



www.dacorum.gov.uk

# STRATEGIC PLANNING & ENVIRONMENT

## Overview and Scrutiny Committee

<b>Report for:</b>	Strategic Planning & Environment Overview and Scrutiny Committee
<b>Title of report:</b>	Consultation on Development Consent Order for the Expansion of Luton Airport
<b>Date:</b>	16 <sup>th</sup> March 2022
<b>Report on behalf of:</b>	Councillor Alan Anderson, Portfolio Holder for Planning and Infrastructure
<b>Part:</b>	I
<b>If Part II, reason:</b>	N/A
<b>Appendices:</b>	Appendix A Council's Response to the 2019 DCO Consultation Appendix B Extracts of Noise Contour Maps
<b>Background papers:</b>	1. Consultation Executive Summary of proposed Development Consent Order 2. Planning Applications
<b>Glossary of acronyms and any other abbreviations used in this report:</b>	AONB – Area of Outstanding Natural Beauty DCO – Development Consent Order HA – Host Authority HCC – Hertfordshire County Council LADACAN - the Luton And District Association for the Control of Aircraft Noise LBC – Luton Borough Council LLA – London Luton Airport LLAL – London Luton Airport Limited LLAOL – London Luton Airport Operators Limited MPPA – million passengers per annum NSIP – Nationally Significant Infrastructure Project

### Report Author / Responsible Officer

Alex Robinson - Interim Group Manager (Planning and Development)



alex.robinson@dacorum.gov.uk / 01442 228002 (ext. 2002)

<b>Corporate Priorities</b>	A clean, safe and enjoyable environment Climate and ecological emergency
<b>Wards affected</b>	ALL

<b>Purpose of the report:</b>	To advise Members of the consultation on the Development Consent Order to be applied for by London Luton Airport Operations Limited (LLAOL) for the expansion of London Luton Airport and the implications for Dacorum.
<b>Recommendation (s) to the decision maker (s):</b>	<ol style="list-style-type: none"> <li>1. The Committee outline any views that it wishes the Council to consider when preparing its response to the current consultation on the DCO.</li> <li>2. To delegate authority to the Strategic Director – Place, in consultation with the Portfolio Holder for Planning and Infrastructure to agree the final response for submission to Luton Borough Council.</li> </ol>
<b>Period for post policy/project review:</b>	Ongoing process as the DCO progresses

## 1. Introduction/Background

1.1 Over the last 20 years London Luton Airport (LLA) has experienced considerable growth and is currently permitted to handle up to 18 million passengers per annum. At the end of 2019 LLA was the UK's fifth largest and one of the UK's fastest growing airports serving nearly 18mppa and is an important player in Luton's economy.

1.2 Luton Borough Council holds ownership of London Luton Airport (LLA) through its company London Luton Airport Limited (LLAL), trading under the name of Luton Rising, and operations at the airport are the responsibility of London Luton Airport Operators Limited (LLAOL).

1.3 LLAL is planning for the long term of expansion of LLA to increase capacity from its present cap of 18mppa to up to 32mppa by around 2040. Such an expansion requires works of such significant size and scale to be undertaken that they qualify as a Nationally Significant Infrastructure Project (NSIP) and means that a Development Consent Order (DCO) must be applied for. Such application will be examined by the Planning Inspectorate and decided by the Secretary of State for Transport.

## 2. Previous Applications

2.1 The expansion and current operations at LLA are governed by a number of planning permissions and agreed operating practices. The areas of primary importance to Dacorum relate to flight arrivals and departures at the airport and particularly in that context the settlements of Markyate and Flamstead which are both less than a kilometre from the Westerly flight path from the Airport which bears approximately 70% of outgoing flights. Other areas of Dacorum are also impacted by overflying aircraft from other airports, such as London Heathrow as well as LLA. This gives rise to concerns regarding noise impact from flights overflying Dacorum's area (ground operations at LLA are not considered to have significant impact for Dacorum) and potential air quality issues.

- 2.2 Planning Permission 12/01400/FUL (as varied by Planning Permission 15/00950/VARCON) contained a number of conditions to meet concerns expressed by neighbouring authorities to LLA regarding impact on the environment and the health and wellbeing of residents and businesses, these included conditions on day and night aircraft movements and placed a cap on passenger numbers of 18mppa.
- 2.3 Prior to Covid-19 passenger numbers reached very close to the 18mppa cap and LLA sought a variation on the cap to permit 19mppa. Issues had also arisen with breaches of the noise contours and LLA further sought a variation on those conditions, effectively to relax them.
- 2.4 In early 2020 LLA withdrew those applications and made a fresh single application (Planning application reference 20/00131/DOC) to vary the planning conditions; including changing the noise contours, increasing the passenger cap to 19mppa and also seeking permission for works to facilitate the expansion of the airport such as new and improved access roads and other local works.
- 2.5 These applications have received considerable opposition across Hertfordshire. Officers have been liaising closely with HCC and other authorities across Hertfordshire, including St Albans, in coordinating objections to those applications. Common themes running through the objections included:
- The need for planning conditions to give confidence that expansion at LLA would be in line with environmental improvements and ensure that there was no increase in environmental pressures such as noise and air pollution.
  - The apparent unequal consideration of economic and environmental considerations with the result that expansion has been allowed to take place regardless.
  - The expansion to be facilitated by the proposals is contrary to both local and national policy.
  - Unsatisfactory evidence base to support the applications.
  - Proposed mitigation measures being insufficient.
  - Applications are premature whilst the impact of Covid-19 on future travel is still largely unknown.
- 2.6 LBC has resolved to grant the application reference 20/00131/DOC. The Secretary of State has since issued a holding direction on the application whilst consideration is given as to whether or not to call it in. The Secretary of State's decision is awaited.

### **3. Update on DCO Application**

#### **Background and previous engagement**

- 3.1 This is the second public consultation that has been held on the DCO. The first public consultation was held in 2019 and attracted feedback from 3,501 people and organisations. DBC responded in support of the detailed submission by HCC (see Appendix A). The issues raised by the Council and HCC included conflicts with national and local policy, inadequate evidence to support the development, lack of strategic planning and that the proposed mitigation measures were inadequate.
- 3.2 Whilst similar to the previous (2019) draft DCO this revised DCO contains a number of changes seeking to address the feedback received. This DCO would authorise:
- Increase in the passenger cap to 32mppa by 2043.
  - Construction of a second terminal.
  - Significant further onsite works such as earth moving, construction of further service facilities.

3.3 Full details of the DCO can be viewed online at Luton Rising's consultation site at: <https://lutonrising.org.uk/consultation/> and supporting documentation (including an executive summary) can be viewed at the Document Vault on the site at: <https://lutonrising.org.uk/consultation/#group-section-Document-Vault-CdLnZ89PYQ>

3.4 There are a number of technical documents that support the consultation and cover a wide manner of areas, including:

- *Draft Employment and Training Strategy* - focused on getting people in the local area that maybe living in deprivation and lack the necessary skills into employment. To be achieved through the investment of programmes to enable local residents to access employment and engagement with employers and the local community.
- *Draft Equalities Impact Assessment* – investigates the impacts expansion may have on the community including Noise, Air Quality, Accessibility to PRoWs and Open Space, Community facilities and Employment Opportunities.
- *Draft Green Controlled Growth* – a new framework designed to ensure that growth only takes place within strict environmental limits.
- *Draft Need Case* - sets out the need for expansion in relation to the Oxford- Cambridge Arc, the pockets of deprivation that surround the area, increase in economic activity around the area as part of the Levelling Up agenda and as part of their Covid recovery.
- *Draft Policy and Compensation Measures* – which sets out the statutory rights and proposed discretionary measures.
- *Draft Sustainability Statement*- addresses the policy, legislation and guidance relevant to sustainability and outlines their commitments around sustainability.
- *Getting to and from the airport* – this contains the emerging transport strategy detailing proposals for improving travel options including. The measures include extending the Luton DART, increasing capacity of bus and coach bays, a new Airport Access Road to serve Terminal 2, delivering a new short stay and long stay car park and promoting sustainable travel through the expansion of electric vehicle charging infrastructure.

3.5 All of these measures are still linked to the proposed Green Controlled Growth (see 4.17 below).

#### **4. Summary of Potential Implications of the DCO**

4.1 The following section sets out some of the consequences of the development as currently understood. This is not an exhaustive list.

##### **Noise and increase number of flights**

4.2 A direct consequence of increased passenger numbers will be increased flights arriving and departing from LLA. This has potential for an increase in noise impact across the Dacorum area and particularly would affect residents and businesses in the Markyate and Flamstead area which lie directly under or very close to the flightpath for Luton as noted above. The impact on the tranquillity of the AONB is also a matter for concern.

4.3 Evidence available on the Luton and District Association for the Control of Aircraft Noise (LADACAN) suggests that the expansion of the airport would equate to a 60% increase in flights with a more significant proportion taking place between 11pm to 7am and 50% more during the day. Previous information published on their website suggests that Luton airport has broken its promises in the past when permission was granted in 2013.

4.4 As part of the airports evidence gathering and contained within their consultation brochure Luton Airport have undertaken noise modelling to determine the change in noise levels that would be experienced by local communities with or without the scheme coming forward. The assessment is based on current

flightpaths to present a worst case scenario. It is predicted that by 2043 even with the proposed expansion there will be a reduction in the number of people who would experience significant noise.

4.5 To further counter this Luton have committed to a new framework called Green Controlled Growth which among other factors considers noise. This is independently monitored and if breached mitigation measures will need to be put in place and any growth halted.

4.6 In addition to this Luton have also changed their compensation proposals for people affected by aircraft noise meaning that not only is compensation more generous it is made available at a lower noise threshold than previously. The noise compensation package being offered is among the most generous offered by a UK airport.

4.7 It should also be noted that the noise Action Plan from 2014 details that these were all part of a voluntary approach and therefore not legally binding.

#### **Air Quality**

4.8 Previous analysis suggests that the impact on air quality would not be significant. Officers are currently in the process of examining this further but it is currently not clear whether this conclusion would be significantly different.

4.9 This is another element that is monitored by the Green Controlled Growth Framework. To further minimise and manage emissions during operating times a Draft Air Quality Plan has been prepared which sets out measure to reduce emissions from aircraft, airside vehicles, surface access, energy and fixed plant, miscellaneous emissions and odour emissions.

#### **Increased passenger movements to the airport**

4.10 Surface access to and from LLA is also an area of potential concern which may lead to additional congestion on the M1 and contribute to wider cumulative impacts when taking into account wider housing growth across the area, including at Hemel Hempstead.

4.11 LLA emphasises that it has tried to minimise the impact of additional visitors to the airport as part of the emerging transport strategy. Improvements proposed to mitigate the impact include the Luton DART which is a new rail link connecting Luton Airport Parkway Station directly to the terminals, a forecourt area passenger drop off and pick up which may include a pricing system based on vehicle emissions and a coach station to serve longer distance travel.

4.12 However, car parking will continue to remain an issue going forward with an expectation that 45% of passengers will arrive by car. This could place additional pressures on the M1 and junction 8 as people join the M1, as junction 10 will still serve as the primary road access to the airport. LADACAN suggests that there could still be up to an additional 30,000 car passenger journeys each day on the M1, A505 and roads local to the airport.

#### **Loss of valuable habitat and provision of replacement parkland**

4.13 Although not directly relevant to Dacorum the expansion of the airport will require the loss of part of Wigmore Valley Park, which is a country wildlife site and asset of community value. As part of the expansion Luton has committed to make the park at least 10% bigger. These proposals are designed to keep more trees and maintain biodiversity, and will also retain a ridgeline to visually screen the airport.

#### **Creation of new jobs and increased economic activity within Bedfordshire, Buckinghamshire and Hertfordshire**

4.14 The consultation documents outline the airport's commitment to improving the economy within its immediate area and creating new opportunities for local residents. The location of the airport within

the Oxford-Cambridge arc and England's economic heartland is stated by LLA to be important in helping to facilitate economic activity within the area.

4.15 The airport is one of the main economic drivers for Luton and supports an area with high levels of deprivation. The expansion of the airport has the potential to generate employment directly and through attracting businesses to the area. This could potentially have added benefits for Dacorum in attracting new employment to Maylands with its good access to the M1 to LLA and other destinations.

4.16 As part of their suite of documents LLA has committed to providing training and new opportunities to those in the community who may lack the necessary skills to enter employment through partnerships with education institutions and local training. Although the connection is not particularly strong there may be some benefits to West Herts College and other educational and training establishments within the Dacorum area.

### **Concept of Green Controlled Growth (GCG)**

4.17 Green controlled Growth is LLA's take on the Green Growth strategy which is defined by the Organisation for Economic Co-operation and Development as *"fostering economic growth and development, while ensuring that natural assets continue to provide the resources and environmental services on which our well-being relies."*

4.18 LLA state that GCG is a unique framework that will be introduced to ensure that environmental limits are adhered to as the airport grows, including a legally binding and independently monitored set of criteria that will need to be satisfied for the airport to expand. If monitoring were to suggest at any point the limits were in danger of being breached, then plans would need to be set out how that breach would be avoided. If the limits were ultimately breached further growth would be stopped and mitigation would be required.

4.19 Green Controlled Growth would place controls on four key categories of environmental impact:

- air quality;
- greenhouse gas emissions
- aircraft noise; and
- surface access mode share.

4.20 It is proposed to measure these impacts as follows:

- Aircraft noise – by the total area of land experiencing noise above a certain threshold.
- Air quality – by the concentrations in the air of the three pollutants most relevant to human health.
- Greenhouse gas emissions – by emissions from airport operations and surface access.
- Surface access – by % of passengers and staff travelling by public transport and sustainable modes.

4.21 Limits are proposed for each of these four categories. Green Controlled Growth would ensure that growth only takes place within strict environmental limits. The airport operator would be required to periodically monitor and report on the extent of impacts associated with the airport in the four limit areas. If monitoring were to suggest at any point that these limits were in danger of being breached, then plans must set out how that breach would be avoided. If environmental limits were ultimately breached, further growth would be stopped, and mitigation required.

4.22 Much of the detail remains to be worked out, including how those parameters are set, monitoring arrangements and how and by whom enforcement would occur.

### **Compensation and Community Funding**

4.23 As part of the compensation measures LLAL are proposing to set up a new Community Fund called Community First. The proposed scheme would contribute £1 to the Community First fund for each additional passenger as a result of the expansion. This money will be allocated to projects that tackle deprivation in Luton and neighbouring counties, and for local decarbonisation projects.

4.24 The emphasis is on the most deprived areas and will be split 60% to Luton, and 40% to neighbouring counties. At the maximum expanded capacity of 32 million passengers per annum (mppa), and assuming the current cap of 19 mppa as the baseline, this would mean £13 million a year is contributed to Community First, of which £5.6 million would be allocated to projects in neighbouring counties. This compares to the current Near Neighbour Fund which is in the region of £25,000 per year. Dacorum receives roughly 7% of the Near Neighbour Fund. It is currently unclear how the new funding arrangements will impact Dacorum.

4.25 The LLA is now proposing a revised Noise Insulation Scheme to that stated in the 2019 DCO consultation. It is offered through four Noise Insulation Schemes, with each scheme addressing slightly different circumstances:

- Scheme 1 – Properties within the 63dB LAeq,16h (63dB) contour band;
- Scheme 2 – Properties within the 60dB LAeq,16h (60dB) contour band;
- Scheme 3 – Properties within the 57dB LAeq,16h (57dB) contour band; and
- Scheme 4 – Properties within the 54dB LAeq,16h (54dB) contour band

4.26 The scheme consulted upon in 2019 has been reviewed and the noise insulation policy threshold extended beyond the current 63dB LAeq,16h contour. The 2019 proposals provided eligibility from 57dB LAeq,16h, whereas the new proposal commences at 54dB LAeq,16h. Officers are considering if this would provide potential eligibility within Dacorum for the 54dB contour band.

## **5. Future Airspace Strategy Implementation – South (FASI-S)**

5.1 The Committee should also be aware of wider changes being considered to airspace arrangements. This had been on hold for several years but is now progressing. FASI-S is intended to be a co-ordinated strategy and plan for the use of UK airspace for air navigation up to 2040, including for the modernisation of the use of such airspace.

5.2 Briefly, the strategy will set out flightpaths for Southern England for flights up to 7,000 feet. For the Dacorum area this will cover the airports of Luton, Heathrow, Stansted, London City & Northolt. The expansion of some or all of those airports will therefore have some impact on the Dacorum area.

5.3 For LLA an early indication has been given that a more equitable distribution of flightpaths is likely to be sought. Accordingly, some areas may experience fewer flights overhead and others may experience more than at present. More detail is expected around late Summer of this year. Generally speaking an overall increase in flights over Dacorum is to be expected from proposed airport expansion in the South of England.

## **6. Host Authority Status**

- 6.1 On 9 February 2022 LLAL informed this Council that the limits of the area covered by the proposed DCO include a small slither of land within Dacorum's boundary. This relates to works on the slip road of Junction 10 of the M1, where temporary possession is proposed for highway improvements. As a consequence Dacorum now has the status of Host Authority (HA) for the purposes of the DCO process; until now Dacorum had been a "neighbouring authority".
- 6.2 The Planning Inspectorate's Advice Note Two provides that whilst participation in the DCO process is not obligatory it is strongly advised. It is therefore not absolutely obligatory that Dacorum agrees to enter into the DCO process as a HA and Dacorum could remain as a "neighbouring authority" in practical terms. Officers are seeking an urgent meeting with LLA on the implications within the engagement process of being or not being a HA.
- 6.3 Potential consequences of being a host authority (HA) include responsibilities under the statutory consenting process, which it must fulfil regardless of whether or not it supports the scheme for which powers are being sought. The HA's view carries weight with both developer and decision maker and it is possible to maintain strong objections to the scheme or to object to specific aspects of it. The HA will be engaged in all stages of the DCO process which can include:
- Liaising and sharing resources with other affected local authorities;
  - Consultation on screening/scoping of the environmental impact assessment;
  - Input into the content and methodology of the developer's public consultation exercise;
  - Participating in consultation as a statutory consultee;
  - Agreeing terms of a Planning Performance Agreement with the developer
  - Possible submission of an "Adequacy of Consultation" representation;
  - Preparation and submission of a "Local Impact Report";
  - Evidence planning and preparation of Statements of Common Ground;
  - Participation in the examination process; and
  - Monitoring and enforcement of requirements once a DCO is made.
- 6.4 Being a HA can increase the weight to be given to a local authority's views as being directly affected by powers being sought under a DCO upon land and property in its administrative area. However, given only a very small slither of land in third party ownership, and for which only temporary possession is sought, is involved means that any extra weight to views is likely to be minimal.
- 6.5 The status of HA will also increase demands on the Council's resources to comply with the statutory obligations that go with the status of HA. It should also be noted that if the small slither of land is subsequently excluded from the DCO limits then Dacorum's role as HA would also fall away and it would revert to being a neighbouring authority.

## **7. Next Steps**

- 7.1 Officers continue to liaise with Hertfordshire County Council and St Albans City and District Council amongst other authorities neighbouring LLA on matters arising. Officers are also seeking to join the consortium of other Host Authorities to combine resources and consider appropriate responses to the DCO.
- 7.2 Officers propose to formally respond to the DCO process, ideally in conjunction with other HA or in conjunction with HCC to further reinforce previous concerns raised about implications of the development. The response will seek further assurances that the identified negative impacts of the development will be sufficiently mitigated to avoid adverse impacts and that opportunities arising from the expansion, such as employment and community funding are realised. A particular focus of the response will be on the noise impacts of night flights on Dacorum.



## **Options and alternatives considered**

7.3 An alternative to the proposed approach is to do nothing. Whilst HCC would likely address areas of concern to Dacorum in its response, the opportunity to respond to those matters that directly impact upon - Dacorum would be lost as could the opportunity to realise potential benefits from the expansion. In any event the “do nothing” option is not feasible whilst Dacorum is a host authority as the process places a number of responsibilities upon it as already noted (see 2.4 above).

### **8. Consultation**

8.1 The following sections have been consulted on the work undertaken to date:

- Environmental Services
- Development Management
- Strategic Planning

### **9. Financial and value for money implications:**

9.1 Funding to consider and respond to LLA related consultations is provided from existing base budgets. To date there have been economies of receiving the information provided by HCC and supporting the approach taken by HCC. As a host authority Dacorum may have to take a more proactive role in the DCO process.

9.2 If the Council wishes to undertake further technical work this would be funded from the existing Local Plan budget.

### **10. Legal Implications**

10.1 The status of being a HA for the purposes of the DCO brings additional obligations as noted in 2.4 above.

10.2 As HA Dacorum could be involved in the preparation and completion of a number of agreements and formal participation in the examination process.

### **11. Risk implications:**

N/a

### **12. Equalities, Community Impact and Human Rights:**

N/a

### **13. Human Rights**

13.1 There are no Human Rights implications arising from this report.

### **14. Sustainability implications (including climate change, health and wellbeing, community safety)**

14.1 Implications for climate change and sustainability of growth in the area. Dacorum has declared a climate emergency and expansion of the airport needs to be compatible with those aims and also wider government initiatives such sustainable growth and the recently announced Jet Zero.

14.2 The DCO could enable additional social benefits to be secured from planned expansion through the delivery of skills, training and employment outcomes targeted at local residents, education providers and businesses. Given the likely level of growth expected over the new plan period and initiatives such as the Hertfordshire Innovation Quarter and Hemel Garden Communities, the impact of this new policy could be transformative to both individuals and the local economy.

**15. Council infrastructure (including Health and Safety, HR/OD, assets and other resources)**

15.1 The proposed DCO does not propose any acquisition of Dacorum assets. A small slither of land in the vicinity of Slip End by junction 10 of the M1 within Dacorum's area will be required in connection with the proposed junction improvements for access to LLA.

15.2 The status of Dacorum as a host authority will place additional pressure upon officer and financial resources

**16. Conclusions:**

16.1 Dacorum should respond to the consultation highlighting its main areas of concern including noise impacts and mitigation measures, surface access and how green controlled growth will be implemented and managed in the future.