

**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 77**  
**TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND) RULES 2000**  
**APPLICATION BY LONDON LUTON AIRPORT OPERATIONS LIMITED**  
**FOR VARIATION OF CONDITIONS 8 (PASSENGER THROUGHPUT CAP), 10 (NOISE**  
**CONTOURS), 22 (CAR PARKING MANAGEMENT), 24 (TRAVEL PLAN) AND 28 (APPROVED**  
**PLANS AND DOCUMENTS) TO PLANNING PERMISSION 15/00950/VARCON (DATED 13**  
**OCTOBER 2017)**

**LPA REFERENCE NUMBER: 21/00031/VARCON**  
**PINS REFERENCE NUMBER: APP/B0230/V/22/3296455**

**APPLICANT'S STATEMENT OF CASE**

---

**1. INTRODUCTION AND CONTEXT**

1.1 This Statement of Case is submitted on behalf of London Luton Airport Operations Limited (the "**Applicant**") in support of a planning application to be considered and determined by the Secretary of State pursuant to section 77 of the Town and Country Planning Act 1990 and in accordance with the Town and Country Planning (Inquiries Procedure) (England) Rules 2000.

1.2 The Applicant is the operator of London Luton Airport (the "**Airport**"), and is responsible for the management, operation and development of the Airport.

1.3 On 11 January 2021, the Applicant made an application pursuant to section 73 of the 1990 Act to Luton Borough Council ("**LBC**") for the following description of development (the "**S73 Application**").

*Variation of Conditions 8 (passenger throughput cap), 10 (noise contours), 22 (car parking management), 24 (travel plan) and 28 (approved plans and documents) to Planning Permission 15/00950/VARCON (dated 13th October 2017) to accommodate 19 million passengers per annum and to amend the day and night noise contours.*

1.4 The S73 Application seeks the variation of certain conditions attached to the existing planning permission for Luton Airport (dated 13 October 2017 with reference number 15/00950/VARCON) (the "**Development**"). The planning permission dated 13 October 2017 was itself a variation of a planning permission granted in June 2014 for the expansion of the

Airport involving, inter alia, the dualling of Airport Way, extensions to the terminal, a new pier and walkway, extensions to taxiways, enlargement of car parks and the construction of a multi-storey car park (ref: 12/01400/FUL).

- 1.5 The S73 Application does not propose any new or varied operational development.
- 1.6 After carefully scrutinising the S73 Application over the course of eleven months (including engaging independent expert consultants to conduct a detailed assessment of noise and climate change aspects of the S73 Application) officers at LBC ultimately recommended that planning permission should be granted for the Development. After considering the S73 Application over two evenings on 30 November 2021 and 1 December 2021, the Development Management Committee of LBC agreed with officers, and resolved to grant planning permission for the Development, subject to the Applicant and LBC entering into a section 106 agreement to secure certain aspects of mitigation, including noise mitigation. The negotiation of this section 106 agreement was ongoing at the time that the Application was called-in by the Secretary of State.
- 1.7 On 6 April 2022, the Secretary of State called-in the Application for his own determination and directed that it should be referred to him instead of being dealt with by LBC. On 11 May 2022, the Secretary of State for Transport made a direction under section 266(1A) of the Town and Country Planning Act 1990 for a joint determination of the Application.
- 1.8 This Statement of Case begins by outlining the Applicant's case. It then goes on to respond to the four areas identified by the Secretary of State as matters on which he particularly wishes to be informed for the purposes of his consideration of the Application.

## 2. **THE APPLICANT'S CASE**

- 2.1 The Airport is the fifth busiest airport in the UK by passenger numbers and, in 2021, accounted for 7.3% of all passenger throughput in the UK. It has grown steadily over the past 20 years, and experienced 10 years of successive growth between 2010 and 2019, during which time passenger numbers increased from approximately 8.8 million passengers per annum ("**mppa**") to 18 mppa in 2019 (a circa 105% increase, or more than 1 mppa each year).
- 2.2 The Application proposals directly facilitate the opportunity to make the best and most efficient use of the existing infrastructure at the Airport by accommodating the required one million increase in passenger throughput within the existing airport terminal, without the need for any additional or varied operational development. In doing so, the Application responds

directly to current and emerging aviation policy in the United Kingdom, which supports airport operators to make best use of existing airport capacity<sup>1</sup>.

- 2.3 In facilitating sustainable growth at the Airport, the S73 Application will play an important role in supporting wider economic growth and the rapid recovery from the Covid-19 pandemic. As part of the March 2021 Budget, the Government set out its plans to support economic growth through significant investment in infrastructure, skills and innovation in *“Build Back Better: our plan for growth.”*
- 2.4 Page 31 of Build Back Better notes that: *“High quality infrastructure is crucial for economic growth, boosting productivity and competitiveness. More than this, it is at the centre of our communities. Infrastructure helps connect people to each other, people to businesses, and businesses to markets, forming a foundation for economic activity and community prosperity. Well-developed transport networks allow businesses to grow and expand, enabling them to extend supply chains, deepen labour and product markets, collaborate, innovate and attract inward investment.”* (p.31).
- 2.5 The Build Back Better plan for growth focuses on three pillars of investment to act as the foundation on which to build the economic recovery and levelling up: (1) radical uplift in infrastructure investment (2) creating new skills training opportunities across the UK and (3) fostering the conditions to unleash innovation
- 2.6 The S73 Application will contribute to all three pillars. Luton has been one of the areas in the country that has been worst affected by Covid-19 and is therefore most in need of jobs and economic growth:
- 2.6.1 Unemployment has increased, from a high starting point. In January 2020 (before the Covid-19 pandemic began), the unemployment benefit claimant count<sup>2</sup> rate<sup>3</sup> in Luton local authority was 3.2%, higher than the East of England rate (2.3%) and England rate (2.9%). It peaked at almost 10% in April 2021, when the England

---

<sup>1</sup> Department for Transport, Aviation Strategy: making best use of existing runways, 5 June 2018

<sup>2</sup> The claimant count is an experimental data set counting the number of people claiming benefit principally for the reason of being unemployed. It is an ONS data set.

<sup>3</sup> As a proportion of residents aged 16-64.

average was close to half that. As at April 2022<sup>4</sup>, this rate is at 6.4%, compared to a rate of 3.3% in the East of England and 4.0% in England.

2.6.2 In gross terms, the number of unemployment benefit claimants in Luton has doubled, from 4,325 in January 2020, to 8,535 in April 2022.

2.6.3 Through the course of the Covid-19 pandemic, the Government's furlough scheme was heavily drawn on by workers in Luton. The local authority estimate that it was in the top 10 places in the country relying on furlough and ONS data confirm that the take-up rate in Luton was higher than the national and regional averages.

2.6.4 Local spending was particularly hard hit in the Luton local authority area through the course of the pandemic, and has struggled to recover following the end of the cycle of lockdowns. Compared to pre-pandemic levels, local in-person sales are down by almost 30%, and online sales for businesses based in Luton are down by almost 50%<sup>5</sup>. Luton local authority ranks ninth "biggest loser" of in-person spending nationally<sup>6</sup>.

2.7 Luton therefore needs significant jobs and economic growth urgently.

2.8 As well as Covid recovery, Luton is also a very high priority for the Government's Levelling Up agenda. It is in Priority Area 1 for the Levelling Up Fund<sup>7</sup>. The prioritisation is based on a ranking informed by a range of indicators, with Luton's performance notably including the following:

2.8.1 13<sup>th</sup> in England in the overall index (out of 309 local authorities – with 1 being the most in need and 309 being the least);

2.8.2 4<sup>th</sup> against Indicator 3: Need for Regeneration;

2.8.3 12<sup>th</sup> in terms of unemployment in 2020 to 2021 (dropping from 90<sup>th</sup> in 2019 to 2020);  
and

2.8.4 3<sup>rd</sup> in terms of commercial vacancy rates.

2.9 The S73 Application will support and contribute to Luton's recovery from the pandemic. It will:

2.9.1 Create over 900 new jobs -

---

<sup>4</sup> April 2022 is the latest month of data.

<sup>5</sup> To February 2022.

<sup>6</sup> Financial Times analysis 2022.

<sup>7</sup> <https://www.gov.uk/government/publications/levelling-up-fund-round-2-updates-to-the-index-of-priority-places>

- (A) based on historic trends around half of these new jobs would go to residents of Luton;
  - (B) this could reduce unemployment by around 4%<sup>8</sup>.
- 2.9.2 Increase the airport's GVA contribution to national GDP by around £44bn per year.
- 2.9.3 Generate wider economic benefits for trade, investment and tourism.
- 2.9.4 Deliver consumer benefits through cheaper airfares. The additional flights are forecast to be added to the schedule outside of the peak period, providing an opportunity for consumers to purchase flights that do not come with the "peak" premium. Research indicates that off peak airfares can be priced at around a 30-40% discount, indicating the scope for cheaper airfares for customers flying outside of the "peak" periods.
- 2.9.5 The increase in the passenger cap will also support efficiency gains and the use of a more modern fleet of aircraft. In 2019, the cap of 18mppa was reached. Under the existing cap, using bigger aircraft would require either having them less full or reducing the number of flights and potentially giving up slots. Under the existing permission, there is therefore less incentive for airlines to use more modern, larger, more efficient aircraft.
- 2.10 Such improvements and efficiencies will be delivered quickly if the cap in passengers is lifted. Most of the increase will be delivered by airlines switching to newer, more efficient and larger aircraft.
- 2.11 The Applicant has also agreed a draft S106 Agreement that will enhance local benefits further through:
  - 2.11.1 An Employment Skills and Recruitment Plan.
  - 2.11.2 An Employment and Training Contribution.
  - 2.11.3 A Local Procurement Protocol.
- 2.12 The delivery of such benefits is in line with both national and local policies, including the local Development Plan (see paragraph 2.25 below).

---

<sup>8</sup> Against gross unemployment in April 2022.

## 2.13 The Application Site and Planning History

### The Application Site

2.13.1 London Luton Airport is located approximately 30 miles north of London, 3 miles north-east of Junction 10 of the M1 and 1 mile east of Luton Airport Parkway train station. The Airport was opened in 1938 to attract new industry to the town. The current concrete runway for the Airport was installed in 1959 and extended to its current length of 2,160 metres in 1964.

2.13.2 The following relevant matters relating to the Application Site are agreed in the Statement of Common Ground:

(A) The Airport has one runway, which runs along an east-west axis to the south of the commercial, general aviation and cargo aprons and the main buildings (the Central Terminal Area, hangars, maintenance facilities and multi-storey car parks). With an area of approximately 245 hectares, the airport site is one of the most densely developed in the UK.

(B) In addition to its excellent highway connectivity, the Airport is well served by public transport. The Luton Direct Air-Rail Transit (DART) – a fully automated ‘people mover’ replacing the existing shuttle bus to the train station– is currently due to open in 2022. Once open it will transfer passengers between the airport terminal and Luton Airport Parkway in under 4 minutes. This will reduce the travel time between the Airport and London St Pancras to 30 minutes.

### Recent planning history

2.13.3 On 23 June 2014, the Applicant was granted planning permission for the development of the necessary infrastructure to increase passenger throughput at the Airport from 12 mppa to 18 mppa as follows (ref: (ref: 12/01400/FUL)

*Full planning application for dualling of airport way/airport approach road and associated junction improvements, extensions and alterations to the terminal buildings, erection of new departures/arrivals pier and walkway, erection of a pedestrian link building from the short-stay car park to the terminal, extensions and alterations to the mid-term and long-term car parks, construction of a new parallel taxiway, extensions to the existing taxiway parallel to the runway, extensions to existing aircraft parking aprons, improvements to ancillary infrastructure including access and drainage, and demolition of existing structures and enabling works. Outline planning*

*application for the construction of a multi-storey car park and pedestrian link building (all matters reserved)*<sup>9</sup> (the "**June 2014 Permission**").

- 2.13.4 The decision notice for the June 2014 Permission included 30 planning conditions, including a number of pre-commencement conditions which were later discharged. Of relevance to this inquiry, four noise related conditions were imposed on the June 2014 Permission, three concerning airborne related noise (conditions 11, 12 and 13) and one relating to ground noise (condition 14) (condition numbering relates to the 2014 Permission and has since changed). Further provisions relating to noise control and monitoring (including a requirement for a noise insulation scheme) were included within the section 106 agreement entered into alongside the June 2014 Permission.
- 2.13.5 The planning application for the June 2014 Permission was accompanied by an Environmental Statement (ES) dated November 2012 prepared by Terence O'Rourke Ltd. The ES assessed the likely significant effects of the proposed development pursuant to the December 2012 Application in relation to air quality and climate, cultural heritage, ecology and nature conservation, community and economic, ground conditions, landscape and visual impact, noise and vibration; traffic and transport; and water environment. Additionally, a health impact assessment was included as an appendix.
- 2.13.6 Following the grant of the June 2014 Permission, an application was submitted on 25 June 2015 pursuant to section 73 of the 1990 Act for variation of condition 11(i) of the June 2014 Permission (the "**2015 Application**"). Condition 11(i) forms one of the multi-layered framework of noise controls applied to the June 2014 Permission, and specifically addresses the night-time noise levels arising from the departing aircraft as they overfly the airport fixed noise monitors, which are located approximately 6.5km from the locations where aircraft start their departure rolls. The 2015 Application sought to vary the required noise levels from a system of fixed noise levels based on the quota-count of an aircraft, to a condition whereby the required noise levels for all aircraft, regardless of quota count, would reduce from 80dB(A) from 1 April 2015, to 79dB(A) from 1 January 2020 and then ultimately to 77dB(A) from 1 January 2028.

---

<sup>9</sup> A further full planning permission was later granted dated 27 May 2016 for construction of the multi-storey car park and pedestrian link building, together with ancillary works (ref: 15/01213/FUL). A full planning application was submitted rather than reserved matters, as the detailed design for the proposed structures exceeded the parameters consented by the outline permission. Further detailed planning history is provided within the Statement of Common Ground.

- 2.13.7 The 2015 Application was accompanied by an ES Addendum dated July 2015 which described the proposed changes and presented an assessment of any new or different likely significant effects on the environment as a result of the 2015 Application. The July 2015 ES Addendum did not affect the assessment or conclusions of a majority of the November 2012 ES (because the application related only to the variation of operational noise and violation limits) and, as such, the July 2015 Addendum only assessed noise and vibration environmental effects.
- 2.13.8 Planning permission pursuant to the 2015 Application was approved on 13 October 2017 following the completion of a section 106 agreement (ref: 15/00950/VARCON) (the "**2017 Permission**"). The 2017 Permission re-applied the conditions of the 2014 Permission (save for pre-commencement conditions which had been discharged, and subject to the variation of condition 11(i)). The further provisions relating to noise control and monitoring (including a requirement for a noise insulation scheme) contained within the June 2014 Permission and section 106 agreement were also re-applied to the 2017 Permission.
- 2.13.9 Data from noise monitoring carried out by the Applicant (and published as part of the Applicant's annual monitoring reports), revealed there were intermittent breaches of the night-time contours identified in Condition 10 in the summer months of 2017, 2018 and 2019, largely caused by airlines scheduled to land during the day instead having to land at night (due to weather related events and European air traffic control disruption). The daytime contour was exceeded in 2019 by 1.4 sq.km at 20.8 sq.km. The Applicant has carefully examined its operations to ascertain why the contour was exceeded and what measures can reasonably be taken to guard against further exceedances. This has led the Applicant to implement a range of additional operational measures.
- 2.13.10 The 73 Application which is the subject of this call-in inquiry is an application pursuant to section 73 of the 1990 Act to vary five conditions attached to the 2017 Permission.

## 2.14 The Application

- 2.14.1 In January 2021, the Applicant made the S73 Application seeking:

*Variation of Conditions 8 (passenger throughput cap), 10 (noise contours), 22 (car parking management), 24 (travel plan) and 28 (approved plans and documents) to Planning Permission 15/00950/VARCON (dated 13th October 2017) to accommodate 19 million passengers per annum and to amend the day and night noise contours.*

- 2.14.2 Details of the existing conditions attached to the 2017 Permission which the S73 Application proposes to vary are set out in full in the Statement of Common Ground. In essence, the variations propose changes to:
- (a) Condition 8 to raise the cap on the commercial passenger throughput of the Airport from 18 million to 19 million in any 12-month period; and
  - (b) Condition 10 to increase the area covered by the daytime and night-time noise contours.
- 2.14.3 Consequential amendments are proposed to condition 22 (to provide for an updated Car Parking Management Plan), condition 24 (to provide for an updated Travel Plan) and condition 28 (to require compliance with updated approved documents).
- 2.14.4 The Applicant engaged in an extensive consultation on the accompanying Masterplan for the application prior to submission.
- 2.14.5 The S73 Application was considered by LBC over the course of eleven months including three rounds of public consultation (including the regulation 25 consultation referred to below). This process included LBC engaging independent expert consultants in relation to both noise impacts of the S73 Application, and carbon and greenhouse gas emissions resulting from the S73 Application, in order to scrutinise the Applicant's assessment material. This process generated a number of requests for clarification from LBC, including a formal request for further environmental information pursuant to regulation 25 of the Environmental Impact Assessment Regulations 2017, resulting in an additional consultation on the updated material. Details of the Applicant's responses to these requests for clarification are set out in the Statement of Common Ground.
- 2.14.6 Following this process of detailed and careful consideration, LBC officers recommended that permission for the Application should be granted, subject to the imposition of planning conditions and a section 106 agreement securing appropriate planning obligations, and set out their reasoning for doing so in a thorough and comprehensive report, which runs to 89 pages, with representations prior to the committee meeting dealt with in a further Amendment Report . The application was then considered by the Development Management Committee of LBC over the course of two evenings, with the Committee endorsing the recommendation of officers and resolving to grant approval.

2.15 **Matters which the Secretary of State wishes to be particularly informed about for the purpose of consideration of the Application**

2.15.1 In the call-in letter dated 6 April 2022, the Secretary of State set out a list of the matters about which he particularly wishes to be informed for the purposes of the consideration of the S73 Application, as follows:

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.

2.15.2 The Applicant will present evidence at the inquiry to demonstrate that the Application is in compliance with, and supported by, the National Planning Policy Framework (2021) ("**Framework**") policies identified by the Secretary of State and the development plan, and, in addition and in any event, there is a range of material considerations and planning benefits that strongly support planning permission being granted for the Development. The recommendation by LBC officers that planning permission should be granted was well founded. Particular weight should be given to these recommendations given the extent of the detailed and expert scrutiny applied to the 73 Application by LBC and its expert advisors.

2.15.3 The amendments proposed by the S73 Application do not involve any new operational development. The additional passengers pursuant to the increased 19 million passenger cap would be accommodated through an increase in the number of air transport movements ("**ATMs**") and the use of larger aircraft.

2.15.4 As a result, whilst the proposed 19 million passenger cap would increase the permitted number of passengers by 5.5 percent, this is proposed to be achieved by a smaller percentage increase in ATMs.

2.15.5 Section 73(2) of the 1990 Act provides that, where an application is made under section 73, the local planning authority shall "*consider only the question of the*

*conditions subject to which planning permission should be granted."* Case law<sup>10</sup> confirms that this limits the decision-maker's consideration of the application to the practical consequences of the proposed variation of conditions. In this case, this concerns the effect of the additional 1 million passengers in a 12 month period, and the increase of the noise contours.

**2.16 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).**

Climate Change/Greenhouse Gas Emissions

2.16.1 The Applicant will present evidence to demonstrate that:

- (A) The Framework, together with Local Plan policies and other relevant policy documents, each rightly recognise climate change as a serious and urgent challenge. Each is clear that robust assessment of greenhouse gas emissions is required.
- (B) Assessing the impact of any increase in greenhouse gas emissions as a result of the S73 Application on the global climate requires consideration of the following sources of emissions:
  - (1) Emissions resulting from activities within the application site (airport buildings and ground operations)
  - (2) Emissions resulting from activities outside of the application site that would be emitted as a direct result of the scheme proposed by the S73 Application (e.g. aviation emissions and surface access emissions).

All sources of emissions have been thoroughly considered in the Applicant's Environmental Statement, which will be updated prior to the inquiry to reflect the most recent forecasts given the passage of time since the ES Addendum was submitted in January 2021. How these emissions should be considered by the planning system differs depending on whether the emissions result from international flights or from other sources (domestic flights and other ground sources).

---

<sup>10</sup> Pye v Secretary of State for the Environment [1998] 3 PLR 76

#### Emissions resulting from flights

- (C) National policy, including the Aviation Policy Framework<sup>11</sup> ("**APF**") and the Aviation strategy: making best use of existing runways ("**MBU**")<sup>12</sup>, is clear that the implications of emissions from flights in terms of climate change and greenhouse gas emissions is a matter to be addressed at a national level.
- (D) The key UK carbon target requires the Secretary of State to ensure that the net UK carbon account for the year 2050 is at least 100% lower than the 1990 baseline (often referred to as "net-zero"). Successive five-year carbon budgets are set at a national level in order to ensure that the UK meets its net-zero target.
- (E) The Applicant, through its Environmental Statement, has contextualised emissions from flights appropriately in the context of national policy, and, where necessary, this assessment will be updated prior to the inquiry to reflect developments since submission of the S73.
- (F) The Applicant will show through its evidence that the S73 Application would not materially affect the UK's ability to be carbon net-zero by 2050.
- (G) The Applicant will refer to recent decisions of the Secretary of State and his appointed Inspectors, such as in respect of Stansted airport<sup>13</sup> and Bristol airport<sup>14</sup>, considering the impact of aviation emissions, to demonstrate that the approach adopted by the Applicant and LBC is an appropriate one.

#### Emissions resulting from sources other than flights

- (H) The Applicant's Environmental Statement also contextualises the scale of the greenhouse gas emissions from all other sources (ie excluding flight emissions) in the "with development" case against both the UK carbon budgets and the aim of LBC to meet its climate change objectives for a net zero borough by 2040. This will be updated as necessary prior to the inquiry in order to take account of up-to-date forecasts and other policy considerations.

---

<sup>11</sup> March 2013

<sup>12</sup> June 2014

<sup>13</sup> Appeal Decision APP/C1570/W/20/3256619

<sup>14</sup> Appeal Decision APP/D0121/W/20/3259234

- (I) As part of the S73 Application, the Applicant has prepared an Outline Carbon Reduction Plan, which presents steps that the Applicant will take to achieve carbon neutrality by 2026 and net zero by 2040 for its own operations whilst supporting national measures to decarbonise transport including air travel. The implementation, monitoring and review of this Carbon Reduction Plan is proposed to be secured both by condition and section 106 agreement. This will include the preparation of a detailed Carbon Reduction Strategy in line with the Outline Carbon Reduction Plan, to be submitted and reviewed pursuant to section 106 obligation.
- (J) The Applicant will show that the S73 Application will not materially affect the ability of the UK Government to meet its carbon targets for net zero in 2050, or the ability of LBC to meet its carbon neutral borough by 2040 aim.
- (K) The Applicant will therefore demonstrate that the S73 Application is consistent with the Framework requirement for developments to 'support the transition to a low carbon future in a changing climate'.

2.16.2 The Applicant will show that the impact of the S73 Application in terms of carbon and greenhouse gas emissions are acceptable in line with national and local policy, and will be adequately mitigated.

#### Flooding and Water Resources

2.17 The Applicant and LBC are in agreement that the S73 Application would not have any likely significant impacts on flooding or water resources – see the Statement of Common Ground. The Site is located in Flood Zone 1, so is at low risk of flooding (i.e. less than 0.1% change of flooding in any year). There are no material changes proposed that seek to alter the overall quantum of built development or increase impermeable areas,

2.18 **The extent to which the proposed development is consistent with Government policies for conserving and enhancing the natural environment (Chapter 15)**

#### Noise

2.18.1 The Applicant will present evidence to demonstrate that:

- (A) There is a recognition in national aviation policy that making best use of existing runways may result in local impacts, including on noise levels.

National policy<sup>15</sup> requires that any significant adverse impacts on quality of life resulting from noise be avoided, and that adverse impacts on quality of life as a result of noise be mitigated and minimised where possible.

- (B) The existing planning permission and section 106 agreement for the Airport contain a number of controls designed to limit the impact of noise on the surrounding area. This includes:
- (1) a requirement that the development be operated in accordance with the approved Noise Control Scheme (condition 9), the approved Noise Report (including the existing noise contours) (condition 10), the approved Noise Control Monitoring Scheme (condition 11) and the approved scheme to control ground noise (condition 12). In relation to each of the conditions, there is an associated requirement for regular monitoring, reporting and (where appropriate) review in relation to compliance with the approved scheme. The S73 Application proposes that all but one of these existing controls will remain unchanged; the only proposed variation is an extension to the existing daytime and nighttime noise contours for the Airport.
  - (2) Further controls on noise are contained within the section 106 agreement associated with the 2017 Permission, including a requirement for a comprehensive Noise Management Plan (incorporating the approved Luton Noise Action Plan (2019 - 2023)). The S73 Application proposes to retain these existing controls.
  - (3) The section 106 agreement also contains the existing requirement for a residential and non-residential noise insulation scheme. As set out below, the existing noise insulation scheme would be considerably expanded as a result of the S73 Application.
- (C) The noise impacts of the S73 Application were comprehensively assessed and quantified within the Applicant's Environmental Statement, in line with recognised methodology and policy guidance. The Applicant's assessment was scrutinised by independent noise consultants appointed by LBC, and the noise assessment within the Applicant's Environmental Statement was revised to address and respond to comments raised by LBC's noise

---

<sup>15</sup> Noise Policy Statement for England, 2010

consultants. The Applicant intends to update these assessments prior to the inquiry to incorporate up to date forecasts including changes to the fleet mix.

- (D) There are four possible ways in which the Application could result in an impact on noise: (1) impacts as a result of the increase in aircraft movements resulting from the increase in the passenger cap to 19 million (2) impacts as a result of the changes to the existing noise contour (3) impacts as a result of aircraft movements on the ground (ground noise) or (4) impacts as a result of traffic movements (traffic noise).
- (E) In relation to ground noise and traffic noise, it is agreed between the Applicant and LBC that the effects of the S73 Application would be negligible – see the Statement of Common Ground.
- (F) The noise impacts as a result of the increase in aircraft movements and as a result of changes to the existing noise contour were assessed together within the Applicant's Environmental Statement, to ensure that all potential impacts were captured and assessed. For each of the selected assessment years (2021, 2022, 2023, 2024 and 2028), the predicted noise impacts as a result of the Application were compared against the predicted noise impacts pursuant to the existing 2017 Permission. The assessment concluded that the impacts would be not significant for the daytime for every assessment year 2021 through 2028. Noise levels for the night-time were predicted to be significant, with the worst-case year in terms of noise impacts predicted to be 2022 with noise levels then improving over the course of subsequent assessment years until reaching a level in 2028 at which the impacts will be deemed to be not significant
- (G) Given the passage of time since the submission of the S73 Application, more data has become available in relation to the passenger forecasts, airline fleet mix and noise levels at the Airport. The Applicant therefore intends to update the Environmental Statement to reflect up-to-date information. The Applicant's updated forecasts will be robust and evidence based, being based on actual orders made by the major airlines which fly from the Airport. These forecasts will demonstrate the impact of predicted change in the forecasted fleet mix from older, higher noise aircraft to new quieter aircraft, with the proportion of the higher noise aircraft predicted to decrease in comparison with the new quieter aircraft.

- (H) Given the requirements in national policy to ensure that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life, while also taking into account the guiding principles of sustainable development,<sup>16</sup> a comprehensive noise insulation scheme is proposed to be funded by the Applicant.
- (I) The 2017 Permission has an existing noise insulation scheme, which is secured by the existing section 106 agreement. The existing noise insulation scheme comprises an annual capped fund of £100,000 per year (index linked), with each property being eligible for up to £3,000 (index linked) in funding. The Applicant estimates that pursuant to the current noise insulation scheme, it would take 33 years to complete all noise insulation to eligible properties affected by noise under the existing permission (if 100% of affected properties elected to receive noise insulation) or 16 years (if 50% of affected properties elected to receive noise insulation).
- (J) Pursuant to the S73 Application, the annual cap on the noise insulation fund will be removed. Any property which is predicted to experience a significant observed adverse effect level of noise ("**SOAEL**") during the worst year for noise would be entitled to noise insulation for a period of six years after that date.
- (K) The Applicant intends to allocate £8.5 million to the new noise insulation fund to ensure that all properties which are within the SOAEL within the worst-case year can be insulated within 6 years from the date of any planning permission.

2.18.2 The Applicant will show that the noise impacts generated by the Application are acceptable in line with national and local policy, and will be adequately mitigated, and do not represent a reason for refusal of the Development.

---

<sup>16</sup> Noise Policy Statement for England (2010)

## Health

- 2.18.3 The Applicant will present evidence to demonstrate that
- (A) It is agreed between the Applicant and LBC that there would be no significant impacts on health as a result of any consequential increase in aircraft movements or other changes. The S73 Application would not change the spatial pattern of aircraft movements and assessments show that changes to air quality and surface transport patterns are not significant.
  - (B) The Applicant's assessment of health impacts is therefore focused on any impacts as a result of aircraft noise on human health.
  - (C) The health impacts of the S73 Application were comprehensively assessed within the Applicant's Environmental Statement, in line with recognised methodology and policy guidance. The Applicant intends to update these assessments prior to the inquiry to incorporate the results of the updated noise assessment.
- 2.18.4 The Applicant will show that the impacts on human health as a result of the S73 Application are acceptable in line with national and local policy.

## Air Quality

- 2.18.5 The Applicant's Environmental Statement comprehensively assessed and quantified the potential impacts of the S73 Application in terms of air quality, including any potential impacts from operational airport activity (on the ground and in the air) or from traffic movements, and measured any potential impact against applicable standards, namely IAQM/EPUK guidance (in terms of human receptors) and Environmental Agency guidance (in terms of ecological receptors).
- 2.18.6 The Applicant intends to update these assessments prior to the inquiry to incorporate the most recent figures on both the existing aircraft fleet mix and the anticipated changes to the fleet mix to incorporate new generation aircraft (based on airline orders).
- 2.18.7 The Applicant will show that the impacts on air quality as a result of the S73 Application are acceptable in line with national and local policy.

#### Habitats and Biodiversity

- 2.19 The Applicant and LBC are in agreement that the S73 Application would not have any likely significant impacts in relation to biodiversity, ecology, or any protected site – see the Statement of Common Ground. In particular, aircraft flying above relevant protected sites would be at sufficient height and distance such that there would be no significant effect from aircraft noise.

#### Landscape, Visual Effects, and Tranquillity

- 2.20 The Applicant and LBC are in agreement that the S73 Application would not have any likely significant impacts on the surrounding landscape, including to its tranquillity – see the Statement of Common Ground. There are no material changes associated with the Proposed Development that seek to alter the overall built infrastructure of the Airport and would impact visually on the surrounding landscape.
- 2.21 In relation to the nearby Chilterns Area of Outstanding Natural Beauty, aircraft fly above 4,000 ft, which is the threshold above which effects are deemed to be insignificant. The Proposed Development will result in no change to this prescribed flight height, or flight paths currently taken by aircraft.
- 2.22 The Proposed Development would not generate light pollution additional to the consented Airport.

#### Heritage Assets

- 2.23 The Applicant and LBC are in agreement that the S73 Application would not have any likely significant impacts on designated heritage assets– see the Statement of Common Ground. There are no material changes associated with the Proposed Development that seek to alter the overall built infrastructure of the Airport and would impact visually on heritage assets. In relation to noise impacts, the Proposed Development would not cause any perceptible increase to noise at any designated asset, and so would not affect any designated asset or its setting.

#### Ground Conditions

- 2.24 The Applicant and LBC are in agreement that the S73 Application would not have any likely significant impacts on ground conditions – see the Statement of Common Ground. There are no material changes proposed that seek to alter the overall quantum of built development and no construction activities likely to disturb ground conditions.

**2.25 The extent to which the proposed development is consistent with the development plan for the area**

2.25.1 The development plan for the area comprises the Luton Local Plan 2011-2031 (the "**Local Plan**"). The Local Plan was adopted in 2017.

2.25.2 The Local Plan is in support of sustainable growth at the Airport. The Local Plan "Visions and Objectives" set out in relation to the Airport the Vision that:

*"London Luton Airport will be improved to provide more jobs related to aviation industries and other associated business clusters and maintain London Luton Airport'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."*<sup>17</sup>

2.25.3 The Airport is subject to a strategic allocation, set out within Policy LLP6. This allocation is intended to serve the "strategic role of London Luton Airport and associated growth of business and industry, including aviation engineering, distribution and service sectors that are important for Luton, the sub- regional economy, and for regenerating the wider conurbation".<sup>18</sup>

2.25.4 The introduction to this strategic allocation notes that:

*"The airport provides infrastructure and services for commercial and business-related aviation (in 2012 nearly 17% of airport passenger was for business travel) as well as air cargo/freight and generates significant employment for residents of the town and surrounding areas. This includes aviation-related engineering and services and other aviation-related jobs. The airport also provides and underpins employment for a pool of workers and businesses that use and rely on the airport from neighbouring local authorities' areas, in particular Bedfordshire, Hertfordshire and Buckinghamshire."*<sup>19</sup>

2.25.5 Policy LLP6(B) (Airport Expansion) provides that:

*"Proposals for expansion of the airport and its operation, together with any associated surface access improvements, will be assessed against the Local Plan policies as a whole taking account of the wider sub-regional impact of the airport. Proposals for development will only be supported where the following criteria are*

---

<sup>17</sup> Paragraph 3.6

<sup>18</sup> Policy LLP6, introductory text

<sup>19</sup> Paragraph 4.45

*met, where applicable/ appropriate having regard to the nature and scale of such proposals.."*

- 2.25.6 The Policy then goes on to list the nine relevant criteria. As the Statement of Common Ground records, there is a divergence of view between LBC and the Applicant as to whether all of these criteria are satisfied. Nevertheless, as confirmed by the Statement of Common Ground, LBC considers that there is substantial compliance with Policy LLP6 and that the benefits of the Proposed Development outweigh any elements of potential conflict with either of these policies in any event.
  - 2.25.7 The Applicant will address how the Proposed Development does fully assess the impacts of consequential increases in ATMs, identifies appropriate forms of mitigation and ultimately delivers no material increase in day or night time noise over time to comply with the Policy LLP6 and, in any event, delivers benefits that strongly outweigh any LBC perceived elements of non-compliance with Policy
- 2.26 In addition to the specific policies relating to the Airport (notably LLP6), the Development Plan also emphasises the need for jobs and economic growth:
- 2.26.1 Strategic Objective 1 of the Local Plan is to “retain and enhance Luton’s important sub-regional role as a place for economic growth and opportunity, including the safeguarding of London Luton Airport’s existing operations and to support its sustainable growth over the Plan period based on its strategic importance”;
  - 2.26.2 Strategic Objective 6 of the Local Plan is to “reduce social, economic and environmental deprivation...by taking priority measures to reduce unemployment, improve skills and education...”;
  - 2.26.3 Policy LLP13 – Economic Strategy (Part A) sets out that “planning applications will be granted where they deliver sustainable economic growth and prosperity to serve the needs of Luton and the wider sub region”
  - 2.26.4 The supporting text to Policy LLP13 recognises the role of development on the London Luton Airport Strategic Application to support this policy. It also recognises that Luton “functions as an important sub-regional employment centre.”
  - 2.26.5 In summary these adopted policies and strategic objectives indicate the importance of London Luton Airport as an economic engine in the local as well as wider economy, and demonstrate policy support for the airport’s growth as an economic motor for the borough and the region.

2.26.6 The Applicant will demonstrate that the S73 application will play an important role in delivering these wider economic policies that form part of the Development Plan. In particular, the Applicant will bring evidence that demonstrates the social and economic benefits that would arise from increasing the number of passengers, including how it will contribute to national policy to support the recovery from the Covid pandemic and local policy. It will also cover how the proposals will benefit the local economy as it recovers from the effects of Covid with jobs for local residents as well as wider economic benefits, including benefits for passengers, and further the goals of the Development Plan.

## 2.27 **Other matters the Inspector considers relevant**

### Transport

2.27.1 The Applicant will bring evidence to demonstrate that:

- (A) The Applicant submitted a Transport Assessment in relation to the S73 Application, and part of the Environmental Statement assessed the impact of the S73 Application in relation to transport issues. The Applicant intends to update these assessments prior to the inquiry to incorporate the most recent data on transport movements.
- (B) LBC concluded that the impacts of the S73 Application in relation to transport were acceptable and in line with national and local policy. Highways England did not object to the application.
- (C) A Travel Plan and Car Parking Management Plan were submitted with the S73 Application and are proposed to be secured by condition. The Travel Plan will assist to further encourage the ongoing modal shift to sustainable forms of transport which is ongoing at the Airport.

### Other matters

2.27.2 The Applicant recognises that it may be necessary, to respond to third party representations to the Inquiry, by calling evidence which has not been envisaged in this Statement of Case. The Applicant will keep the Secretary of State updated in the event that it considers that it is necessary to call additional witnesses.

### 3. **SECTION 106 AGREEMENT**

- 3.1 At the time the S73 Application was considered by the Development Management Committee heads of terms for planning obligations had been agreed between the Applicant and LBC. These were included in the LBC officer's report and are recorded at Appendix 3 to the Statement of Common Ground.
- 3.2 The Applicant will continue discussions with LBC to settle the detail of these planning obligations.
- 3.3 A final draft of the proposed legal agreement will be submitted to the Inspector at least 10 days prior to the opening of the inquiry as required by the Inspector in the PINS letter dated 11 April 2022.

### 4. **PLANNING CONDITIONS**

The Applicant is prepared to accept the conditions as set out at Appendix 2 to the Statement of Common Ground.

### 5. **STATEMENT OF COMMON GROUND**

- 5.1 The Applicant and LBC have submitted a Statement of Common Ground, which is referred to in this Statement of Case. The Applicant intends to prepare an Environmental Statement Addendum which updates the assessments in relation to noise, climate change, human health impacts, air quality and transport. Following the preparation of these further assessments, the Applicant will engage with LBC to seek to agree further Statement(s) of Common Ground addressing areas of common ground in relation to the relevant assessments.
- 5.2 The Applicant is willing to engage with any Rule 6 or interested parties to seek to agree Statement(s) of Common Ground, should the inquiry find that of assistance.

### 6. **CONCLUSION**

- 6.1 The S73 Application is in accordance with the development plan and supported by relevant development plan policy. Planning permission should therefore be granted in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004 and the presumption in favour of sustainable development contained in paragraph 11 of the Framework.
- 6.2 There are no material considerations which outweigh this presumption.
- 6.3 In addition, and in any event, there are other material considerations, including the substantial economic benefits that would be delivered by the Proposed Development, along with compliance with and strong support from national policy, which in fact reinforce the

presumption in favour of the grant of planning permission and which justify the grant of planning permission anyway.

## 7. DOCUMENTS TO BE REFERRED TO

7.1 The Applicant intends to refer to the following documents:

7.1.1 documents comprising or accompanying the S73 Application (the "Application Documents");

7.1.2 the Officer's report to the Development Management Committee prior to the committee meeting on 30 November and 1 December 2022, together with addendums to such report (the "Development Committee Report");

7.1.3 adopted and draft national and local planning policy and guidance documents and appeal decisions (including the recent appeal decisions in relation to Bristol Airport<sup>20</sup> and Stanstead Airport<sup>21</sup>) as referred to in the Application Documents, Development Committee Report, the Statement of Common Ground and this Statement of Case.

7.2 The Applicant reserves the right to add to, amend or otherwise supplement this list.

---

<sup>20</sup> Appeal Decision APP/D0121/W/20/3259234

<sup>21</sup> Appeal Decision APP/C1570/W/20/3256619