with a lower increase in area and slightly more dwellings in 2028[146].

8.142 The CAA *Survey of Noise Attitudes 2014: Aircraft Noise and Annoyance* found that there was no evidence that indicators such as N65 correlated better with annoyance than $L_{Aeq,16h}$[147]. However, given the potential difficulties for interested parties in understanding the concept of a time-averaged metric, the CAA report considered that there was merit in using N above metrics as supplemental indicators, with N65 preferred to N70 due to a general forecast reduction in L_{Amax} levels. In this case, the ES includes day-time N65 and night-time N60 assessments for several contour values[148].

8.143 The L_{Amax} metric has also been taken into account. Research described in the Civil Aviation Authority (CAA) CAA report *CAP 725: Airspace Change Process Guidance Document* refers to the potential onset of adverse effects of night-

[142] CD1.17, appendix 8G, section 1.
[143] *ibid*, figures 6.20, 6.22, 6.24, 6.26. See also N contours report, appendix 8G in CD1.17.
[144] CD1.17, appendix 8E.
[145] *ibid*, appendix G, section 2.
[146] *ibid*, appendix G, section 2.
[147] CD13.09, paras 8.7-8.10.
[148] CD1.17 appendix 8G.

time disturbance above 80dBL_{Amax}. This threshold has also been used for the day-time assessment, and actual L_{Amax} values are set out in the ES[149].

Airbus -neos and –ceos

8.144 LADACAN sought to raise a concern that in practice neo versions of aircraft are not as quiet as their certification levels indicate and contours are under-predicted. However, in practice much of the noise level of an aircraft depends not on its engine level but on matters such as when the landing gear is deployed and the flaps are down. The differences in noise level are accounted for in the model because the model is based upon readings of actual ATMs at LLA. All of the aircraft in the model are already being flown at LLA. The main effect on the contours is from departure noise. This is where the benefits have been seen between the neos and the ceos.

Mitigation strategy and noise benefits of the scheme

8.145 The benefits of what is on offer from this application in terms of noise insulation have been ignored by LADACAN in their assessments and portrayal of this application. This is to the detriment of the people who stand to gain a significant advantage in terms of noise from the changes to the scheme if this application were to be approved.

8.146 The existing NIS has an annual capped fund of £100,000 per year with a per property fund capped at £3000 (both index-linked). This means that under the current permission noise insulation for all affected eligible properties (approximately 1,100) would take 33 years to complete with a fund of approximately £3.5m with the current uptake of the scheme, and at best deployment could take 16 years[150,151]. As it is based on current contours, if a property falls within the relevant contour and then later falls outside of it (as the noise contours shrink in time as they are required to do), that property cannot then claim insulation.

8.147 The proposed new scheme would have a fund of £4,500 (index linked) per property within an uncapped annual fund. This is to ensure that all properties meeting the relevant criteria can be insulated within 5 years[152]. 2023 is the year which is forecast to have the largest SOAEL contour, with 322 additional properties falling into the night time SOAEL contour, albeit the increase in noise will be imperceptible. Persons currently affected by noise levels just under 63dB under existing conditions are not eligible for noise insulation and will never be so under the existing position.

8.148 However, in consequence of an imperceptible increase in the noise arising from this scheme, they will become eligible for noise insulation in their property with eligibility continuing for 5 years (even if their property

[149] CD4.06, para 8.8.26. Although the assessment in ESA4 (CD1.16, para 6.7.3) uses a day-time threshold of 80dB, ESA3 refers to a level of 72dBL_{Aeq}, above which there is the potential for the onset of adverse effects. However, details of actual L_{Amax} values are given in tables 8F.1 & 8F.2 of CD1.17.
[150] APP/LPA-04, table 9.4.
[151] APP-W1.1, para 9.1.8.
[152] APP/LPA-04, table 9.4.

subsequently falls below 63dB). The mitigation scheme will fix eligibility based on this contour for five years. Therefore, unlike the current scheme, eligibility would not change each year but would be based on the 2023 contour which allows everyone affected by the worst case year to be eligible for insulation in future years.

Noise conclusion

8.149 Considered against the relevant criteria in LLP Policy LLP6 the proposal:

a. Has fully assessed the impacts of any increase in movements (criterion (iv)). Although that criterion provides that mitigation only need be identified in the event that significant adverse effects are identified, the application has gone over and above to provide an enhanced mitigation package even where the noise impacts are imperceptible;
b. Is in line with criterion (v) the proposal would achieve further noise reduction through the ultimate shrinking of the daytime contour in 2031 and through the provision of the noise mitigation, it would also result in no material increase in day or night time noise and would not give rise to any excessive noise. Further, it is in full compliance with the NAP which, itself expressly recognises that the impact of proposals for further expansion should be addressed through the planning process[153];
c. Includes an effective noise control, monitoring and management scheme through the Noise Management Plan (NMP) controlled by a planning obligation; and
d. Includes proposals which will over time result in a significant diminution and betterment of the effects of aircraft operations on the amenity of local residents, occupiers and users of sensitive premises in the area through measures to be taken to secure fleet modernisation or otherwise. It would do this through the stepped contours which reduce over the period up until 2031 and also through the enhanced mitigation scheme.

Impact on the countryside and Chilterns AONB

8.150 The scheme does not propose any change in flight height or flight paths. No new areas will be overflown as a result of the proposals. The ES considered the potential for the proposal to impact on the Chilterns AONB (both landscape and visual, and noise) and all aircraft would pass above 4,000 feet, a height at which effects are deemed to be insignificant. Any noise impact on the AONB would be negligible.

8.151 The DfT Air Navigation Guidance 2017[154] applies to changes in airspace. It states that it is desirable that airspace routes which fly below 7,000 feet should seek to avoid flying over an AONB. However, that is not a matter for this application which cannot and will not make any amendments to airspace. Further, it makes clear that *given the finite amount of airspace available, it*

[153] CD13.11, Section 5 table (item 5.3 and footnote).
[154] CD8.02.

will not always be possible to avoid overflying National Parks or AONBs, and there are no legislative requirements to do so as this would be impractical[155].

8.152 CPRE Herts's assertion that the application would result in aircraft flying over communities that have previously enjoyed relative tranquillity did not stand up under cross-examination. They could not give evidence of the alleged policy breaches and agreed that if the noise evidence was accepted, and any impact would be negligible and imperceptible, there would be no policy breaches. As all the noise experts agree that a less than 1dB L_{Aeq} would be negligible and imperceptible, that this would be the maximum impact which would be experienced in the worst year, and that any impact would be temporary, there would be no breach of national and local policies which relate to the Chilterns AONB and the countryside, which would consequently both be protected.

Socio-economics

8.153 The Airport is a relatively high productivity, and high pay, employer within the Borough. The proposal would make a direct contribution to the Levelling Up agenda aim of boosting productivity, pay, jobs, and living standards in places where they are lagging. It would deliver against the agenda's living standards, skills and well-being missions. The socio-economic benefits of the proposal are strongly supported by the LLP and national policy, and they carry very significant weight.

Policy context

8.154 LLA is a major source of employment in the Borough, it is singled out as a strategic allocation for employment, and the LLP explicitly identifies that jobs provided at LLA will benefit Luton and neighbouring local authorities. The LLP is explicit in its strong support for economic growth and the provision of jobs. It states that *[LLA] will be improved to provide more jobs related to aviation industries and other associated business clusters and maintain [LLA]'s key role as a sub-regional economic driver bringing wealth and job creation (including high skilled jobs) to the town and neighbouring local authorities.*[156]

8.155 One of LLP's strategic objectives includes retaining and enhancing Luton's important sub-regional role as a place for economic growth and opportunity, including the safeguarding of LLA's existing operations and supporting its sustainable growth based on its strategic importance. LLA is a key pull to Luton and a main driver to bring other businesses to the area, including internationally.

8.156 The NPPF sets out the overarching economic objective of a 'strong, responsive and competitive economy' at paragraph 8. Paragraphs 81 and 83 also provide strong support for this proposal including, in paragraph 81, that *Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider*

[155] Ibid., para 4.16
[156] CD09.07, para 3.5.

opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. Paragraph 83 goes on to say that *Planning … decisions should recognise the specific locational requirements of different sectors*.

8.157 The Government's plans to support economic growth through infrastructure investment are set out in 'Build Back Better: our plan for growth'[157] which emphasises the importance of high quality infrastructure and its role in connecting communities and businesses, and enabling businesses to grow and expand to attract inward investment. It focusses on the radical uplift in infrastructure investment, creating new skills training opportunities across the UK and fostering the conditions to unleash innovation. This proposal will contribute to these 'three pillars'[158].

8.158 LBC is in a Levelling Up Fund Priority Area 1 because of its high levels of deprivation[159]. The Levelling Up White Paper's aims of boosting productivity, pay, jobs and living standards, especially in those places where they are lagging, and spreading opportunities and improving public services, especially in those places where they are weakest, are particularly relevant to the proposal.

8.159 JZS makes clear that aviation is a *sector that levels up the economy; anchoring communities through our supply chains and championing the potential of people through high-skilled, well paid jobs*[160]. APF emphasises the contribution made by the aviation sector in supporting the Government's primary objective of achieving long-term economic growth. The sector's growth is supported within a framework which maintains a balance between the benefits of aviation and its costs, particularly its contribution to climate change and noise. APF is clear that Government policy is not to restrict outbound tourism.

8.160 The ANPS[161] reinforces the Government's support for the economic benefits of aviation development and makes clear the negative economic impact of constraints in airport capacity. It states that *However, challenges exist in the UK's aviation sector, stemming in particular from capacity constraints. These constraints are affecting our ability to travel conveniently and to a broader range of destinations than in the past. They create negative impacts on the UK through increased risk of flight delays and unreliability, restricted scope for competition and lower fares, declining domestic connectivity, erosion of the UK's hub status relative to foreign competitors, and constraining the scope of the aviation sector to deliver wider economic benefits*.

8.161 FTTF emphasises the aviation sector as an asset to the UK and its economy, as well as the key role airport expansion has where it can be delivered within environmental obligations. It emphasises the role of aviation in the levelling

[157] CD17.03, page 31, and APP-W2.1, paras 4.12-14.
[158] APP-W2.1, para 4.14.
[159] *ibid*, para 4.20.
[160] CD11.19, para 2.20, and APP-W2.1, para 4.34.
[161] CD 8.04, para 2.10.

up agenda and the benefits it can have to local communities and supporting associated supply chains.

8.162 Similarly, JZS[162] recognises the economic benefits of aviation. For example, it states that *This is a sector that levels up the economy; anchoring communities through our supply chains and championing the potential of people through high-skilled, well-paid jobs.* JZS confirms that the Government sees the decarbonisation of the aviation sector as another opportunity for economic growth.

8.163 Despite LADACAN's argument that LLA's passenger profile is not representative of the UK at large[163], the CAA Passenger Survey Report (2019)[164] demonstrates that LLA's profile (of business compared to leisure passengers) is not materially different from the majority of major UK airports. There is nothing in any of the relevant national policy documents which suggests that national policy applies to some as opposed to other airports.

Socio-economic context

8.164 It is difficult to overstate the importance of LLA for the socio-economic health of Luton and the surrounding areas, and consequently the importance of supporting it into the future. LLA directly accounts for nearly 12% of all jobs in Luton[165]. The importance of this relationship was highlighted by the COVID-19 pandemic, since Luton was one of the worst affected places in the country with economic and social challenges having worsened since the pandemic. The need for jobs requires addressing now[166].

8.165 As at June 2022 the unemployment rate in Luton was 6.1%, compared to a rate of 3.0% in the East of England and 3.8% in England[167]. LBC has, in gross terms, the highest rate of unemployment benefit claimants in the East of England. The number doubled between January 2020 and April 2022[168]. Large parts of Luton rank in the top 10 to 30% of the most deprived lower-layer super output areas[169] in England[170]. Unemployment rates for residents over 16 dropped from 10.1% in the year of March 2012 to 4.4% in the year of March 2020. This drop took place at a time of the airport's growth.

8.166 Luton remains in priority area 1 for levelling up. It is 13th in England in the overall index, 4th against the Need for Regeneration indicator, 12th in terms of unemployment in 2020 to 2021 (dropping from 90th in 2019 to 2020); and 3rd in terms of commercial vacancy rates[171]. Unemployment remains high and

[162] CD11.19, para 2.20.
[163] LADACAN-W2.1, para 5.15.
[164] CD12.04.
[165] APP-W2.1, para 5.1.
[166] *ibid*, para 5.2.
[167] *ibid*, para 5.3.
[168] *ibid*, para 5.6.
[169] Office for National Statistics: An Output Area is the lowest level of geographical area for census statistics, a number of which make up a Lower layer Super Output Area which comprise between 400 and 1,200 households.
[170] APP-W2.1, para 5.7.
[171] *ibid*, para 5.9.

any scheme which is providing more jobs is, by definition, contributing to levelling up.

Socio-economic impacts of the scheme

8.167 Using the Applicant's socio-economic witness's central estimate (based on an average of 660 jobs per million passengers in the five years prior to the pandemic) the proposal would lead to an additional 660 jobs. The number of additional jobs achieved by this proposal would grow to 858 by 2025[172]. This takes into account the fact that the number of jobs per million passengers at the Airport has been declining over time as the airport has become more efficient. If the trend between 2018 and 2019 were to be used there would be 565 jobs per million passengers with 735 additional jobs above the baseline in 2025[173]. Including indirect and induced jobs would lead to a total additional employment of over 900 in 2025[174].

8.168 The type of jobs created would reflect the range of customer facing roles at LLA and would alter with additional passenger numbers. They would include jobs in food services, administrative and support services, public administration (including passport control), transport and storage, and wholesale and retail areas[175]. There would also be the inevitable additional indirect and induced jobs which would increase employment across Luton and a wider area. These benefits would occur relatively quickly. The planning agreement includes measures to improve local access to jobs.

8.169 The impact of the proposal would be to reduce unemployment in Luton by 5%[176]. Currently, around 50% of the people who work at the Airport live in Luton.[177] The proposal would increase GVA and could be measured either as £44 per passenger or £70,000 per job. This would equate to between £44m and £48.5m additional GVA per annum. LADACAN did not present an alternative figure.

8.170 LADACAN has not presented any meaningful challenge to the central estimate or other estimates of job creation. There is a volatility in job numbers but the five year average for the relationship between jobs and passengers (used in the central estimate) smooths that out and 2016-2019 had been relatively stable. LADACAN's reliance on a single year baseline (2013), is not a substitute for more recent data. Suggestions that the wrong baseline or trends for job identification had been chosen did not stand up to scrutiny.

8.171 It was claimed that job creation estimates did not align with the OER[178] for the DCO consultation. However, productivity assumptions in the OER meant that it was not possible to do a straight-line comparison. The use of increments of 100 in the OER meant that even on its own terms the number

[172] *ibid*, table 6.3.
[173] APP-W2.1, table 6.3.
[174] *ibid*, para 6.17.
[175] CD8.26, page 58.
[176] APP-W2.1, para 6.25.
[177] ibid, para 6.22.
[178] CD16.18.

would be slightly higher. Job increase is broadly proportionate to passenger numbers. An additional 565 jobs were created between 2018 and 2019, but at that time the number of employees was continuing to rise and LLA were actively recruiting. The assessment was informed by conversations with the Airport and a change in working patterns post-pandemic.

8.172 LADACAN's equivalent figure for direct job creation (not assuming displacement) would be around 400 jobs, with only 100 going to Luton residents. Nevertheless, their socio-economic witness confirmed that even 100 jobs would be 'very important' for Luton. Even if only 400 jobs were created, that is 400 people moving out of unemployment without the stress, anxiety and misery of being unemployed. That 50% would be outside of Luton should not be seen as a problem given Luton's sub-regional role and that deprivation is not confined to the LLP area.

COVID-19 impact

8.173 There is a degree of uncertainty around what COVID-19 recovery looks like. Macro trends are informed by looking at what is going on underneath including COVID-19 recovery. Knowing the actual path to COVID-19 recovery would not change the conclusions as to the socio-economic benefits of the scheme as they were based on a comparison of *with* and *without proposal* scenarios and any COVID-19 effects would apply to both.

8.174 The note *Luton Airport Jobs Numbers – Post-Covid Baseline*[179] concludes that the ratio of passengers to jobs was fairly stable from 2016-19 with between 622-642 jobs per million passengers. The best estimate is that this trend is likely to continue. Whilst there have been some job losses, some of which may not return, there has also been an increase in part time workers[180].

Position of the Local Authority

8.175 LBC's Business and Investment Unit have given strong support to this proposal[181]. In particular: through supporting Luton's economic recovery from COVID-19 by which it has been disproportionately affected, with the 7th highest number of furloughed workers in the UK; by creating and safeguarding jobs in light of the estimated support for 27,500 jobs and generation of £1.1bn across Luton, Bedfordshire, Buckinghamshire and Hertfordshire; by providing much needed learning, apprenticeships and career opportunities; by increasing confidence in the aviation industry for tourism; and by supporting inward investment opportunities as a key contributor to LBC's Investment Framework which aims to secure £1.5bn investment to transform the town and create 18,500 quality jobs for local people.

[179] INQ65.
[180] APP-W2.1, para 4.6.
[181] CD5.08, page 57.

WebTAG/Green Book

8.176 LADACAN contended that the assessment of socio-economic effects was in some way deficient because it lacks a WebTAG (Web-based Transport Analysis Guidance)/Green Book assessment. However, similar arguments in other airport expansion proposals were rejected by those decision makers. The Bristol appeal decision noted that as such assessments were to support a Government intervention and as there was not one, then the absence of a WebTAG assessment did not weigh significantly against that development. LADACAN's socio-economic witness conceded that this application was not a Government intervention. At Manston the decision only referred to the WebTAG approach in the context of transport modelling.

8.177 There are basic difficulties when the WebTAG approach is applied to proposals such as this one. The process is about identifying value for money where public money is being expended and it has to monetise impacts when spending public money in order to understand which policies and projects deliver better value for money. These considerations do not arise here as it is a private commercial operator proposal not using any public money. Even if the impacts of this proposal were monetised, then the evidence demonstrates that the proposal would be strongly net positive.

8.178 LADACAN's socio-economic witness presented a calculation relating to the monetisation of GHG emissions and in recognition of errors updated it. His calculation stated that the proposal would result in a discounted CO_2 cost of £11.7m and a purported £15.2m costs of the CO_2 and non-CO_2 not paid by the industry. This was just an appraisal of climate change costs and had not been compared to benefits of the proposal including the GVA. However, even taking these costs at face value at their highest, the discounted GVA of the scheme would far exceed those costs.

8.179 The Applicant's note, *Calculating Carbon Costs*[182], set out the errors in LADACAN's approach which included a failure to identify what counterfactual scenario was being used for their assessment. LADACAN claimed that the counterfactual used was the *without development* assumption in the ES and assessed all the emissions as being net additional. This is fundamentally at odds with their economic claims which suggested that all the benefits of the 1mppa would be 100% displaced. They assumed 1.1m tonnes of CO_2 from people travelling to the airport by way of surface access. But if they did not fly, their alternative journeys may well generate more emissions in their counterfactual scenario. It was accepted that it was conceivable that the counterfactual for the analysis in terms of surface access would therefore be higher in costs than the figure used for the scheme in their cost benefit analysis.

8.180 Non-CO_2 costs were arbitrarily tripled without any evidence to support that approach. Many of the measures directed at reducing CO_2 impacts would also

[182] INQ77.

reduce non-CO_2 ones. LADACAN's witness accepted that calculating and incorporating the costs of this in the way was inconsistent with the WebTAG documents which state that non-CO_2 emissions should either be reflected in a qualitative assessment or as a sensitivity analysis, and not incorporated into the original benefit to cost ratio calculation.

8.181 Even if those errors were corrected, then the CO_2 value would be £10m and any non-CO_2 value should only be reported as a sensitivity test. It was not necessary or appropriate for that exercise to be undertaken but illustrated the errors made. The GVA alone from the scheme would far exceed any such costs.

8.182 Further, although it was asserted that other disbenefits would need to be calculated and costed that is not correct in this case. The WebTAG guidance makes clear that only significant impacts need to be monetised in the analysis in relation to noise and air quality[183]. No significant noise or air quality impacts have been identified in this case so they would be incapable of increasing the costs in the benefits to costs calculation.

8.183 In any event, even on the uncorrected asserted figure, the proposal is strongly net positive. This is even the case using LADACAN's highest figure of £15.2m which includes CO_2 and non-CO_2. As a counterfactual scenario for their calculation had not been provided, it had assumed that all emissions were 100% net additional. Therefore, on a like for like basis benefits should also be treated as 100% net additional. The GVA for the proposal would be approximately £45 million per annum[184] and this is not dependent on job creation[185].

8.184 Using an average ticket price in calculations is entirely reasonable but ticket price is only one part of the GVA in any event. This would not impact the alternative calculation of GVA[186]. GVA alone more than outweighs LADACAN's asserted carbon costs of the scheme, even uncorrected.

Quality of the jobs

8.185 The OER makes clear the LLA pays higher than average wages in every listed geographical area[187]. In any event, there is merit in entry level jobs which enable people to get work and progress and lower paid people tend to have the shorter commuting distances. There is no evidence that the only additional jobs would be low paid and people may well 'get on the ladder' and make progress.

ES scoping

8.186 Socio-economic impacts were scoped out of the EIA process in relation to this application on the basis that the impacts did not meet the test of significance

[183] CD16.11, paras 3.3.1 and 3.3.2.
[184] APP-W2.1, paras 6.18-19.
[185] LADACAN-W2.3, para 1.13.
[186] APP-W2.1, para 6.18.
[187] CD 16.02, figure 10.

in EIA terms. The Applicant's socio-economic witness's evidence is to be treated as any other information for the purposes of the EIA Regs. The fact that socio-economic impacts were scoped out for EIA purposes does not make the benefits any less important. The proposal would create hundreds of jobs in a hugely deprived area which has suffered massively and in an area where getting the private sector to create jobs is hard. This is important and significant, if not in EIA terms.

Level of assessment

8.187 Policies in the LLP do not require a regional economic assessment. Even if it did apply, the Green Book makes clear that a place-based assessment can be undertaken and does not require either a national or regional level assessment. This is appropriate in this case given the Government's priorities which are for economic development at Luton.

8.188 In any event there would be very little difference between a regional and a sub-regional assessment. Indeed, the benefits of a sub-regional or regional assessment would be even greater than one which simply looked at Luton. LADACAN alleged an inconsistency with the approach taken for the DCO consultation for a much larger expansion of the Airport. But under the Planning Act 2008 the spatial scales of assessment are mandated for the DCO process with consideration of the host and neighbouring authorities and this is not the same under the TCPA. This proposal is of a very different scale to a nationally significant infrastructure project.

Alleged disbenefits

8.189 There would be no economic disadvantages to this proposal, and so LADACAN's criticism that the economic assessment did not identify disadvantages is without basis.

Basis of GVA figures

8.190 The figure of £48.5m per annum in GVA is not dependent upon employment. It is sales minus costs which is completely independent of the number of workers. The figures that support the GVA analysis show a stable relationship between passenger numbers and GVA. It is not *just jobs* that are economically significant but the economic activity which comes to an area as a result of those jobs is also important. More passengers going through the airport, means more people staying in hotels and spending in shops in and outside LLA and through the supply chain of those businesses. An objective of the LLP is not just jobs but is also GVA/gross domestic product (GDP) and the NPPF focusses on overall economic activity. It is right to focus on jobs because of the human element but in much of the policy the focus is on economic activity.

Academic literature on economic benefits and aviation

8.191 LADACAN's socio-economic witness referred to a number of academic articles which he claimed supported the proposition that aviation growth did not

necessarily deliver economic benefits[188]. He accepted in cross examination that they had been selective in their approach, that parts of the articles support the opposite case and there were many articles that go the other way. In any event, the principle he was seeking to draw from these articles was at odds with Government policy which expressly connects airport expansion with economic growth.

Tourism

8.192 LADACAN claimed that outbound tourism was a negative impact of the proposal, however this is contrary to established Government policy, in particular APF[189]. On the issue of a tourism deficit, the evidence did not show that fewer UK residents flying abroad for their holidays would have an overall benefit for the UK economy. It states that flying abroad offers quality of life benefits including educational and skills development, and that the Government believes continuing to make UK tourism more attractive is a better approach both for residents and attracting new visitors. The Bristol Airport decision found that this still represents the Government's position on outbound tourism and that negative economic effects arising from an increase in outbound tourism should be weighed against the social benefits of foreign travel[190].

8.193 Any negative effects from outbound tourism (contrary to the assumption of Government policy) would not be felt in Luton in any event, as people are not switching a holiday in Luton for a holiday overseas. Studies referred to by LADACAN's socio-economic witness to support his thesis that foreign and domestic tourism are substitutes for one another relied upon selective quoting. Three of the studies do not apply to the UK and those studies which were cited are much more equivocal. No articles that deal with the positive impacts of spending with foreign holidays were cited. This argument runs contrary to clear Government policy.

Displacement

8.194 LADACAN attempted to claim that many of the additional 1m passengers would not be newly created but would be displaced from other airports. It is incorrect to state that it is best practice to make that assumption[191]. No other airport has objected to the scheme on the basis that it will displace passengers or jobs. This issue was addressed in the Bristol Airport decision noting that it would be unusual for a local authority to suggest that economic development associated with an airport should be located in another part of the country especially in light of *Build Back Better* and the Government's levelling up agenda[192]. The same point applies with even greater force for the deprived area of Luton.

[188] LADACAN-W2.1, section 10.
[189] Para. 1.16.
[190] CD15.05.
[191] APP-W2.3, para 5.5.
[192] CD15.05.

8.195 Ultimately, there is no evidence that displacement would occur in this case. It is well documented that airport capacity is constrained in the South-East and Government policy is predicated on the basis that all airports should make best use of their existing capacity. There is also significant spare labour in this particular area.[193] Even if displacement were to occur from other areas to Luton this would be consistent with the Government's Levelling Up Agenda and be entirely in accordance with the Development Plan.

8.196 A suggestion that displacement does not only occur between airports but also between sectors did not stand up to scrutiny. Only a very small proportion of LLA passengers come from Luton itself and there is no evidence that the proposal would represent a transfer of jobs to the airport from the town centre. LADACAN's case on displacement was nothing more than an assertion, unsupported by any evidence, and even if it were to materialise it would not be contrary to local or Government policy.

Other benefits

8.197 LLA is competing with airports across Europe for the allocation of next generation aircraft. Capacity constraints at LLA discourage airlines from allocating their next generation aircraft (which have more seats) to LLA as opposed to elsewhere[194], as they will not want to allocate those next generation aircraft to LLA without being sure they can sell all the seats on that aircraft[195]. Conversely, raising the passenger cap would facilitate modernisation at LLA which would bring the benefits of quieter more efficient aircraft[196]. This is evident from the forecasts which show 19mppa being met at almost full modernisation[197]. Without it there would not be the incentive for low-cost carriers to come to LLA with modernised aircraft and consequently the benefits of reduction in noise and CO_2.

8.198 The only issue which has been pursued by LADACAN is that the modernisation differential has not been factored into the ES. This has applied a slower rate of modernisation in the baseline and a faster rate in the with scheme scenario, resulting in a more robust assessment.

Disbenefits of refusal

8.199 In 2024, in order to comply with extant condition 10 noise restrictions, the Airport would have to remove 20 day-time, and 13 night-time, movements from the daily summer schedule (7% and 22% respectively) compared with 2019[198]. This would require the removal of slots[199]. The removal of movements (either through moving aircraft, moving rotations away from LLA

[193] APP-W2.3, para. 5.3.
[194] APP-W2.1, appendix 1, para 68.
[195] *ibid*, para 68.
[196] *ibid*, para 69.
[197] 19m at 2028 in APP-W2.1, Appendix 1, Table 1 and 88% modernization in 2028 CD1.16, Table 2.2.
[198] APP-W2.1, appendix 1, para 73.
[199] *ibid*, para 74.

or aircraft flying longer routes) would have a negative economic impact in itself[200].

8.200 Aircraft based at LLA tend to have flight deck and cabin crew based in the local area and a LLA based aircraft will have additional local jobs associated with it, for example catering and basic maintenance[201]. Moving these aircraft away from LLA would mean a direct and indirect negative effect on jobs which are reliant on LLA. Moving rotations away would lead to fewer passengers being processed and have direct and indirect impact on jobs associated with flight operations[202]. Long routes being flown is less likely but would mean less short haul business passengers compared to tourists and a slight negative effect on LLA's contribution to GVA[203].

8.201 However, the cancellation or removal of slots would also be likely to have repercussions for the confidence which airlines have in LLA and may well lead to airlines focusing their operations (or certainly their modernised fleet) elsewhere. Airlines would not want to invest in operating from LLA if there was a potential for the Airport to interfere with those operations through the cancellation of slots[204]. This would be a significant disbenefit of refusing the application.

Adequacy of the ES

8.202 LADACAN repeatedly sought to criticise the ES. However, their own planning witness confirmed that the ES meets the requirements of the EIA Regs[205] governing the legal requirements for the content of ESs. It is therefore difficult to see how any of these criticisms can have any bearing on this proposal.

8.203 The Courts have repeatedly emphasised that the EIA Regs are intended to be an aid to effective environmental decision-making, not a legal obstacle course or obstacle race for an applicant for planning permission[206].

8.204 The adequacy of an ES in terms of the topics it covers in that respect and the extent of information provided is a matter of evaluative judgement for the relevant decision-maker, rather than being a matter of law or a matter for a Rule 6 Party[207]. The decision-maker in this case was originally LBC in its capacity as local planning authority and it is now the Secretaries of State. The Applicant produced an ES which was then subject to publicity and consultation. That process enables people to make representations on the

[200] *ibid*, para 83.
[201] *ibid*, paras 5-6, 77-78.
[202] APP-W2.1, Appendix 1, para 76.
[203] *ibid*, para 81.
[204] *ibid*, para 84.
[205] Regulation 18.
[206] R(Jones) v Mansfield District Council, [2003] EWCA Civ 1408, repeated in R(Hart District Council) v Secretary of State, [2008] 2 P&CR 16 at [62], approved by Court of Appeal in R(Loader) v Secretary of State for Communities and Local Government, [2012] EWCA 860 at [38] and in R(Champion) v North Norfolk District Council, [2015] UKSC at [64].
[207] R(Friends of the Earth Ltd and others) v Heathrow Airport Ltd [2020] UKSC 52 at [142]-[148] endorsing Blewett v Derbyshire County Council that it is a matter of evaluative judgment for the discretion of the decision maker as to what information is to be included in an ES, subject only to review on normal Wednesbury grounds.

information, or claimed deficiencies in it, which can then be taken into account by the decision-maker, but the fact that someone considers information in the ES to be deficient does not make the ES inadequate. Those representations will form part of the environmental information that the decision maker will take into account[208].

8.205 Criticisms that the ES does not meet the requirements of the EIA Regs cannot be a basis for refusing planning permission in any event. In accordance with Regulation 25 of the EIA Regs, if an Inspector or the Secretaries of State dealing with an application are of the opinion that additional information is required in order for an ES to meet the requirements of the EIA Regs and to be an ES, then they must notify the applicant who must provide the further information. The applicant complied with the Council's Regulation 25 request in the production of ESA3. It has subsequently produced an update of the environmental information given the passage of time in ESA4. No further information has been required.

8.206 An ES is concerned with likely significant effects within the meaning of that particular expression in the EIA Regs, and not the planning merits of a development or what may be characterised as important or significant effects of the development in general planning terms[209]. As such, the criticisms levelled by LADACAN throughout their written evidence are not justified.

The Development Plan and the planning balance

8.207 The application fully accords with the Development Plan and as such, the statutory presumption is that permission should be granted. The reasoned justification to LLP Policy LLP6 provides strong support for the expansion of LLA. All witnesses agreed that it specifically contemplates additional growth beyond the already consented 18mppa, subject to compliance with the identified criteria.

8.208 Part B. of LLP Policy LLP6 provides that proposals, including expansion, would be supported. The proposal would meet 9 of its criteria:

i it would be directly related to airport use of development;

ii it would contribute to achieving national aviation policies including JZS, FTTF, MBU and the APF;

iii it would accord with the latest Master Plan[210] (there has been no challenge to the adoption of that Master Plan);

iv the impacts of the proposal have been fully assessed and, despite no significant adverse effects being identified, mitigation has been proposed in any event which also will mitigate existing noise;

v the proposal would achieve further noise reduction (not least through the enhanced NIS) and would cause no material increase in day or

[208] R(Friends of the Earth) (ibid).
[209] R(Evans) v First Secretary of State [2003] EWCA Civ 1523 at [19].
[210] CD5.05.

night-time noise. The application would not otherwise cause excessive noise. Under the policy only one of these two sub-criteria need to be met, but this proposal would meet them all. Further, the proposal accords with the most recent NAP;

vi the proposal includes 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 the LLP and any planning permission which has been granted, as set out in the NMP;

vii the scheme includes proposals which would, over time, result in significant diminution and betterment of the effects of aircraft operations on the amenity of local residents, occupiers and users of sensitive premises in the area. It reincorporates the approach of the 2014 and 2017 planning permissions with the shrinking of the noise contours over time and would provide a smaller contour beyond 2031. It would facilitate and accelerate the modernisation of the fleet mix with its associated benefits. It would introduce a significantly enhanced mitigation scheme offering significant noise reductions in affected properties;

viii the proposal would incorporate sustainable transportation and surface access measures and seeks to meet modal shift targets, all in accordance with the ASAS. It proposes stretching targets in the TP and provides for an updated ASAS to be submitted for approval; and,

ix the Airport already has suitable road access for vehicles and no improvements are necessary as a result of this application.

8.209 The application is fully supported, not just by LLP Policy LLP6, but the raft of other LLP policies which no one has suggested any conflict with. Added to this are other material considerations (most notably the economic and social benefits which are themselves strongly supported by national policy) which weigh heavily in favour of a grant of permission. LBC supports the application. Even if any conflict were to be found with any of the policies, any such conflict would be outweighed by the many and compelling benefits. The application should be approved.

9. THE CASE FOR THE LPA

Overview and fallback

9.1 The starting point for the LPA is the existing 2017 planning permission, which permits LLAOL to operate up to 18mppa subject to conditions. Regardless of the decision of the SoS on the current application, LLAOL would be able to continue to operate lawfully under that permission.

9.2 The LPA determined the application having carefully considered the issues set out in significant detail within a comprehensive officers' report[211] that addressed all the material considerations it had identified as relevant to the proposal. To aid its assessment of the application the LPA appointed noise and climate change consultants to advise on technical matters associated

[211] CD5.08.

with the proposed amendments. Following a review of the information submitted with the application, a Regulation 25 request was made seeking further information in relation to these matters. A new noise chapter of the ESA was produced[212] and an OCRP[213] was provided to address concerns relating to climate change. The DMC concluded that planning permission should be granted, subject to planning conditions and a variation of the previous Section 106 agreement which accompanied the 2017 permission.

The base case and forecasting

9.3 Since it is unarguable that LLAOL could continue to operate under the 2017 permission if the SoS refused the current application, the base case for the assessment must be that permission. This is the only lawful means of applying paragraph 3 of Schedule 4 to the EIA Regs. The screening decision of the LPA could have been challenged by way of judicial review. It was not. It is the LPA's position that the EIA before the SoS is a fully effective and lawful ES. Furthermore, the proposal only relates to a temporary increase in noise. The intention is to return those levels to the pre-implementation position within a relatively short period.

9.4 It has been suggested by those opposing the proposal that there should be a return to the assumptions made in 2012-14 before the 2014 permission was granted. However, the growth in passenger numbers occurred faster than was expected, a point recognised by the government in MBU[214] and not unique to Luton. The 2014 application addressed the effects of an almost doubling of passenger numbers. It cannot reasonably be compared with the current proposal for an increase in passenger numbers of less than 6% and with no material increase in the number of ATMs[215]. The additional passengers can be accommodated with the increased capacity that is provided on newer, larger aircraft.

9.5 Furthermore, in 2014 the modernised and quieter aircraft known as neo and max variants had not been introduced. Therefore, noise modelling was based solely on predictions, not on actual measurements of those aircraft flying from Luton. The observations of how these aircraft perform has now been built into the predictions presented in the evidence supporting this application.

9.6 The forecasts of ATMs presented by LLAOL were accepted by the LPA and are referred to in the officers' report.[216] These suggested that the total ATMs would represent only a small increase above those which occurred in 2019 when passenger throughput at the airport was 18mppa: (142,566 compared to 141,481). However, they are expected to be significantly below the 156,840 movements predicted in the 2012 application. Although criticised by LADACAN, no alternative figures were presented in evidence. By contrast, the forecasts prepared by LLAOL were based on discussions with the airlines and an understanding of their investment plans. There was therefore no good reason why those forecasts should not be accepted by the LPA.

[212] CD4.06, Chapter 8 Noise.
[213] CD4.05.
[214] CD10.13, para 1.4.
[215] CD1.16, table 2.2.
[216] CD5.08, para 15.

9.7 Whilst it must be accepted that any forecasts inherently include a degree of uncertainty, they are more likely to be accurate over shorter rather than longer time periods. Those presented here are only looking to 2028 and 2031 whereas the 2012 forecasts were predicting the situation some 16 years ahead. Furthermore, hindsight provides information about how the airport functions handling 18mppa and includes knowledge and observations of the performance of the newer aircraft. There is therefore no good reason to dismiss those forecasts as a basis for the assessment of the impacts of the current proposal.

Enforcement

9.8 The LPA was aware of allegations that it had failed to address problems of noise when it became apparent that the noise contours were likely to be breached. These criticisms emanated from concerns that the Council was failing to act appropriately as the LPA due to its other interests in the airport as a landowner and shareholder[217].

9.9 The LPA considered such allegations to be without foundation and based on a fundamental misunderstanding of the law, planning policy, PPG and facts. Firstly, a local planning authority cannot take enforcement action unless a breach of planning control has taken place. The noise monitoring meant that anticipated breaches were first notified in November 2016[218]. Consequently, the LPA met the airport operator to discuss the implications of the potential breach and measures that might be taken to address and mitigate any such breach. The LPA's noise advisor concurred with the airport's noise consultants that the likely breach would be equivalent to a 1dB increase, which was indicated as not being perceptible. When, in November 2017[219] it was confirmed that the summer night-time noise contour had been breached, further discussions took place, and the LPA formally wrote to the operator to seek assurances of measures to remedy the breach.[220]

9.10 Government guidance on planning enforcement is set out in the PPG[221]. It advises that local authorities have a range of enforcement powers which they can use at their discretion. In deciding whether to take enforcement action regard should be had to those affected by the proposed action and those affected by the breach. Even when a breach has occurred enforcement action is only expedient after consideration of the relevant factors and where it is demonstrated that there has been material harm and adverse impacts on the amenity of the site or the surrounding area. In this case and, having considered all the evidence and advice from the noise consultants acting for the LPA and LLAOL, it was concluded that the breach had not caused material harm to the surrounding area. The LPA therefore considered that inviting an application to regularise the position was a proportionate response to the breach, whereas taking enforcement action against LLAOL would have been contrary to the advice of the PPG.

[217] LADACAN-W4.1 pages 42-45.
[218] CD8.07.
[219] CD13.15.
[220] LPA-W5.1, para 12.18.
[221] CD13.10b.

Principle of development

National aviation policy

9.11 The LPA's approach to development at the airport draws on national aviation policy and the adopted development plan. Strong policy support for development and growth of the airport is contained within various policy documents recently published by the Government. These include the APF, and MBU. A summary of the Government's key policies from these documents of was set out in the report to DMC and therefore carried substantial weight in the LPA's determination of the application.

9.12 The over-arching approach of Government policy is strong support for making the best use of infrastructure, particularly runways, at existing airports. In doing so the policy also recognises the need to balance the economic benefits of flying with the environmental implications, particularly in respect of climate change and noise. Prior to the inquiry, the publication of JZS in July 2022 confirmed the policy approach set out in the ANPS and MBU, which should have full effect as material considerations in decision making. This stated that the Government's analysis shows that it is possible to achieve the goals set out in JZS without the need to restrict people's freedom to fly.

9.13 The LPA therefore contends that not only would the proposal make best use of existing airport capacity without the need for any additional infrastructure, but it would also contribute to meeting the demand for flights from the south-east of England. This is an important factor in the scheme's favour given the capacity constraints at Heathrow and Gatwick. Subject to meeting environmental obligations and causing no environmental harm, the LPA's view is that the proposal to increase passenger throughput at Luton airport is strongly supported by national aviation policy which was not a matter for debate in this inquiry.

The Development Plan

9.14 Notwithstanding the importance of Government policy in the context of an application for development at an airport, the statutory starting point for determining any planning application is that it should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

9.15 It is common ground that the LLP 2011-2031, adopted in November 2017[222], is up-to-date and carries full weight. Of the eleven strategic objectives set out in the plan, four are particularly relevant to this application. Firstly, the Plan seeks to retain and enhance Luton's important sub-regional role as a place for economic growth. This includes safeguarding of London Luton Airport's existing operations and supporting the airport's sustainable growth over the Plan period based on its strategic importance. The other three objectives can be summarised as making best use of the town's economic, social and environmental resources in a sustainable way so as to reduce deprivation and inequality.

[222] CD9.07.

9.16 The policy of greatest relevance to the most contentious issues in this application is Policy LLP6. The preamble to this policy is wholly positive and in favour of development at the airport. It acknowledges that there is consent for an operating capacity of 18mppa. Section B of Policy LLP6 specifically addresses further growth and sets out a series of criteria which proposals should meet, having regard to their nature and scale.

9.17 The LPA's assessment of the proposal against both the development plan and Government policy is clearly set out in the report to the DMC. There can therefore be no doubt that the LPA's starting point for that assessment was that national and local policies are supportive of the airport's sustainable growth.

Climate change

9.18 The LPA appointed a specialist consultant to advise it and to comment on information submitted by the Applicant in respect of carbon emissions and climate change. The information provided by LLAOL in 2020 was reviewed, prior to the submission of the application and again during the LPA's assessment of the application. The consultant provided statements to the LPA in June and November 2021 during the consideration of the proposal and presented his conclusions to the DMC on 30 November 2021. When the application was called in by the SoS, he updated his advice in the light of recent changes to government policy and the addendum to the ES. He was the LPA's witness at the inquiry.

9.19 The LPA understands that climate change is a serious issue that requires international action. This is recognised through the UN Framework Convention on Climate Change (1994), the Kyoto Protocol (1997) and the Paris Agreement (2015). The CCA amended target of 'net zero' is that by 2050 the net UK carbon account must be at least 100% below the 1990 baseline.

9.20 The LPA acknowledges that it will be extremely challenging to meet all the local and national targets for ground-based emissions, surface access emissions and aviation emissions. Nevertheless, Government policy provides for airport expansion, aiming to deal with emissions through non-planning mechanisms whilst recognising that it has a legal duty to meet the target of net zero set out in the CCA (as amended). It is anticipated that this will be achieved, particularly in relation to aircraft emissions through technology developments and market trading solutions. The NPPF at paragraph 188 reinforces this approach by stating that planning decisions should focus on whether the proposed development is an acceptable use of land, rather than the control of processes or emissions, where these are the subject of separate pollution control regimes. Planning decisions should assume that these regimes will operate effectively.

9.21 These are among the reasons that the LPA's consultant advised the Council in November 2021 that there were no policy grounds for refusal of this application based on climate change. Recent policy changes, including the publication of the JZS and the adjustment in the evidence base presented in the addendum to the ES did not change his advice. His recommendation took the OCRP into account. However, at the inquiry he indicated support for additional measures within any conditions and planning obligations attached

to the permission which, if granted, would further reduce emissions in the early years. So, whilst Government aviation policy is likely to be the determining factor in respect of aircraft emissions, the witness acknowledged that more could be achieved locally to reduce overall carbon emissions in the short term. This could be done firstly, through initiatives associated with the airport's buildings and operations and secondly, by encouraging passengers and staff to choose more sustainable modes of travel.

9.22 The Government's strategy is for all airport operations in England to be zero emission by 2040 and Net Zero by 2050. The proposal would not run counter to this objective and would represent an improvement on the existing situation through the introduction of the neo and max aircraft. Additional stretching targets within the TP and the CRS that form part of the S106 planning obligation would provide opportunities to reduce carbon emissions above and beyond that which would be achieved through the 2017 permission. This further strengthens the case for the scheme to be found acceptable.

Air quality

9.23 Air quality was the subject of an agreed Joint Statement between the Council and the Applicant. It was prepared by experts on air quality setting out common ground at the request of the Panel.

9.24 The legislative, regulatory and policy context for assessment of air quality was set out in detail in ESA2. The Joint Statement referred to the AQS and AQOs in respect of NO_2, PM_{10} and $PM_{2.5}$. The Council's latest AQSR, June 2021, provided an update on the status of the 3 AQMAs in the borough, together with results of air quality monitoring undertaken and measures being taken by LBC and others to improve air quality. The AQMAs in Luton all result from road traffic emissions exceeding the NO_2 standard of 40 $\mu g/m^3$. Two of these sites are adjacent to Junction 11 of the M1, the other is within the town centre.

9.25 The AQSR set out the results of monitoring for the five-year period 2016 to 2020. For NO_2 annual mean concentrations have been falling over the period. The AQO was met at all non-roadside locations outside the airport and at most locations within it. Annual mean and 24-hour mean PM_{10} concentrations at the automatic sites all met the relevant AQOs of 40 $\mu g/m^3$ annual mean and the 24 mean not exceeding 50 $\mu g/m^3$ more than 35 times/year. Roadside monitoring of annual mean $PM_{2.5}$ was in the range 8.3-10.0 $\mu g/m^3$. These are within the AQO of 20 $\mu g/m^3$ and very close to the proposed target value of 10 $\mu g/m^3$ to be achieved by 2040. The Joint Statement also referred to effects of sensitive ecological receptors for which the AQOs and AQSs are a) NO_x: annual mean concentration of 30 $\mu g/m^3$, b) nutrient nitrogen: annual deposition rate of 10KgN/ha and c) acid deposition.

9.26 Air quality is expected to improve in the future through national measures which promote increased use of electric vehicles and the requirement for vehicles to adhere to stringent emission controls. The AQSR describes five local actions aimed at improving air quality; all relate to reducing vehicle emissions and reducing car use through promoting walking, cycling and bus travel. In addition, DART should encourage modal shift from road (car and

bus) to rail for those seeking access to the airport, and is consequently expected to have beneficial effects on air quality.

9.27 The Applicant's assessment of the effects of the proposal are set out in ESA2. It followed established guidance for air quality assessments generally and modelling air quality around airports in particular. It took account of emissions from a variety of sources whether directly related to the airport or not and identified sensitive ecological receptors within the study area. Two future scenarios were assessed to represent the position with and without the scheme. The traffic data assumed no change in the proportion of private and public transport used for surface access. It therefore represented conservative assumptions in respect of road traffic emissions.

9.28 The Council's officer responsible for air quality matters reviewed all the information and was satisfied that the approach set out in ESA2 was robust and reflected best practice. He was similarly content with the updated assessment set out in ESA4.

9.29 The significance of the effects on NO_2 and PM concentrations at human receptors was assessed in accordance with guidance developed by the IAQM and EPUK. For ecological receptors criteria recommended in the Environment Agency guidance and the IAQM commentary were used.

9.30 The assessment concluded that the air quality impacts of the proposal were not significant as all impacts were negligible for both human health and ecological receptors. Concentrations of all pollutants were forecast to be well below their respective AQOs. Furthermore, amongst other things national measures in respect of vehicles is expected to lead to improvements in air quality year on year. The Council was satisfied that the proposal complied with Policy LLP38 of the Local Plan, which requires development to provide appropriate mitigation to any significant adverse effects on air quality.

9.31 The Panel had opportunities to test the evidence set out in the joint statement and ESA2 at the round table session at the inquiry. The Council's officer was able to provide coherent answers to the Panel's queries and questions. The conclusions of the joint statement therefore remain unchallenged. The LPA therefore considers that its conclusions should be given full weight in the determination of the application.

Surface access

9.32 Pre-application discussions with the applicant took place involving the Council's highway officers and representatives of NH (formerly HE). These were guided by paragraph 111 of the NPPF which states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. The NPPF's requirements (paragraph 113) for a development which generates significant additional traffic to prepare a TA and TP were also accepted.

9.33 The application was accompanied by a TA, a TP and a CPMP. ESA2 included a chapter on transport which summarised the approach and findings of the TA. The assessment used baseline traffic flows from 2019, when the airport handled 18mppa and initially looked at the forecast year of 2024 for reaching

19mppa. The assessment was updated in ESA4 revising the figures for the forecast year to 2025 which is when the 19mppa was anticipated to be reached.

9.34 The assessment was based on the existing modal split, namely of 39.8% of passengers and 60% of staff using private cars to access the airport. The TA was based on key assumptions derived from reliable data sources which indicated that 53.6% of passengers come from London and the south-east and that 85% of those arriving by road would make use of the M1. The study area was therefore confined to the junctions between the M1 and the airport which had been upgraded as part of the 2014 permission. The assessment was undertaken for the AM and PM peak periods in October, which is standard practice for such an analysis.

9.35 This approach was agreed by the Council as local highway authority and NH who are responsible for the operation of the strategic highway network. They were satisfied that the assessment represented a conservative and robust means of estimating the effect of the additional 1mppa on traffic flows on the highway network at peak periods. The outcome of the assessment was that there would be an additional 121 two-way vehicle movements in the AM peak (a 3.7% increase) and 93 two-way movements in the PM peak (a 3.2% increase). This small change would not have a significant adverse effect on the operation of the highway network in the study area or elsewhere.

9.36 Measures to encourage and increase the use of sustainable modes of travel to and from the airport for both staff and passengers would have the effect of reducing the volume and impact of any additional traffic on the network. Data from monitoring of the existing TP demonstrated that the airport had met its primary sustainable transport targets set out in the ASAS. This has been achieved without the operation of DART. The Highway Authority and NH were therefore satisfied that it would be possible to further reduce the use of private vehicles by passengers and sought to encourage a similar shift by airport staff. The intention would be to secure these objectives through an early review of the ASAS.

9.37 The proposal does not provide any additional car parking spaces at the airport. There has been a change in the number of spaces since the granting of the 2014 permission, with the loss of some to allow for the construction of DART and their replacement through the construction of a new multi-storey car park. The airport's official car parks collectively have a capacity for just under 10,000 spaces[223] for use by passengers and 700 spaces for staff. The CPMP seeks to manage use of the spaces through pricing, thus ensuring an appropriate balance between supply and demand.

9.38 The increased costs and additional parking restrictions at the airport had resulted in migration of parking to neighbouring residential areas in recent years. The Council addressed this displacement through consultation with residents of the affected areas and the introduction of a permit scheme in Vauxhall Park. However, a similar proposal for the Wigmore area did not have public support so the intention is to monitor the situation and take further actions if this proves necessary in the future.

[223] CD1.12, page 6.

9.39 The LPA considers the application provides potential for an enhanced TP with amended targets, improving it so that it would have teeth to actively reduce journeys by private car. Increasing the likelihood of shifting more journeys to sustainable modes in future years, across the entire airport operation and not merely for the extra 1mppa, would be welcomed by the LPA. This was also accepted as an appropriate objective by the Applicant during the inquiry.

9.40 The LPA would look forward to considering and applying any signposts that the Panel may include in its report to the SoS. These could be used to seek a much-improved TP, ensuring that it is revised and updated periodically to make the airport increasingly sustainable in the future. A mechanism for enhancing the TP is included in the S106 agreement, ensuring that an updated TP would need to be agreed with the LPA prior to the Airport being able to operate above the existing 18mppa passenger cap.

Noise

9.41 The LPA reviewed the evidence presented by LLAOL's consultants to assess the noise impacts of the proposal. In doing so, it was advised by its own expert noise consultant, and found it to be sound.

9.42 The report to the DCM[224] sets out a comprehensive assessment of the noise effects of the application. It begins by recognising that noise is a key concern and that both national and local policy seek to minimise and mitigate the impact of noise from airport expansion on the local community.

9.43 The proposed changes to the noise contours raised the greatest number of objections to the proposal. These changes were therefore scrutinised in depth by the LPA supported by its expert noise consultants. This included providing comments on the forecasts and seeking further information under Regulation 25 of the EIA Regs. The LPA's noise expert concurred with the approach to significance adopted in the ES. This had regard to both the absolute levels of noise, as defined by the LOAEL and SOAEL, and the change in noise level where thresholds of significance were used. Increases of 3dB above LOAEL and 1dB above the SOAEL were chosen to reflect the evidence that people are more sensitive to increases in noise at higher absolute levels. The report to the DMC considered the number of additional properties that would be affected by the scheme, alongside those already affected, both in the short and longer term. It also referred to the enhanced NIS offered by the Applicant which would benefit those already experiencing noise disturbance.

9.44 At the time of the report, the LPA concluded that for LLAOL's noise predictions in the worst year, the scheme would not achieve noise reductions and the adverse effects would not be mitigated for all properties prior to the impacts being experienced. Consequently, it considered that the proposal would represent a departure from the Local Plan.

9.45 However, this conclusion was updated following the production of ESA4 and the revised assessment was set out in the LPA's noise evidence presented to the inquiry. The LPA's noise witness concluded that the highest number of dwellings exposed to noise above the SOAEL in the worst-case assessment

[224] CD5.08, paras 108-144.

year with the scheme (2023) would be 1,993 during the night-time, compared with 1,671 if the scheme was not approved. This would be an increase of 322 dwellings. This figure would steadily decrease up to 2028 as a result of fleet modernisation[225]. By 2031 ESA4 forecasts that noise levels are expected to reduce to below the original condition 10 limits. The noise increase would be for a temporary period and at less than 1dB would be negligible and not considered perceptible. The effect of the proposal would therefore not be significant.

9.46 All the properties that would experience this short-term noise increase would be eligible for mitigation through the enhancements to the NIS which forms part of the proposal. The proposed NIS would be a significant improvement on the existing situation. On that basis, both the LPA's noise and planning witnesses concluded that the proposal was compliant with national and local policy and that noise should not be a reason for refusing the application. This conclusion provided an explanation for the change of stance of the LPA between the decision of the DMC and the Inquiry. This revised approach was explained and supported by the LPA's planning witness who had been the officer with primary responsibility for the report to the DMC.

Socio-economics

9.47 The airport is an asset to Luton. It makes a significant contribution to the local economy and that of the surrounding Three Counties (comprising Bedfordshire, Buckinghamshire and Hertfordshire). It generates and sustains jobs. The report to the DMC gave the figure as 10,900 directly attributable to the airport's operation; 8,500 in the supply chain and a further 8,800 arising from workers' spending. With flights to nearly 150 destinations in 40 countries throughout Europe, the Middle East and Africa, the airport is providing connectivity that supports tourism and business and provides access to overseas markets.

9.48 The Council's Business and Investment Unit made representations to the DMC that expansion of the airport is vital to the Luton economy. It would create and sustain jobs in the town which has been disproportionately affected by the pandemic, with 32,000 jobs at risk, the 7th highest number of furloughed workers in England and with 33,000 of those employed being in the at-risk sectors.

9.49 The report to the DMC stated that the proposal would be unlikely to result in any significant increase in employment at the airport. However, the LPA amended its view in the light of evidence presented by the Applicant's witness[226] who estimated that the proposal could create up to 900 jobs and an additional GVA of between £44-48.5m. Furthermore, with caveats, LADACAN's witness, suggested that the proposal could create up to 600 jobs. On the other hand, without being allowed to grow through an increase in passenger numbers, the airport runs the risk of decline and loss of confidence in both the airlines and the linked supply chain businesses. The LPA considers

[225] These figures are taken from the ES, table 6.20 in CD1.16. However table 6.2 indicates that the number of additional dwellings above SOAEL at night in 2028 would be somewhat greater, at 371, when comparison is made between the proposal and the scenario for the existing condition 10 as it would operate in that year.
[226] APP-W2.1, para 6.17.

these estimates of job growth should be accepted as being of considerable weight in the absence of any evidence to the contrary.

9.50 In addition to economic benefits from jobs and contributions to GDP across the sub-region, the report by Oxford Economics[227] considered the importance of the airport to its passengers. It is currently the 5th largest airport in the UK which particularly serves that sector of the public that seeks competitive fares for travel within the UK and abroad. Savings in travel costs to/from the airport and the cheaper fares offered by Luton's low-cost carriers provides additional value for passengers of £120m. A subsequent report by Oxford Economics[228], prepared on behalf of Luton Rising in connection with the proposed DCO, confirms the benefits of the airport not only to the Luton economy but also to that of the Three Counties, the wider region (including Cambridgeshire, Essex, Oxfordshire and the London Thameslink Corridor) and the UK as a whole.

9.51 In all these respects the proposal aligns with the aims of the Government set out in its strategic framework for the aviation sector, FTTF. This recognises that aviation has a central role in delivering local benefits including championing the levelling up agenda, boosting economic success, supporting local jobs and supply chains, and benefitting local communities.

9.52 If other airports do not have a cap on growth, airlines would regard this as a constraint on their business at Luton and would seek growth elsewhere. The consequence for Luton and the sub-region would be negative, causing decline of employment in an area already suffering economically more greatly than others. A negative approach by the SoS to airport development that can be achieved without any environmental harm would be noticed elsewhere across the UK's aviation sector.

Consistency with planning policy

9.53 Planning permission for the expansion of airports is supported by national planning policy and should be given great weight. National policy is two-stranded, the first being specific policy in relation to airport expansion, which has been addressed above (paras 9.11-9.13). The second is the NPPF which sets out three strands of sustainable development objectives – economic, social and environmental. It is the LPA's position that all three are met for this development, which if granted, would be subject to planning controls through conditions and the submitted obligation.

9.54 The application was advertised as a departure from the LLP. Although it was considered to comply with various aspects of the LLP, supporting economic growth and proposing development that would be appropriate in nature and scale, the report to DMC acknowledged that it would be contrary to other elements. This was primarily due to the predicted temporary increase in noise and the number of properties that would be affected by that increase. However, by the time of the inquiry the conflict with specific elements of Policy LLP6 had been addressed to the LPA's satisfaction.

[227] CD16.18.
[228] CD16.02.

9.55 The proposal is directly related to the operation of the airport and would contribute to achieving national aviation policies for reasons set out earlier. It therefore complies with Policy LLP6B (i) and (ii). The Council adopted an updated Airport Master Plan 2021, thus complying with Policy LLP6B(iii). Criterion (iv) requires identification and appropriate mitigation in the event of significant adverse effects being identified in respect of noise, disturbance, air quality and climate change. Following the updating of the ES the LPA considers that there are no such adverse effects. Furthermore, the enhanced NIS would represent an improvement of the existing situation with increased sums per dwelling available, an extension to the period over which those affected can apply and no annual cap on the funds available. The LPA is therefore satisfied that there is no conflict with this element of the policy.

9.56 Since ESA4 confirms no material increase in day or night time noise, the proposal would comply with criterion (v). Significant diminution and betterment of the effects of aircraft operations on the amenity of local residents can only be achieved over the long term with fleet modernisation. The application seeks to encourage airlines to affect this change and the proposal will provide an incentive for them to do so earlier than would be the case without it. The NIS would provide betterment for those already experiencing noise disturbance. In these circumstances the LPA considers the requirements of this element of the policy have been met. The NMP, required by criterion (vi) would be secured through a planning obligation and condition. Incorporation of enhanced use of sustainable transport would also be secured through the ASAS and the TP attached to the obligation, thus ensuring compliance with criterion (viii). Criterion (ix) is not relevant since no improvements to road access are required by this proposal.

9.57 The inclusion of the word 'only' in Policy LLP6[229] was discussed at the inquiry. The LPA's view is that it adds nothing and is included for the purposes of emphasis. It is a matter of judgement which criteria are applicable/appropriate having regard to the nature and scale of the proposal. The report to DMC and the LPA's planning evidence demonstrated that all other relevant LLP policies had also been considered as part of its assessment of the scheme. These were those that related to climate change, LLP37, air quality, LLP38, flood risk, LLP36, highways, transport and parking, LLP31 and LLP32 and economic performance, LLP1, LLP2, LLP6B(viii) and LLP13.

9.58 The LPA does not consider the current application to be a comprehensive scheme to significantly expand the airport and its operations, and it is therefore not one where all the criteria must be applied rigidly. In its view the Local Plan must be read as a whole, as opposed to considering individual policies (or their detailed elements). Even if one or more of the criteria are not met, it does not automatically mean that the policy or the Local Plan is breached, or that the development is not in overall conformity with it. However, in this case the LPA concluded that the proposal would be in accordance with the Development Plan.

[229] CD9.07 Part B of Policy LLP6 states that: 'Proposals for expansion of the airport and its operation, together with any 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 and having regard to the nature and scale of such proposals.' It then lists nine criteria to be considered.

Representations

9.59 The LPA addressed LADACAN's objections to the proposal throughout the inquiry and through the cross-examination of its witnesses on climate change, socio-economic issues, noise and planning matters.

9.60 The primary concern of CPRE Herts related to the effects of overflying aircraft on the Chilterns AONB. Whilst the LPA appreciates this, no expert evidence was presented on their behalf to set aside the conclusion that there would be imperceptible changes of noise on any sensitive receptor within the AONB. Consequently, there would be no adverse effect on the area's tranquillity.

9.61 Other objections to the proposal were addressed in the report to the DMC. However, none of them either by appearing at the inquiry or providing written representations, presented technical expert evidence which undermined the conclusions put forward by the experts of either the Applicant or the LPA. It is acknowledged that many objectors live outside the areas of the 51dB $L_{Aeq(16hr)}$ daytime and 45dB $L_{Aeq(8hr)}$ night-time noise contours. Whilst these areas are undoubtedly overflown by aircraft, this will be at heights well above those which Government policy defines as giving rise to significant adverse impacts.

9.62 The LPA cannot prevent all aircraft noise affecting its residents or those who live beyond its boundaries. However, it seeks to ensure that its decision making is in accordance with national and local planning policy when considering development at the airport. It has done that in this case.

Planning balance

9.63 Given the above conclusion that the scheme complies with the Development Plan, the LPA contends that there is no requirement for undertaking a planning balance. There is a presumption in favour of sustainable development and planning permission should be granted.

9.64 However, the LPA recognises that the Panel and the SoS may conclude otherwise and that a planning balance is needed to come to an overall decision about the proposal. If this is necessary, the LPA considers that there are a significant economic and social benefits which should carry substantial weight in that balance. These would outweigh any limited harm from temporary and imperceptible increases in noise which would, in any event, benefit from the enhanced NIS. It considers all other factors, such as air quality, climate change, traffic and highways should be treated as neutral in the balance.

10. THE CASE FOR LADACAN

10.1 LADACAN is a community group which informs, liaises with and represents the interests of people across the local area who are adversely affected by the environmental impacts of Luton Airport.

The application

10.2 The application seeks, among other things, an increase in the passenger cap from that currently permitted, and an increase in the noise contour limits, a delay in reaching the original long-term contour reduction limit, and an extension of time to produce the long-term contour reduction strategy. Both

the passenger cap and noise contour limits were agreed as part of the 2014 permission, after careful assessment of the 2012 Application. These controls were considered necessary to protect residential amenity and to accord with the Luton Local Plan and national planning policy.

10.3 The process of assessing the 2012 application recognised the environmental impacts which would result from the near-doubling of capacity from 9.6mppa to 18mppa over a 15-year period to 2028. A key means of noise mitigation was modernisation of the fleet. This was expected to start in around 2017[230], by the introduction of modernised aircraft with slightly less noisy and more fuel-efficient engines – the new engine option (neo). Thus a balance between growth and mitigation was to be achieved, and this balance is controlled in the way the noise contour limit operates.

Breach of conditions

10.4 Accelerated growth resulted in a breach of the noise contour limits in 2017, about three years after the grant of the 2014 planning permission[231]. Failure of throughput control led to this breach worsening in 2018 and 2019. These were consistent and repeated breaches of the key noise contour control condition. Consequently, this is a retrospective application which seeks to regularise three successive years of a worsening breach of the 92 days summer noise contour limit – first by night and then in 2019 both by day and night. The passenger cap was also reached in 2019, nine years earlier than intended[232], and ahead of a reduction of noise contour areas from 2028. The documentary evidence indicates that the LPA was aware of[233] and involved in the accelerated growth[234] without taking any effective steps to enforce against the resultant breaches of planning controls.

Environmental impact assessment

10.5 Since consideration of the application by the LPA, revisions have been made in ESA4 affecting, among other things, the baseline approach[235] and the fleet forecasts, both of which are essential to noise impact assessment, as accepted by witnesses for the Applicant and the LPA in cross-examination. Following this, the LPA changed its position and considers the revised noise impacts as negligible. These revisions to the ES were ill-founded and the change of stance of the LPA is, therefore, considered unreliable. LADACAN challenges assertions that the impacts of the proposal would be adequately mitigated, that overall this would constitute sustainable development, that it would lead to betterment, and that long term noise impacts would be reduced. In any event the lack of clarity about the baseline assumptions adopted by the Applicant falls foul of the requirements of the EIA Regs.

[230] CD13.45l page 36, para 4.2.
[231] CD8.33, in the first paragraph on page 2.
[232] CD6.02, para 1.14.
[233] CD17.10.
[234] CD8.12. 'Deed of Variation' between the LBC, LLAL, the Applicant and London Luton Airport Group Limited, Aug 2017 sets out the terms of a financial Growth Incentive Scheme to reward airlines delivering year-on-year passenger growth.
[235] CD1.16, para 6.3.2.

Climate change

10.6 The evidence of LADACAN's climate change witness has shown that any increase in carbon emissions, however small, is of significance, given the weakness of national measures intended to mitigate the climate impact of aviation, the Council's declaration of a climate emergency, the magnitude of the challenge that climate change presents, and the need for airport expansion projects to weigh any such increases in the balance. The climate change witness for the Applicant acknowledged that the project would result in an increase in aviation emissions.

10.7 The three climate change experts who appeared at the inquiry agreed that the measures contained within the JZS are aspirational in nature and consequentially characterised by inherent uncertainties. Dr Ösund-Ireland, for the Applicant, accepted that while some of the technologies relied on in Jet Zero exist, challenges remain about bringing them to market and scaling them up. In this regard, the capacity of the greenhouse gas removal plants is very small, and none are in the UK. For the LPA, Dr Hinnells did not consider a 2% per annum increase in fuel efficiency to be realistic, given the Government's limited influence in this area, and there was considerable uncertainty in relation to the SAF assumptions.

10.8 LADACAN accepts that MBU, in common with other forms of aviation policy, lends support for aviation growth, albeit subject to consideration of the particular features of a given proposal and its environmental impacts. However, the levels of airport growth allowed for in MBU have been superseded by Jet Zero, which allows for increased levels of growth while delivering larger emissions reductions, and such policies or strategies need to be read alongside other policies. Ultimately, whilst the emissions consequences of the proposal are relatively small they cannot be discounted.

Noise

Flaws in the Applicant's approach to noise assessment

10.9 The 2017 planning permission is subject to two conditions, Nos 8 and 10, which work together to control noise. The Applicant cannot claim that 18mppa is a target it has the right to achieve without first ensuring it has delivered the mitigation through fleet modernisation. Noise contours have been produced for the assessment years, and comparison of the areas of the *with* and *without development* cases is said to indicate a less than 1dB increase in noise impact for a temporary period. LADACAN considers that there are flaws in the basis upon which this assessment in the ES rests.

10.10 The assessment methodology should set out clear criteria for determining the magnitude of effect. These should include objective ratings of the primary L_{Aeq} metric, and objective criteria for assessing secondary metrics, such as thresholds of significance for the numbers of dwellings within the N60, N65 and L_{Amax} contours. Examples of best practice are found in the Preliminary Environmental Information Reports for Gatwick and Heathrow Airports[236].

[236] LADACAN-W1.3, appendix 1.

Fleet mix assumptions

10.11 Fleet modernisation is a key part of achieving long term noise reduction, but the longer the timeline, the greater the uncertainty. There is also evidence that the Applicant's assumptions about fleet mix do not match up to the figures published by the airlines, and their conduct cannot be controlled by the airport. The Harpenden Society called this into question in relation to easyJet, and LADACAN has shown that significant questions also exist in relation to the Wizz fleet composition projected by the Applicant for 2028[237]. The ratio of modernised to unmodernised A321 aircraft flying at Luton in the first half of 2021 was the reverse of the predictions in the then ES. The proportion of A320neo aircraft also appeared to be overstated. The arithmetic of Document INQ-54, derived from ES table 8B.1[238], indicates that there is a significant disparity in the Wizz fleet projections for both the *with development* and *without development* forecasts in table 8B.1.

The baseline scenario

10.12 The ES should evidence noise impacts of the Do Something case relative to the Do Nothing case representing the current position. As LADACAN has indicated[239], the baseline Do Nothing scenario has been unclear throughout the application process, and was fundamentally changed between ES3 and ES4. Neither the description of the ES3 baseline scenario nor that of ES4 offers a baseline case truly representing the current operational position, since current operations are depressed following the COVID-19 pandemic. Whilst ES4 contains forecast flow tables for a *with condition 10* scenario, the scaled-back *2019 18mppa with scheme* scenario is described as difficult for airlines to operate[240]. Appendix 1 of the proof of the Applicant's socio-economic witness indicates that flights would have to be removed from the 92 days summer schedule to achieve condition 10-compliant operation. However, the Applicant currently has no mechanism to rescind slots once issued[241].

10.13 The Applicant is now claiming, despite what is said in the ES, that the likely baseline scenario is Appendix 1, but the modelled baseline scenario is table 8B.1 of the ES for the purposes of performing robust noise analysis. There is an inconsistency between the *with scheme and condition 10* scenario as described in the ES[242], and the *with scheme and condition 10* scenario described in Mr Hunt's Appendix 1. The Panel is invited to consider whether, given that the ES did not contain Appendix 1 when issued or consulted on, and still does not, it fails to comply with paragraph 3 of the EIA Regs.

The noise contour model

10.14 Assessing the noise impacts of the application depends on the reliable production of noise contours which are derived from a computer model. The accuracy of the model depends on the real-world data gathered by noise

[237] INQ-54.
[238] The amended version of table 8B.1 is in CD1.21.
[239] CD3.02, 368/414, section 1 and LADACAN-W4.3, paras 21-26.
[240] CD1.16, para 6.3.2.
[241] CD8.36.
[242] CD1.16 page 44, paragraph 6.3.2; CD1.21 Forecast flows Table 8B.1.

monitors and track keeping systems which is used to adjust and validate the model. The proposed condition 10 relies on achieving a contour reduction in 2031 of 0.1km^2 compared to the current long-term 2028 limit, and so that the requirement of APF paragraph 3.3 for noise reduction would be met[243]. However, the achievement of so narrow a margin, 9 years hence, is challenging.

10.15 The 2015 profile adjustment check to the noise model, using mobile NMT04 in South Luton, was reviewed[244] to assist the Panel in deciding whether the process delivers the precision necessary to rely on a 0.1km^2 contour reduction. The exercise confirmed an apparent 4dB reduction in noise due to the profile adjustment, but this is considered to be unsafe because of low sample sizes and an unrepresentative and insufficiently long monitoring period. In consequence, it is considered that the noise contour model has, since 2015, underpredicted noise impacts.

10.16 LADACAN also has reservations about the readings from fixed NMT03, which is not in a suitable location for reliable monitoring. Although aircraft departing to the west are generally closer to NMT02 than to NMT03, with a lower average angle of elevation which could also be expected to attenuate noise, the latter produces consistently higher single event level (SEL) readings[245]. The readings from NMT03, if incorporated into the noise contour validation, would cause the model to overpredict. Taken together with evidence that the noise benefits of modernised aircraft have been overstated, which would cause the model to underpredict, and concerns about the profile adjustment, there is fundamental unreliability in the contour model and therefore in the Applicant's assessment of noise impact.

More robust conditions and strict controls

10.17 The consequences of accelerated throughput growth – equating to 15 years' growth in 5 years, well ahead of the required mitigation – led prematurely to more flights by unmodernised aircraft, excess noise by night and eventually by day too, and a noise planning breach within 4 years of the 2014 permission. An Action Plan to rectify the situation failed and the breaches worsened. Although the LPA requested that the long-term noise contour reduction strategy be brought forward to January 2020, this apparently remains outstanding. The communities represented by LADACAN have lost trust in the Airport Operator and faith in the planning system. History shows that they are justified in suspecting that future breaches with no enforcement are likely should the application be approved with conditions capable of being misinterpreted or ignored.

10.18 The existing planning agreement[246] sets out a comprehensive suite of noise control conditions and reporting obligations which appear to omit nothing except stage-by-stage control of the growth trajectory. Yet breaches occurred. If the Panel is minded to recommend approval of the application, specific pre-commencement conditions tying each stage of growth to the

[243] CD10.04, page 55 "As noise levels fall with technology improvements the aviation industry should be expected to share the benefits from these improvements."
[244] CD8.06.
[245] INQ-44.1, sections 5.3 & 5.4.
[246] CD8.42.

Applicant's forecasts for aircraft movements, fleet modernisation and noise reduction would be justified.

10.19 Because members of the Council sit on various boards and committees including the Executive, the Oversight and Scrutiny Board, the Development Control Committee and the Board of Luton Rising, and because the airport is ultimately owned by the Council, it is appropriate for best practice advice on governance as set out by the Committee on Standards in Public Life to be reviewed and where necessary acted on. Likewise, since Luton Rising has invested in large airport-related infrastructure projects such as the DART, LADACAN has highlighted concerns regarding the need for the Council to reduce its financial exposure to the airport.

10.20 The Applicant operates the airport under a concession agreement, paying an annual fee to LLAL[247]. In 2017, a deed of amendment and restatement was signed between the Council, LLAL, the Applicant, and London Luton Airport Group Ltd. This deed provided for a growth incentive scheme, whereby rebates were provided on the concession fee, to be passed on to airlines carrying passenger numbers above a threshold level[248].

10.21 A consequence of accelerated growth was that the 18mppa passenger cap limit was reached in 2019. Appendix 1 of Mr Hunt's proof of evidence describes the significant difficulties this now causes to achieving fleet modernisation, due to inadequate headroom in the passenger cap and noise contours to enable transition to larger modernised aircraft. It has led a situation in which the Airport Operator cannot apparently proceed with fleet modernisation without apparently damaging its business. A stricter control regime as proposed by LADACAN for the future, should the Panel be minded to recommend approval, would therefore assist the Applicant. LADACAN is also concerned that noise insulation at best provides only partial mitigation, is of limited benefit to people who wish to sleep with their windows open, and is of no benefit to people on a balcony or outside in their gardens[249]. Furthermore, best practice guidance recommends that a noise reduction target should be set for such insulation[250].

10.22 Should planning permission be granted, the proposed replacement noise contour condition should be revised to bring forward the submission date for the contour reduction strategy (ConRS) from that currently proposed which is a year after permission being granted. It should include a clearer specification of what the ConRS requires, require reviews which tests performance against the ConRS annually and permits progress to the next stage only when the previous stage has successfully been achieved. It should be a pre-commencement provision that the ConRS will be assessed against those criteria and that the proposal can only begin once the ConRS is agreed by a qualified, independent expert acting on behalf of the LPA and other local authorities. Additionally, there should be a pre-commencement requirement for an independent and transparent expert review on behalf of the LPA of the noise contour model, its profiling and validation which would recommend any

[247] LADACAN-W4.1, para 23.
[248] *ibid*, para 64, and CD8.12.
[249] LADACAN Statement of Case, paragraphs 23-26
[250] CD8.17, page 8.

ongoing best-practice steps needed to resolve LADACAN's concerns about the model and its validation[251].

Socio-economic impacts

10.23 The Applicant and the LPA have relied unduly on generalised socio-economic benefits of the airport rather than the impacts of this application. There has been no adequate answer to the question as to why, when socio-economic impacts had been screened out of the EIA on the basis that they gave rise to no likely significant environmental effects, they could nonetheless be relied upon in support of arguments that the proposal would bring significant socio-economic benefits. The Applicant's socio-economic case is flawed because its ambit is too narrow, it failed to consider both pros and cons (including noise, tourism and emissions impacts), and it identifies nothing more by way of benefits than jobs (including the GVA consequences of the same). It also relies on outdated analysis. Furthermore, there is evidence before the inquiry of concern that Luton Council is overdependent on the airport for economic support[252].

10.24 A proper assessment would reveal that it is highly unlikely that this scheme has a favourable socio-economic balance; indeed, the net impact may be negative for the regional and national economy as well as bringing significant disbenefits in terms of noise and emissions and the inevitable costs of addressing these. Little if any weight should be attached to any limited benefits found to arise.

Conformity with the Development Plan

10.25 The focus was particularly on Policy LLP of the Local Plan. In part B, the use of the word *only* within the preamble makes plain that in order to attract support, all criteria which are applicable must be met. Insofar as the reference to *where applicable/ appropriate* is concerned, the plain and natural meaning of this part of the policy is whether in principle the criteria could apply to the subject proposal. All of them do. LADACAN agrees that the meaning of criterion (v) in Part B would benefit from the addition of the word *not* between *or* and *otherwise*.

10.26 LADACAN submits that none of criteria (iv) – (vii) is met in this case. The proposal does not fully assess its noise impacts, as the assessment is flawed, contrary to criterion (iv). It would not achieve further noise reduction or no material increase in day or night time noise or not otherwise causes excessive noise including ground noise at any time of the day or night, and the flaws in the noise contour model mean that noise increase may be material, contrary to criterion (v). There is not an effective noise control, monitoring and management scheme which would ensure that current and future operations at the airport are fully in accordance with the policies of LLP6 contrary to criterion (vi), and, as not all local residents would benefit from noise insulation and the evidence on noise reductions due to fleet modernisation is uncertain, the proposal would not result in a significant diminution and betterment of the effects of aircraft operations on the amenity of local

[251] INQ-83.
[252] CD17.17.

residents, occupiers and users of sensitive premises in the area. Accordingly, the terms of LLP6 are not met and the proposal is inconsistent with relevant local plan policy, leading to a presumption against a grant of permission.

Other considerations

10.27 LADACAN continues to share concerns expressed by the Hertfordshire Authorities[253], stakeholders and member of the public in their representations that the rapid growth of passenger throughput ahead of the expected timeframe for fleet modernisation, leading to breaches which started in 2017 and worsened thereafter, demonstrates a failure of management by the Applicant. It also shares concerns expressed by members of the public in their representations that the unusual, if not unique, circumstances in which this major airport is ultimately owned by a council, which benefits financially, is at least a theoretical conflict of interest.

Conclusion

10.28 It is submitted that the planning balance in this case lies in favour of refusal rather than approval of the s73 application. Alternatively, any grant of planning permission should impose robust conditions, informed by an updated and proper noise assessment, to ensure reliable noise control and enforcement of any further planning breaches.

11. THE CASE FOR CPRE HERTFORDSHIRE

11.1 CPRE Herts is an independent charity and the county branch of the national CPRE The Countryside Charity. It seeks to protect and promote the Hertfordshire countryside and, in respect of the proposal, shares all the concerns of LADACAN, community groups, and town and parish councils. Their case is set out in their statement of case[254], Mr Berry's proof of evidence[255], and their opening[256] and closing submissions[257]. They oppose the proposal for reasons related to the impact of the airport on the open countryside and rural communities, and the wider environmental damage caused by increased air transport.

Noise

11.2 The airport has frequently breached noise contours due to faster than expected growth, delay in fleet modernisation and the consequences of air traffic control decisions in relation to significant weather events and industrial action.

11.3 The airport already generates significant noise which exceeds what is permitted by the extant permission. The 57 dB noise contour would increase by 11%, would include the Chilterns AONB and predominantly affect countryside areas. The wider countryside would be more sensitive to any noise increase as the background noise for those areas is substantially lower. The nature of the noise is an issue in terms of frequent apparently random

[253] CD3.05, Hertfordshire Authorities, in PINS Submissions Redacted ZIP file.
[254] Statement by CPRE Hertfordshire.
[255] CPRE-1.
[256] INQ-04.
[257] INQ-88.

short bursts of up to 20 seconds. This exacerbates the impact where the background noise level is generally low.

11.4 Areas of countryside in Bedfordshire, Hertfordshire, Buckinghamshire and Cambridgeshire already experience a loss of tranquillity from airflight paths. Amendments to noise contours and the increase in flights proposed would also result in aircraft flying over communities that have previously enjoyed relative tranquillity, impacting on rural areas, communities and areas currently allocated for housing expansion.

11.5 Newer aircraft have not been introduced as quickly as expected and this is likely to be slower due to the current economic climate. New aircraft models do not always fulfil claims of lower noise when landing as the relatively short runway means heavier aircraft deploy high levels of landing flap and higher engine power to slow aircraft in final stages of landing. The newer A321neo have caused more noise than the widely used A321ceo due to greater weight, more seats and heavier engines.

11.6 The impacts of aircraft flying over the Chilterns AONB have not been properly assessed in the ES and consequently the proposal does not accord with LLP Policy LLP6. The ES scoped out countryside impact and sensitivity to noise, noting that flights would be above 4,000ft. However, the guidance[258] which the applicant's noise witness relied upon seeks to avoid flights below 7,000ft in such locations.

11.7 The cumulative impact of the proposed change must be considered. The countryside has been subject to significant increases of noise following the 2012 permission as more of the 'Green Air Belt' has been diminished.

Climate change

11.8 A climate emergency exists where GHG in the atmosphere poses~~s~~ an existential threat to humanity. Any adverse impacts in this respect will have an adverse impact on the countryside. It is considered that there is no dispute that the proposal would have an adverse impact.

11.9 Technical advances in noise and fuel economy of aircraft are insufficient to ameliorate damage caused by short-term planned increases in air travel. Climate change targets are stringent and not easy to achieve. Short term increases in airport capacity should not be permitted; this will encourage the exploration of alternative provision which takes account of climate change. There would be a cumulative impact when the proposal is considered with those at Heathrow, Gatwick and Stansted and airport expansion in south-east England is not appropriate.

11.10 Planning decisions cannot be determined in isolation as millions of actors operating in isolation will have a cumulatively harmful effect in terms of CO_2 and other GHGs. Each decision such as a single extra flight on its own could not be argued to have a material impact on the vast amounts of CO_2 expelled into the atmosphere, but just as they will cumulatively be harmful so the solution will also be the combination of millions of small choices to reduce emissions.

[258] CD10.08.

11.11 IEMA guidance[259] has not been correctly applied. Specifically, it states that *The assessment process for GHG emissions will therefore require a review of the current and emerging policy/regulatory position together with a review of expert scientific advice from bodies such as the CCC or IPCC about where existing policy or regulation is insufficient or not, relative to the science.* The applicant's evidence fails to assess whether government policies, including JZS, are sufficient in this respect, particularly in relation to the aspirational nature of components of JZS and the CCC's views on the aviation sector.

11.12 As the NPPF and the LLP require development not to exacerbate climate change the proposal does not comply with national and local policy. CPRE Herts did not call an expert witness in this regard but in part rely on the evidence of LADACAN's climate change witness. The Applicant's climate change witness acknowledged that there was a policy gap in the government's climate change policies but did not elaborate. The aspirational approach of JZS's reliance on SAF, offsetting and fuel efficiency would fail, and the CCC identifies progress in the aviation sector as red having considered those factors.

11.13 The evidence of LADACAN's climate change witness, that current government strategy for tackling aviation emissions is high risk and incomplete, is endorsed. This weighs heavily against the proposal which would increase GHG emissions contrary to the NPPF and Local Plan.

Chilterns Area of Outstanding Natural Beauty

11.14 The Chilterns AONB lies less than 5km from LLA, and the AONB and its setting lie underneath flight routes to and from the airport. A key requirement of the NPPF at paragraph 185(b) is the expectation of tranquil enjoyment of recreational and amenity areas. NPPF paragraph 176 requires great weight be given to conserving and enhancing landscape and scenic beauty in AONBs where the scale and extent of development should be limited and sensitively located and designed to avoid or minimise adverse impacts. Paragraph 174 states that decisions should contribute to and enhance the natural and local environment including by preventing new and existing development from contributing to unacceptable levels of noise pollution.

11.15 There is also significant visual intrusion of aircraft, often several visible at once from the Chilterns AONB and its setting. The combination of aural and visual intrusion, and associated sense of activity, deprives much of the AONB of the sense of tranquillity which it deserves.

11.16 Natural England propose to extend Chilterns AONB, with land to the south and east of Luton in the vicinity of the airport likely to be included in the area of search for designation. The North Hertfordshire Local Plan 2022 includes a proposal to extend the Green Belt west of Stevenage which lies beneath an approach to the LLA runway.

[259] CD11.34, page 27.

Air quality

11.17 NPPF paragraph 188 is not a direction that instructs the Panel not to take account of circumstances where there might be a prospect of other pollution control regimes failing. NPPF paragraphs 174 and 185 invite a more nuanced approach. In any event the weight given to paragraph 188 is capable of being outweighed by more substantial concerns, such as the climate change emergency.

Enforcement

11.18 Should the Secretaries of State be minded to approve the proposal, concerns are raised about the ability of the LPA to enforce any conditions both in terms of the ownership of the airport by LBC and resource implications from funding reductions to LPAs and enforcement teams. The lack of enforcement of existing conditions indicates the potential difficulties for LBC in this regard.

11.19 Enforcement must be robust, fully anticipate all likely scenarios, be a strong and effective deterrent, and must not place an undue burden on the enforcing authority. Without a bond payment or sufficiently independent oversight of any noise transgressions, the proposed enforcement mechanisms in the planning obligation and draft conditions are not robust.

Planning balance and conclusion

11.20 There has not been the full assessment of impacts required by criterion B iv of LLP Policy LLP6, in that noise impacts on the Chilterns AONB have been inappropriately scoped out of the ES and the IEMA guidance has been incorrectly applied. The qualitative assessment of noise required by criterion B v has not been undertaken. There will not be effective noise control as required by criterion B vi. There will not be significant diminution and betterment as required by criterion B viii and the proposal is a lost opportunity as identified by the Chilterns Conservation Board[260].

11.21 The proposal does not comply with the ambitions or objectives of the NPPF in mitigating and adapting to climate change and protecting the countryside. In particular paragraph 8's environmental objective of achieving sustainable development and paragraph 104's requirement that transport issues be considered from the earliest stages of development proposals, identifying, assessing and taking account of the environmental impacts of transport infrastructure, including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains.

11.22 The application is not consistent with planning policy in light of the gaps in evidence. Material considerations, in particular the existential threat of climate change and the climate emergency, heavily weigh against granting any increase in passenger numbers. If not recommending refusal, the Panel should recommend imposing stringent and onerous conditions commensurate with the risks and consequences of non-compliance.

[260] Including CD3.02, pages 7-14 and CD3.05 - Chilterns Conservation Board, in PINS Submissions Redacted ZIP file.

12. THE CASES FOR OTHER PARTIES APPEARING AT THE INQUIRY

Councillor Timmis

12.1 Councillor Timmis represents a ward of Dacorum Borough Council which includes Flamstead and Markyate, below the westerly departure route for aircraft. As the Airport has not adhered to conditions on a previous proposal, there is a lack of confidence that promises on noise, the environment and climate change mitigation would be delivered. There is also a lack of confidence in the LPA, whose position is at odds with the results of public consultation and is considered to be contrary to its Local Plan.

12.2 Noise contours were breached in 2017, 2018 and 2019[261]. Quieter planes have only been introduced in the last few years, and only in small numbers. Whilst the Airbus 320 neo is a little quieter, this is not considered to be the case with the Airbus 321 neo. Until the Applicant can demonstrate that there are quieter aircraft in place, no allowance should be made for promises of future noise mitigation. Insulating houses only helps if windows are shut.

12.3 In 2020, a report from the CCC advised that, to achieve net zero carbon emissions by 2050, there should be no further expansions of UK airports. Planting trees does not compensate for the carbon footprint of an airline. Technologies such as electric aircraft and less damaging fuel are not generally available. Although carbon savings have been introduced within the airport, the increase in road traffic adds to its carbon footprint.

HarpendenSky.com

12.4 HarpendenSky.com is a campaign group opposed to the impact of air traffic noise and emissions affecting residents in and around Harpenden. It is considered that there are gaps in the ES concerning particulate matter emissions. It is also considered that the Applicant has not attempted to share responsibility for air quality management: the Council's air quality report indicates that breaches are already occurring in respect of NO_2 and PM2.5.

12.5 The Government's sixth Carbon Budget contains a commitment to reduce emissions by 2030 to at least 68% of 1990 levels, but the application would increase CO_2 emissions by about 80,000 tonnes. Air traffic is a major emitter of CO_2, NO_X, and $PM_{2.5}$, and there is concern about the impact of these emissions on health.

The Harpenden Society

12.6 The Harpenden Society is the civic society for Harpenden, with the goal of promoting the town and surrounding area as a pleasant place to live. The application would result in noise and other environmental impacts, whilst delivering limited economic benefits. Whilst there are policies which provide support for the proposal, this is only to the extent that a balance is achieved with environmental impacts.

[261] In IP-03 she refers to breaching of noise conditions set in 2013. The original planning permission for extensions and alterations was granted in 2014 (paras 3.2, 3.3) and the subsequent application seeking an amendment to condition 11 in 2017 (para 3.5).

12.7 The ES acknowledges that more dwellings would be affected by noise above the LOAEL, the SOAEL, and the level identified with the onset of significant annoyance[262]. Insulation would only deal with a small number of dwellings, and would do nothing to address the policy requirement to minimise the adverse impacts of noise on health and quality of life on a large number of households. Moreover, the number of individual flights can be more significant than averaging noise levels.

12.8 Assertions are made that failure to grant permission would put jobs at risk, but this is not supported by evidence, and the Airport would not turn business away whilst it is operating within its capacity. However, given that no changes in infrastructure are required, the increased use of automation, and that new slots would be likely to be granted at times when the airport is less busy, it is not clear where employment growth would occur. The Society put forward an estimate for an increase of about 300 jobs based on calculations using figures in the Airport's annual monitoring reports and the ES[263]. However, they considered this could be less if there were lower employment rates during pandemic recovery and given the need for caution in the present economic climate. The increase of £44 million per year in GVA would be less than 0.03% of the 2017 GVA for the East of England, and is not dependent upon growth at Luton since it would be available wherever passenger growth occurs.

12.9 The Society is concerned about the breaches of planning conditions, and there is concern that it would have been contrary to the Council's economic interest for the LPA to intervene. If permission is granted, clear and enforceable conditions should be imposed. The easyJet fleet is only expected to be 50% modernised by 2028. Whilst the Wizz fleet would be modernised, only 40 of 379 aircraft would be A320 neos. There is concern about the reliability of the noise modelling and its relationship with the fleet modernisation programme: manufacturers and airlines are not expected to alter their production or flight schedules to accommodate the Applicant's approach to modelling.

St Albans Quieter Skies

12.10 St Albans Quieter Skies was formed in 2016 following the introduction of a new departure route from the airport and the approval of the scheme permitting 18mppa (above, para 3.2). These events resulted in a material increase in flights and noise which has had a significant impact on the residents of Sandridge and the northern area of St Albans. The increase in flights has also had an impact on other communities such as Wheathampstead. Previous commitments made to develop new routes and increase the rate of climbing have not been delivered, and there is a lack of confidence about the Applicant's ability to deliver commitments in respect of the current proposal.

12.11 Sandridge and St Albans are also below a departure route from Heathrow Airport. The presence of that route and the layered structure of airspace puts a ceiling on the height of flights from Luton. It is understood that

[262] CD1.16, para 6.5.3: see also the table on page 2 of Document IP-02.
[263] INQ-31, page 1 and table on page 3.

representatives of the Airspace Change Organising Group have commented recently that the final delivery of changes to flight paths for London's airports is not envisaged for several years.

12.12 Noise is a significant issue with all airport expansions. When expansion to 18mppa was permitted, it was understood that this would occur over the period to 2028. However that limit was reached about 10 years earlier, and the LBC, LLAL and the Applicant had entered into an agreement to accelerate expansion. The breach of the noise contour in 2017 was forecast, but nothing was done to prevent it. The Applicant is now seeking to amend conditions which had been accepted to limit the noise impact. Before any permission for further expansion is granted, it should be demonstrated that the airport can be operated in accordance with the current conditions.

Wheathampstead & District Preservation Society

12.13 The Society has over 400 households as members, which is more than 15% of the population of Wheathampstead. Over the past 25 years there has been a considerable increase in aircraft disturbance from noise, especially at night, and an increase in traffic travelling through Wheathampstead to reach the airport. Lower Luton Road is only a rural B road. The impact has been significant since the expansion to 18mppa was permitted. It was understood that expansion would take place over 15 years to allow time for fleet modernisation which would involve lower noise levels. However the number of flights has increased rapidly, before noise reduction measures have proved to be effective.

12.14 The Airport does not appear to have been held to account for breaches of noise-related conditions, which raises questions about the role of the Council. The further expansion would adversely affect the lives of local people. Aircraft are often required to be at a low level over Wheathampstead because of traffic from other airports. It would be appropriate to wait for the conclusion of an airspace review before approving further expansion at Luton or changes to noise conditions.

12.15 The residents of Wheathampstead should be able to live in a peaceful rural community. Their quality of life should not be compromised because the Airport cannot deliver on promises made. Compliance with existing planning conditions should be a pre-requisite to any further expansion.

Local residents

12.16 Seventeen residents from Luton and the wider area appeared at the inquiry. All expressed concern about the noise caused by flights to and from the airport. Noise levels had increased with the rapid expansion of passenger numbers following the 2014 planning permission which permitted 18mppa. This growth had taken place at a faster rate than had been envisaged, and had not been matched by the introduction of quieter aircraft. It is necessary to keep windows shut throughout the year. Noise levels are responsible not only for disturbance, but also cause health problems. Particular mention was made of disturbance at night and outdoors. A resident of St Albans referred to the loss of tranquillity at Heartwood Forest, about 10.5km south-east of

the airport, and a place where people go for peaceful walks[264]. A resident of Luton also referred to the adverse impact of ground noise at the airport[265]. Mitigation is described as inadequate. One couple informed the inquiry that they had moved house to live further from the airport due to noise and the frequency of flights[266].

12.17 The airport has breached existing noise conditions, which have not been enforced, and there is a lack of confidence that future controls would be respected. It is considered that there is a conflict of interest between the Council's position as owner of LLAL, the company which owns the airport[267], and its role as the LPA.

12.18 Concerns were raised about increased traffic on the local road network. It is suggested that the M1 which runs on the west side of Luton, would be severely affected, given that it is already busy outside peak times. Residents refer to the impact of traffic on Lower Luton Road (the B653) from Wheathampstead to the south-east, and through Breachwood Green to the east of the airport[268]. Problems of parking in residential areas close to the airport were reported[269].

12.19 There is dissatisfaction with air quality, and some people who have lived in the surrounding area have referred to deposits of a soot-like substance or an oily film[270]. Residents in Breachwood Green (about 2km to the north-east of the airport) and in Wheathampstead (about 8km to the south-east) refer to light pollution at night[271].

12.20 The proposal is considered to be contrary to the Government's climate priorities. Additional air traffic movements and traffic to and from the airport would result in more carbon emissions. A resident described adverse effects on plant and animal life in his woodland and fields near Ayot St Lawrence[272] (about 7km to the south-east of the airport), and referred to harmful nitrogen deposits in addition to climate change. Even if any adverse effects relating to climate change are imperceptible, they would involve a change in the wrong direction.

12.21 It is not considered that the proposal would provide the benefits claimed, particularly in the number of jobs. Involvement with the airport is considered to have caused financial problems for the Council, with reference made to a reduction in concession fees, a writing down in the asset valuation of the DART, and concerns raised by auditors relating to the valuation of the airport.

13. WRITTEN REPRESENTATIONS

13.1 The application gave rise to a significant number of written representations responding to the technical and statutory public consultations. The LPA

[264] IP-10.
[265] IP-05, page 3.
[266] INQ-25.
[267] INQ-06, para 3.
[268] IP-01.1 page 1, IP-16 page 2, and INQ-25 section 2.
[269] INQ-24 and oral evidence of Mrs Spendley.
[270] INQ-24 page 1, and INQ-25 section 1.
[271] See IP-01.1 page 1, and IP-16 page 2. Document IP-01.1 includes photographs showing lighting from Breachwood Green on pages 2, 3, 5 & 6.
[272] IP-06 and INQ-17, both page 2.

notified 36 consultees, including neighbouring authorities, parish councils, interest groups, technical and statutory consultees. Appendix 2 of the officer's report[273] provides a summary of the responses received. Amongst these was a response from the Chilterns Conservation Board, which expressed concern about the impact of the proposal on tranquillity in the Chilterns AONB, and one from the Chilterns Society which objected to the variation of the noise contours because of the adverse impact on residents and users of the AONB.

13.2 The LPA also undertook three consultations with the application being advertised as a major development, as EIA development and as a departure from the Development Plan. A total of 1,229 responses were received; 963 of these raised objections to the proposal, 262 supported the scheme and 2 expressed a neutral view. There were 35 responses to the consultation on ESA4.

13.3 Approximately 150 representations[274] were received by The Planning Inspectorate in response to the application being called in for determination by the Secretary of State.

13.4 Many of the responses were detailed and lengthy and raised concerns about a wide range of issues. Those which raised the most significant concerns were noise, climate change, traffic and parking, economic benefits, planning controls and air quality. All of these matters were considered at the inquiry, involving the questioning of evidence submitted by the parties. A summary of the written representations is set out in the remainder of this section.

Neighbouring local authorities

13.5 Buckinghamshire, Central Bedfordshire, Hertfordshire County, North Hertfordshire District, Dacorum Borough and St Albans City and District, Councils all provided detailed responses and raised objections to the proposal.

Climate change

13.6 There was concern from all the authorities about effects on climate change and carbon emissions from both surface and air travel having regard to challenging national and local targets to reduce emissions and the declaration of climate emergencies. More passengers and more flights would lead to more emissions. This was considered harmful and contrary to the urgent need to reduce emissions and address the existential threat posed by climate change. Views were expressed that there was a lack of detail in respect of the OCRP and inadequate clarity as to how measures to achieve any targets within it would be monitored and secured.

Noise

13.7 The effect of noise on local residents was a constant theme in the objections raised. The accelerated growth in passenger numbers between 2014 and 2019, combined with the slower introduction of quieter aircraft than was anticipated, have combined to increase problems of noise. Uncertainty

[273] CD5.08.
[274] CD3.05

relating to the introduction of the newer aircraft could mean that the effects set out in the ES are overly optimistic and may not present the worst-case scenario as claimed. Disturbance goes beyond the areas shown on the noise contour maps and is a particular cause for concern in respect of night-time flights.

13.8 The breaching of the existing noise contours and the lack of action by the LPA to address this problem has exacerbated the level of concern expressed by the neighbouring authorities. Even temporary increases in the noise contours are therefore considered to be unacceptable. The airport should seek to operate within its existing noise limits. Stricter controls (including limiting the number of ATMs) are needed to prevent additional noise having a detrimental effect on the quality of life of residents throughout the area, including within the Chilterns AONB.

Surface access

13.9 The neighbouring authorities raised issues relating to the effects of increased demand for surface access. The TA was considered inadequate for several reasons. It lacked detail in respect of the origins of passengers and staff and gave limited information about the distribution of traffic on the surrounding highway network. The study area was too small, focussing solely on the route between the M1 and the airport; the absence of any junction modelling was a shortcoming of the analysis. Although the M1 is likely to be the preferred route for reaching the airport, there was inadequate justification provided for the assumption applied in the assessment.

13.10 Luton is well-served by north-south rail links. However, public transport access from other places is more difficult. Alternatives to the car from these areas, particularly to the east, are not readily available. This would make it more difficult to encourage modal shift and reduce reliance on the car. Consequently, additional traffic would use less suitable routes through towns and villages, adding to congestion and pollution.

13.11 Restricting the assessment to estimating the additional trips in peak periods in October did not adequately reflect the overall pattern of operations at the airport. The impacts on traffic flows and demand for parking occur throughout the year. The authorities were supportive of the promotion of modal shift with greater use of rail and bus to access the airport. However, there was concern about the aspirational nature of the targets within the TP which relate to the totality of the operation, not just peak periods. There was a specific request from Central Bedfordshire Council for funding to address parking problems which spill into the surrounding areas. The absence of effective mechanisms to monitor and rectify any failure to deliver the TP's targets would increase the impacts on the local road network and do so beyond the boundaries of LBC. More robust means of ensuring compliance with the TP involving the surrounding authorities would be needed, rather than relying on the airport, overseen only by LBC.

Economic effects

13.12 The authorities raised concerns about the lack of information relating to the economic implications of the proposal. Neither its economic benefits, nor any negative economic effects of maintaining the current restrictions, had been

adequately quantified. This made it impossible to undertake an appropriate planning balance of those economic benefits against the environmental harms.

Parish and town councils

13.13 The following parish councils responded to the consultation: Aldenham, Caddington, Eton Bray, Datchworth, Edlesborough, Flamstead, Great Gaddesden, Great Munden, Kensworth, Kimpton, Kings Waldren, Markyate, Nettleden with Potten End, Pirton, Preston, Sandridge, Slip End, Tingrith, Tring Rural and Wildford. Responses were also received from Harpenden Town Council, Buckinghamshire and Milton Keynes Association of Local Councils and Hertfordshire Association of Parish and Town Councils. Without exception these councils raised objections to the scheme.

Noise

13.14 The primary concern of these local councils was noise disturbance, which had arisen because the airport had not operated within the constraints imposed by the 2017 permission. The breaching of the current noise conditions was a constant and persistent theme of the objections.

13.15 The rapid increase in the number of passengers and flights had taken place without the introduction of quieter aircraft which would have compensated for increases in noise. There were repeated concerns that the new generation of aircraft have not performed as well as predicted in terms of noise reduction. Furthermore, there is no guarantee that the airlines will invest in the new planes given the priority of recovering after the COVID-19 pandemic.

13.16 Strong views were expressed that the Airport had disregarded the environmental consequences of growth and therefore should not be allowed to grow further until the existing breaches had been rectified. Some consider the current situation to be unbearable. Current mitigation measures are insufficient. Residents already have their sleep disturbed and noise affects the use of gardens.

13.17 It was recognised that the airspace surrounding Luton is overflown with flights from other airports; this affects the flightpaths to and from Luton with adverse effects on residents in the surrounding area. Until this situation is resolved through airspace changes, additional growth at Luton should not be supported.

Surface access

13.18 The effect of additional traffic on the local road network was a recurring source of objection to the proposal. The area is already busy and the M1 often operates close to capacity. More traffic would add to congestion and pollution. There was scepticism about the aspirations within the TP without adequate mechanisms to ensure that its targets would be met. Some of the councils suggested that the airport should be investing in improvements to the surrounding transport infrastructure.

Climate change

13.19 Growth at the airport would be inconsistent with the urgent need to address the threat of climate change. Emissions would increase with more flights and road traffic. The proposal would conflict with the national and local policy to achieve net zero by 2050. The outline CRP does not guarantee sufficient emission reductions.

Other matters

13.20 Some parties questioned the need for expansion in the aftermath of the pandemic and given its effect on demand for air travel.

13.21 Many of the councils were not satisfied that the proposal complied with the Development Plan when assessed against the criteria set out in Policy LLP6 of the LLP.

13.22 There was also a strong perception that LBC's ownership of the airport had led to a conflict of interest with its role as LPA. Some appreciated the difficulties of enforcement action against an operation which is a major contributor to local employment. On the other hand, major businesses should not be able to contravene conditions which were imposed by the LPA specifically to protect the amenity of local communities.

Other organisations

13.23 Numerous organisations representing local communities and specialist interests made representations on the proposal. The comments and objections were similar to those raised by the local authorities and town and parish councils and which are set out above. The impact of noise on areas that are beyond the specified noise contour, but where disturbance is experienced in areas that have been designated for their beauty was identified as a particular concern. Tranquillity is an intrinsic part of the area's quality and is already being harmed by aircraft noise. More disturbance would therefore be unacceptable.

13.24 Support for the scheme was given by the Confederation of British Industry and the Federation of Small Businesses. In their view the proposal would assist with economic recovery post COVID-19, both safeguarding and generating jobs. This would benefit businesses in the supply chain and the wider region. The airport has a key role providing connectivity to markets as well as giving people the opportunity to travel.

Individual representations

13.25 Representations were received by large numbers of individuals, including local MPs; the majority of which objected to the proposal. The representations covered similar issues to those raised by the above statutory consultees and organisations. The principal concern related to noise disturbance, but with a particular emphasis on the disturbance that this causes at night and the impact that has on the health and wellbeing of those affected. More flights would lead to more noise and a wider area being affected. Many stated that the more modern aircraft are not less noisy.

13.26 There were objections relating to the effect on carbon emissions and scepticism about the carbon reduction plan. The proposal would contribute to climate change and adversely affect the country's ability to meet its

commitment to reducing GHGs. Increased pollution would cause deterioration of air quality, a major cause of premature deaths in the UK. The impact of additional traffic on already congested roads in the surrounding area was another theme of the objections, combined with concerns that DART would not result in modal shift.

13.27 There would be adverse impacts on ecology and wildlife as a result of noise and fossil fuel use. The tranquillity of the Chilterns AONB would be harmed. Expanding Luton Airport is neither needed, justified nor sustainable. There was criticism of the information in the reports submitted with the application, concern about the relationship of LBC with the Airport and its failure to enforce against breaches of planning control.

13.28 Support for the scheme centred around the role of the airport in providing employment and supporting the local and regional economy. This is particularly important in a deprived area where jobs are needed. The proposal would have minimal adverse impacts as it makes best use of existing infrastructure. The airport worked throughout the pandemic contributing to the country's response to that crisis. The airport supports the local community and residents benefit from living close to it.

14. CONDITIONS

14.1 The SoCG includes a schedule of suggested draft conditions, reflecting the conditions attached to the 2017 planning permission, with amended versions of the five conditions to which the application relates[275].

14.2 Much of the operational development concerning the alterations and extensions covered by the 2014 and 2017 permissions has taken place (above, para 3.6), and the Applicant and the LPA agreed that conditions relating to completed parts of the development were no longer necessary[276]. The remaining suggested conditions cover the following matters: phasing; protected species; lighting; a construction environmental management plan; archaeology; the passenger cap; noise control; noise contours; surface water drainage; contamination; boreholes; car park management; a travel plan; specified plans and documents; and a carbon reduction strategy.

[275] APP/LPA-04.
[276] The LPA's comments are set out in INQ-84.

15. Conclusions

References to earlier paragraphs in this report are in square brackets [].

Main considerations

15.1 Having regard to the call-in direction and the representations submitted, we have identified the following main considerations in this case:

(i) The effect of noise associated with the proposal on health, quality of life, and the character of the area.

(ii) The implications of the proposal for meeting the challenge of climate change.

(iii) The effect of the proposal on sustainable transport objectives and transport infrastructure.

(iv) The effect of the proposal on air quality.

(v) The socio-economic implications of the proposal.

(vi) Whether the proposal would be consistent with the Development Plan and other relevant policies.

(vii) The effect of other considerations on the overall planning balance.

15.2 At the start of our conclusions, we set out our view on the baseline which should be taken into account in assessing the proposal and on the forecasts which have been put forward in respect of passenger numbers and air traffic movements at the airport.

Baseline

15.3 The extant parts of the ES documentation [5.2] were prepared in accordance with the EIA Regs[277]. Paragraph 3 in schedule 4 of the Regulations requires that the ES include: *A description of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the development as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge*.

15.4 The position taken by the Applicant at the inquiry and in ESA4 is that the baseline is represented by the 2017 planning permission. In this case, no operational development is involved as a consequence of the proposal, there being no change in this respect from the 2014 planning permission [3.2]. Moreover, most of the operational development has been implemented, with only some elements of phase 3 remaining outstanding at the time of the inquiry [3.6]. The development which would arise from the current planning application would be that which is already permitted, but subject to a modified suite of conditions [4.1], whereas the current state of the environment is represented by the operation of the airport in accordance with the most recent planning permission (the 2017 permission) and its conditions.

[277] CD09.04.

15.5 There is a tension between conditions 8 and 10 of the 2017 permission in that the noise contours imposed by condition 10 cannot be respected if the number of passengers reaches the maximum level of 18 million permitted by condition 8 [4.3]. Accordingly, in establishing baseline noise contours, an adjustment to the actual number of aircraft movements has been made to demonstrate the position when operating in compliance with the 2017 permission [8.116]. This adjustment is referred to in both the ES and Appendix 1 of the proof of evidence of the Applicant's socio-economic witness.

15.6 We note that in ESA2 and ESA3, in addition to a baseline representing the operations which could be undertaken in accordance with the 2017 permission, the Applicant put forward a baseline of 12.5mppa from 2008. It was suggested that this baseline would enable analysis of the effect as would have been identified in 2012 with the different condition relating to passenger numbers, and with certain adjustments having been made. This approach, though, is only suggested for use in assessments from 2028 onwards. For earlier years, these earlier documents of the ES both make the point that it is more appropriate to draw a comparison with what is currently permissible with the existing contour condition.

15.7 LADACAN refers to a fundamental change in the baseline scenario between ESA3 and ESA4 [10.12]. That is plainly not the case, with the use of the 2017 permission put forward as a baseline in both addenda. Moreover, references to a historic baseline in ESA2 and ESA3 have been superseded by ESA4, which has been the subject of public consultation [5.1].

15.8 LLA can be operated in accordance with the 2017 permission, subject to none of the conditions being breached. The current proposal seeks a change from that situation, and not from the earlier position of the smaller airport which existed in 2008. We are firmly of the view that, having regard to the EIA Regs, the appropriate baseline for use in consideration of the various effects of growth at the airport is provided by the 2017 permission.

Forecasts

15.9 At the time of the 2014 planning permission, forecasts of the growth in passenger numbers (dating from 2012) predicted that the level of 18mppa would not be approached until 2028 (17.8mppa). In the event, growth occurred more rapidly, and 18mppa was reached as early as 2019 [8.90]. That was followed by a sharp downturn in 2020 and 2021 due to the COVID-19 pandemic. Updated forecasts indicate that the current passenger cap would be exceeded next year when numbers are expected to reach 18.1mppa, with 19mppa being reached in 2025 [8.90].

15.10 Whilst there is always the prospect of some uncertainty in forecasts, there is only a short time horizon to 2025 when the proposed passenger cap would be reached. The Panel appreciates that there is a lack of trust in the local community about the Airport's proposals, due to the accelerated growth up to 2019 and the associated breaches of the noise contour limits [8.103, 10.17]. However, the scope for growth ahead of the forecasts is confined to 2023-2025, and, when looking ahead, the near future can be expected to be the period of least uncertainty. We do not consider that the discrepancies between the earlier set of forecasts and actual passenger numbers should

cast doubt on the reliability of the updated passenger forecasts contained in ESA4.

15.11 The additional 1mppa proposed represents an increase of 5.6% in the throughput of passengers at Luton Airport [8.4]. The Applicant has explained that that would not result in an equivalent proportionate increase in ATMs, since several of the aircraft being introduced as fleets are modernised have a greater capacity than those being replaced [8.106]. Whilst that position has not been disputed, LADACAN and the Harpenden Society have questioned the likelihood of the modernisation programme proceeding in the way expected. That is important because the replacement aircraft are designed to be quieter, and are necessary to enable the increased passenger numbers to be achieved whilst respecting the proposed noise contour limits.

15.12 Based on information from the airlines using the airport, the Applicant has calculated rates of modernisation for the fleet of planes using Luton. From a level of 6% in 2019 and 32% this year, the proportion of modernised aircraft is expected to rise to 88% by 2028 [8.99].

15.13 Wizz is one of the main operators at Luton Airport, and LADACAN has queried the modernisation forecasts in the ES in respect of the Wizz fleet [10.11]. A detailed set of calculations was produced during the inquiry which suggested a disparity between the modernisation forecasts in the ES for the Wizz fleet and information produced by the airline itself. In both the *with* and *without proposal* scenarios for 2028, LADACAN'S note suggests that the ratio of A321neo to A320neo aircraft would be greater than predicted by the Applicant [8.94], and the A321neo are acknowledged to be less quiet aircraft [8.101]. The Harpenden Society similarly casts doubt on the efficacy of the modernisation programme. They consider that modernisation would proceed more slowly than predicted, and for 2028 they suggest that the Applicant overestimates the number of movements by A320neos, and underestimates movements by A320ceos [12.9].

15.14 We note that Wizz's own modernisation programme indicates that by 2027-28, over 86% of its fleet would comprise A320neos and A321neos [8.100]. Published information from the airlines does indicate that the Wizz fleet overall would have predominantly more A321neo than A320neo aircraft in 2028 and, although the Applicant argues that more A320neos would be flown from Luton due to the importance of using smaller planes to maintain the frequency of flights and breadth of its network [8.94], other information it has produced indicates that fleet share would be reflected at Luton [8.100]. Nevertheless, the Applicant's evidence to the inquiry was directly informed by information from the airlines, which was not the case for other parties. Importantly, information produced by the main operators clearly indicates an ongoing commitment to modernise their fleets [8.99]. Taking all these factors into account, the Panel places more reliance on the modernisation forecasts submitted by the Applicant than the alternatives put forward.

15.15 The modernisation programme is outside the direct control of the Applicant. Whilst we expect that the introduction of more efficient and modern aircraft is something which the airlines would be keen to pursue, future circumstances may affect the programme. Should that occur, a noise contour condition as proposed would still be capable of application. However, the likely

consequence would be a need to curtail passenger throughput until the predicted number of quieter aircraft had been introduced.

Noise

Introduction

15.16 The proposal would generate additional flights, additional activity at the airport, and additional movements to and from the airport. Whilst all of this activity has the potential to generate noise, it is that from aircraft in flight which has led to the majority of objections from local individuals and groups in communities to the west, south and east of the airport.

15.17 The Panel considers that the appropriate baseline against which the effects of the proposal should be assessed is the 2017 permission (above, para 15.8). We also take the view that the forecasts of passenger growth and fleet modernisation submitted by the Applicant are sufficiently reliable to indicate the likely level of activity (above, paras 15.10, 15.14). These forecasts are an important component of the modelling work which lies behind the projected noise contour areas.

Criticisms of the modelling

The metrics

15.18 The noise contours, used in the existing and proposed conditions and in the thresholds of levels of adverse effect, are expressed in terms of L_{Aeq}. This metric represents the average of sound intensity for a given period of time: in the case of the application, $L_{Aeq,16hr}$ refers to the sixteen hours between 0700-2300 hours (daytime) and $L_{Aeq,8hr}$ to the eight hours between 2300-0700 hours (night-time). The use of this metric is consistent with the approach to considering noise in the APF and the Government's Consultation Response on UK Airspace Policy [6.5].

15.19 Local residents have referred to the impact of specific noise events, rather than an averaging of sound intensity [12.16, 13.25], and we acknowledge that measures of average sound intensity may not fully represent noise as experienced by people in the area around the airport. The assessment of noise does not, though, rely solely on the L_{Aeq} metric. Other metrics, namely L_{Amax} and N above contours have also been taken into account in assessing noise. The L_{Amax} metric reflects what is heard as the maximum sound level from individual events, and the N above contours identify areas where a specific number of L_{Amax} events exceed a certain decibel level.

15.20 The L_{Amax} assessment focussed on noise events above the 80dB L_{Amax} threshold [8.143]. The use of this threshold for night-time disturbance within dwellings is based on research which shows a relationship between sleep disturbance and aircraft noise from about 80dB upwards. During the day-time, the focus for disturbance is on schools and colleges. We note that, although the ES refers to a threshold of 72dB, above which there is potential for adverse effects to be noticed, the commentary relates to the higher level of 80dB. That said, details of actual L_{Amax} values generated by both conventional and more modern aeroplanes in relation to non-residential receptors during the day-time and residential receptors at night are given in the ES.

15.21 Insofar as N above contours are concerned, the CAA has found no evidence that such indicators correlate better with annoyance than $L_{Aeq,16h}$, and they may be sensitive to relatively modest changes in the number of noise events [8.142, 8.139]. However, given the potential difficulties in understanding the concept of a time-averaged metric, there is merit in using N above metrics as supplemental indicators, as suggested by the CAA [8.142]. Day-time N65 and night-time N60 assessments are included in the ES.

15.22 There are limitations in the use of all metrics. Use of L_{Aeq} is supported by CAA research (above, para 15.21), and this metric has been employed by the Applicant in assigning values to the LOAEL and SOAEL, an approach followed in the recent Bristol Airport appeal [8.138]. Furthermore, the noise contours in condition 10 of the 2017 permission are expressed in L_{Aeq}, and LADACAN's professional noise witness acknowledged that the use of L_{Aeq} is an established approach and best practice [8.138]. Consequently, L_{Aeq} is of importance in considering the noise effects of the proposal, with other metrics of assistance in contributing to the overall picture.

Noise monitors

15.23 There are two fixed NMTs to the south-west of the airport: NMT03 is situated on the west side of the M1, to the south of junction 10, and NMT02 is further from the motorway, at Grove Farm near Slip End [8.128]. When westerly departures are taking place, which occurs about 70% of the time [8.128], departing aircraft pass between these two monitoring terminals. The main track taken by aeroplanes is somewhat closer to NMT02 than to NMT03. LADACAN have drawn attention to higher noise levels at the latter, notwithstanding its greater lateral distance from the flight-path [10.16, 8.128]. That is not a consistent picture, however, with higher L_{Amax} values from NMT02 in several instances [8.128]. Although NMT03 is close to the M1, which generates constant traffic noise, the Applicant's noise witness explained that the trigger for monitoring was adjusted to take account of its location, which did not affect L_{Amax} or SEL measurements [8.130]. Importantly, as LADACAN'S professional noise witness acknowledged, a number of factors including whether planes were banking and weather conditions, had a bearing on the recorded noise levels [8.129].

15.24 Noise measurements have also been undertaken at other locations, including a mobile monitoring terminal in Ludlow Avenue, Luton, to the south-west of the Airport. LADACAN raised concerns that a discrepancy between predicted noise at this location and measured values had not been properly addressed, casting doubt on the reliability of the noise model [10.15]. It was suggested that data collected from a period of three weeks here, from December 2014 to January 2015, was used in recalibration of aircraft departure profiles. However, the inquiry heard that calibration exercises occur at least annually and this includes an annual review of profiles [8.123, 8.124]. That information reflected operations throughout the year, and not a relatively short period of three weeks during winter.

15.25 The information before us does not indicate that the performance of the NMTs casts doubt on the reliability of the modelling, a matter which was the subject of detailed examination at the inquiry. In any event, even if LADACAN's points about the NMTs were correct, they would apply to both the baseline

and proposed scenarios, and consequently they would not indicate any materially greater change in noise levels. Consequently, the Panel is satisfied that the noise assessment reported in the ES provides a reasonable basis for assessing the effects of the proposal.

Assessment of significance

15.26 Assessment criteria for receptors of noise from aircraft are set out in the ES, with values applied to the concepts of LOAEL and SOAEL. Paragraph 30-004 of PPG explains that LOAEL is the level of noise exposure above which adverse effects on health and quality of life can be detected, and that SOAEL is the level of noise exposure above which significant adverse effects on health and quality of life occur. Having regard to the Air Navigation Guidance 2017, the Applicant suggested that LOAEL should be set at 51dB $L_{Aeq,16h}$ for day-time noise events and 45dB $L_{Aeq,8h}$ for night-time noise events. For SOAEL, values of 63dB $L_{Aeq,16h}$ and 55dB $L_{Aeq,8h}$ for day-time and night-time were put forward, referring respectively to recommended noise insulation thresholds and the WHO Night Noise Guidelines for Europe [8.82(a)]. LADACAN's professional noise witness has stated that the contour bands used for LOAEL and SOAEL are appropriate [8.82(a)], and the Panel has no reason to adopt a different approach. Magnitude of change is addressed in the ES: for residential receptors increases in aviation noise of at least 3dB above LOAEL and at least 1dB above the SOAEL are identified as having a notable effect, and for non-residential receptors any increase of at least 1dB where the noise level is above the threshold criterion is considered significant [8.83]. Importantly, LADACAN's professional witness agreed with the Applicant that noise increases of less than 1dB would be negligible in effect [8.82(g)].

15.27 LADACAN drew attention to a more elaborate approach set out in the Preliminary Environmental Information Reports for Gatwick and Heathrow Airports [10.10]. However, the assessment in the ES does cover the secondary metrics of L_{Amax} and N above contours, in addition to the primary L_{Aeq} metric. The proposal for Gatwick involved a DCO for an additional runway, and that at Heathrow was for a third runway. These are more complex proposals than that which is the subject of the planning application before us, and we consider that a proportionate approach has been taken to assessing significance in respect of the proposal at Luton.

Aviation noise levels

15.28 The only predictions of noise levels arising from the proposal are those provided by the Applicant in the ES. LADACAN and some other parties have made detailed criticisms of aspects of the modelling and associated work, and LADACAN has maintained that the baseline should be that of 12.4mppa from 2008 rather than the 18mppa consistent with the 2017 permission. We do not consider that the criticisms raised give rise to any lack of confidence in the modelling process, and, for the reasons given earlier, we are satisfied that the 2017 permission provides the correct baseline for the purpose of comparison. It follows that the noise levels given in the ES are those which should be used in assessing the effect of the proposal.

15.29 Table 7, below, sets out the changes from the position under the existing condition 10 to those under the proposal for this year, 2028 and 2031 in the

size of the condition 10 contour limits and the number of dwellings affected by the LOAEL and SOAEL thresholds.

		2023	2028	2031
condition 10 contours km^2	day	+1.7	+0.3	-0.1
	night	+4.9	+3.9	no change
dwellings within LOAEL contour	day	+2,055	+350	-318
	night	+5,013	+3,950	+1,103
dwellings within SOAEL contour	day	+105	+40	no change
	night	+322	+371	-89

Table 7: Changes in size of condition 10 contours, and dwellings within LOAEL and SOAEL contours between 2017 permission and proposal[278]

15.30 The proposal seeks an immediate increase in the size of the condition 10 contours, which would then be partly drawn back by 2028, and by 2031 the night-time contour would return to its original size with a modest reduction in the day-time contour. That movement in the condition 10 contours is generally reflected in the changes in the number of dwellings within the LOAEL and SOAEL contours. In none of the years in the table, or the other assessment years of 2024 and 2025, is any dwelling within the range of modelled noise contours expected to be subject to an increase in noise of 1dB or more [8.82(f)].

15.31 A relatively large number of dwellings (16,282 in the day-time and 24,602 in the night-time in 2023) would be subject to noise increases of less than 1dB [8.80]. That magnitude of change is recognised by the Applicant, the LPA and LADACAN as having a negligible effect [8.82(g)]. However, in some cases that small increase would be sufficient to move dwellings to within the LOAEL and SOAEL contours. PPG explains that SOAEL is the level of noise exposure above which significant adverse effects on health and quality of life occur, and arrival at this level by a small increase in noise should not imply that the actual noise experienced is inconsequential. The ES indicates that, this year, 105 dwellings would be brought within the SOAEL threshold during the day-time and 322 at night.

15.32 Increases below 1dB are also predicted in 2028, and at night in 2031. However, it should also be noted that small reductions in L_{Aeq} values are expected in 2031, which would be likely to result in some dwellings dropping below the SOAEL thresholds during day-time and night-time.

15.33 Doubt was cast by LADACAN on the extent of the reduction in noise from modernisation of the aircraft fleet [10.11]. Notwithstanding LADACAN's reservations, the number of dwellings within contours above 80dB L_{Amax} is

[278] Sources: change in contour areas – table 1, change in number of dwellings – CD1.16, table 6.2.

appreciably greater for older aircraft than the newer additions to the fleet [8.95]. The proportion of older, and louder, aircraft using Luton Airport for commercial passenger flights and overflying the surrounding area is expected to decrease over time. Whereas 2,347 ATMs by older aeroplanes are expected during the night-time in 2023, these movements are predicted to have fallen away by 2031 [8.95]. Conversely, night-time movements by newer aircraft over the same period would increase from 1,790 to 4,309. As a consequence of the change in composition of the fleet, maximum noise levels are expected to decrease for a significant number of ATMs.

15.34 The model results for the day-time indicate that L_{Amax} of 72dB would only be exceeded at three non-residential locations: Caddington Village School, the Linden Academy and a nursery in Park Town, Luton, and Slip End Lower School, for both conventional and new aircraft [8.143]. However, the L_{Amax} values are generally somewhat lower for the new aircraft types. Insofar as the older aircraft are concerned, the exceedances are attributed to three planes, the A320ceo, the 737-800, and the A321ceo, none of which are anticipated by the Applicant to be in use by 2031, whilst usage of the newer and quieter aircraft would increase by this date.

15.35 We turn now to consider the N above contours. For the N65 day-time contours, increases in area and the number of dwellings for values of 25, 50, 100 and 200 events are predicted in both 2023 and 2028 [8.141]. However, by 2028 the difference in the size of the contour areas and the number of dwellings affected by 65dB noise events between the permitted and proposed schemes would generally be less than in 2023. By way of illustration, for 2023 the area with a contour value of 100 would increase by 3.2km^2, from 29.3km^2 to 32.5km^2 as a consequence of the application, with an associated increase of 803 dwellings from 5,602 under the 2017 permission. Moving ahead to 2028, the model predicts a smaller increase of 0.5km^2 in this contour area, which, at 26.3km^{2,} would be smaller in size than in 2023. A total of 59 additional dwellings would be included in the *with scheme* contour area, an increase to 4,934.

15.36 For night-time the assessment relates to the N60 contours. There would be insufficient events to generate 100 or 200 value contours or for 50 contours under the permitted scheme. For the 25 contour value, the additional area covered would be 15.2km^2 with 1,635 more dwellings in 2023, with a lower increase in area of 8.4km^2 and slightly more dwellings (1,758) in 2028 [8.141]. Notably, the size of the contour is expected to have reduced in size by this year by 1km^2 from 2023. The assessment does not extend to 2031, by when the condition 10 contour increases (L_{Aeq}) would be reversed, but the direction of travel to lower levels of noise impact is clear from the report included in the ES.

Effects of aviation noise

15.37 The CAA report *Survey of Noise Attitudes 2014* found that mean annoyance scores correlated well with average summer day-time noise exposure as recorded by $L_{Aeq,16h}$. Both the Applicant and LADACAN acknowledged that annoyance attributable to aircraft noise can occur from 51dB $L_{Aeq,16h}$ during the day-time, agreed as the appropriate threshold for LOAEL [8.82(a)]. Anecdotal evidence from local residents and community representatives

referred to the disturbance from over-flying aircraft, particularly when outside [12.16, 13.25]. The inquiry heard significant concern expressed about sleep interruption, exacerbated by the intermittent nature of noise events during the night.

15.38 In addition to annoyance and disturbance, noise can have detrimental effect on health. The WHO Night Noise Guidelines for Europe refer to adverse health effects above 40dB, with increased concerns above 55dB, the threshold for SOAEL at night [8.83]. In his evidence, the Applicant's noise witness referred to studies which point to a potential greater relative risk of conditions such as ischaemic heart disease and hypertension in populations subject to louder levels of noise. However these studies generally consider permanent exposure to noise over the long-term. At Luton, the increased noise levels, whilst present for up to eight years, would not remain in the long-term as a result of this proposal.

15.39 As a result of the proposal, additional dwellings would be brought within the LOAEL and SOAEL contours, with relatively large numbers moving above the LOAEL threshold at night-time (above, table 7). However, LOAEL is the lowest level at which an adverse effect from noise is apparent, and changes in the number of dwellings above SOAEL are a more weighty consideration. Fewer dwellings would be affected in this way (in 2028 the increase is expected to be an additional 371 at night compared to the current contour condition), and by 2031 no change is predicted in day-time numbers and a decrease of 89 at night-time. Moreover no dwelling is expected to be subject to an increase in noise level of 1dB L_{Aeq} or more, during the day or night, a level of change which in itself would not be significant. Only a few non-residential receptors are identified as being likely to experience L_{Amax} noise events above the 72dB day-time threshold, and, with an increasing proportion of newer aircraft in the fleet, the impact of additional passenger throughput in terms of noise is anticipated to fall from the forecast for 2023. We are mindful that concerns about aviation noise have been expressed by individual and organisations beyond the areas of the 51dB day-time and 45dB night-time contours shown in the ES[279], including Harpenden, Wheathampstead and St Albans. Those outer contours represent the values of LOAEL, beyond which, by definition, adverse effects are not expected to be apparent. The Panel appreciates that the local communities in these areas are likely to be aware of the presence of aircraft flying to and from Luton Airport, but that does not mean that the proposal would cause an unacceptable situation, and there is no substantive evidence to that effect. On the evidence before us, we do not consider that noise resulting from the proposal would lead to harm to amenity in the wider area around the airport.

15.40 Notably, LADACAN's professional noise witness did not identify any specific harm due to noise. He expressed concern about the potential for harm due to his view about the baseline and reliance on changes in the fleet mix. On the first point, we have made our view clear that comparison with a baseline of 12.5mppa, as advocated by LADACAN, is inappropriate. On the second, we acknowledge that progress towards lower noise levels would be contingent upon the introduction of more of the new and quieter aircraft, and that that is

[279] Figures in CD.17.

a matter outside the Applicant's direct control. As those aircraft offer additional capacity, they would be more efficient to operate, and it is reasonable to assume that the airlines would be keen to implement the modernisation programmes which they have announced.

The effect of noise on the Chilterns AONB

15.41 The Chilterns AONB extends on higher ground to the south-west and north of Luton [2.1]: the airport is adjacent to the town and outside the Chilterns AONB. During both westerly and easterly operations, however, aircraft leaving and/ or arriving at Luton overfly parts of the AONB.

15.42 Protection of the Chilterns AONB is the subject of local and national planning policy. Policy LLP29 of the Local Plan seeks to safeguard the special character and setting of the AONB. Paragraph 176 of the NPPF makes clear that AONBs have the highest status of protection in relation to landscape and scenic beauty, and development within their setting should be designed to avoid or minimise adverse impacts upon them. Also of relevance is paragraph 185 which requires planning decisions to take into account the potential sensitivity of the site or the wider area to impacts that could arise from development: part (b) makes specific reference to the importance of protecting tranquil areas which are relatively undisturbed by noise.

15.43 CPRE Herts is concerned about visual and aural intrusion from aeroplanes overflying the AONB [11.15], and concern about the erosion of tranquillity was a view shared by the Chilterns Conservation Board and the Chilterns Society [13.1]. The AONB is already overflown, and the proposal does not involve any changes in airspace arrangements [8.150]. Up to 2030, noise contours for LOAEL would extend somewhat further into the Chilterns AONB in the vicinity of Markyate and Flamstead, to the south-west of Luton Airport, but the modelling indicates that up to this date there would be no increase of 1dB or more at residential receptors within these contours.

15.44 The professional noise witnesses agreed that increases in noise below 1dB would be imperceptible, and CPRE Herts acknowledged that they had no evidence to the contrary. By 2031, the contours for LOAEL are expected to have reduced in size, consistent with the reduction in size predicted for the condition 10 contours. Comparison of the contour maps and the Chilterns AONB boundary indicate that an increase in noise above LOAEL, the point at which an adverse effect becomes evident, would only occur in a small part of the AONB. Moreover, this would be limited and temporary.

Other sources of noise

15.45 The proposed increase in the number of passengers would result in additional activity as well as the increase in flights. More traffic would be generated [8.67], and there would be more ground movement within the airport. It is to be expected that that additional activity would produce some additional noise. Concern about noise expressed by parties appearing at the inquiry and those who submitted written representations focussed on noise arising from aircraft movements. There is no specific evidence before us to indicate that there would be any material harm caused by noise from sources other than aircraft.

Planning control

15.46 Luton Airport is owned by LLAL, which itself is a company owned by the Council [2.5], and several councillors are directors of LLAL, although none are members of the Development Management Committee. LLAL receives a concession fee from the Applicant, part of which was subject to rebate during the currency of the growth incentive scheme [10.20]. Notwithstanding the separation of the roles of the Council as LPA and sole shareholder of LLAL, it is clear that LADACAN and other members of the local community perceive that the LPA has a vested interest in supporting the planning application and not pursuing enforcement action [10.19]. The propriety of the Council's relationship with the Applicant is not a matter for consideration in relation to this planning application. We mention it here because it is of relevance in considering the appropriateness of control mechanisms to secure mitigation.

15.47 Breaches of the existing contours condition occurred in 2017, 2018 and 2019 [8.109]. Growth in passenger numbers had occurred more quickly than predicted at the time of the 2014 planning permission [8.116, 10.21]. LADACAN, the CPRE, many Parish Councils, local organisations and individuals at the inquiry and those making written representations drew attention to the lack of enforcement action in response to these breaches [10.4, 11.18, 12.9, 12.17, 13.22, 13.27], breaches which were anticipated in monitoring reports to the Applicant [8.109].

15.48 As paragraph 17b-003 of Planning Practice Guidance (PPG) explains, LPAs have discretion to take enforcement action when they consider it expedient to do so, and they are also expected to act in a proportionate way. The breaches of the contours condition were assessed as not increasing noise levels above 1dB L_{Aeq}, and hence not resulting in material harm [8.109, 9.10]. Having regard to the advice in PPG, the LPA took the view that the appropriate and proportionate response was to seek a further planning application to regularise the situation [3.7, 9.10], and discussions with the Applicant led to the present application [4.1].

15.49 Although both the LPA and the Applicant maintained that there had been an appropriate response to breaches of the contours condition, it is clear that that view is not shared within the local community. Aircraft noise is a matter about which local residents and organisations feel strongly, and the Panel understands LADACAN's view that the communities which it represents have lost trust in the Applicant and the LPA. We return to this matter in considering the approach to mitigation (below, para 15.57).

Mitigation

15.50 The proposal to relax the noise contours, albeit for a temporary period, and the additional activity associated with an increase in passenger throughput would result in increases in noise levels, as a consequence of which some residents would move within the SOAEL contour. Mitigation for the effects of noise is put forward in a noise mitigation plan (NMP), which is the subject of a planning obligation [1.6] and a suggested condition [14.2]. The principal components of the NMP are residential and non-residential NISs, a quota count system, a ground noise control scheme, and the noise and track violations system. Although no dwellings are expected to be subject to an increase in noise of 1dB L_{Aeq} or more, smaller increases would be sufficient to

move some properties to the SOAEL day-time and night-time thresholds (above, paras 15.31, 15.39).

15.51 The NISs would represent an improvement on those currently in place, in that up to the end of 2028 eligibility would be based on data for 2023 noise contours, which is expected to be the worst-case year. Moreover, in the residential scheme, funding per property would increase from up to £3,000 to up to £4,500 [8.146, 8.147]. Grants for insulation would also be available to certain non-residential buildings with noise sensitive rooms, such as schools and health centres. In respect of airborne aircraft noise, eligibility for insulation grants would be restricted to dwellings and other buildings within the SOAEL contour. The residential scheme would also provide insulation grants for eligible properties affected by ground or traffic noise, eligibility being dependent on specified noise levels in both cases. In view of the proximity of housing north of Eaton Green Road to the airport, there is the potential for residents in this part of Luton to be affected by noise other than from aircraft in flight, and these grants are important parts of the scheme.

15.52 A noise control scheme would continue to maintain a quota count system, restricting the extent to which the airport could be used by aircraft with a higher noise classification. Measures to restrict the ground running of aircraft propulsion engines, the use of non-contact stands, the use of auxiliary power units, and ground run tests are included in a ground noise control scheme. The noise and track violations system specifies noise limits for departing planes, and provides for financial penalties on airlines where limits are breached and aeroplanes fly outside noise preferential routes.

15.53 The measures included in the NMP are complemented by the provision in a separate obligation for the continuing operation of the London Luton Airport Consultative Committee (LLACC), which, amongst other responsibilities, would administer the NISs [1.6].

15.54 Although the insulation schemes would be an improvement on the extant arrangements, they would only offer mitigation within buildings. The effect of increased noise outside, notably in private amenity space, would only be modified by the controls on the noise climate imposed by the quota count system, the ground noise control scheme, and the noise and track violations system.

15.55 The variation to condition No 10 suggested by the LPA and the Applicant refers to a strategy which would define the methods to be used in achieving contour reductions by 2028. LADACAN considers that the content of the strategy should be specified, and that there should be staged milestones to be achieved sequentially [10.22]. The NMP anticipates improved operational arrangements arising from the Future Airspace Strategy Implementation and the introduction of area navigation departure and arrival procedures for all routes, and the introduction of quieter aircraft as the measures which would achieve contour reduction. Moreover, the Applicant has no objection to a varied noise contour condition including a requirement for the contour reduction strategy to be in place before passenger numbers increase above 18mppa. In accordance with schedule 1 of the planning agreement, the NMP would be subject to periodic review, and in view of this, it would be

unnecessary, and would restrict flexibility, to specify the milestones suggested by LADACAN in a condition.

15.56 It was suggested by the LPA that the NMP should be the subject of a condition, in addition to implementation being required by a planning obligation. We are mindful that paragraph 21a-011 of PPG advises that where an objection to a development proposal could be overcome by imposing a condition or a planning obligation, the former should be used. In this case, an obligation is needed to secure the financial elements of the NMP, and the obligations concerning noise are in an executed planning agreement. In such circumstances, a condition covering the same matter would normally be inappropriate.

15.57 However, as the LPA pointed out, should planning permission be granted for the proposal, and it become necessary to contemplate enforcement action in respect of the NMP, a breach of condition notice would offer a more direct means of seeking compliance than injunctive action in respect of the obligation. Given the extent of concerns in the community about noise and the need to be able to control it effectively, we are of the view that in this case, should planning permission be granted, there would be a role for a condition concerning the NMP to sit alongside the obligation.

Conclusions on noise

15.58 Both local policy in the Development Plan and national policy seek to avoid harm from noise. In this case, concern in respect of noise stems to a significant degree from criticisms of the baseline used and the modelling exercise undertaken. The 2017 planning permission provides for a passenger throughput of 18mppa, a level which was achieved in 2019, and we are in no doubt that comparisons of the effect of the proposal should be made with the activity associated with that baseline. The information before us does not indicate that an inadequate set of metrics was employed in considering noise nor that the reliance placed on L_{Aeq} is inappropriate.

15.59 Concerns about the NMTs and other aspects of modelling were subject to detailed examination at the inquiry: following that process we do not find that doubt cast on the reliability of the modelling was sustained. Whilst objections included some alternative calculations, no other comprehensive modelling exercise on noise was before the inquiry. We find that the application, including the update to the ES in ESA4, fully assesses the impact of the increase in ATMs in terms of noise as required by part B(iv) of Policy LLP6 in the Local Plan.

15.60 The proposal would result in relatively modest increases in noise and associated temporary enlargements of the noise contours around Luton Airport. By 2031 the limit in size of the day-time 57db $L_{eq,16hr}$ contour (as specified in condition No 10) would have slightly reduced, and the actual extent of both the day-time and night-time noise contour areas is forecast to be below the proposed condition limits[280]. A range of mitigation measures are proposed in the NMP, with insulation schemes put forward for dwellings and non-residential receptors which would have reached the SOAEL

[280] CD1.16, table2.4.

threshold. Measures in the NMP would also address ground and traffic noise in respect of residential properties. Whilst the mitigation measures are appropriate, are in line with part B(iv) of Policy LLP6, and include an effective noise control, monitoring and management scheme as required by part B(vi), they would not fully address all increases in noise, in particular that which would be experienced outside and in rooms where windows are opened.

15.61 Bearing in mind the limited changes in noise levels, the Panel concludes that no material increases in day or night-time noise would be caused by the proposal, and that in this respect it would accord with part B(v) of Policy LLP6. There is no detailed evidence that the proposal would give rise to significant adverse effects on health and the quality of life. Accordingly, it would not conflict with paragraph 185(a) of the NPPF. Nor would the limited increases in noise and ATMs cause material harm to the character of the Chilterns AONB. As such, there would be no conflict with Policy LLP29 of the Local Plan or paragraphs 176 and 185(b) of the NPPF. However, it is clear that there is considerable concern about existing noise from the airport, and noise levels would increase, albeit for a temporary period, leading to further disturbance and annoyance, with some additional dwellings being brought up to the SOAEL threshold. Taking all of these considerations into account, we conclude that noise generated by the proposal would cause moderate harm to the quality of life of people in the area around Luton Airport.

15.62 A note of caution is necessary in relation to fleet mix, the modernisation of which with quieter aircraft is a key means of limiting noise levels and enabling noise contours to contract by 2031. Changes in the type of aeroplanes operated by the airlines at Luton are outside the direct control of the Applicant. That said, having regard to the quota count system in the NMP and the efficiency gain from operating replacement planes which generally have a larger capacity, it is in the interests of the airlines to implement their plans for fleet modernisation. If fleet modernisation were not to proceed as expected, in order to achieve compliance with the proposed variation to the noise contours condition it would be necessary for consideration to be given to reducing the number of flights.

Climate change

15.63 As the Government's Net Zero Strategy[281] makes clear, human activity is changing our climate and this will have a devasting impact on human lives, the economy, and the natural world so urgent action is needed to reduce emissions globally to limit further global warming. Given the existential nature of the threat, action will be required internationally, nationally and locally. A radical reduction in the release of GHG emissions and mitigation of the harmful effects of climate change is therefore a priority. The PPG points out that addressing climate change is one of the core land use planning principles which the NPPF expects to underpin decision-taking[282].

15.64 The proposal would result in additional flights. These, and the associated increase in activity at LLA and journeys by staff and passengers to and from

[281] CD11.09, para 1, page 38.
[282] Paragraph: 001, Reference ID: 6-001-20140306.

the airport, would consequently have the potential to increase GHG emissions.

15.65 The Applicant's figures of anticipated GHG emissions have not been challenged by the main parties appearing at the inquiry. Nor is it a matter in dispute that the proposal would result in an increase in GHG including CO_2 compared to the *without proposal* situation. ESA4 predicts that total emissions in 2025 would be 1425.1ktCO_2e pa with the scheme, and 1341.6ktCO_2e pa without it, reducing to 833ktCO_2e pa with the scheme, and 799ktCO_2e pa without it, by 2050[283]. The main contributors to emissions would be in terms of aviation activity and surface access, with emission from ground operations and buildings representing a much smaller proportion of existing and anticipated emissions. This is illustrated in Fig 5.1 from ES4 which shows how emissions from various sources, with and without the scheme change over time [8.45].

National policy and strategies

15.66 There was no disagreement between the main parties [8.18, 9.11,10.23] that national aviation policy supports aviation growth and making best use of existing runways, subject to account being taken of local environmental effects.

15.67 APF, although ten years old, is still part of Government aviation policy. In terms of emissions, it recognises that emissions trading schemes, in particular the then EU ETS (now UK ETS), is a key component of its objective to reduce global emissions rather than limit growth [6.5]. MBU encourages making more intensive use of existing runways but emphasises the need to demonstrate mitigation of local environmental issues [6.7]. MBU makes it clear that increased carbon emission from making best use of existing runways is an environmental consideration that should be considered at a national level[284]. The principle of a 1mppa increase would not run contrary to those policies nor the Government's priorities [13.26].

15.68 The proportions of emissions that the proposal would be likely to generate relative to the 37.5MtCO_2 'planning assumption' in the fourth and fifth Carbon Budgets would be small. They would only represent a marginal increase in percentage terms compared to those of the baseline scheme being 0.05% for the fourth and between 0.07% and 0.08% for the fifth [8.35]. They would also represent a small fraction of the 'planning assumption' when considered with other approved capacity increase at UK airports [8.35, 8.37, 9.22, 10.8, 11.9].

15.69 As the aviation emissions arising from the proposal would be within assumptions within the Government's policies and strategies, particularly MBU and JZS, no material adverse effects would arise [8.38, 8.40, 8.41, 9.17, 10.8]. Therefore, the proposal would not impede the Government in achieving its emissions reductions targets, including through the sixth Carbon Budget [8.37, 12.5] and the Jet Zero trajectory, either by itself or in combination with other expansion proposals.

[283] CD1.16, Figures for the Central emission scenario form Table 5.7.
[284] CD10.13, paras 1.11-1.12.

15.70 The proposal would accord with national aviation policy which does not seek to restrict airport growth nor constrain demand. The increase in passengers proposed would fit within the assumptions for growth in national policies and strategies and would not have a negative impact on the assumptions underlying those either by itself or in combination with other consented airport expansion schemes [12.5, 13.6].

15.71 NPPF paragraph 188 states that *The focus of planning … decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes).* There is no caveat to suggest that GHG emissions should be treated differently in this respect. The CCA provides the overarching legislative framework and the five yearly Carbon Budgets provide for sector specific limits. Part of the approach includes emissions trading and carbon offsetting through the UK ETS and CORSIA regimes. In this context these provide the separate pollution control regimes which the NPPF assumes will operate effectively. [8.12, 8.19, 9.10, 11.17]

15.72 JZS acknowledges that decarbonising aviation will not be straightforward with multiple solutions at different stages of technological and commercial readiness, but acknowledges there are multiple possible pathways to realise its goal [10.7]. It is also a long-term approach. Approaches to reducing aviation emissions were explored at the inquiry, but it is clear that ultimately this a matter which is to be addressed at national and international level. However, irrespective of the parties' positions on JZS and MBU, the NPPF is clear that the decision on this proposal should assume that the pollution control regimes within them and under the auspices of the CCA will operate effectively.

15.73 Nevertheless, the NPPF expects also expects the planning system to *help to shape places in ways that contribute to radical reductions in greenhouse gas emissions…* putting the emphasis on what can be achieved through a local action, which in this case would include surface access emissions.

15.74 Although post-dating MBU, JZS assumes a much greater growth at LLA that the proposal would represent by factoring in growth up to 32mppa [8.18, 10.8]. Even though the approach in JZS could be considered aspirational and relies on emerging areas of technology, it also covers a timescale up to 2050. The evidence does not suggest the proposal would either harm its implementation or trajectory, nor that the proposal could not operate within its approach relying as it does in part on increase in use of SAF and implementation of CORSIA in the UK.

Climate emergency declaration

15.75 LBC have declared a Climate Emergency [8.30, 10.6], as have many neighbouring authorities[285]. The proposed action by LBC[286] includes an expectation that LLAL will work with LLAOL to decarbonise operations but also notes that international aviation emissions are not considered as UK sources. Beyond setting a net zero carbon target of 2040, the declaration does not

[285] RAES-16.0.
[286] CD11.42.

provide any specific targets. The Climate Action Plan[287] to achieve this does however provide a detailed series of actions which aim to prioritise alternatives to private vehicle use by encouraging the use of public and active transport options. Nevertheless, the LPA have recognised that it would be 'extremely challenging' [9.20] to meet all the local and national targets for aviation, ground operation and surface access emissions.

15.76 Against this background the proposal would not run counter to this declaration and there is no substantive evidence that it would be contrary to other local authorities' declarations either. Nevertheless, the potential remains that private vehicle use by staff and passengers associated with the proposed capacity increase could adversely affect achieving the 2040 target, particularly in that initiatives focusing on surface access have the potential to take effect early in the Action Plan's lifespan.

The ES

15.77 ESA4 concludes that the effect of GHG from the proposed scheme on the global climate would be minor adverse and therefore not significant in EIA terms[288]. That categorisation is where a proposed scheme is in line with the trajectory of the Government meeting its Carbon Budgets with impacts mitigated in line with good practice to meet national and local policy[289] [8.33, 8.35, 0].

15.78 CPRE Herts contend that IEMA guidance had been incorrectly applied in reaching this conclusion [11.11]. The guidance states that *The assessment process for GHG emissions will therefore require a review of the current and emerging policy/regulatory position together with a review of expert scientific advice from bodies such as the CCC or IPCC about where existing policy or regulation is insufficient or not, relative to the science.* [8.17][290]

15.79 The CCC's latest recommendations include that Government should develop policies to manage demand for fights, including through pricing, as that is one of the few interventions that would lower CO_2 and non-CO_2 effects[291]. Their recommendation was that there should be no net expansion of UK airport capacity, unless the carbon intensity of aviation can accommodate additional demand.

15.80 The CCC recommendations cannot be read in the context of the IEMA guidance as indicating that policy or regulation is necessarily insufficient. Rather, these are recommendations for Government and do not alter what policies, strategies and legislation provides for [8.17]. Indeed, JZS was published after the most recent CCC report, and its publication was one of that report's recommendations. That some recommendations may not have been taken forward into government policy does not equate to a 'policy gap' or 'policy lag' [11.12]. In the circumstances, this is a different situation to that envisaged by the IEMA guidance [8.33, 11.13 ,10.7].

[287] CD11.59.
[288] CD1.16, para 5.5.7.
[289] *Ibid, t*able 5.6.
[290] CD11.34, para 6.3.
[291] CD11.40.

15.81 Furthermore, a notable point in the IEMA approach is not that a project would emit GHG emissions nor the magnitude of emissions alone, but whether the project would contribute to reducing GHG emissions relative to a comparable baseline[292]. The evidence before the Panel does not, therefore, point towards the IEMA guidance being incorrectly applied with the effect that the ES cannot be relied upon.

15.82 Nonetheless, the ES still identifies an increase in emissions compared to the baseline. This may not be significant in ES terms, but it remains an important consideration that needs to be taken into account. Opponents of the proposal contended that even a small increase in emissions is of significance due to the magnitude of the challenge that climate change presents and what they consider are weaknesses of national measures [10.6]. In their collective view any increase in GHG emissions, even imperceptible ones, would be harmful in the context of climate change [12.9,13.4, 13.6, 13.9, 13.19, 13.26] and therefore even small or incremental changes to reduce emissions should be sought to reduce the impact of the proposal and contribute to mitigation measures.

Surface access emissions

15.83 ESA4 shows surface access emissions arising from the proposal remaining stubbornly high and being relatively slow to reduce compared to the 'without proposal' scenario[293,294]. Although it predicts a much less sharp difference by 2050, up until 2028, and even until 2032, surface access emissions stand out as a significant proportion of overall emissions [as shown in figure 5.1 at 8.45]. Unlike aviation emissions, the airport can in principle exert greater influence over these through how it prompts, incentivises and prioritises low and zero carbon transport to and from the airport.

15.84 Furthermore, the programmes and targets for reducing aviation emissions generally relate to the longer term, particularly those which rely on emerging and uncommercialised technologies, for example in JZS. This makes it all the more important that reductions capable of achievement in the short term are realised [9.21, 11.9, 11.10]. However, the proposal, as submitted, relies very heavily on national measures in respect of decarbonising surface access, such as roll out of EVs and stricter vehicle emissions controls, rather than the more fundamental modal shift advocated in the Action Plan.

15.85 The requirement to ensure that private car use is minimised and use by sustainable transport modes is maximised is set out in LLP Policy LLP6 B. viii. This means that the ASAS[295], in supporting the TP and CRS [9.22], needs to be ambitious and robust.

15.86 At the inquiry the LPA made it clear that they would welcome an updated TP with new targets and improved measures to encourage a greater shift to sustainable modes. A planning obligation would provide for the submission of an updated ASAS within a year of notice of the implementation of a planning permission and prior to the existing passenger cap being exceeded. This

[292] CD11.34, para 6.2.
[293] CD1.16, page 36, Figure 5.1.
[294] CD1.17, appendix 5A, Table 5A.81.
[295] CD12.5.

mechanism would ensure that the LPA can confirm that an updated ASAS focuses on maximizing the modal shift necessary to reduce emissions associated with passenger and staff movements, and to make provision to ensure these improvements are achieved more quickly than currently anticipated.

15.87 Similarly, in light of comments below in respect of the submitted and revised TPs, and the desirability to maximise modal shift, it is of particular note that Schedule 2, paragraph 2.2, of the Planning Obligation provides for an updated TP to be submitted in the event the application is permitted and that the Secretaries of State confirm that such an updated TP is necessary.

15.88 The approach proposed is that a planning obligation would require the existing Sustainability Strategy[296] to be implemented and operated and that an updated Sustainability Strategy (USS) be submitted and approved. It also provides for a Carbon Reduction Strategy (CRS) to be approved based on the existing outline Carbon Reduction Plan[297] (OCRP), although see 15.234 below.

15.89 An obligation provides for the annual reporting and five yearly review and updating of the USS. The Obligation would provide a mechanism that would ensure its approval, or its revision until the LPA were satisfied with the USS. The provisions of the obligation would not prevent the proposed increase in passengers whilst that process went on. A suggested planning condition (19) would require the CRS with explicit requirements of annual independent verification, and three yearly audit and inspection, by the Airports Carbon Accreditation Scheme.

15.90 The CRS has the potential to include more ambitious and stretching targets than the current OCRP [13.6, 13.9, 13.19, 13.26] particularly in the realm of surface access (see transport and air quality sections below). Those strategies would also need to align with the updated ASAS and TP in respect of surface access emission reduction targets and initiatives. Nevertheless, subject to the provisions in the obligation and condition, the CRS and USS would provide a robust framework to ensure that action to focus on reducing non-aviation emissions can be maximised and effects mitigated.

15.91 Given the provisions in the OCRP and anticipated development of these in the CRS, the proposal would accord with LLP Policy LLP37 [13.19, 9.57,11.12] which supports proposals that contribute towards mitigation, and adaptation to climate change through energy use reduction, efficiency, and renewable and decentralised energy.

15.92 LLP Policy LLP 6 B (iv) requires proposals to fully assess impacts of an increase in ATMs on climate change amongst other factors. It only requires appropriate forms of mitigation in the event of significant adverse effects being identified. In light of the Panel's findings on the ES above the proposal would meet the assessment requirement of that criterion. As the ES found that the effects would not be significant adverse, the proposal goes beyond that particular policy requirement by proposing mitigation.

[296] INQ39.3.
[297] CD4.05.

15.93 The CRS and TP would apply to all airport operations and not just those associated with the proposed 1mppa increase and so would assist the airport overall to reduce emissions. Whilst this is no more than should be expected given the importance of meeting the challenges of climate change, it would nevertheless be a benefit of the proposal compared to the extant permission [8.35].

15.94 The Panel note that the panels in the Bristol and Stanstead airport decisions made similar findings with respect to national aviation policy, not limiting expansion and accommodating any increases in GHG emissions within planned allowances.

Findings on climate change

15.95 National and local policy does not seek to limit airport expansion or impose capacity limits. Rather, there is support for the principle of increased use of runways and other existing facilities, subject to addressing environmental issues and this is reflected in LLP policy.

15.96 Given current national policy, the approach of APF and MBU, strategies such as JZS, the measures already in place, along with the potential for further measures in the future, the Panel's conclusion is that the aviation emissions that would arise from the proposal are not so significant that they would have a material impact on the Government's ability to meet its climate change targets and budgets. Ground operations and surface access emissions need to be a focus for reductions and the planning obligation and suggested conditions 18 and 19 would provide for a robust series of mechanisms for addressing and reducing such emissions through the updated TP, the ASAS, the USS and the CRS. Nevertheless, the proposal would not have a significantly adverse effect in terms of climate change or carbon emissions. Further it is assumed that the Government will comply with their legal duty under the CCA. In any event the comparative magnitude of increase in GHG is limited and will not make the SoS duty under the CCA materially more challenging in this respect.

15.97 The wider application of an updated TP and CRS across all airport operations, and not just those relating to the proposed increase in passenger throughput, would be an effective means of mitigating the effects of emissions from the proposal provided that the targets and measures within them were adhered to. Indeed, that would be a beneficial effect of this proposal. It would accord with national and Development Plan policies which seek to reduce GHG emissions and mitigate against climate change. Nevertheless, there would be an increase in GHG emissions compared to the *without proposal* scenario. Whilst emissions would reduce over time in both the *with* and *without proposal* scenarios, with the proposal it would take longer to reach particular levels. Even taking into account the benefit of modal shift improvements across all airport operations, these higher-level emissions would be a negative aspect of the proposal to be considered in the planning balance. They would be less than significant and short-term, and a matter that carries limited weight against the proposal.

Transport

15.98 The application was supported by a TA incorporating a CPMP and a TP [9.33] [298]. The study area for the purposes of the TA was confined to the corridor between the airport and Junction 10 on the M1. This was agreed with LBC (as highway authority) and NH as the airport lies almost entirely within Luton Borough. There was no evidence to suggest that this approach was agreed by the adjacent highway authorities, (Central Bedfordshire Council and Hertfordshire County Council). They raised various concerns in relation to the TA [13.9-13.11] in response to the consultation on the application. However, although those authorities did not pursue their concerns at the inquiry by providing contrary evidence to that presented by the Applicant, we have addressed the matters they raised in their consultation responses.

15.99 The TA set out the traffic impacts on the highway network of increased staff and passenger numbers, at the time of its publication, assuming that 18mppa would be recovered by 2023 and 19mppa would be reached in 2024[299]. These estimates satisfied LBC and NH that the proposal would not result in significant adverse effects on the operation of the highway network at peak periods. The submitted TP set out revised targets for 2024 aimed at reducing passenger and staff trips by private car and increasing the use of sustainable travel modes. The CPMP set out details of numbers of spaces and the charges at each car park. A summary of the TA was included in ESA2. Prior to the inquiry the TA was not updated but key elements of the assessment were presented within ESA4 to provide traffic figures and TP targets for 2025, the date when 19mppa would be expected to be reached.

Policy context

15.100 The TA and the Applicant's highway witness's proof of evidence[300] set out the policy context for the assessment of surface access citing extracts from the NPPF and PPG[301]. As agreed by the LPA and NH the focus for the assessment was paragraph 111 of the NPPF [9.32]. In addition, criterion viii) of LLP Policy LLP6, which seeks to minimise private car use and maximise use of sustainable modes was also of importance to the assessment of the proposal[302].

15.101 The APF[303] states that proposals for airport development must be accompanied by clear surface access proposals. Other local plans of relevance to surface access include the Local Transport Plans (LTPs) for Luton[304], Central Bedfordshire and Hertfordshire and the Council's Climate Action Plan. All these plans are endeavouring to encourage modal shift, promote active travel and reduce car dependency. The airport's current ASAS Action Plan (2018-2022) seeks to promote and encourage sustainable transport options for employees and passengers and reduce the impact of surface access to the airport on the local community.

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[298] CD1.12, CD1.13 (This was revised during the inquiry, see INQ-67.2).
[299] CD1.12, section 10.3.
[300] APP-W5.1
[301] CD11.08, CD9.05, CD12.12.
[302] CD9.07.
[303] CD10.04, para 5.11.
[304] CD12.08, Luton LTP3 and CD12.07, Luton LTP4.

Public transport, walking and cycling

15.102 The airport is well served by public transport. Luton Airport Parkway station has frequent rail services to London and the Midlands[305]. There is a public transport hub immediately adjacent to the CTA. From here there are regular bus and coach services to a wide variety of destinations across the Midlands and south-east of England[306].

15.103 The 2019 Passenger Survey Report published by the CAA found that 60.2% of passengers currently access the airport by modes other than the private car[307]. Some 21.2% come by rail and 22.3% by bus/coach. Data about the individual use of services by passengers or staff was limited, but the evidence suggests that there is significant spare capacity on many of the bus and coach routes (47-85%)[308]. However, there was no evidence about spare capacity on the rail network and nothing to suggest that any of the operators of these services had been directly involved in any of the analysis within the TA, the ES, or the preparation of the submitted TP.

15.104 Reference was made to DART, the rapid transit system which will link Luton Airport Parkway station with the CTA. Whilst it is anticipated that it will make travelling by rail easier and more attractive, no specific estimate of the impact that it would have on the mode share from rail was relied on by the Applicant, with the application documentation or at the inquiry.

15.105 The 2019 Staff Travel Survey indicated that 23.6% of staff use public transport and 7.5% use active modes[309] to get to work. However, 59.4% drive alone and 7.9% come in multi-occupancy car trips. Cycling is only considered to be a realistic option for staff who live within a reasonable distance of the airport. However, for that to be attractive would require incentives, such as access to affordable electric bikes and appropriate charging facilities, in view of the surrounding topography and the airport's location above much of the town.

Assessment of highway impacts

15.106 The number of passengers accessing the airport increased from 12.3mppa in 2015 to 18mppa in 2019; an increase of 49%[310]. The 2014 permission was required to mitigate its own impacts and did so with highway works and junction improvements, and a requirement to prepare and comply with a TP. Nevertheless, the rapid increase in passenger numbers and associated traffic movements within a short period of time has been apparent to the local community using the surrounding road network [13.9, 13.18, 13.26].

15.107 The airport is a very significant generator of vehicular traffic. In 2019 daily flows on the approach to the CTA at the junction of the A1081/A505/Percival Way were of the order of 25,000vpd[311]. The way that this, and any additional traffic from this proposal, disperses across the various approach roads to the

[305] CD12.04, table 4.1.
[306] CD 12.04, tables 4.2, 4.3 and 4.4
[307] CD12.04, table 7a.
[308] CD1.12, table 9.4.
[309] CD1.12, table 9.3.
[310] CD1:12, section 9.1 (the TA gave the 2019 figure as 18.2mppa, but 18m has been used throughout this report).
[311] INQ-80, figure 4.24 page 22.

airport throughout the day is therefore of understandable concern to the public. The analysis within the TA and ES only presented information relating to morning and evening peak periods within the study area agreed by LBC and NH.

15.108 Whilst this approach satisfied LBC and NH, it did not present the information in a way that aided the adjoining authorities', the public's or the Panel's understanding of existing traffic conditions, nor the impact of the proposal on the local transport system. We were told that the traffic flows were estimated by an existing transport model. However, there was no simple explanation in the TA of how an additional 1mppa (an average of 2,740/day) would lead to small percentage increases in peak hour flows. The Panel requested and received further information about actual traffic flows in addition to the percentages provided to assist our understanding of the local highway network, its use and operation[312]. This assured us that the description and analysis of the existing transport conditions required by Appendix 7 of the LLP[313] were appropriately met.

15.109 As the airport handled 18mppa in 2019, prior to the pandemic, the traffic data from that year was used as the base case. The update in ESA4 adjusted estimates, assuming that the passenger cap of 19mppa would be reached in 2025. The modelling and forecasting were undertaken for weekday peak periods in October, avoiding school holidays and weekends. A 2019 18mppa scenario was based on known aircraft schedules, with a load factor of 90%. In ESA4 this was compared with a similar scenario with 19mppa and included trips generated by an additional 375 staff[314] working at the airport.

15.110 The traffic flow estimates assumed no change in the proportion of passengers or staff using public transport, with 20.72% of passengers and 7.6% of staff continuing to use rail. The main parties did not rely on any changes to travel patterns arising from DART and therefore considered the figures to be conservative and robust. The vehicle flows with 18mppa and the predicted increases in the average October morning and evening peak periods with the airport handling 19mppa are set out in Table 8.

	18mppa	19mppa	18mppa	19mppa	Difference	Difference
Mode of transport	Oct 2019 a.m.	Oct 2025 a.m.	Oct 2019 p.m.	Oct 2025 p.m.	a.m. peak	p.m. peak
Bus/ Coach	140	146	140	146	6	6
Minicab	466	487	405	418	21	13
Private car	1264	1319	1097	1134	55	37
Staff	1355	1393	1246	1281	38	35
Total	**3225**	**3345**	**2888**	**2979**	**121**[1]	**93**[1]

Table 8: Modelled and forecast vehicle flows entering the CTA[315]. Note: [1] the total figures differ slightly from the sum of those above which are due to those figures being rounded; the total figures are those relied on in the TA.

[312] INQ-80.
[313] CD9.07, page 140, section 4, first bullet point requires 'description and analysis'.
[314] CD12.04, tables 10.3 and 10.4.
[315] CD12.04, compiled from tables 10.2, 10.3, 10.5 and 10.6.

15.111 The impact of the additional traffic movements on the surrounding highway network was predicated on the assumption that 85% of those accessing the airport by vehicle currently do so via the M1 and that this route choice would continue in future. This led to the conclusion that the effect of the additional traffic on any routes beyond the identified study area would be minimal. However, the high proportion of trips using the M1 was questioned by the adjacent highway authorities, by other parties at the inquiry and by others through written representations. Although the basis for this trip distribution assumption was not in the TA, it was set out in Figure 6-1 of Mr Ojeil's proof and was therefore explored further at the inquiry.

15.112 Data on the origin of passengers was available from the CAA Passenger Survey Report[316]. This showed that 53.6% of all passengers come from the South-East of England and 32.8% come from the East of England. In response to queries about the routes that would be taken by those approaching the airport from the east, the Applicant provided additional information about alternative routes to the airport from parts of the East of England[317]. Using trip times estimated from Google Maps, routes via the strategic road network, rather than minor roads through Hertfordshire and Bedfordshire, were shown to be the quickest. Passengers from this area by road are therefore likely to choose to use the M1.

15.113 Approximately 30-40% of traffic to and from the airport relates to trips made by staff. The staff travel survey indicated that 30% of staff live less than 5km from the airport and only 10% commute more than 30km. This is broadly consistent with the Applicant's socio-economic witness who stated that about 50% of the people who work at the airport live in Luton [8.169] and another 17% live in Central Bedfordshire[318], both of which involve journeys from west of the airport. Many of these journeys are therefore relatively short and 67.3%[319] are undertaken by car. Some of these trips could use local roads rather than the M1. However, only a small proportion of them are likely to come from an easterly direction. Those choosing to use the local road network are unlikely to give rise to any significant change in flows, even if the total number of additional jobs was more than the assumption of 375 used in the TA.

15.114 Based on the above information the Panel concludes that, even if the assumption that 85% of car trips accessing the airport via the M1 proved to be optimistic, there is reasonable evidence that it would provide the best route choice for most car journeys by staff and passengers.

15.115 The existing performance of junctions in the study area was undertaken using Google Maps Traffic. This indicated where fast moving, slow moving or stationary traffic is currently encountered at peak times of the day. The results were presented as a series of diagrams[320] which indicated that the network is operating close to capacity with some queuing at peak periods. However, this is not primarily caused by traffic to and from the airport.[321]

[316] CD12.04, table 4.3a.
[317] INQ-80, figures 3-2, 3-3 and 3-4.
[318] APP-W2.1, para 6.22
[319] CD1.12, table 9.3.
[320] CD1.12, section 6: Figures 6.1-6.9.
[321] INQ-80, figures 4.10 and 4.11 show peak hour traffic flows through J12.

Distributing the additional 121 movements in the a.m. peak and the 93 in the p.m. peak across the network in the proportions shown in Figure 6-1 would have only a minimal effect on the performance of any of the junctions in the study area. This led the main parties to find it unnecessary to undertake more in-depth analysis of the impact of the proposal on junction performance. This is confirmed by the diagrams set out in INQ80 referred to above.

15.116 In our view the lack of information about the distribution of traffic and the absence of junction modelling, which were of concern to the adjacent highway authorities, were a shortcoming of the TA. Criticisms of the assessment could have been avoided if the adjacent highway authorities had been more fully engaged in understanding the implications of the proposals on the roads in their areas earlier. Nevertheless, the additional information provided by the Applicant at the inquiry has assured the Panel that the assessment was soundly based and robust.

15.117 We appreciate that the surrounding highway authorities and the public will have experienced times when the network fails to perform in the way described in the above analysis. LTP4 recognises that congestion currently occurs throughout Luton, particularly during morning and evening peak periods. It suggests that even relatively small incidents can quickly result in delays and congestion. Incidents on the M1 can bring many local roads to a standstill (as stated in the LTP[322]) as drivers seek alternative routes to minimise delays to their journeys. They may well divert to the A505, A1081 and B653 causing congestion elsewhere with consequential inconvenience for local people. However, it is not possible to factor such incidents or occasional events into the assessment which, in accordance with good practice, estimates the effects of a proposal on the day-to-day operation of the highway network during peak hours in a neutral month.

15.118 Taking all the above factors into consideration the Panel concludes that the effects of the additional traffic arising from the proposal would not result in significant adverse effects on the operation of the highway network during the average peak periods. However, as a major generator of traffic movements throughout the day and the year (especially between June and September), it is appropriate for the Applicant to continue encouraging increased use of public transport for passengers and staff and active travel options for staff. This is not only required by the APF but would also accord with LBC's ambitions of reducing congestion and encouraging increased use of more sustainable modes of travel, which are clearly set out in LTP4 and the Development Plan.

Delivery of access by sustainable modes

15.119 Conditions requiring a TP were imposed on both the 2014 and 2017 planning permissions. The targets and measures were an integral part of the requirement for the airport to mitigate its overall impacts on the transport network. These go beyond the operational requirements of the highway network at peak periods. The mitigation package did not only rely on highway and junction improvements but also required actions to encourage mode shift

[322] DC12.07, page 76.

by both passengers and staff to limit the demand for access by road. This change of behaviour was also needed to achieve wider environmental objectives and safeguard the amenities of the surrounding area. The LPA's planning witness confirmed this when he informed the inquiry that surface access considerations were one of the reasons for the imposition of the passenger cap imposed by condition 8.

15.120 The TP submitted with the application addressed the totality of surface access demand to the airport which would be assessed and monitored on an annual basis. It set out targets for 2024 that would apply with a passenger throughput of 19mppa. Following questioning at the inquiry the targets were updated and enhanced. It also provided targets for 2028. The revised TP[323] includes more stretching targets for both staff and passengers; with 35% of staff and 47% of passengers using sustainable modes of transport by 2024. This would be a 4% increase over and above that which was achieved in 2019 [8.76]. Whilst the Panel welcomes the setting of these targets, it is also necessary to consider how realistic it is that they could be achieved, in the timescales envisaged in this revised TP.

15.121 The revised TP included a provision that the Applicant could be subject to financial penalties from the LPA if targets were not achieved. Whilst the scale of such penalties was not precisely set out, the intention would be a proportionate response to any shortfall in the target with the aim of providing investment in appropriate alternative actions. In so doing, the Applicant sought to make it clear that any penalty would need to recognise that LLAOL can influence, but cannot directly control, the travel behaviour of passengers or staff.

15.122 It is acknowledged that LLAOL has been successful in achieving targets through the existing TP and ASAS. Data published by the CAA[324] relating to travel modes for passengers demonstrated that between 2016 and 2019 there had been a 13.6% increase in the use of public transport and a reduction in private car use of 10.8%. These are significant achievements with targets being exceeded. Staff travel has also changed with single occupancy car travel reduced by 8% between 2016 and 2019 and a corresponding increase in the use of public transport. However, active travel by staff has remained broadly the same and cycling accounted for less than 1% of journeys. Nevertheless, these changes demonstrated that changes in behaviour can be achieved if supported by an effective action plan.

15.123 The COVID-19 pandemic brought many uncertainties to passenger forecasts. However, passenger numbers are expected to recover, returning to 2019 levels during 2023 with 19mppa being reached, if permitted, by 2025. As explained in ESA4, the 2021 CAA passenger survey and the January 2022 staff travel survey showed a significant reversal in the downward trend in car use[325]. The pandemic has also reduced public transport use[326]. It is therefore likely to take both time and an effective action plan, supported by appropriate

[323] INQ-67.1 and INQ67.2 (revised TP with and without track changes)
[324] CD12.04.
[325] CD1.16, page 88, paragraph 8.2.6.
[326] CD1.16, page 88, paragraph 8.2.6

investment, to ensure that previous trends are restored and continue over time.

15.124 The targets and performance against the two main objectives of reducing non-EV car use and increasing use of sustainable modes in 2016, 2019 and 2022 are shown in Table 9 overleaf. The targets were not met in 2021/2, although these proportions apply to a reduced number of passengers[327], estimated to be 12.4mppa.

15.125 The revised TP included a target of achieving 47% of passengers accessing the airport by sustainable modes of travel by 2024 and maintaining that in 2028. This would appear to be an ambitious objective. In 2019, 7.74m passengers (43%) used such modes; but this dropped to 3.1m in 2021 when throughput was still well below pre-pandemic levels. A 47% share of 18mppa passengers would mean 8.46m using sustainable modes in 2024; with 19mppa this would increase to 8.93m. This would represent an increase of 1.19m passengers using sustainable transport overall[328].

Objective 1: Reducing non-electric car use				
	Passengers		Staff	
	Target	*Performance*	*Target*	*Performance*
2016	51%	50%	68%	69%
2019	49%	40%	66%	59%
2022	43%	**53%**	64%	**75%**
2024	40%		56%	
2028	39%		53%	
Objective 2: Increasing the use of sustainable modes				
	Passengers		Staff	
	Target	*Performance*	*Target*	*Performance*
2016	32%	32%	24%	24%
2019	34%	43%	26%	31%
2022	36%	**25%**	28%	**21%**
2024	47%		35%	
2028	47%		37%	

Table 9: Key Travel Plan targets and performance (missed targets shown in bold)[329]

15.126 If this could be achieved, it would effectively mean that the additional 1mppa sought in this application would not increase demand for access by road. This would reduce the risk of congestion and contribute to a reduction in emissions. To the extent that this would go further than targets associated with the extant permission, it would be a benefit of the scheme.

15.127 The revised TP set out a series of actions that would support the delivery of these targets. The Applicant would be taking the lead on many of these initiatives, all of which appear laudable. However, without the involvement and cooperation of others, particularly the operators of rail and bus services, and the airlines, it may be difficult to provide the incentives necessary to influence the travel choices of passengers and staff.

[327] APP-W2.1, table 6.1.
[328] INQ-67.1, page 39.
[329] Compiled from INQ-67.1 Table 6.1 and CD1.18 Table 8.4

15.128 The aim of the plan is to maintain the proportion of passengers accessing the airport by bus/coach whilst increasing the proportion using rail by 4%. The reduction in private non-EV car use would be modest and in the absence of a specific target for taxi/minicab use, it is reasonable to assume that it would remain at 16%, but with a proportion switching to EVs. The targets for staff would maintain the proportion of those walking to work and aim for small increases in the use of bus and rail. However, the target seeks to more than double the proportion of staff who choose to cycle to work.

15.129 Table 10 (below) sets out the performance in 2019 and the targets for 2024 and 2028 for passengers and staff for different modes of transport. It also summarises the proposed actions set out in the revised TP to achieve those targets.

15.130 It is therefore appropriate to consider the extent to which LLAOL can identify and take specific actions that would contribute towards the achievement of the above targets.

	Mode	**2019 actual**	**2024 target**	**2028 target**	**Proposed measures**
Passengers	Bus/Coach	22%	22%	22%	Promotion/information
	Rail	21%	24%	25%	Promotion/information
	Non-EV car	40%	40%	39%	EV charge points, price incentives
	Taxi/mini-cab	16%	n/a	n/a	Switch to EVs
	Other	1%			
Staff	Bus/Coach	16%	17%	18%	Staff discounts
	Rail	8%	10%	10%	Staff discounts
	Cycle	2%	3%	4%	Improved cycle facilities at the airport; lockers/showers/parking/ assisted bike purchase
	Walk	5%	5%	5%	Encouragement + signing/lighting
	SOV non-EV car	59%	56%	53%	
	Car share	8%	n/a	n/a	PTP for staff; parking discounts
	Other	2%			

Table 10: Travel plan performance, targets and measures[330]
The figures have been rounded to the nearest whole number

a) Passengers

15.131 The number of rail passengers in 2019 was 21% of 18m, i.e. some 3.8m users. This would have to rise to 4.75m to achieve the stated target of 25% with 19mppa. The Applicant refers to the improvements that DART will make [8.55 and 8.68]. It should reduce the journey time between London and the CTA at the airport. However, no analysis was provided to estimate the likely increase in rail use that could be attributed to DART. The extent to which it

[330] INQ-67.1, section 8

would contribute to the target for public transport use in the revised TP is therefore uncertain.

15.132 The CAA passenger survey indicated that of the 53.6% of passengers originating from the South-East of England, 72.7% came from Greater London. In 2019 the total number of passengers originating from London was estimated to be 6.7m[331]. The quality of rail links between London and the airport, combined with DART, suggests that it should be possible to increase the number of passengers from London who chose to come by rail, thereby helping to achieve a target approaching 4.75mppa. However, as the Applicant does not have direct means of encouraging or enforcing rail use, it is our view that to achieve this ambitious target, actions that go beyond promoting the service to passengers would be required.

15.133 As operator of the on-site car parks the Applicant may be able to monitor and manage their use as an effective means of encouraging passengers to switch from road to rail and/or bus. The CPMP included in the TA provided basic facts about the on-site car parks operated by the Applicant (a total of 9,055 spaces) and the charges applied at the gate. It stated that prices are adjusted to reflect demand and availability, with discounts of 5-80% if pre-booked.

15.134 However, the CPMP did not provide any information about occupancy of the car parks operated by the Applicant (nor those of third parties). Additional information provided to the inquiry[332] showed that for the months of June to September the average occupancy of the LLAOL operated car parks was 90% or above. This indicates that the car parks at the airport were operating with little or no spare capacity during the busiest times of the year. 19mppa equates to an average of 52,000 passengers/day at the airport. The CPMP suggests that the provision of less than 10,000 parking spaces on site will encourage public transport use. However, this was not supported by any further analysis to demonstrate how this would be achieved.

15.135 It is appreciated that in addition to the car parking provided by the Applicant, there are nearly 10,000 spaces operated by third parties[333]. In all the total number of spaces available to those who choose to drive has increased since 2019 from 15,321 to 18,745. Of all passengers who drive to the airport, 37% typically park with off-site operators. Other data[334] suggests that as parking charges have increased the number of passengers seeking to park at the airport has fallen from 28% in 2014 to 16% in 2019. On the other hand, during this period there has been a significant increase in 'drop-offs' which accounted for 45% of passengers in 2019 (including taxis).

15.136 All this serves to demonstrate that management of the car parking and its associated charges is complex and affects the choices that passengers make about how to access the airport. The attractiveness and the cost of public transport is likely to be only one element of those decisions. As the Application does not include any additional parking, managing the use of the

[331] CD12.04, table 6.10.
[332] INQ-80, section 6.2.
[333] INQ-80, section 6.1.
[334] CD8.26.

car parks effectively could play a significant role towards the achievement of the TP's target for rail use.

15.137 In closing submissions, the Applicant suggested that the CPMP would be part of an updated TP; this proposition is supported by the Panel. However, to do so effectively it would need to be more wide-ranging, including estimating additional parking demand arising from the proposal and considering how this could be managed either on-site or elsewhere. Alongside setting parking charges, appropriate incentives would be required to encourage passengers to choose rail or bus, without increasing the risk of additional traffic from drop-offs and/or vehicles being parked in residential areas, to the detriment of local amenity. There is an opportunity to address these matters in a comprehensive CPMP that is fully incorporated within an updated TP.

b) Staff

15.138 The proportion of staff who drove alone to the airport in 2019 was 59%[335]. This was, in part, a reflection of the amount of parking provided and the charges imposed. There are reduced charges for those who are willing to car share. The prices are intended to act as an incentive for staff to choose public transport. Various discounts for travelling by bus or train are on offer as part of the existing and proposed TP.

15.139 The existing TP measures of parking charges and discounts for public transport tickets for staff have proved effective[336]. Between 2016-2019 single occupancy car use declined, and bus use increased. The pandemic caused a setback in these trends due to the reluctance of staff to use public transport and consequential increased car use[337]. The Applicant will need to engage effectively with staff throughout the airport to actively promote bus, rail and active travel as preferable means of getting to work. This will be particularly important as passenger numbers recover, jobs are reinstated and, if the scheme is permitted, additional jobs are created.

15.140 A significant proportion of the workforce live in Luton and/or within 5km of the airport. As this is within a reasonable cycling distance, the actions set out in Section 10 of the TP to encourage cycling should be prioritised. Incentives to purchase bikes (including E-bikes) and provision of facilities to encourage their use would help to make cycling a more attractive option. The inclusion of such improvements into the short-term action plan in the revised TP is welcomed by the Panel. There may also be opportunities for off-site improvements to cycle routes which could form part of a package of measures to increase cycle use by staff.

15.141 Actions to promote and encourage take up of the staff discounts on public transport would continue to be appropriate. Similarly, activities to secure increased participation in car sharing would be welcome, even if they do not deliver significant modal shift.

[335] CD1.12, section 9.2.
[336] CD1.13, section 5: tables 5.1, 5.2, 5.3 and 5.4.
[337] CD1.16, paras 8.2.5, 8.2.6 and Table 8.4.

Monitoring and review

15.142 The Applicant acknowledges primary responsibility for delivering and funding the measures set out in Section 8 of the revised TP. It proposes a set of challenging targets, which the Panel support. However, many respondents to the consultation on the Application considered the targets in the submitted TP to be aspirational and expressed scepticism about the likelihood of them being achieved. Achieving the level of modal shift the Applicant is advocating would be challenging. Nevertheless, it is this challenge that an updated TP (incorporating a revised CPMP) should address in collaboration with the LPA, public transport operators and the airlines, as set out earlier (para 15.137).

15.143 The revised TP set out the procedures for monitoring progress against the targets and actions, including collecting data and providing reports. Regular short-term monitoring should ensure that any significant under-performance is identified early so that remedial action can be considered. The revised TP makes no reference to data about usage of car parks or rail and bus operators. There is therefore scope to work with third party providers to enhance understanding of travel behaviours and choice. This could increase effectiveness of existing measures and suggest additional ones for future consideration.

15.144 At present the revised TP focuses on where it would be inappropriate to impose penalties on the Applicant for failure to achieve targets. However, in the Panel's view there needs to be accountability for delivering the agreed targets, since these are necessary to make the scheme acceptable. Therefore, if targets are not met, there should be a clear mechanism for securing additional resources to deliver alternative measures to promote and increase public transport use and active travel.

15.145 Schedule 2 of the planning agreement provides for an update to the TP to be submitted for approval prior to the passenger throughput exceeding 18mppa if the Secretaries of State consider this to be necessary. The preparation of an updated TP would ensure that opportunities to maximise the use of public transport/active travel and mitigate the increased emissions that would arise from the additional demand for surface access by road are properly secured.

Findings on transport

15.146 The Panel concludes that the proposal would not give rise to significant adverse effects on the operation of the highway network during average peak periods.

15.147 The Panel is also satisfied that the targets set out in the revised TP are an appropriate means of ensuring that the growth in passenger numbers could be accommodated on the surrounding transport network throughout the year. These targets would align with the Government's requirements, set out in the APF, that all proposals for airport development must be accompanied by a clear surface access strategy which aims to increase the use of public transport by passengers and minimise congestion and other local impacts arising from development at airports.

15.148 On the other hand, the measures and action plan within the revised TP do not provide the Panel with sufficient confidence that the targets would be

achieved. However, the planning obligation has provided a mechanism whereby the TP could be updated (above, para 15.145) and agreed by the LPA.

15.149 On this basis the Panel concludes that the proposal would comply with criterion viii) of Policy LLP6 which requires proposals for airport expansion to incorporate sustainable transport and surface access measure that, in particular, minimise use of the private car, maximise the use of sustainable transport modes and seek to meet modal shift targets, all in accordance with the London Luton ASAS. Similarly, it would accord with the objectives and requirements of paragraphs 110-113 of NPPF. Subject to an updated TP being approved by the LPA, the proposal would not have a harmful effect on sustainable transport objectives and transport infrastructure. The effects on transport would therefore be neutral in the planning balance.

Air quality

15.150 Air quality in the UK is generally improving as a result of controls on emissions sources, such as tighter standards in newer road vehicles [8.49 and 8.59]. Nevertheless, poor air quality is a significant environmental risk which impacts on human health and the natural environment. It is therefore a matter which requires attention when considering development proposals.

15.151 The legislative, regulatory and policy context for assessment of air quality was set out in ESA2. AQSs, which are set nationally, are concentrations of pollutants which should not be exceeded [8.50]. They are the key to local authorities' development of strategies to ensure compliance with AQSs and AQOs. The AQSs and AQOs of greatest importance with respect to human health are for NO_2, PM_{10}, and $PM_{2.5}$. These are commonly associated with vehicle emissions. For ecological receptors the AQOs and AQSs relate to NO_x, nutrient nitrogen and acid deposition. [8.49].

15.152 Aircraft once in flight have a limited impact on ground-level pollutant concentrations. Off-airport concentrations are dominated by emissions being blown horizontally, rather than dispersing downwards from overhead aircraft[338]. Emissions from road traffic are therefore a major determinant of pollutant concentrations at most sensitive receptors around airports; as is the case at Luton.

15.153 ESA2 assessed the effects of the proposal on all these pollutants in respect of human health and ecological receptors. It was undertaken following established guidance of air quality assessments. The increase in the passenger cap to 19mppa would generate additional surface access movements and could therefore adversely affect air quality. Future scenarios were assessed to represent the position with and without the scheme. These were based on estimates of future traffic flows assuming no change in the proportions of private and public transport used for surface access to the airport. The assessment was updated in ESA4 solely to take account of the downward trend of background pollutants anticipated between 2024 and 2025.

[338] CD1.16, para 4.3.1.

15.154 The Applicant and LPA agreed that for the purposes of assessing the impact of the proposal on air quality on human health, it was necessary to consider the principal routes used by airport-related traffic. These comprise the main route between the M1 and the airport (A1081 and A505), and selected roads within a few kilometres of the site. The M1 between junctions 9 and 11A was also included as these roads have relevant receptors close to them. They could therefore be expected to be the most sensitive to changes in airport-related traffic flows[339].

15.155 Luton has 3 AQMAs in the borough, all of which relate to road traffic emissions in areas where the AQS for NO_2 of 40 µg/m^3 has been exceeded. Two of these areas are close to Junction 11 of the M1; the other is in the town centre [9.24]. The Council's monitoring programme demonstrates that annual mean concentrations of NO_2 have been falling over time. The AQO was met at all non-roadside locations outside the airport and most locations within it. There were no exceedances of the AQS for PM_{10} at any of the automatic sites. Roadside monitoring of $PM_{2.5}$ were in the range 8.3 to 10 µg/m^3; those within the airport were slightly higher at 9.6 to 11.6 µg/m^3.

15.156 In respect of human health, the modelling results set out in ESA2[340] gave the maximum increase of NO_2 at any of the receptors as 0.7µg/m^3. The maximum concentration was predicted to be 22µg/m^3 at a receptor close to junction 11 on the M1. Greatest concentrations of PM_{10} and $PM_{2.5}$ were predicted to be 20µg/m^3 and 13µg/m^3 respectively. These are both significantly below the current AQOs[341].

15.157 The assessment also considered the effect on sensitive ecological receptors in accordance with the criteria specified by the EA. The maximum predicted contributions from the airport expansion to annual mean NO_x concentrations was 2.5 µg/m^3; to annual nitrogen deposition was 0.37 KgN/ha and to acid deposition was 0.3 kq/ha/year. These represent 8.3%, 3.7% and 1.4% of the critical loads as defined by the EA's criteria for ecological receptors and were therefore considered to be not significant as impacts would be negligible. A resident raised concerns about nitrogen deposition in his woodland near Ayot St Lawrence. However, no evidence was presented to demonstrate that this related directly to overflying aircraft and in any event the wood lies outside the study area identified by the EA's criteria[342].

15.158 The revisions in ESA4 took account of the expected marginal reductions in PM emissions and an 11% reduction in NO_x emissions. NO_2 concentrations are also expected to fall by 0.5µg/m^3 per year. Background concentrations of pollutants are therefore likely to be lower in 2025 than 2024. ESA2 concluded that the overall effect of the proposal on human health and ecological receptors was not significant as all impacts were negligible, as defined by the IAQM/EPUK[343]. These conclusions are considered to remain valid within ESA4.

15.159 The assessment undertaken by the Applicant was scrutinised by the Council officers with responsibility for air quality. They were satisfied that it had been

[339] CD1.09, Study area - paragraph 6.4.2.
[340] CD1.09, para 6.10.14.
[341] CD1.09, para 6.10.20.
[342] CD1.10, appendix 6C10, Figure 6C.4.
[343] CD1:16, page 20 and table 4.5.

carried out in accordance with good practice and that its results were robust. This was reflected in the JSAQ. The Panel sought further information and clarification about $PM_{2.5}$ at the inquiry, as the observed levels were closest to the target that was expected to be adopted in the future of 10 µg/m^3. The Applicant's witness acknowledged that smaller particles are more harmful as they can penetrate further into the lungs. However, they are also the most difficult to measure accurately. He went on to explain that the greatest improvements to air quality would be delivered through reducing the use of diesel. This would not only reduce carbon emissions but would also bring about reductions in NO_2 and other pollutants including PM_{10} and $PM_{2.5}$.

15.160 Concerns about pollution and air quality were raised by members of the public in their written and oral representations to the inquiry. The public expressed disquiet about the consequences of problems on the M1 leading to traffic being displaced onto other, less suitable routes. Additional congestion could give rise to increased concentrations of pollutants elsewhere on the network, the consequences of which would not necessarily be confined to peak periods. However, no specific or technical evidence was presented to set out these effects in detail. Neither was the extent of the study area, nor the findings set out in the ES challenged. On the other hand, none of the monitoring stations within the study area had levels of pollutants that were sufficiently close to the AQS to be a cause for concern arising from short term increases in pollution[344]. Furthermore, no information or data was provided relating to monitoring stations further afield to indicate which, if any other areas, would be susceptible to unacceptable levels of any specific pollutant.

15.161 The Panel is satisfied that analysis of air quality impacts has been thorough, setting out precise results for the named pollutants based on the data inputs. Given the assumption that there would be no change in modal split, it is reasonable to assume that the outcome provides a conservative assessment of the implications of the proposal. Furthermore, it was contended that there are several initiatives, some of which are directly related to this proposal, which may be expected to deliver improvements to air quality. Firstly, any reduction in vehicle emissions arising from use of DART have not been assessed or included in the analysis. Secondly, the revised TP would require a 4% increase in the use of sustainable transport modes by all 19mppa and thirdly, the CRS would incorporate measures that may reduce other sources of air pollution. There was no specific evidence to quantify the effects of these measures either individually or collectively, and this limits the weight that can be attributed to any beneficial effects they might achieve. However, although the precise outcomes of these initiatives are uncertain, given the negligible changes in pollution from the proposal, they can be expected to provide appropriate mitigation.

15.162 Taking all the above factors into account, the Panel concludes that the application would not cause any significant adverse effect on air quality. In this respect the proposal would comply with Policy LLP38 of the Local Plan which requires the impacts of development on air quality to be evidenced and, where adverse effects are identified, appropriate mitigation provided.

[344] CD1.19, tables 6.4, 6.5, 6.6, 6,7 and 6.8.

15.163 The proposal would also accord with the NPPF's objective of preventing unacceptable air pollution. However, given the observed downward trend in airborne pollution, in the absence of the scheme, local air quality would be likely to continue to improve through greater use of electric vehicles and stricter controls of vehicle emissions. By contrast, the proposal would increase pollutants, albeit marginally, thereby slowing the trajectory of improvement in air quality. It would therefore be at odds with the NPPF's aim that development, where possible, should help to improve local environmental conditions such as air quality (paragraphs 174e and 186).

15.164 Measures in an updated TP which deliver a reduction in the demand for vehicular movements could contribute to reducing air pollutants. However, the extent to which that would permit levels of those pollutants to decline faster than without the scheme has not been quantified and is therefore uncertain. The proposal would give rise to negligible changes in pollution, but these would be counter to the reductions that would otherwise be taking place. This leads the Panel to conclude that, notwithstanding compliance with the Development Plan, the proposal would cause very limited harm and would not fully accord with the objectives of the NPPF to improve air quality where possible. This is a material consideration that carries limited weight against the scheme.

Socio-economic effects

Socio-economic context

15.165 Figures and comparatives demonstrating the socio-economic situation of Luton are not in dispute between the parties who appeared at the inquiry. It is clear that with an unemployment rate of 6.1%, the Borough is experiencing levels of unemployment that are well above the regional and national average. Parts of the Borough are in the top 10-30% of most deprived areas in the country. [8.165, 8.166, 9.48].

15.166 The airport is a major source of employment in the Borough and beyond, with the Applicant's figures showing that almost 12% of jobs in Luton are associated with LLA. According to the LPA's figures, with 10,900 directly attributable to the airport's operation, 8,500 in the supply chain and a further 8,800 arising from employee spending [8.164, 8.166, 9.47, 9.50].

15.167 Aviation and the airport are identified by LBC[345] as one of Luton's two key business sectors, along with Automotive, Engineering and Manufacturing. The aviation sector was seriously negatively affected by the COVID-19 pandemic: this was reflected in the comparatively high levels of furloughed workers[346] and unemployment for the Borough during the pandemic [8.174, 9.48].

Policy and strategy context

15.168 The NPPF[347] requires that significant weight is placed on the need to support economic growth, recognising specific locational requirements of different sectors [8.156].

[345] CD16.15.
[346] CD5.08.
[347] Paragraphs 81 and 83.

15.169 The Government recognises that the aviation sector has been at the heart of the UK's economic success and that a thriving sector is evidence of economic confidence, increased trade and tourism and business investment. It also considers that airports have an important role as regional hubs for growth and rebalancing the economy[348]. Aviation benefits the UK economy through its direct contribution to GDP and employment, and by facilitating trade and investment, manufacturing supply chains, skills development and tourism, as recognised by APF [8.159, 9.11]. The ANPS supports the economic benefits of aviation development in similar terms [8.160, 9.12]. Whilst providing caveats, national policy supports growth in the aviation sector for its economic benefits [8.163].

15.170 JZS sees aviation continuing to deliver economic benefits in looking at solutions to reduce emissions. FTTF sees aviation playing a key role in economic recovery from the pandemic and supports growth in airport capacity where it is justified [8.161, 8.162, 9.12, 9.51].

15.171 The LLP recognises the importance of LLA through its Strategic Objective 1 which seeks to retain and enhance Luton's important sub-regional role as a place for economic growth and support the airport's sustainable growth [8.8, 8.155, 9.15]. Policy LLP6 sets out an approach to safeguard Luton's key sub-regional economic contribution to jobs and wealth creation, within an environment and transport framework [8.8, 9.16].

15.172 Part B of Policy LLP6 deals with the expansion of LLA, requires proposals to be considered taking account of the wider sub-regional impact of LLA and sets out a range of criteria which need to be met [8.8, 9.16]. None of the criteria require any specific economic outputs for a scheme to be considered acceptable. To an extent the economic benefits of growth are inherent in the LLP's explicit and implicit support for airport growth, caveated by ensuring that identified adverse effects are mitigated. Policy LLP13 supports proposals that deliver sustainable economic growth and prosperity, serving the needs of Luton and the sub-region. Neither policy requires an economic appraisal nor, should one be provided, that it should follow a specified methodology [9.57].

15.173 LBC's Covid-19 Recovery Plan[349] notes the disproportionate economic effects Luton experienced as a result of the pandemic. It recognises the airport as a key sector where growth would be driven, maximising benefits to jobs and the economy. Although that had short term scope, the proposal would support its approach [8.173, 13.24].

15.174 The proposal would support the principles of *Build Back Better*[350] which, amongst other aims, recognised infrastructure as being crucial for economic growth and in how it interconnects people, businesses and markets with consequent economic benefits [8.157]. Bearing in mind Luton's depressed economic and social situation, the proposal would meet the Levelling Up White Paper's[351] aims of boosting productivity, pay, jobs and living standards in places where they are lagging. It would contribute to the White Paper's

[348] CD10.14.
[349] CD16.15.
[350] CD17.03.
[351] CD16.16.

objective of spreading opportunities especially in areas where local economies are performing poorly [8.8, 8.9, 8.148, 9.51, 13.28].

Economic effects

15.175 Estimates of job creation arising from the proposal have varied during its planning and consideration. This has reduced the confidence placed in the figures by some of the parties. The TA accompanying the application based the traffic forecasts on an estimate of 375 additional staff at the airport in 2024 with the proposal compared with the figure of 11,700 employed in 2019[352] (itself differing from the LPA's figure of 10,900 that year [9.47]).

15.176 On the other hand, the Applicant's socio-economic witness estimated between 565 and 660 additional jobs in 2024. He predicted jobs on the basis of a proportion of workers per million passengers. Based on pre-pandemic passenger growth this equated to 660 per million passengers in 2024 rising to a peak of 858 in 2025 [8.167]. However, acknowledging that the ratio of jobs per passenger has been declining, a lower estimate of 565 jobs per million passengers was put forward leading to a peak of 735 additional jobs above the baseline in 2025, with over 900 jobs when including indirect and induced employment effects associated with airport operations [8.171].

15.177 Establishing a definitive figure for the net increase in the number of jobs that would be brought about by the proposal is not straightforward, particularly with a background of ongoing recovery from the COVID-19 pandemic and other variables which affect forecasting. Although there remains a dispute about the number of new jobs that would result, there was agreement between the main parties expressing a view that there would be a net increase of at least several hundred new jobs [8.167, 8.172, 9.49, 12.8, 12.21, 13.12].

15.178 Perhaps understandably, the Harpenden Society's analysis was carried out on the basis of published information. However, this was without the more comprehensive ongoing dialogues that the Applicant has had with airline operators, concessions and other employment generating functions of the airport [12.8]. In the absence of this insight, this fell short of a convincing demonstration that new jobs would be as low as they predicted.

15.179 LADACAN's estimate of job numbers[353] showed a growing gap between the ratio of jobs per passenger over time, with jobs not increasing at the same rate. Nevertheless, this showed a positive relationship and that employment had previously increased with passenger growth. They did not dispute that there would be some increase in jobs.

15.180 There was no substantive evidence to suggest that the type of jobs or positions that would be created would mean that their economic benefits would be unimportant [8.185]. It may well be that new jobs at entry level would be beneficial to those who are currently unemployed and live in the local area. Support for such people would also be provided by the Employment Skills and Recruitment Plan that would be secured by a planning obligation [15.27].

[352] CD1.12, tables 10.3 and 10.6.
[353] INQ-33.

15.181 As the effect on direct jobs would be an estimate there would be a degree of uncertainty as to their exact benefit. However, given their knowledge of the underlying data supporting such estimates, the Applicant's estimates would appear to be the more robust. Nevertheless, even if the actual number of jobs created were in line with the lower numbers suggested by those opposing the scheme, several hundred additional jobs would result [8.172]. That would be a considerable benefit.

15.182 It is an important consideration that any job creation would be within the existing employment context in Luton, and the wider benefits through increased GVA, even if passenger numbers were lower than expected. In addition there would be the knock-on effects of additional passengers spend in hotels, retail and the local economy, which would also make a notable contribution to the economic vitality of the area [8.169, 8.190, 9.49, 12.8].

Effects on tourism

15.183 National policy, in particular APF, recognises the importance of overseas travel not just for business but so that people can go on holiday and see family and friends with the important wellbeing and quality of life, and consequently socio-economic, benefits [8.192]. LLA supports these trips. There was no substantive evidence to suggest that were the airport not to expand that those additional million passengers would neither not decide to travel from another airport nor choose a UK destination for their holiday instead. Furthermore, this would be counter to national policy [8.192, 8.193]. The proposal would be unlikely to constrain domestic tourism, and the Panel notes that the Panel in the Bristol airport decision made similar findings in this regard [8.192].

Displacement

15.184 There is no convincing evidence that any harmful degree of displacement in the form of passengers switching custom from another airport to fly from Luton would occur [8.194, 10.23]. Decisions about which airport to fly from will be complex including choice of destination, flight availability, price, convenience of location and times of flights, and a host of other factors. It cannot be assumed that the proposal would necessarily result in passengers choosing Luton over existing services elsewhere. In any event, national policy recognises that airport capacity in the south-east of England is constrained and encourages the best use of existing runways [8.195, 9.52]. Further the emphasis of *Build Back Better* and the Government's Levelling Up agenda along with the approach in the LLP is for investment and growth locally [8.195].

15.185 Whilst the potential exists that some displacement could occur with customers deciding to spend in other sectors rather than flights should additional capacity not be available at the airport, this was not supported by any persuasive evidence [8.195]. Any potential for displacement of passengers or spending does not weigh against the proposal. The Panel notes that the Bristol Airport appeal decision found it an unusual approach to favour economic development at airports elsewhere.

Journal articles

15.186 Reference to various academic articles presented on local effects of aviation and aviation growth were shown through cross examination of witnesses to be somewhat selective, incomplete and likely to be geographically exclusive [8.191]. They did not present a persuasive case that economic benefits of the scheme should be downplayed.

Significance of economic effects

15.187 The Panel accepts that there can be a difference in the term 'significance' used in the context of an EIA and its more general use. That socio-economic effects, both positive and negative, were scoped out of the ES addenda does not mean that there would not be any, but that they were not of significance in EIA terms. Based on the estimated job creation and GVA figures this is considered appropriate, but socio-economic matters are nevertheless an important consideration in considering the proposal [8.186, 9.49, 10.23].

Economic assessment, WebTAG and Green Book methodology and approach

15.188 The LLP does not instruct applicants to use any particular form of assessment or appraisal methodology of economic effects or benefits. A more comprehensive economic assessment may have reduced the uncertainty about the actual scale of beneficial effects and more conclusively confirmed wider socio-economic effects, including those beyond Luton [10.23]. This would have reduced reliance on more generalised assumptions of economic effects. Whilst some parties may have certainty of economic benefits this is no substitute for a clearly explained analysis, methodology and findings including being candid about where there may be uncertainty given the nature of projected outputs. However, in this case, bearing in mind the considerable policy support for airport growth as a driver for economic benefits, and in the absence of compelling counter evidence, this does not weigh heavily against the proposal.

15.189 Having heard the views of the parties regarding WebTAG and Green Book approach to economic assessment, it is clear to the Panel that they are intended primarily for central government interventions. They are tools used to justify the use of public investment in particular projects. Any financial relationship between the LBC and the operation of the airport through its ownership of the airport itself cannot reasonably be considered to be a government policy intervention in the context of those appraisal methodologies. Furthermore, this proposal is not investing in any infrastructure and any costs incurred from its implementation would come entirely from the private sector. In terms of aviation appraisals, whilst it does not rule out non-government interventions, the TAG guidance[354] expects the main user to be the Department for Transport, and that planning decisions will be considered in the normal way [8.176 - 8.184, 10.23].

15.190 Furthermore, the Panel note the findings of the Inspectors in the Bristol Airport decision that in that case the absence of a WebTAG assessment did not weigh significantly against that proposed development and that there is

[354] CD16.1.

no evidence that a WebTAG or similar methodology was used to appraise other recent private sector airport expansion proposals. The absence of an appraisal following this type of methodology does not therefore, weigh against the proposal.

15.191 For the purposes of this report, the social effects of noise and climate change have been considered as part of those sections [10.23].

Overdependence on LLA

15.192 It is clear that LLA is very important to the economy of Luton and surrounding communities. This was demonstrated to an extent during the pandemic in terms of the number of furloughed workers and employment levels. Whilst a broad, resilient and robust local economy must be the ambition of LBC and businesses, it would be a perverse and naïve approach to restrict investment at the airport in the expectation that other sectors would be able to 'fill the gap'. Indeed, it could be that the opposite might occur through a loss in confidence that could arise from a perceived lack of investment in the airport and local economy, were the airport not to expand in these circumstances [10.24].

15.193 The financial relationship between the Council and the Airport are outside the scope of this report on a planning application under s73 of the TCPA. Therefore, considerations about the extent to which LBC itself may be dependent on the airport for economic support are not material in this case [10.19, 10.24].

Economic disbenefits of refusal

15.194 There is the potential that should the proposed expansion not occur, this may affect the number of aircraft movements that can take place in order to comply with the noise contours condition currently in force. The Applicant considers this would be likely to require the removal of slots. Were this to occur and result in a reduction of aircraft based at Luton due to airlines deciding to relocate aircraft to a different airport, this could have an effect on crew, maintenance and similar jobs [8.200].

15.195 However, there is little substantive or quantified evidence of what the extent and impact of such an effect would be. Nor is it certain in which way airlines might react to a reduction in slots, with moving rotations or longer routes being a possible response but ones less likely to have direct or indirect jobs impact. The severity or otherwise of such potential disbenefits would depend on a number of variables outside the Applicant's control.

15.196 Furthermore, it would appear that reducing slots, as opposed to permitting new ones, would not be straightforward bearing in mind that the Applicant advised that there is no framework that allows them to remove slots [10.12]. Given the degree of uncertainty of what the actual effects might be, such concerns about the socio-economic effects of not granting permission cannot carry any significant weight in support of the proposal.

Findings on socio-economics

15.197 Some of the assessments of economic effects made by the LPA in their report and asserted by the Applicant were of a generalised nature. Furthermore, the

Applicant's figures for new direct job were inconsistent across different documents and varied considerably in number and the timescales in which they were anticipated to be achieved, ranging from under 400 to over 800 or more. Nevertheless, it is clear that there would be a direct relationship between an increase in passenger numbers and increases in both jobs and GVA.

15.198 Even if this were at the lower end of parties' estimates this would remain a benefit of the scheme. Considered against the socio-economic background of Luton and in particular its levels of unemployment, and the significant weight the NPPF places on the need to support economic growth, even a relatively modest increase compared to that likely to be sustained or recovered under the extant permission would carry considerable weight in support of the proposal.

15.199 Local and national policy assumes that airport expansion will have economic benefits and indeed supports it for that reason. The proposal would generate economic benefits through additional employment, locally and further afield, and contributions to GVA. To a lesser degree, and somewhat more difficult to measure, the expansion proposed would be an indication of confidence in LLA and of Luton as a place to invest.

15.200 Although the numbers of jobs that would be likely to be actually realised may not be as high as some estimates made by the Applicant, given the levels of unemployment and deprivation locally even relatively modest jobs growth would have a particularly important positive economic impact. This would therefore be supported by national and local policy, and in particular the proposal would accord with LLP Policies LLP6 and LLP13 on this issue. The socio-economic effects would be positive and carry considerable weight in favour of the proposal.

The Development Plan and other relevant policies

The Development Plan

15.201 The only Development Plan policies brought to the Panel's attention are contained within the Luton Local Plan. Of these, the policy which is of most importance for determining the application is Policy LLP6 – London Luton Airport Strategic Allocation, and Part B sets out a series of criteria concerning airport expansion. The proposal is clearly related to airport use of the development (being the alterations and extensions originally permitted in 2014 [3.2]), and criterion (i) is satisfied. Criterion (ii) requires that proposals contribute to the achievement of national aviation policies, and we have found that this would be the case, since additional emissions due to the increase in flights from Luton would not have a material impact on the Government's ability to meet its Carbon Budgets and climate change targets (above, para 15.96). The proposal is also in accord with the Airport Masterplan, which was only adopted last year and proposes a throughput of 19mppa, making more efficient use of the existing terminal building [6.12].

15.202 Because of a higher level of emissions compared to the without proposal scenario there would be limited harm in respect of climate change. We have also found very limited harm in respect of air quality, since the proposal would increase pollutants, albeit marginally, thereby slowing the trajectory of

improvement in air quality. Moderate harm would arise due to increases in noise levels and consequent disturbance. These matters have all been fully assessed as required by criterion (iv). Some dwellings would be brought up to the SOAEL threshold for noise, but an enhanced insulation scheme would provide a proportionate response. Appropriate forms of mitigation have been identified for adverse effects, and, despite certain negative aspects, the requirements of criterion (iv) would be met.

15.203 We have already found that the proposal complies with criteria (iv-vi) relating to noise in Part B of Policy LLP6 (above, paras 15.60 & 15.61). We would, however, draw attention to the third requirement in criterion (v) which expects proposals to: *…otherwise cause excessive noise including ground noise at any time of the day or night…* Taken at face value that form of words is inconsistent with requirements elsewhere in the policy to limit noise impact. It is not, however, a matter of consequence in this case, since the three requirements of criterion (v) are presented in the alternative, and the proposal would comply with the first and second of these.

15.204 Over time, the proposal would result in a diminution and betterment of the effects of aircraft noise. The net change in contour area limits compared with the 2017 permission would, though, only be a reduction of 0.1km^2 during the day-time. At night the 48dB(A) contour would simply be limited by 2031 to the size currently permitted. Whilst the quota count system and the imperative of maximising efficiency are expected to encourage fleet modernisation with quieter aircraft, the rate at which that would be achieved is within the airlines', and not the Applicant's, control. Future betterment of the effects of aircraft operations cannot be secured beyond the controls included in the suggested conditions and the planning obligations. Whilst some improvement would be achieved by 2031, the Panel does not consider that this could be described as significant, as sought by criterion (vii).

15.205 Subject to the approval of an updated TP, we have found that the proposal would comply with criterion (viii) since it would incorporate sustainable transport and surface access measures that would minimise use of the private car, maximise the use of sustainable transport modes and seek to meet modal shift targets, all in accordance with the London Luton ASAS (above, paras 15.147 & 15.149). Highway improvements have already been carried out under the original permission for the extensions and alterations to the airport, and, given that the additional traffic arising from the proposal would not result in significant adverse effects on the highway network during the average peak periods (above, para 15.118), no further improvements are required and criterion (ix) would be satisfied.

15.206 The proposal would generate economic benefits through additional employment, locally and further afield, and contributions to GVA. Growth at the airport would be well-located to assist in addressing the relatively high levels of unemployment and deprivation in Luton, and it would also contribute to supporting a strong local community. As such, the proposal would be consistent with Policy LLP13 of the Local Plan, which, as part of an economic strategy, supports applications which would deliver sustainable economic growth and prosperity to serve the needs of Luton and the wider sub-region.

15.207 Although the Chilterns AONB is close to Luton, increases in noise there from additional flights to and from the airport are expected to be imperceptible, and an increase in noise above LOAEL would be both limited and temporary. We are satisfied that the proposal would protect the character and setting of this nationally important landscape, consistent with Policy LLP29.

15.208 The airport is a significant generator of vehicular traffic. Whilst additional movements would occur with the proposed increase in passenger numbers, the evidence before us indicates that there would be no significant adverse effects on the operation of the highway network during average peak periods in October. The revised TP includes targets to encourage the greater use of sustainable means of transport, and, importantly, the relevant planning obligation includes a mechanism to require the approval of an updated TP before the present cap of 18mppa is exceeded. With this safeguard, the proposal would be consistent with part D of Policy LLP31, which is concerned to ensure that there is capacity at strategically important junctions and continued enhancement of sustainable modes of transport via the ASAS.

15.209 Policy LLP37 is concerned with climate change, carbon and waste reduction, and sustainable energy. Measures brought forward through an updated TP and the CRS would provide a benefit across all airport operations, and emissions would reduce over time. Although the proposal would produce a higher level of emissions than if the airport continued to operate under the 2017 suite of conditions, it would contribute towards mitigation and adaptation to climate change, and it would align with Policy LLP37 in this respect. Insofar as air quality is concerned, there would no significant adverse effect and, as there is a reasonable expectation of appropriate mitigation, the proposal would not conflict with Policy LLP38.

15.210 In addition to the policies specifically referred to above, several others have been identified as relevant by the parties, and are referred to in the LPA's report on the planning application and other documents. There is nothing before us to indicate any conflict with these policies.

15.211 The proposal would be consistent with the most relevant policies of the Local Plan, in particular Policy LLP6. We conclude that the proposed development would comply with the Development Plan considered as a whole.

Other relevant policies

The NPPF

15.212 The matters on which the Secretaries of State particularly wish to be informed refer to Chapters 14 and 15 of the NPPF. Chapter 14 includes policies on climate change, flooding and coastal change: given that no operational development is involved and the inland location of Luton, it is policies concerning climate change that are of relevance in this part of the NPPF. Several of these policies are also most applicable to proposals for operational development, which is not involved in this proposal.

15.213 Paragraph 152 expects the planning system to support the transition to a low carbon future in a changing climate, and paragraph 154 makes clear that new development should be planned for in ways that can help to reduce GHG emissions. Although identified as not significant in EIA terms, the proposal

would result in an increase in emissions compared to the *without proposal* scenario (above, para 15.97). Measures to be brought forward through the updated TP and the CRS have the potential to provide benefits for the airport as a whole, but this does not equate to the proposal itself amounting to a positive move of supporting the transition to a low carbon future.

15.214 Chapter 15 of the NPPF is concerned with conserving and enhancing the natural environment: policies referring to AONBs, noise and air quality are relevant. Paragraph 176 explains that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs. The proposal would have no physical effect upon the Chilterns AONB. There would be some increase in overflying, but the additional noise would be limited, and would not detract from the character and setting of the AONB.

15.215 Turning to noise, we have found that the proposal would generate certain increases in noise levels, but it would also include appropriate mitigation for both residential and non-residential receptors (above, para 15.60). Accordingly, it would comply with paragraph 185(a). There would be no significant adverse effect on air quality, and consequently no unacceptable levels of air pollution (above, para 15.162). However, it would not specifically contribute to the improvement of local air quality, and would not, therefore, fully align with paragraph 174(e).

15.216 Paragraph 81 of the NPPF makes clear that planning decisions should help to create the conditions in which businesses can invest, expand and adapt. The proposal would be consistent with this provision, involving further development of the airport, with the benefits of additional employment, both at the airport and in Luton and the wider area, and contributions to GVA.

15.217 Insofar as transport is concerned, the proposal would not result in a severe residual cumulative effect on the road network (above, para 15.146). Through the updated TP and the availability of the DART, appropriate opportunities to promote sustainable transport modes for travel to and from the airport would be available. The proposal would be consistent with paragraphs 110 and 111 of the NPPF.

15.218 The proposal would not fully align with policies in the NPPF which seek to take a proactive approach to mitigating and adapting to climate change and securing improvements to air quality. Otherwise, we find that the proposal would be consistent with relevant policies in the NPPF, and that to this extent it would reflect its economic, social and environmental objectives.

PPG Noise

15.219 Paragraph 30-010 of PPG provides general guidance on addressing the adverse effects of noise sources, and paragraph 30-013 refers to mitigating the environmental impacts of airport expansion. Measures to address the effects of noise would be secured by planning obligations, and conditions are also suggested, in line with PPG.

National aviation policies

15.220 There is recognition in national aviation policies of the benefits in connectivity and to the economy of the aviation sector, and support for making better use of existing runways [6.5-6.8], to which the proposal would contribute. Both

APF and MBU refers to concerns about local environmental impacts. The effects of additional noise in this case would be limited and a package of mitigation measures is proposed. Insofar as carbon emissions are concerned, MBU is clear that this is a matter which is appropriately considered at national level. The level of emissions arising from the increase in flights from Luton would not have a material impact on the Government's ability to meet its Carbon Budgets and climate change targets (above, para 15.96), and the proposal would not conflict with the vision to move towards decarbonising aviation in the JZS.

15.221 Moreover, it is acknowledged that measures in the updated TP and CRS have the potential to provide beneficial effects in respect of the whole airport. Modernisation of the fleet, which would be associated with the proposal, in particular the quota system in the noise management plan (above, para 15.52), would contribute to the delivery of quieter and cleaner flights, as sought in FTTF. The proposal to increase passenger numbers at Luton Airport, with adjustments to noise contours over a temporary period, would be in line with national policies on aviation.

15.222 Reservations about the direction of national aviation policies were expressed at the inquiry by LADACAN's witnesses on climate change and socio-economic matters [8.22]. However challenges to Government policy are matters outwith the scope of considerations relevant to this planning application: LADACAN's planning witness acknowledged that current Government policy should be given full weight.

Other considerations

Character and appearance

15.223 The proposal would involve no additional operational development at the airport. A resident of Breachwood Green drew attention to the prominence of lighting from the airport at night [12.19]: although this can be clearly seen across open land from the village, it is part of the existing infrastructure, and no new lighting is involved in the current proposal. Phase 3 of the overall development had not been completed at the time of the inquiry, and a condition could be imposed to require the approval of any lighting associated with this part of the original scheme.

15.224 During the 92 days peak period, additional ATMs are forecast, rising from 39,522 in 2019 to 40,338 in 2025 with 19mppa, with a reduced level of 39,851 in 2028 [8.90]. These increases of 2.1% and 0.8% would not, though, be as great as the proportionate increase in passenger numbers due to the additional capacity of the new aircraft being introduced. We have addressed the effect of additional ATMs on the Chilterns AONB above (paras 15.41-15.44). Concern was expressed by a number of local residents and organisations about the effect of additional aviation activity on the character of other parts of the surrounding area, with suggestions made that there would be a loss of tranquillity [12.16, 13.23, 13.27]. Additional flights would be capable of being seen and heard. The level of increase would be relatively small, and neither any new routes nor changes in airspace are associated with the planning application [4.7]. The area around Luton is also overflown by planes which have their origins and destinations elsewhere. Whilst crossing at a greater altitude than aircraft arriving at and departing from

Luton, and not being as visually or aurally prominent, they nevertheless contribute to perceptions of the area. In the circumstances, we do not consider that the application proposal would have a materially adverse effect on the character and appearance of the area outside the Chilterns AONB.

Biodiversity

15.225 Some concern was expressed within the local community about the effect of additional air traffic on plant and animal life [12.20]. The Panel appreciates the concerns expressed by local residents and community groups about air quality, which has been addressed separately as one of the main considerations in this report. Biodiversity itself was scoped out of the EIA, the Applicant and the LPA agreeing that the proposal would be unlikely to cause significant changes to risks associated with that subject. There is nothing from consultees to identify specific harms, nor was any detailed evidence presented on this matter. There is nothing before us to indicate that the proposal would result in material harm to biodiversity and nature conservation interests.

Heritage

15.226 There are several heritage assets in the vicinity of the airport, notably the scheduled monument of Someries Castle situated closed to the south-east boundary, and Luton Hoo, a grade I listed building with a grade II* registered park which is about 1km to the south-west [2.6]. The topic of the historic environment was scoped out of the EIA, and there is no evidence that the proposal would cause any harm to the setting, and therefore the significance, of these, or any other, heritage assets, and the tests in paragraphs 201 and 202 of the NPPF do not apply.

Flood risk

15.227 The airport is in a locally elevated position [2.1] and lies within flood zone 1 where it is at low risk of flooding [7.2]. No operational development is involved, and there is no objection from the Lead Local Flood Authority. The Panel has no reason to take a different view.

Drainage

15.228 The increase in passenger throughput would increase the discharge of foul water from the airport. There is limited capacity at the East Hyde sewage treatment works. To avoid additional pressure on this facility, peak passenger throughput would be restricted to the level permitted by the existing Thames Water restriction [2.7].

Incremental growth

15.229 The proposed increase in passenger numbers is not large as a proportion of the permitted 18mppa throughput, and there was no dispute amongst the professional noise witnesses that the level of increase in noise experienced by residential receptors would not be significant. The Applicant's noise consultant referred to concerns often raised in connection with airport development that incremental growth proposals may mask a more significant potential future overall increase. As the proposal would only involve a

temporary increase in noise contours, he suggested that that circumstance would not arise in this case [8.119].

15.230 The scope of the current proposal does not, though, prevent the submission of further applications involving limited levels of growth. That said, each proposal must be considered on its own merits, and a decision on one planning application does not pre-determine the outcome of future planning applications. In the case of Luton Airport, it is known that the Applicant is pursuing a DCO application for major expansion [3.9], a proposal which cannot be construed as incremental growth. Concerns about incremental growth do not count against the application.

Planning obligations

15.231 We have already referred to obligations concerning a noise management plan (above, para 15.50), a travel plan (above, para 15.145), and the LLACC (above, para 16.53). The Panel considers that each of these obligations is necessary for the proposal to proceed.

15.232 Schedule 2 of the planning agreement includes obligations concerning the continued operation of the Transport Forum and the updating of the ASAS. These measures would complement the updating and implementation of the TP, and, as such, are necessary to promote the use of sustainable modes of transport in line with paragraphs 104 and 110 of the NPPF.

15.233 In pursuance of wider sustainability objectives across the airport, the Applicant would be committed to implementing the existing sustainability strategy, which covers supply chains, energy efficiency, waste and water management, and biodiversity. For the same reason, obligations provide a commitment to the submission and implementation of a carbon reduction strategy, and establish arrangements for the management of grassland and hedgerows at Wigmore Valley Park on the east side of the airport. These measures are important to minimise the environmental impact of greater use of Luton Airport.

15.234 However, it is also suggested by the Applicant and the LPA that the CRS should be the subject of a condition. In the case of the noise management plan, we took the view that there would be a role for a condition to sit alongside a planning obligation to facilitate enforcement action on a matter which is the subject of considerable public concern (above, para 15.57). That particular justification does not apply here: we do not consider that a planning obligation concerning the carbon reduction strategy is necessary, should this matter be the subject of a planning condition. That finding does not alter our view of the necessity of the other obligations contained in schedule 4.

15.235 In order to secure employment benefits, the Panel agrees that the local procurement protocol and the employment skills and recruitment plan should be implemented, and the latter updated. Those employment benefits and the retention of the community fund would reflect the aim of MBU that communities surrounding airports should share in the economic benefits arising from making the best use of their existing runways.

15.236 The planning agreement includes obligations requiring monitoring and reporting in respect of flights, noise, transport, sustainability and carbon reduction, together with provision for payments to the LPA towards the cost of monitoring the obligations. We are satisfied that the sum of £70,000 for the initial monitoring fund fairly and reasonably relates in scale and kind to the proposal.

15.237 Other than in respect of the obligation in schedule 4 concerning a carbon reduction strategy, the Panel considers that the statutory tests in Regulation 122 of the CIL Regs are met in respect of the obligations included in the planning agreement, and, with that exception, that its provisions are material considerations in the consideration of this application.

15.238 Given the importance of an updated TP being produced bearing in mind our findings above in relation to climate change, transport and air quality, it is recommended that should the Secretaries of State grant planning permission that any decision letter they issue makes explicit reference to the necessity of an updated TP thereby triggering the requirement in paragraph 2.2 of Schedule 2 of the Planning Agreement.

Conditions

15.239 We have considered possible conditions in the light of the advice in PPG and the discussion on conditions at the inquiry. In this section of the report possible conditions are referred to by the numbering used in the statement of common ground[355] (which reflects the numbers used on the 2017 planning permission). In the event that the Secretaries of State are minded to grant planning permission it is considered that the conditions set out in Annex 1 to this report are necessary. Reasons are set out below the conditions.

15.240 As there are fewer conditions in Annex 1 than attached to the 2017 planning permission or the SoCG, due to implementation of much of the operational development covered by the original 2014 planning permission [14.2], there are differences in numbering.

15.241 In light of the Panel's conclusions above, we agree that varied forms of the conditions which are the subject of this application are appropriate. These would impose a 19mppa passenger cap, adjust the noise contours, and update the references to parking areas, a travel plan and documents relating to the scheme. The Applicant and the LPA had suggested that the latter condition be deleted [4.1]. We disagree: it is important for a plan to identify the extent of the site subject to a permission, but as most of the operational development has been completed, there is no need for the condition to refer to any other document.

15.242 In the interests of clarity, PPG advises that any planning permission under s73 of the TCPA should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. This current proposal does not include any operational development and development in Phases 1 and 2 of the original and subsequent permissions have been implemented and conditions relating to them discharged[356]. This means that

[355] APP/LPA-04, appendix 2.
[356] INQ-73.1.

it is not necessary to repeat conditions relating to landscaping, construction details, piling and foul drainage associated with phase 1, car park drainage, highway improvements, and renewable energy to which the 2017 permission was subject [14.2].

15.243 Other conditions which related to details or control of a number of phases have been reworded to relate only to the control or subsequent management and retention of those Phase 3[357] works which are yet to be implemented or completed. Requirements relating to those elements which have already been discharged are superfluous.

15.244 Suggested conditions 9, 11 and 12 cover aspects of the NMP, and there are provisions within the planning agreement requiring the implementation, review and updating of this document. The PPG[358] advises that a condition should be used rather than a planning obligation where both may overcome a planning objection to a proposal equally well. The noise control scheme forms part of the NMP, and we have already explained that a condition concerning an NMP would be appropriate in this case, given concerns in the local community about the enforcement of noise controls, to provide a more direct means of securing compliance through a breach of condition notice (above, para 15.57).

15.245 A travel plan and a carbon reduction strategy are also the subject of planning obligations. However these obligations do not require approval of an updated travel plan or a carbon reduction strategy prior to the raising of the passenger cap. That is important to secure these measures, and conditions are required accordingly.

15.246 The proposed condition dealing with the setting, review and reduction of noise contours takes into account points made by objectors [10.18]. In particular, it requires a contour reduction strategy to be submitted and approved with explicit targets for reduction. It is not necessary for the condition to specify that an independent expert must agree the strategy as that will be a matter for the LPA to ensure that they have access to the appropriate expertise. It would not be reasonable to make the approval of any strategy dependent on approval by local authorities other than the LPA, as the LPA will be solely responsible for discharging and monitoring compliance for the condition. This would not prevent the LPA seeking the views of other bodies should they consider it appropriate. [10.22]

15.247 The wording of suggested condition 10 would require a specified area for a particular noise contour at a particular date. As it has been set out in this way it is not necessary for the condition to separately specify an annual review of the Contour Reduction Strategy against performance, nor by making the date by which the reduced areas come into force dependent on successful compliance with a previous stage. This is because meeting a specified contour by a particular date is an absolute requirement of the condition and gives certainty to all parties the way it is worded [10.22].

[357] For ease of reference illustrated on INQ-86 - Site Plan with Phases Labelled.
[358] Paragraph: 011, Reference ID: 21a-011-20140306.

15.248 The suggestion that the proposal should be dependent on an independent expert review of the noise contour model, profiling and validation would not be reasonable or necessary. The suggested wording of the noise contour condition is set out in absolute and defined terms, and it is not necessary nor reasonable to specify the mechanics behind the measurement and monitoring of the noise levels it specifies within the condition [10.1822].

15.249 It is neither necessary nor reasonable to set out the penalties for breaching a particular condition within its wording as there are powers under the TCPA for LPAs to seek to remedy or take enforcement action against any breaches of condition. It is not the purpose of planning conditions to be any more onerous than is strictly necessary to ensure that otherwise unacceptable aspects of the proposal can be made acceptable. Although objectors' concerns in this respect are understandable, it is not necessary nor reasonable to add additional requirements, clauses or steps into conditions in light of any previous breaches that may have occurred provided that the conditions are enforceable [11.19].

The public sector equality duty

15.250 The public sector equality duty (set out in section 149 of the Equality Act 2010), requires, amongst other matters, that a public authority must have due regard to the need to eliminate discrimination, and to advance equality of opportunity between persons who share a protected characteristic and those who do not share it. Age and disability are protected characteristics. Representations from local residents have referred to health problems associated with noise from the airport, and one couple reported that they had moved house further from the airport due to noise and the frequency of flights [12.16]. Air quality, as well as noise, is a potential source of health problems. People with existing health concerns, particularly those in older age groups, may be more susceptible to adverse effects caused by airport growth.

15.251 In this case, the increase in noise levels would be limited and temporary. None of the residential receptors is expected to experience more than a negligible increase in noise level (above, para 15.30). Insofar as air quality is concerned, none of the monitoring stations within the study area recorded levels of pollutants which were sufficiently close to the AQS to be a cause for concern, and we reached the view that the proposal would not have a significant adverse effect on air quality (above, para 15.162). Measures included in the NMP to reduce the effect of noise and in the travel plan to increase the use of sustainable modes of transport can be expected to lessen the impact of the proposal, including on those with health concerns and in older age groups.

15.252 Accordingly, the Panel does not consider that the proposal would have a materially adverse effect on, or discriminate against, those with a protected characteristic.

Overall conclusions

15.253 The application would comply with the Development Plan, considered as a whole. In particular it is supported by Policy LLP6, the policy in the Local Plan which is specifically concerned with the airport. Further support for the proposal is provided by national aviation policies, which emphasise the importance of the contribution which airport development can make to the economic and social life of the country, subject to appropriate environmental safeguards.

15.254 The Panel recognises that there is considerable concern locally about further expansion of Luton Airport, underlain by mistrust due to past breaches of the noise contours condition and the ownership structure. Those concerns have been fully considered by us in assessing the implications of the increased throughput of passengers.

15.255 It is clear that for a period of time, there would be an increased level of noise experienced around the airport, and that for some receptors, the increase would reach the SOAEL threshold. However, an improved package of mitigation measures is proposed, and by 2031 the size of the day-time contour would have reduced slightly and there would be fewer residential receptors within the SOAEL night-time contour. We have concluded that there would be moderate harm arising from increased levels of noise, to which we accord moderate weight. In addition, there would be limited harm in respect of climate change due to GHG emissions, and very limited harm in respect of air quality, matters which merit limited weight in the planning balance. Subject to improvements being achieved through an updated travel plan, the proposal would not have a harmful effect on sustainable transport objectives and transport infrastructure. Nor would harm result in respect of any other matters.

15.256 We note that the assessment on climate change in the ES is cumulative in nature, and concludes that there would be no significant adverse effect, a finding which we share. No likely significant cumulative adverse effects are predicted in the ES in respect of noise, transport and air quality[359]. There is no substantive evidence before the Panel to indicate otherwise, and we have no reason to take a contrary view.

15.257 The airport plays an important role in the economic and social life of Luton and the surrounding area. Given the unemployment and deprivation within the Borough, the benefits which the proposal would provide in terms of direct and indirect employment opportunities, together with an uplift in GVA are of particular importance and carry considerable weight. These benefits which would flow from the proposal clearly outweigh the harms which we have identified.

[359] CD1.09 sections 6.11, 7.12, 10.11, and CD4.06 section 8.13.

16. Recommendation

16.1 We recommend that full planning permission be granted for dualling of the airport way/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-term 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; and outline planning permission granted for the construction of a multi-storey car park and pedestrian link building, at London Luton Airport, Airport Way, Luton, LU2 9LY, in accordance with the terms of the application Ref 21/00031/VARCON, dated 8 January 2021, subject to the conditions in Annex 1 to this report.

Richard Clegg, Sheila Holden, Geoff Underwood

INSPECTORS

ANNEX 1 – SCHEDULE OF RECOMMENDED CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the As-Built Master Plan (CD1.02).

   Reason: To provide certainty.

2. Details of the timescale for the commencement of Phase 3 works comprising (i) Taxiway 26 (Golf) and (ii) north apron extension, as shown on As Built Masterplan Plan with Phases Labelled drawing, received November 2023 (INQ-86) (hereinafter referred to as Phase 3) of the development shall be submitted to and approved in writing by the Local Planning Authority prior to its commencement. The scheme as approved shall be implemented in accordance with the approved timescales.

   Reason: To provide certainty.

3. Phase 3 of the development shall be carried out in accordance with the details contained in the Protected Species Management Plan approved on 8 May 2017 (ref: 17/00459/DOC).

   Reason: To ensure any protected species affect by the development are effectively protected.

4. Details of the lighting scheme for Phase 3 of the development shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be implemented in accordance with the approved scheme and subsequently maintained and reviewed in accordance with the approved scheme. Any external lighting previously installed in accordance with details approved on 4 June 2015 for Phase 1 (ref: 15/00451/DOC) and 25 September 2019 for Phase 2 (ref: 19/00954/DOC) shall be maintained and reviewed in accordance with those schemes.

   Reason: In the interests of ensuring aircraft and public safety and mitigating effects on the character and appearance of the area and living conditions of occupiers of nearby residential properties.

5. Phase 3 of the development shall be carried out in accordance with the Construction Environmental Management Plan approved on 8 May 2017 (ref: 17/00460/DOC).

   Reason: To minimise environmental impacts and disturbance to residents, vegetation and wildlife during construction.

6. Phase 3 of the development shall be carried out in accordance with the archaeological Written Scheme of Investigation approved on 24 December 2014 (ref: 14/01496/DOC).

   Reason: To ensure that any archaeological remains, evidence or information is properly recorded.

7. At no time shall the commercial passenger throughput of the airport exceed 19 million passengers in any twelve-month period.

   From the date of this permission the applicant shall every quarter report in writing to the Local Planning Authority the moving annual total numbers of passengers through the airport (arrivals plus departures). The report shall be made no later than 28 days after the end of each quarter to which the data relates.

Reason: In the interests of certainty and to enable the Local Planning Authority to exercise proper control over the development, in the interests of securing a satisfactory operation of the development, and to safeguard the living conditions of occupiers of residential properties and the amenities of the surrounding area.

8. The development hereby approved shall be operated in accordance with Sections 5, 6, 7 & 8 of the London Luton Airport 2022 Noise Management Plan Technical Document or the equivalent provisions in any successor document which shall first have been submitted to and approved in writing by the Local Planning Authority.

   Reason: to safeguard the living conditions of occupiers of residential properties.

9. The area enclosed by the 57dB L_{Aeq}(16hr) (0700-2300 hrs) contour shall not exceed 21.1km^2 for daytime noise, and the area enclosed by the 48dB L_{Aeq}(8hr) (2300- 0700 hrs) contour shall not exceed 42.1km^2 for night-time noise, when calculated by the Federal Aviation Authority Integrated Noise Model version 7.0-d (or as may be updated and amended) for the period up to the end of 2027.

   The commercial passenger throughput at London Luton Airport shall not exceed 18 million passengers in a twelve-month period until a strategy has been submitted to and approved in writing by the Local Planning Authority which defines the methods to be used by LLAOL or any successor or airport operator to reduce the area of the noise contours by 2028 for daytime noise to 15.5km^2 for the area exposed to 57dB L_{Aeq}(16hr) (0700- 2300 hrs) and above and for night-time noise to 35.5km^2 for the area exposed to 48dB L_{Aeq}8hr (2300-0700) and above.

   Post 31 December 2027 the area enclosed by the 57dB L_{Aeq}16hr (0700-2300 hrs) contour shall not exceed 15.5 km^2 for daytime noise, and the area enclosed by the 48dB L_{Aeq}(8hr) (2300-0700hrs) contour shall not exceed 35.5 km^2 for night-time noise.

   Post 31 December 2030 the area enclosed by the 57dB LA_{eq}16hr (0700- 2300) contour shall not exceed 15.1km^2 for daytime noise, and the area enclosed by the 48dB L_{Aeq}(8hr) (2300- 0700 hrs) contour shall not exceed 31.6km^2 for night-time noise.

   A report on the actual and forecast aircraft movements and consequential noise contours (Day, Night and Quota Periods) for the preceding and forthcoming calendar year shall be reported on 1 December each year to the Local Planning Authority, which shall utilise the standard 92 day summer contour.

   Reason: To safeguard the living conditions of residents and the character of the surrounding area.

10. The development shall be implemented and managed in accordance with the Comprehensive Surface Water Management Strategy approved on 18 May 2015 (ref: 15/00187/DOC).

    Reason: To prevent surface and ground water pollution.

11. The detailed surface water drainage scheme for Phase 3 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be

generally in accordance with the Flood Risk Assessment (FRA) prepared by Jacobs, reference B1074100/22.2, issue 3, dated November 2012 (within Technical Appendix J of the Environmental Statement submitted with application 12/01400) and the scheme shall include details of soakaways and a restriction in run-off and surface water storage on site. The scheme as approved shall be implemented in full before completion of the phase and managed in accordance with the approved scheme thereafter.

Reason: To prevent any increased risk of flooding, and to improve and protect water quality, habitats and amenity.

12. Phase 3 of the development shall be carried out in accordance with the Contamination Risk Assessment Report approved on 7 April 2017 (ref: 17/00173/DOC).

Reason: to prevent contamination, in particular dues to the site's location in a sensitive groundwater area over a Principal Chalk Aquifer within a source protection zone 3.

13. Phase 3 of the development shall not be brought into use until a verification report demonstrating i) completion of works set out in the approved remediation strategy and ii) the effectiveness of the remediation for the phase, has first been submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a "long-term monitoring and maintenance plan" (the Plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The Plan shall be implemented as approved.

Reason: To prevent contamination, in particular to protect groundwater.

14. If contamination not previously identified is found to be present at the site during the construction of Phase 3 of development, no further development of that phase shall be carried out until a remediation strategy has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To prevent contamination, in particular as intrusive investigations may not necessarily have captured all contaminants present, hence the need to appropriately address any new source discovered during excavation and development.

15. No infiltration of surface water drainage into the ground shall take place other than in accordance with a scheme, including timescales and phasing as appropriate, which has been submitted to and approved in writing by the Local Planning Authority in advance of any discharge. The development shall be carried out in accordance with the approved scheme, timescale and phasing.

Reason: To protect ground water.

16. Phase 3 of the development shall be carried out in accordance with the Borehole Protection Report approved on 28 March 2017 (17/00176/DOC). [*20*]

Reason: To protect groundwater, particularly as piling has the potential to create new pathways for pollutants and introduce new contaminants into the subsurface.

17. The areas within the application site which are shown to be in use for car parking on the As-built Master Plan (CD1.02) shall not be used for any other purpose other than the parking of vehicles by passengers, staff and contractors servicing the airport.

Reason: To ensure that adequate provision is made for vehicles to park off road and away from residential area in the interest of road safety and to prevent unacceptable environmental impact on occupiers of neighbouring residential areas.

18. Prior to the commercial passenger throughput at London Luton Airport exceeding 18 million passengers in a twelve-month period, an updated travel plan shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the airport shall be operated in accordance with the approved travel plan.

Reason: To encourage modal shift away from private cars to improve levels of use of sustainable and low carbon modes of transport for all users of the airport and to reduce congestion on the Highway.

19. Prior to the commercial passenger throughput at London Luton Airport exceeding 18 million passengers in a twelve-month period, a Carbon Reduction Strategy shall be submitted to, and approved in writing by, the Local Planning Authority.

The approved Carbon Reduction Strategy and its outcomes shall be informed by the carbon mitigation targets and measures in the London Luton Airport 19 mppa: Outline Carbon Reduction Plan, Wood Group UK Limited - May 2021. The approved Carbon reduction Strategy shall be reviewed in accordance with the following provisions:

i. Annually: independent verification by the Airports Carbon Accreditation Scheme with the results being made available to the Local Planning Authority for their review and written approval;

ii. Annually: publication as part of the Airport's Sustainability Report, available for review by all stakeholders, including the Local Planning Authority;

iii. Every three years: independent audit and inspection by the Airports Carbon Accreditation Scheme with the results being made available to the Local Planning Authority for their review and written approval; and,

iv. Every five years: the airport operator review and update, including consultation with stakeholders and submission to the local planning authority for their review and written approval.

v. As and when new national polices or targets are published: the Carbon Reduction Strategy shall be updated to reflect those new polices and targets.

The reviewed and/or updated Carbon Reduction Strategy shall be submitted to and approved in writing by the Local Planning Authority in accordance with the above provisions. The methodology and/or interim targets may be amended and approved in writing beforehand by the Local Planning Authority to include any updates to best practice. All approved measures in the Carbon Reduction Strategy, and any subsequent approved updates, shall be implemented and complied with.

Reason: To ensure that levels of CO_2 and other greenhouse gasses emitted by the airport and associated activities are reduced in line with challenging targets to maximise low and zero carbon activities, mitigates the effects of climate change and drives a radical reduction in carbon emissions overall.

*** End of Schedule of Recommended Conditions ***

ANNEX 2 - APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Steel KC	Counsel for Luton Borough Council
He called	
Dr M Hinnells PhD MSc MA BA	Principal Consultant, Ricardo Energy & Environment
Mr B Holcombe BEng(Hons) MIoA	Senior Consultant, Suono Consultancy Ltd
Mr D Gurtler BA(Hons) BPl DipSurv MRTPI	Director, Alpha Planning Ltd
Mr A Loosley BSc(Hons) MSc(Env Health) ACEIH MRSC	Technical Officer (Environmental Protection), Luton BC
Mr C Godden FIHE	Highway Development Control Manager (Planning), Luton BC

FOR THE APPLICANT:

Mr J Strachan KC & Ms V Hutton	Counsel for London Luton Airport Operations Ltd
They called	
Dr M P Ösund-Ireland PhD BSc(Hons) CEnv MIEnvSci MIAQM	Director, susteer AB
Mr A S Hunt BSc MA MIED	Senior Director, Quod Ltd
Mr R M Thornely-Taylor FIIAV MINCE PPANC	Director, Rupert Taylor Ltd
Mr S D Bashforth BA MA MTRPI	Senior Director, Quod Ltd
Mr J Ojeil MSc(Eng) FCIHT MCILT	Director, Ramboll UK Ltd
Mr A Paul	Senior Associate, Herbert Smith Freehills LLP
Mr A Perez-Monsalvo	CAPEX Director, London Luton Airport
Ms M Crouse	WSP
Mr M Jennings	Head of Retail and Surface Access, London Luton Airport

FOR THE LUTON AND DISTRICT ASSOCIATION FOR THE CONTROL OF AIRCRAFT NOISE:

Mr R Wald KC	Counsel for LADACAN
He called	
Ms C Hewitt MA	Policy Director, Aviation Environment Federation
Dr A Chapman BSc PhD	Senior Researcher, New Economics Foundation

Mr S Roberts BEng MIoA	Consultant, Hayes McKenzie Partnership Ltd
Mr A Lambourne BSc(Hons)	Chair, LADACAN
Mr A J Skelton BSc(Hons) DipTP MRTPI	Partner, Steven Abbott Associates LLP

FOR CPRE HERTFORDSHIRE:

Mr J Thomas	Counsel for CPRE Hertfordshire
He called	
Mr C Berry BA(Hons) DipTCP MRTPI	Planning Manager, CPRE Hertfordshire

INTERESTED PERSONS:

Councillor J Timmis	Member of Dacorum Borough Council for Watling Ward, and Member of Flamstead Parish Council.
Mr N MacArthur	HarpendenSky.com
Mr K Wingfield	The Harpenden Society
Mr J Hale	St Albans Quieter Skies
Ms J Bell	Wheathampstead & District Preservation Society
Mr P Boswell	Resident of Harpenden
Ms H Cotter	Resident of Luton
Mr P Cutforth	Resident of St Albans and member of Heartwood Forest Woodland Trust Working Group
Mrs A Garnett	Resident of Eaton Bray and former resident of Caddington
Mr S Garnett	Resident of Eaton Bray and former resident of Caddington
Ms E Gordon	Resident of Luton
Mr J Graziano	Resident of Breachwood Green
Mr A Mills-Baker FCA	Resident of Breachwood Green
Dr S Leadbeater	Resident near Ayot St Lawrence and on behalf of Mrs Leadbeater
Mr N Oxley	Resident of Wheathampstead
Mr S Pentland	Resident of Harpenden
Mr M Reddington	Resident of Luton
Mr D Shipley	Resident of Harpenden
Mr J A Smith	Resident of Harpenden
Mrs J Spendley	Resident of Luton
Mr N Tully MBE MA(Oxon) FBCS CEng	Resident near Flamstead and Markyate
Mr P White	Resident of Luton

ANNEX 3- INQUIRY DOCUMENTS

Superseded or duplicate documents are not listed.

INQ-01	Mr Strachan's and Ms Hutton's opening statement on behalf of the Applicant.
INQ-02	Mr Steel's opening statement on behalf of the LPA.
INQ-03	Mr Wald's opening statement on behalf of LADACAN.
INQ-04	Mr Thomas's opening statement on behalf of CPRE Hertfordshire.
INQ-05	Guidance on Slot Allocation and Monitoring, 2018, Airport Co-ordination Ltd. Submitted by LADACAN.
INQ-06	Clarification note from the LPA, 28 September 2022.
INQ-07	Aviation Environment Federation Responds to Government's 'Jet Zero' Strategy, 15 August 2022. Submitted by the LPA.
INQ-08	The Collision Between Infrastructure & Carbon Emissions, article by Dr Hinnells in the Expert Witness Journal, April 2022. Submitted by LADACAN.
INQ-09	Report on Draft Luton Net Zero Roadmap to the Council's Executive, 20 September 2022. Submitted by the LPA.
INQ-09.1	Appendix 1 to Document INQ-09. Draft Luton Net Zero Roadmap – summary document. Submitted by the LPA.
INQ-09.2	Appendix 2 to Document INQ-09. Draft report - Luton 2040 - A Net Zero Town. Submitted by the LPA.
INQ-09.3	Appendix 3 to Document INQ-09. Draft Climate Change Policy and Action Plan. submitted by the LPA.
INQ-09.4	Appendix 4 to Document INQ-09. Integrated Impact Assessment Form concerning the Luton Net Zero Roadmap. Submitted by the LPA.
INQ-10	Clarification Note 2 from the LPA, CAA definitions), 28 September 2022.
INQ-11	Technical Note by Susteer AB, Proposed Scheme carbon emissions as a proportion of the Jet Zero in-sector carbon trajectory, 30 September 2022. Submitted by the Applicant.
INQ-12	LLA Aircraft Noise Enquiries and Complaints Policy, August 2022. Submitted by the Applicant.
INQ-13	DfT Transport Analysis Guidance - An Overview of Transport Appraisal, 2014. Submitted by LADACAN.
INQ-14	LLA Quarterly Monitoring Report – Quarter 2 2022. Submitted by the Applicant.
INQ-15	LLA Sustainability Report 2021. Submitted by the Applicant.
INQ-16	LLA Reducing our Carbon Emissions. Submitted by the Applicant.
INQ-17	Dr Leadbeater's speaking notes.
INQ-18	Mr Smith's statement and addendum.
INQ-19	Email dated 29 September 2022 from Mr White concerning parking and traffic movement.
INQ-20	Ms Gordon's statement.
INQ-21	Email dated 28 September 2022 from Mr Hale concerning passenger numbers.
INQ-22	Email dated 28 September 2022 concerning air quality and revised statement from Mr MacArthur.
INQ-23	Mrs Spendley's statement.

INQ-23.1	Map indicating aircraft movements in Southern England. Submitted by Mrs Spendley.
INQ-24	Ms Cotter's statement.
INQ-25	Mr & Mrs Garnett's statement.
INQ-26	Corrigenda to Mr Skelton's and Mr Lambourne's proofs of evidence.
INQ-27	Clarification of fleet forecasts. Submitted by Mr Wingfield.
INQ-28	Corrigenda to Dr Chapman's proof of evidence.
INQ-29	Errata to Mr Hunt's rebuttal proof of evidence.
INQ-30	Note – Evidence of Deprivation and Unemployment, Quod, October 2022. Submitted by the Applicant.
INQ-31	Clarification of employment evidence. Submitted by Mr Wingfield.
INQ-33	Updated note of airport employment and passenger figures, 5 October 2022. Submitted by LADACAN.
INQ-34	Update Note on the DART. Submitted by the LPA.
INQ-35	Email dated 10 October 2022 and screenshots from Mr Pentland ~~Stephen Pentland~~ concerning flight times.
INQ-36	Note - Parking around the airport. Submitted by the LPA.
INQ-37	Errata to Mr Ojeil's proof of evidence.
INQ-38.1	Draft Noise Management Plan dated 13 September 2022.
INQ-38.2	Updated draft Noise Management Plan dated 25 October 2022.
INQ-39.3	Completed Planning Agreement relating to the planning application, 9 December 2022.
INQ-40	Processing of NMT Results, Bickerdike Allen Partners, 6 July 2022.
INQ-41	Noise Contouring Methodology – Overview, Bickerdike Allen Partners, 18 August 2022.
INQ-42	Definition of overflight, CAP 1498, CAA, 2017.
INQ-43	Report to the LPA's Development Control Committee on planning application ref 15/00950/VARCON Luton Airport, variation of condition 11(i).
INQ-44.1	Revised note - Processing of disclosed raw noise measurements. Submitted by LADACAN.
INQ-45	Letter dated 7 August 2017 from LLACC to the Applicant concerning noise control and monitoring.
INQ-46	Letter dated 4 January 2021 from the Applicant to the LPA concerning the Noise Contour Reduction Strategy.
INQ-47	LLA Inform newsletter, April 2017.
INQ-48	LLA Inform newsletter, August 2018.
INQ-49	Luton Airport Summer 2019 - Start of Season Report, Airport Co-ordination Ltd.
INQ-50	Community Noise Report South Luton - March 2017, LLA.
INQ-51	Update to table in LADACAN representation in light of revised figures in the ES, 28 October 2022.
INQ-52	Community Noise Report Flamstead and Markyate - June-October 2019, LLA.
INQ-53	Community Noise Report South Luton - October-December 2019, LLA.
INQ-54	Information note from LADACAN showing processed data from table 8B.1 of CD1.21.
INQ-55	Note to address noise-related points raised by third parties in week 1 of inquiry. Submitted by the Applicant.

INQ-56	Survey of Noise Attitudes 2014: Aircraft Noise and Annoyance, CAP 1506, CAA, 2017.
INQ-57	Survey of Noise Attitudes 2014: Aircraft Noise and Sleep Disturbance, CAP 2161, CAA, 2021.
INQ-58	Attitudes to Noise from Aviation Sources in England, Report for the DfT, MVA Consultancy, 2007.
INQ-59	Extract from DR Report 8402 - United Kingdom Aircraft Noise Index Study: main report, CAA for the DfT.
INQ-60	Comparison of A321ceo/neo LAmax.
INQ-62	Response by LLAOL to comments on forecasts by the Harpenden Society.
INQ-63	Errata to Mr Rupert Thornely-Taylor's proof of evidence.
INQ-64	Note - Socio-economic Evidence Clarifications. Submitted by the Applicant.
INQ-65.0	Note – Luton Airport Jobs Numbers - Post-Covid Baseline. Submitted by the Applicant.
INQ-65.1	Correction to Document INQ-65.0.
INQ-66	Extract from The Green Book 2022 - Annex 2 Place Based Analysis.
INQ-68	Plan of the Chilterns AONB.
INQ-69	Plan showing Luton Borough and Existing Landscape Designations.
INQ-70	The Panel's comments and questions on suggested possible conditions.
INQ-71	Note - Airports in Public Ownership. Submitted by the LPA.
INQ-72.1	Updated Errata to Mr Bashforth's proof of evidence
INQ-73.0	Plans and aerial photographs relating to the implementation of the 2014 and 2017 planning permissions.
INQ-73.1	Note on implementation of the 2014 & 2017 planning permissions for Luton Airport and discharge of conditions.
INQ-74	The Panel's initial comments on the draft planning agreement (INQ-39.2).
INQ-75	Note regarding Noise and Track Violations. Submitted by the Applicant.
INQ-76	Explanation of a flight series. Submitted by the Applicant.
INQ-77	Mr Hunt's note - Calculating Carbon Costs.
INQ-78	Comparison table for contour figures in ESA4 (CD1.17). Submitted by the Applicant.
INQ-79	Written representation from Mr R Choppin.
INQ-80	Technical Note concerning transport matters. Submitted by the Applicant.
INQ-81	Schedule of airport ownership. Submitted by Mr Shipley.
INQ-82	Schedule of possible conditions following Inquiry round table session. Submitted by the LPA.
INQ-83	LADACAN discussion paper on conditions.
INQ-85	London Luton Airport 19mppa Expansion – Travel Plan, November 2022 (revision P06). Submitted by the Applicant.
INQ-86	Airport site plan showing phases of development covered by 2014 and 2017 planning permissions.
INQ-87	Draft statement of common ground in relation to noise considerations.
INQ-88	Mr Berry's and Mr Thomas's closing submissions on behalf of CPRE Hertfordshire.

INQ-89	Mr Wald's closing submissions on behalf of LADACAN
INQ-90	Mr Steel's closing submissions on behalf of the LPA.
INQ-91	Mr Strachan's and Ms Hutton's closing submissions on behalf of the Applicant.

ANNEX 4 – ABBREVIATIONS USED IN THE REPORT

AMR	Annual Monitoring Report
ANPS	Airports National Policy Statement
AOD	Above Ordnance Datum
AONB	Area of Outstanding Natural Beauty
APF	Aviation Policy Framework; CD10.04
AQAL	Air Quality Assessment Level
AQMA	Air Quality Management Area
AQSR	Air Quality Status Report
AQO	Air Quality Objective
AQS	Air Quality Standard
ANPS	Airports National Policy Statement: new runway capacity and infrastructure at airports in the South East of England, 2018; CD10.15
ASAS	Airport Surface Access Strategy
ATMs	Air Transport Movements
BEIS	Department for Business, Energy and Industrial Strategy
CAA	Civil Aviation Authority
Carbon Budget	The UK Carbon Budget is the total quantity of greenhouse gas emissions permitted in the United Kingdom over a specified period.
CCA	Climate Change Act 2008
CCC	Committee on Climate Change
ceo	Current Engine Option – on Airbus aircraft
CIL Regs	The Community Infrastructure Levy Regulations 2010 (as amended)
ConRS	Contour Reduction Strategy
CORSIA	Carbon Offsetting and Reduction Scheme for International Aviation
CO_2	Carbon dioxide
CO_2e	Carbon dioxide equivalent.
CPMP	Car Parking Management Plan

CRP	Carbon Reduction Plan
CRS	Carbon Reduction Strategy
CTA	Central Terminal Area
DART	Luton Direct Air-Rail Transit
dB	Decibels
DCO	Development Consent Order
DfT	Department for Transport
DLUHC	Department for Levelling Up, Housing and Communities
DMC	Development Management Committee
EA	Environment Agency
EEA	European Economic Area
EIA	Environmental Impact Assessment
EIA Regs	The Town and Country Planning (Environmental Impact Assessment) Regulations 2017
EPUK	Environmental Protection UK
ES	Environmental Statement
ESA1	July 2015 ES Addendum in relation to 2015 S73 Application
ESA2	January 2021 S73 Application ES Addendum
ESA3	May 2021 update to Noise Chapter of S73 Application ES Addendum
ESA4	July 2022 S73 Application ES Addendum
EU ETS	European Union Emissions Trading System
FAA	Federal Aviation Administration
FTTF	Flightpath to the future ,2022, CD11.15
GDP	Gross domestic product (£)
GHG	Greenhouse gases
GVA	Gross value added (£)
HE	Highways England
IAQM	Institute of Air Quality Management
IEMA	Institute of Environmental Management and Assessment

IPCC	Intergovernmental Panel on Climate Change
JSAQ	Joint Statement on Air Quality between applicants and LBC; APP/LPA-01
JZS	Jet Zero Strategy – Delivering net zero aviation by 2050, 2022; CD11.19
KgN/ha	kilogrammes of nitrogen per hectare
Keq/ha/year	kilograms of H+ ion equivalents per hectare per year (acid deposition)
LADACAN	Luton and District Association for the Control of Airport Noise
L_{A90}	Level exceeded 90% of the time (background noise).
$L_{Aeq,T}$	Equivalent continuous A-weighted sound pressure level.
$L_{Amax,T}$	The maximum A-weighted sound pressure level.
LBC	Luton Borough Council
LLA	London Luton Airport
LLACC	London Luton Airport Consultative Committee
LLAL	London Luton Airport Limited (aka 'Luton Rising')
LLAOL	London Luton Airport Operations Limited
LLP	The Luton Local Plan 2011 – 2031, 2017
LOAEL	Lowest Observed Adverse Effect Level. .
LPA	Local Planning Authority
LTP	Local Transport Plan
MBU	Beyond the horizon: The future of UK aviation: Making best use of existing runways, 2018; CD10.13
mppa	Million passengers per annum
$MtCO_2/yr$	Million tonne of CO_2 per year.
N60 & N70	Nx contours define ground receptors exposed to a number of events with a maximum noise level of x dB L_{ASmax} or greater.
NAP	The London Luton Airport 2019 – 2023 Noise Action Plan
neo	New Engine Option – on Airbus aircraft
NH	National Highways

NIS	Noise Insulation Scheme(s)
NMP	Noise Management Plan
NMT	Noise monitoring terminal
NO	Nitric oxide
NO_X	Oxides of nitrogen
NO_2	Nitrogen Dioxide
NPPF	National Planning Policy Framework
PPG	Planning Practice Guidance
NPS	National Policy Statement
NPSE	Noise Policy Statement for England
NZS	Net Zero Strategy: Build back Greener, 2021; CD11.09
OCRP	Outline Carbon Reduction Plan
OER	The economic impact of London Luton Airport, Oxford Economics, 2015 - the 'Oxford Economic Report'; CD16.18
PM	Particulate Matter
$PM_{2.5}$	Particulate matter less than 2.5 μm in diameter
PM_{10}	Particulate matter less than 10 μm in diameter
QC	Quota Count
SAC	Special Area of Conservation
SAF	Sustainable aviation fuels
SEL	Single Event Level (noise)
SoCG	Statement of Common Ground
SOAEL	Significant Observed Adverse Effect Level
SoNA	Survey of Noise Attitudes 2014
SoS	Secretary of State
SOV	Single Occupancy Vehicle
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest
SWMP	Site Waste Management Plan
TA	Transport Assessment

TCPA	Town and Country Planning Act 1990
TDP	Transport Decarbonisation Plan
TP	Travel Plan
UK ETS	UK Emissions Trading Scheme
USS	updated Sustainability Strategy
vpd	vehicles per day
WebTAG	Web-based Transport Analysis Guidance
WHO	World Health Organisation
µg	Micro-gram

Department for Levelling Up, Housing & Communities

www.gov.uk/dluhc

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand,London,WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act
With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act
Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.