

CAA response to London Luton Airport Limited's March 2022 Statutory Consultation

CAP 2336

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Introduction

1. The Civil Aviation Authority (CAA) welcomes the opportunity to respond to London Luton Airport Limited's (LLAL) statutory consultation on airport expansion in its capacity as a statutory consultee under planning law.
2. The CAA has a number of statutory functions which are relevant to any scheme proposing to make best use of an airport's existing runway. We are using our response to this statutory consultation on LLAL's proposed development to provide clarity and transparency on the roles and responsibilities we are performing and will continue to perform with respect to LLAL's proposed expansion scheme.
3. Parts of LLAL's proposals for expansion will be subject to CAA regulatory processes and approval. Some of these regulatory processes are already under way and will continue throughout and beyond the Development Consent Order (DCO) process (including after DCO consent, if granted, and during the construction phase).
4. We have engaged and will continue to engage with LLAL over the coming months to understand its proposals for expansion insofar as they relate to our relevant regulatory roles and statutory functions and thus in our capacity as a statutory consultee.
5. This response is based on the available information in LLAL's statutory consultation as at 4 April 2022 (the date of our response to LLAL's statutory consultation) and the current status of our relevant policies at this date. As our work on our regulatory processes will continue after this date, this response should be considered as a "snapshot" of our position on the issues discussed as at that date and remains subject to further development in those processes.

The CAA's regulatory roles and statutory functions

6. The CAA is the UK's specialist civil aviation regulator. We work so that:
 - the aviation industry meets the highest safety standards. We regulate the safety of airport design against all applicable legislation, including regulations that are retained (and amended in UK domestic law) under the European Union (Withdrawal) Act 2018, and international safety criteria.
 - consumers have choice, value for money, are protected and treated fairly when they fly. We apply an economic licencing regime to airports which satisfy the market power test in section 6 of the Civil Aviation Act 2012; a category which, at present, does not include Luton Airport.

- airspace is well managed. We are required to prepare and maintain a co-ordinated strategy and plan for the use of all UK airspace for air navigation up to 2040, including the modernisation of such airspace. We make decisions on proposals to change airspace design, which we do against the background of our duties under the Transport Act 2000, Directions and environmental guidance from the Secretary of State. and
- the aviation industry manages security risks effectively.

We also provide the Government, and third parties on a commercial basis, with environmental advice as requested, including information about the noise effects of aviation operations. It is for Government to determine aviation environmental policy and for the CAA, where required, to implement such policy as it relates to our functions.

The CAA's role as a statutory consultee under planning law

7. The CAA is prescribed as a statutory consultee in relation to applications for development consent made under the Planning Act 2008 and must be consulted on all such applications relating to an airport or which are likely to affect an airport or its current or future operation. We therefore respond to consultations and information from an applicant insofar as their application is relevant to our regulatory roles and statutory functions and we have comments to make.
8. As a statutory consultee, we are expected to provide advice and assistance to the Planning Inspectorate and Secretary of State on whether we see any impediments to LLAL's proposed development proceeding insofar as they relate to our regulatory roles and statutory functions, and, if so, whether we consider those impediments are capable of being properly managed¹. We make that assessment, where possible, at the time of LLAL's DCO submission. In making that assessment, we will need to give our view to the Examining Authority whether there are any unmanageable impediments where there is sufficient evidence available to inform the CAA's assessment. Our assessment will be based on the evidence then available. The assessment we carry out and the advice and assistance we provide do not in any way fetter the CAA's decision-making discretion in relation to its regulatory decisions at a later stage; all regulatory decisions will be taken based on the information available, the statutory framework and relevant considerations at the time.

¹ This is likely to be in the form of a 'no impediments' and/or 'statement of common ground' document.

Structure of this response

9. We welcome the opportunity to respond to LLAL's Statutory Consultation. Each chapter of this response deals with a different topic for which we have a regulatory role.
10. There is evidently a large volume of consultation material, much of which does not appear to be directly relevant to the CAA's regulatory roles and statutory functions. We have not reviewed all of the consultation documents published by LLAL as part of this consultation. We have focussed our attention on those areas which are within or are closely related to the CAA's areas of regulatory responsibility. Also, we have only included reference to documents where we have a comment to make.

Chapter 1

Aerodrome Safety

- 1.1 The CAA is the UK regulator of civil aviation safety. The CAA's role as regulator is to oversee compliance by UK aerodromes with all relevant aerodrome regulations (namely, UK Reg (EU) No. 2018/1139, UK Reg (EU) No. 139/2014 and all associated Acceptable Means of Compliance and Certification Specifications) that fall within scope of that regime.
- 1.2 The CAA has considered the consultation documents relevant to its aerodrome safety role and can confirm it does not have any comments to make.