

15 May 2025

**Luton Rising**  
Hart House Business Centre  
Kimpton Road  
Luton  
LU2 0LA

lutonrising.org.uk

Secretary of State for Transport  
c/o Transport and Works Act Orders Unit / Kayla Marks  
Department for Transport  
Great Minster House  
33 Horseferry Road  
London SW1P 4DR

By email: [transportinfrastructure@dft.gov.uk](mailto:transportinfrastructure@dft.gov.uk) cc [Lutonairport@planninginspectorate.gov.uk](mailto:Lutonairport@planninginspectorate.gov.uk)

Your Ref: TR020001

Dear Sir/Madam

**The London Luton Airport Expansion Development Consent Order 2025 – Application for a Correction Order under Schedule 4 to the Planning Act 2008**

We write further to the Secretary of State making the London Luton Airport Expansion Development Consent Order 2025 (the made DCO) and issuing the decision letter dated 3 April 2025 (the DL).

Having reviewed the made DCO and DL, Luton Rising (LR) is submitting by way of this letter an application to the Secretary of State for Transport (SoS) pursuant to section 119 of, and Schedule 4 to, the Planning Act 2008 (the 2008 Act) to request the correction of errors in the made DCO. This letter is sent within the relevant period as defined in paragraph 1(6) of Schedule 4 to the 2008 Act.

We set out in Annex 1 to this letter the matters which we, respectfully, seek to be corrected (see column 2 of the table), and the reasoning behind those corrections (see column 3 of the table). These are all “correctable errors” within the meaning of Paragraph 1(4) of the Schedule 4 to the 2008 Act, as they are considered by LR to be errors or omissions in the “decision document” (i.e. the made DCO) that are not part of the statement of reasons for the decision (i.e. the DL). This definition brings within the scope of a “correctable error”:

- DCO drafting changes expressed or decided by the SoS in the DL, but which have not then been included in the drafting of the made DCO;
- drafting changes in the made DCO which do not reflect the stated (or apparent) intent of the SoS in the DL;
- drafting changes in the made DCO which are not explained or addressed in the DL, but cannot reasonably be said to reflect the SoS’s intent (e.g. typographical or cross-referencing errors, or drafting changes which are not practically capable of implementation).

To assist further we also enclose at Annex 2 (attached separately) a draft correction order which sets out, in statutory instrument format, the corrections we are seeking. We would be

happy to provide a copy of the correction order in MS Word, and a mark-up of the made DCO showing these corrections in tracked changes, should that assist.

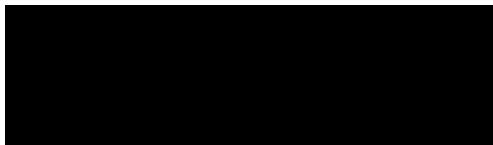
The SoS is directed in particular to the corrections requested in respect of paragraphs 14, 21, 22, 28, 29, 33 and 34 in Schedule 2 to the made DCO. LR is concerned that the drafting of these Requirements in the made DCO does not reflect the intent expressed in the DL, and either creates uncertainty or unintended practical impediments as regards the implementation of the project. At Annex 3 (attached separately) is a letter from the Environment Agency supporting LR's proposed corrections to paragraph 14 of Schedule 2.

Should the SoS consider that any of the matters proposed for correction in Annex 2 fall outside of the scope of Schedule 4 to the 2008 Act, we ask that the SoS exercise her powers under either paragraphs 3(3) or (7)(b) of Schedule 6 to the 2008 Act to make the necessary changes to the made DCO.

Given the potential impact on delivery, should the SoS have any questions, or is minded to disagree with the request, LR would welcome the opportunity to provide clarifications if deemed necessary.

In the first instance we should be grateful if you would confirm safe receipt of this correction request.

Yours faithfully

A large black rectangular redaction box covering the signature area.

Antony Aldridge  
Head of DCO Programme

## Annex 1 – Corrections Sought and Justifications

| Ref. | Provision and Proposed Correction                                                                                                                                                                                                                                     | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.   | <b>Preamble, fifth paragraph</b><br><br>For “as attach” substitute, “as are attached”                                                                                                                                                                                 | Typographical error.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 2.   | <b>Article 2, definition of “bridleway”</b><br><br>After “interpretation” insert “)”                                                                                                                                                                                  | Typographical error.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 3.   | <b>Article 2(10)</b><br><br>For “report” substitute “reported”                                                                                                                                                                                                        | Typographical error.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 4.   | <b>Article 13(2)</b><br><br>For “stoppclosed” substitute “stopped”                                                                                                                                                                                                    | Typographical error.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 5.   | <b>Article 33(10)</b><br><br>After “section 125(c)” delete “of the 2008 Act”                                                                                                                                                                                          | Typographical error.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 6.   | <b>Article 36(1)(c)</b><br><br><i>Amend as follows: “<del>extinguish or suspend the rights of, or restrictive covenants for the benefit of,</del> or remove, relocate or reposition apparatus belonging to, statutory undertakers over or within the Order land,”</i> | <p>LR’s <a href="#">final draft DCO</a> submitted to the SoS in August 2024, article 36(1)(c) enabled (amongst other things) the undertaker to extinguish or suspend “restrictions for the benefit” of statutory undertakers over the Order Land. This drafting was retained in the Examining Authority’s (ExA’s) recommended DCO contained at Appendix E to their <a href="#">Recommendation Report (RR)</a>. The reference to “restrictions for the benefit” was a reference to <i>restrictive covenants</i>.</p> <p>We consider that the SoS has erroneously removed reference to “restrictions”, as there is no discussion of it provided in the DL. It is requested that a correction is made to reinstate it.</p> |

| Ref. | Provision and Proposed Correction                                                                                                                                                                                                                                                                                                                                                                                                                             | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| 7.   | <b>Article 50(3)</b><br><br>For “GCG Framework” substitute “green controlled growth framework”                                                                                                                                                                                                                                                                                                                                                                | Typographical error – the made DCO uses the full term “green controlled growth framework” throughout, which is the term as defined in paragraph 19 of Schedule 2 to the made DCO.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 8.   | <b>Article 50(3)(a)</b><br><br>For “consistent” substitute “consistently”                                                                                                                                                                                                                                                                                                                                                                                     | Typographical error.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 9.   | <b>Article 50(3)(b)</b><br><br>For “paragraph” substitute “paragraph”                                                                                                                                                                                                                                                                                                                                                                                         | Typographical error.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 10.  | <b>Schedule 1, Work No. 5(e)</b><br><br>For “Off-site” substitute “Offsite”                                                                                                                                                                                                                                                                                                                                                                                   | Typographical error.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 11.  | <b>Schedule 2, Part 1, paragraph 1, definition of “substantially in accordance with”</b><br><br><i>Amend as follows: “...means that the plan or detail to be submitted should in the main accord with the outline document and where it varies from the outline document should not give rise to <del>any new or</del> any materially new or materially different environmental effects in comparison with those reported in the Environmental Statement”</i> | <p>This specific provision is not mentioned in the DL, but it is the clear intent from the DL and the RR that this type of provision is intended to apply to “any <i>materially</i> new” environmental effects (and not “any new” effects)”</p> <p>“Materially new” is consistent with the standard formulation of wording for this type of provision, and which is employed in numerous places elsewhere in the made DCO – see article 1 (definition of “maintain”, at 1(1), and also the interpretative provisions at 1(9)-(10)), article 6(3), article 15(1), Schedule 1 (ancillary work (n)) and Schedule 2, paragraphs 2(5), 2(6)(b), 5(2), 6(3)(d), 28(2) and 34(5).</p> <p>It is therefore requested that the erroneous definition of “substantially in accordance with” is amended as shown in the left-hand column, to align with the intent of the DL.</p> |
| 12.  | <b>Schedule 2, Part 1, paragraph 2(2)</b><br><br>After “sewage undertakers and in relation to” delete “t”                                                                                                                                                                                                                                                                                                                                                     | Typographical error.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

| Ref. | Provision and Proposed Correction                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| 13.  | <p><b>Schedule 2, Part 2, paragraph 6(3)(c)</b></p> <p>After “of this Schedule” delete “, subject to paragraph 2(1)(g)”</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>At paragraph 635 of the DL the SoS asked LR “...to check the reference paragraph 2(1)(g) contained in paragraph 6(3)(c). There is no provision contained in paragraph 2 or should it be sub-paragraph (2)(1)(g).”</p> <p>The reference to paragraph 2(1)(g) is redundant, because the Secretary of State accepted the ExA’s recommendation to delete paragraph 2(1)(g) from the made Order (see the recommendation at pages 465-466 of the DL). Accordingly, there should also be a correction to delete the reference to paragraph 2(1)(g) within paragraph 6(3)(c).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 14.  | <p><b>Schedule 2, Part 2, paragraph 14</b></p> <p>Amend as follows:</p> <p><b><u>“14.—(1) Prior to commencement of construction, the undertaker is required to <del>consider</del> carry out an assessment of the latest version of the Flood and Coastal Erosion Risk Data published quarterly by the Environment Agency to determine whether it changes the level of risk assessed within the flood risk assessment (Environmental Statement Appendix 20.1, as listed in Schedule 9 to, and certified under article 50 of, this Order).</u></b></p> <p><b><u>(2) The undertaker must <del>and to consult in the water resources and flood risk assessment, in consultation</del> with the Environment Agency and the lead local flood authority on whether an updated flood risk assessment is required as a result of the assessment carried out under sub-paragraph (1).</u></b></p> <p><b><u>(3) If any material change in risk is identified as a result of the process undertaken under sub-</u></b></p> | <p>This Requirement was inserted by the SoS, with the rationale for it given at paragraph 698 of the DL:</p> <p><i>“The Secretary of State further notes the letter from the Environment Agency dated 25 February 2025 (Annex 1) which highlights the new Flood and Coastal Erosion Risk Data produced following the release of the Environment Agency’s National assessment of flood and coastal erosion risk in England report. The Secretary of State notes the new data relevant to planning published on 28 January 2025, and that additional data was published on the 25 March 2025, with further updates to flood risk datasets being produced every 3 months and coastal erosion datasets every 12 months thereafter. The Secretary of State expects the Applicant to work with the Environment Agency to consider what impact, if any, the new data may have and to produce any revised assessments as required and has inserted a new Requirement in Schedule 2 of the Order to require the Applicant to consider the Environment Agency’s flood risk and coastal erosion data in the Applicant’s water resources and flood risk assessment.”</i></p> <p>LR understands and accepts the intent behind this new provision, but is concerned that the drafting in the made DCO creates some uncertainty as to what, practically, must be undertaken to comply with it. On the basis that the SoS will not have intended to create such uncertainty, LR requests the corrections shown in the left-hand column, which would align with what LR understands to be the SoS’s intent.</p> |

| Ref. | Provision and Proposed Correction                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|      | <p><u>paragraphs (1) and (2), then the undertaker must prepare an updated flood risk assessment, which must be submitted to and approved in writing by Luton Borough Council, following consultation with the Environment Agency and the lead local flood authority.</u></p> <p><u>(4) The undertaker is required to carry out the authorised development in accordance with <del>the water resources and any updated</del> flood risk assessment produced by the undertaker as a result of the process under sub-paragraphs (1) to (3)."</u></p> | <p>LR notes that the made DCO refers to "the water resources and flood risk assessment", which is understood to be a reference to chapter 20 of LR's environmental statement. Given that this Requirement is related to flood risk data (insofar as is relevant to this project) then it is considered that this Requirement is intended to relate to the flood risk assessment, which is appendix 20.1 of the environmental statement, and a document certified by Schedule 9 to the made DCO.</p> <p>The proposed correction in the left-hand column has been shared with, and agreed by, the Environment Agency.</p>                                                          |
| 15.  | <p><b>Schedule 2, Part 2, paragraph 18(5)</b></p> <p>For "ground water" substitute "groundwater"</p>                                                                                                                                                                                                                                                                                                                                                                                                                                              | <p>Typographical error.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 16.  | <p><b>Schedule 2, Part 3, paragraph 19, definition of "terms of reference"</b></p> <p>In sub-paragraph (b), for "paragraph 21(9)" substitute "paragraph 21(10)"</p>                                                                                                                                                                                                                                                                                                                                                                               | <p>Correction of cross-referencing error consequent on the SoS's drafting changes in the made DCO.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 17.  | <p><b>Schedule 2, Part 3, paragraph 21(1)</b><br/>Amend as follows:</p> <p><i>"(1) The undertaker must establish a body which is hereinafter referred to as the Environmental Scrutiny Group ("ESG") <del>as soon as reasonably practicable following service of the notice under article 44(1) (interaction with LLAOL planning permission) and in any event</del> no later than 56 days prior to the due date for submission of the first Monitoring Report</i></p>                                                                             | <p>Paragraphs 21 and 22 of Schedule 2 to the made DCO are related provisions. The SoS, on recommendation of the ExA, made amendments in the made DCO to paragraph 22 which have an unintended consequence of rendering paragraphs 21 and 22 practically incapable of being complied with.</p> <p>The outcome which the ExA and SoS sought to achieve can be summarised as follows:</p> <ul style="list-style-type: none"> <li>- that the first Monitoring Report, based on at least one year of monitoring, should be produced in advance of the undertaker serving notice under article 44(1) (i.e. notice to activate passenger growth authorised by the DCO) – the</li> </ul> |

| Ref. | Provision and Proposed Correction                                                    | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|      | <p><i>under paragraph 22 (monitoring of permitted operations) of this Part.”</i></p> | <p>reason for this is that the undertaker will then be aware of whether the airport’s operation is compliant with the green controlled growth (<b>GCG</b>) thresholds and limits before deciding whether to serve notice;</p> <ul style="list-style-type: none"> <li>- that this first Monitoring Report should, when published, be served upon the Environmental Scrutiny Group (<b>ESG</b>) – which by extension means that the ESG will need to be up and running at the point the first Monitoring Report is published;</li> <li>- that the ESG should receive the first Monitoring Report sufficiently in advance of the slot allocation process in that year, so that there is not a lag between the allocation of slots (i.e. airport growth), and the first opportunity for the ESG to consider whether that the GCG thresholds / limits will be exceeded, and if necessary take action.</li> </ul> <p>(This summary is demonstrated by reference to the RR at paragraphs 3.6.98-99, .12.97-98, 3.18.285-288, 3.20.69, 5.2.65 and pages 496-497; and the DL at paragraphs 112, 510 and 573.)</p> <p>The above process intended by the ExA and SoS cannot be achieved under the made DCO as drafted. Paragraph 22(1)-(2) requires at least one year of monitoring pre-service of article 44(1) notice, with the first Monitoring Report submitted to the ESG on the anniversary of that monitoring commencing. However:</p> <ul style="list-style-type: none"> <li>- the Monitoring Report cannot be prepared (and therefore submitted to anyone) on the <i>anniversary</i> of commencement of monitoring as it will take some time to analyse the 12 months of data across all GCG topic areas before the Report can be prepared (see further commentary on this in table entry 20, below):</li> <li>- the effect of paragraph 21(1) of the made DCO is that the ESG cannot exist on the first anniversary of monitoring commencing, because the ESG can only be</li> </ul> |

| Ref. | Provision and Proposed Correction                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <p>established once article 44(1) notice is served. Hence there would be no ESG in existence to receive the Report on the anniversary of the monitoring commencing.</p> <p>Clearly the SoS did not intend this outcome, and so the SoS is requested to make the correction to paragraph 21(1) shown in the left-hand column to enable the ESG to be set up before article 44(1) notice is served, so that it can be in existence when the first Monitoring Report is ready for submission.</p> <p>Related corrections are also required to paragraph 22(2) – see entry 20 of this table.</p>                                                                                                                                                                                                                                                                                                                                     |
| 18.  | <p><b>Schedule 2, Part 3, paragraph 21(5)</b></p> <p>For “(or a substitute agreed)” substitute “(or an agreed substitute)”</p>                                                                                                                                                                                                                                                                                                                                                                                                                   | <p>Correction for consistency with the equivalent wording in the second line of sub-paragraph (5).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 19.  | <p><b>Schedule 2, Part 3, paragraph 21(9)</b></p> <p>For “sub-paragraph (7)” substitute “sub-paragraph (8)”</p>                                                                                                                                                                                                                                                                                                                                                                                                                                  | <p>Cross-referencing correction required as result of the SoS inserting new sub-paragraph 21(5) in the made DCO.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 20.  | <p><b>Schedule 2, Part 3, paragraph 22</b></p> <p>Amend as follows:</p> <p><i>“22.—(1) The undertaker must, in accordance with the Monitoring Plans, monitor noise, air quality, greenhouse gas emissions and surface access from at least 1 year prior to the date that notice is served under article 44(1) (interaction with the LLAOL planning permission).</i></p> <p><i>(2) The undertaker must prepare and submit to the ESG <del>on the first anniversary of the commencement of the monitoring and annually thereafter, a</del></i></p> | <p>See the related commentary in row 17 of this table, above. Corrections are also required to paragraph 22(2) to meet the intent of the SoS expressed in the DL.</p> <p>In the case of paragraph 22(2), it is not practically possible to submit a Monitoring Report on the “anniversary” of monitoring commencement, because of both the subsequent time taken to produce a Monitoring Report, and reliance on external data sources which only become available at a particular point in the year. This is particularly the case for monitoring and reporting of surface access and air quality impacts, which rely upon data collected over a calendar year, and which then relies upon external validation processes after that year has completed. In practice this means that the full suite of Monitoring Reports will not be available before Q2 of any given year. The constraints on monitoring and reporting are</p> |

| Ref. | Provision and Proposed Correction                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|      | <p><b><u>(a) the first Monitoring Report—</u></b><br/> <b><u>(i) on the date notice is served under article 44(1) (interaction with LLAOL planning permission); and</u></b><br/> <b><u>(ii) no later than 31 July in the calendar year in which that notice is served;</u></b><br/> <b><u>(b) all subsequent Monitoring Reports on or before 31 July annually thereafter.”</u></b></p> <p>...</p> <p>(6) The undertaker must make a Monitoring Report publicly available as soon as reasonably practicable following submission under sub-paragraph <del>(1)</del> <b>(2)</b>.<br/>         ...”</p> | <p>explained in more detail in paragraphs 2.3.10 -2.3.11 and Figure 2.11 of the GCG Explanatory Note [REP11-011].</p> <p>It was clearly not the intent of the SoS to establish a GCG regime that was not capable of being complied with in practice. To rectify this, LR requests that the SoS make the corrections show in the left-hand column, which align with the intent of the DL set out in table entry 17 above. To demonstrate that alignment, the effect of the proposed corrections to Requirements 21 and 22 would be that:</p> <ul style="list-style-type: none"> <li>- the undertaker would have to produce (and by implication would have regard to) the first Monitoring Report before determining whether to serve article 44(1) notice;</li> <li>- the ESG would need to be in place when notice under article 44(1) is served, so that it could receive the first Monitoring Report when that notice is served;</li> <li>- in the calendar year in which article 44(1) is served, it could not be served until the first Monitoring Report (based on the previous calendar year’s monitoring) is ready – e.g. not earlier than Q2 of that year, which means that in practice monitoring would commence some 15 months before article 44(1) notice is served;</li> <li>- the Monitoring Report (and article 44(1) notice) could not be served in that year any later than 31 July; and</li> <li>- given that the capacity declaration and slot allocation process takes place in September of each year for the following year, the corrections ensure that the GCG process (including the meeting of the ESG) will take effect in advance of the release of any slots in the year article 44(1) notice is served.</li> </ul> <p>Finally, a cross-referencing correction is required in sub-paragraph (6), as shown.</p> |
| 21.  | <p><b>Schedule 2, Part 3, paragraph 24(2)</b></p> <p>For “paragraph 21(6)(a), (b), (c) or (d)” substitute “paragraph 21(7)(a), (b), (c) or (d)”</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <p>Cross-referencing correction required as result of the SoS inserting new sub-paragraph 21(5) in the made DCO.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

| Ref. | Provision and Proposed Correction                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Justification                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| 22.  | <p><b>Schedule 2, Part 3, paragraph 24(9)</b></p> <p>For “sub-paragraph (2)” substitute “sub-paragraph (3)”</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <p>Cross-referencing error – the intent is clearly that the exception in sub-paragraph <b>(3)</b> should be referred to in sub-paragraph (9).</p> <p>Sub-paragraph (2) allows for the submission of a consolidated Level 2 plan, which is not relevant in the context of sub-paragraph (9). Note too that sub-paragraph (1) already correctly refers to the exception in sub-paragraph (3) (“...unless sub-paragraph (3) applies...”).</p> |
| 23.  | <p><b>Schedule 2, Part 3, paragraph 24(10)</b></p> <p>For “artricle” substitute “article”</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <p>Typographical error.</p>                                                                                                                                                                                                                                                                                                                                                                                                                |
| 24.  | <p><b>Schedule 2, Part 3, paragraph 24(10)(b)</b></p> <p>For “sub-paragraph (5)(b)” substitute “sub-paragraph (5)”</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <p>Correction of cross-referencing error</p>                                                                                                                                                                                                                                                                                                                                                                                               |
| 25.  | <p><b>Schedule 2, Part 3, paragraph 24(11)</b></p> <p>Amend as follows:</p> <p><i>“Where a Monitoring Report assesses that there has been an exceedance of either one or more Level 2 Thresholds and an exceedance of one or more Limits under paragraph <del>2524</del> in respect of a matter identified in paragraph 21(7)(6)(a), (b), (c) or (d), the undertaker may decide to address all of these exceedances which are reasonably considered to be related to one another in the same draft Mitigation Plan for the purposes of paragraph 25(1) and <del>2526</del>(10) and in the same Mitigation Plan for the purposes of paragraph 25(5).”</i></p> | <p>Correction of cross-referencing errors consequent on changes elsewhere in the made DCO.</p>                                                                                                                                                                                                                                                                                                                                             |

| Ref. | Provision and Proposed Correction                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| 26.  | <p><b>Schedule 2, Part 3, paragraph 25(7)(a)</b></p> <p>For “lodge an appeal under paragraph 40 (appeals to the Secretary of State)” substitute “resolve the disagreement under article 52 (arbitration)”</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p>As outlined in paragraph 635 of the DL, the SoS decided to omit from the made Order the SoS appeal mechanism that LR had proposed in its draft DCO. A correction is needed to paragraph 25(7)(a) to align with the removal of the appeal mechanism.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 27.  | <p><b>Schedule 2, Part 3, paragraph 25(15)</b></p> <p>Amend as follows:</p> <p><i>“(15) Unless otherwise agreed by the ESG, where a Monitoring Report submitted to the ESG under paragraph <b>22 24</b> (monitoring of permitted operations) assesses that a Limit has been exceeded, <b>and except where sub-paragraph (3) applies</b>, the undertaker will ensure that until monitoring carried out in accordance with a Mitigation Plan or a Monitoring Report confirms the relevant environmental effect has fallen below the relevant Limit any future airport capacity declaration—</i></p> <p><i>(a) does not increase from the existing capacity declaration; and</i></p> <p><i>(b) includes criteria to ensure that the total number of allocated slots (excluding any exempt flights) does not exceed the existing number of allocated slots.”</i></p> | <p>The correction shown in the left-hand column is required to ensure that paragraph 25 reflects the intent behind this provision, and to ensure it is consistent with the equivalent provision set out in paragraph 24(1), paragraph 24(9) (as corrected above), paragraph 25(1) and paragraph 25(10).</p> <p>In each case, those paragraphs allow the caveat “unless sub-paragraph (3) applies”, and that caveat is where the ESG certifies, acting reasonably and in accordance with its terms of reference, that a Level 2 Threshold / Limit has been exceeded as a result of circumstances beyond the undertaker’s control. The SoS approved this form of wording and its application to the paragraphs cited above.</p> <p>To align with this intent, paragraph 25(12) should be corrected as shown to say “except where sub-paragraph (3) applies”, as shown.</p> <p>Otherwise, there is a cross-referencing error correction required in this provision – the reference to paragraph 21 in the made DCO should be corrected to read “paragraph 22”.</p> |
| 28.  | <p><b>Schedule 2, Part 3, paragraph 25(16)</b></p> <p>For “by the Secretary of State under paragraph 40 (appeals to the Secretary of State)” substitute “by resolution under article 52 (arbitration)”</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <p>As outlined in paragraph 635 of the DL, the SoS decided to omit from the made Order the SoS appeal mechanism that LR had proposed in its draft DCO. A correction is needed to paragraph 25(7)(a) to align with the removal of the appeal mechanism.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 29.  | <p><b>Schedule 2, Part 4, paragraph 27</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p>Correction for consistency with the same form of wording in Requirement 29.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

| Ref. | Provision and Proposed Correction                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|      | <p>After “may operate” insert “the airport”</p> <p>After “under this Order” delete “the airport”</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 30.  | <p><b>Schedule 2, Part 4, paragraph 28</b></p> <p>Amend as follows:</p> <p><b><i>Night quota period scheduled movements cap</i></b><br/> <b><i>“28.—(1) The undertaker must not operate <u>the airport</u> under this Order <del>the airport</del> so that it permits in excess of 9,650 scheduled movements by aircraft in the night quota period (23:30-06:00 <u>local time</u>) per 12 month period, <u>in accordance with the air noise management plan</u>, unless a request to vary this limit has been submitted to and approved in writing by the Secretary of State following consultation with the specified authorities and, where appointed, the ESG.</i></b></p> <p><b><i>(2) Any request to vary the limits under sub-paragraph (1) are only to be approved where it has been demonstrated to the satisfaction of the Secretary of State that such changes would not give rise to any materially new or materially different effects in comparison with those reported in the environmental statement.”</i></b></p> | <p>The SoS is requested to correct Requirement 28 so that it expressly references the related controls in the Air Noise Management Plan (<b>ANMaP</b>), which the made DCO secures under Requirement 30. It is necessary to set out the background to this provision to explain why this correction would align with what is understood to be the SoS’s intent.</p> <p>The application version of its draft DCO, LR included a night quota scheduled movements cap as a Requirement in Schedule 2 (see <a href="#">APP-006</a>, February 2023 – Requirement 27 of that version of the draft DCO).</p> <p>Through the course of the DCO examination, LR introduced a suite of additional air noise management controls to “carry over” a number of existing noise controls imposed by Condition 8 of the Town &amp; Country Planning Act Section 77 permission to allow London Luton Airport to operate up to 19 mppa (application ref: 21/00031/VARCON, approved 13 October 2023). Condition 8 reads “<i>The development hereby approved shall be operated in accordance with Sections 5, 6, 7 &amp; 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.</i>” Luton Borough Council submitted the London Luton Airport 2022 Noise Management Plan Technical Document (<b>2022 NMP</b>) to the Examination at Deadline 5: <a href="#">Deadline 5- Any further information requested by ExA under Rule 17 – Noise Management Plan 2022 [REP5-078]</a>.</p> <p>Because LR was carrying across a substantial number of the 2022 NMP air noise controls into the DCO regime, in December 2023 LR introduced the ANMaP into the examination as a new control document, and moved the night quota movement cap into the ANMaP. The ANMaP itself was then secured by a revised</p> |

| Ref. | Provision and Proposed Correction | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|      |                                   | <p>Requirement 27 on the face of the DCO. That remained unchanged in the <a href="#">final draft of the DCO</a> submitted to the SoS in August 2024.</p> <p>At pages 507-510 of the RR, the ExA sets out its reasoning for recommending that the night quota period movement cap should be secured on the face of the made DCO:</p> <ul style="list-style-type: none"> <li>- “The ExA considered that for the purposes of precision, enforceability and clarity, the scheduled night quota period movements cap needed to be on the face of the Order. The ExA also considered that the <b>ANMP should be retained as it provided important detail regarding the control processes</b>” (page 507, our emphasis);</li> <li>- “The ExA...considers that the night time movement cap would be necessary to provide certainty to local communities regarding the total night period movements. Furthermore, the ExA notes that the Applicant proposed a night quota cap in the original draft DCO [APP-006, Requirement 27], although that Requirement permitted variation of the quota through discussions with the relevant planning authority and ESG. The ANMP [REP9-047, paragraph 2.4] included a night quota period cap but amended this to apply only to aircraft with a quota count of between 0.125 and 1. It also allowed a 10% carry over between years. <b>The ExA considers that the proposed control would be a continuation of the current noise quota controls for LLA and supports the LLP Policy LLP6(B)(v) ambition to achieve no material increase in night-time noise...</b>” (page 510, our emphasis).</li> </ul> <p>LR’s reading of the above extracts is that it was the ExA’s intent to ensure that the night quota movement cap appeared on the face of the DCO, so that it couldn’t be varied through changes to the ANMaP under Requirement 2. <b>However</b> – it is also apparent from the above extracts that the ExA accepted that Requirement 28 would carry over the quota controls in the 2022 NMP, which are replicated in the ANMaP.</p> |

| Ref. | Provision and Proposed Correction | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|      |                                   | <p>In summary terms, Section 5 of the 2022 NMP (and hence Sections 2.4 and 2.6 of the ANMaP):</p> <ul style="list-style-type: none"> <li>- excludes “dispensed movements” from the night quota movement cap;</li> <li>- excludes QC0 aircraft from the cap; and</li> <li>- provides that the cap for the specified period is subject to “carry over” or “overrun” adjustments calculated based on the actual number of movements compared to the cap in the previous specified period.</li> </ul> <p>These provisions were agreed by the Host Authorities <b>[LBC87 of REP11-033]</b> and are included in the <i>2022 Noise Management Plan Technical Document</i> to ensure parity with the night quota period restrictions imposed on the other London airports that operate during the night quota period (i.e. London Stansted, London Gatwick and London Heathrow). The current night quota period restrictions for the other London airports are set out in the Aeronautical Information Publication (AIP), <a href="#">LONDON HEATHROW, LONDON GATWICK AND LONDON STANSTED AIRPORTS NOISE RESTRICTIONS NOTICE 2025 - REPLACES SUP 108/2024 AS OF 30 MARCH 2025</a>.</p> <p>The SoS does not specifically address the night quota period movement cap or Requirement 28 in the DL. Instead, it appears the SoS has carried across the drafting recommended by the ExA in the RR at pages 509-510. Accordingly, it is submitted that:</p> <ul style="list-style-type: none"> <li>(i) the SoS intended that the night quota movement cap excludes “dispensed movements” and QC0 aircraft, and allows for “carry over” and “overrun” provisions in the ANMaP; and</li> <li>(ii) in connection with (i), the SoS will have intended to apply a night quota cap process at London Luton Airport that replicates the process in place at other London airports.</li> </ul> <p>Accordingly, it is requested that Requirement 28(1) is corrected, as shown in the left-hand column, to expressly incorporate the process set out in the ANMaP, and</p> |

| Ref. | Provision and Proposed Correction                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <p>in line with matters agreed with the Host Authorities and the ExA's apparent intent.</p> <p>Section 2.4 (paragraph 2.4.1) of the ANMaP would be amended in line with Article 50. This would also be in line with ExA's recommendation to delete section 2.4 of the ANMaP which we believe was intended to mean deletion of the cap itself that is set out in the root of paragraph 2.4.1, as it now as the ExA recommended on the face of the DCO (Requirement 28), rather than deleting the remainder of paragraph 2.4.1 that, as noted above, sets out the interpretation and adjustment of the cap in line with London Luton Airport's current permission and in line the restrictions at the other London airports. As set out above these were points of common ground with the Host Authorities and accepted during the examination.</p> <p>Lastly, minor corrections are also requested to Requirement 28(1) of the made DCO to relocate the term "the airport" for consistency with the wording of other Requirements, and to confirm that 23:30-06:00 means "local time".</p>                              |
| 31.  | <p><b>Schedule 2, Part 4, paragraph 29</b></p> <p>Amend as follows:</p> <p><b>"29.—(1) Subject to, and without prejudice to, the provisions of this Order, the undertaker may operate the airport under this Order so that it permits up to 209,410 commercial and non-commercial air traffic movements annually. Of this limit, no more than 12,460 air traffic movements annually shall be permitted in the early morning shoulder period (06:00-07:00 <u>local time</u>).</b></p> <p><b>(2) In sub-paragraph (1) "air traffic movement" means a landing or take-off of an <u>airport aircraft</u> operating a scheduled or non-scheduled service, <u>excluding exempt flights</u>."</b></p> | <p>"Exempt flights", as defined by paragraph 2 of Schedule 2, are:</p> <p><i>"unplanned air transport movements which do not carry commercial passengers, which includes but is not restricted to—</i></p> <p><i>(a) flights operated by relief organisations for humanitarian reasons;</i></p> <p><i>(b) flights operated by the armed forces for military purposes; or</i></p> <p><i>(c) flights which otherwise qualify under a particular occasion or series of occasions which are to be disregarded pursuant to a notice published by the Secretary of State under section 78(4) or 78(5)(f) (regulation of noise and vibration from aircraft) of the Civil Aviation Act 1982(b) or set out in guidance published by the Secretary of State in connection with those provisions"</i></p> <p>The Need Case [AS-125] sets out the explanation of the demand forecasts. The annual movement forecast is shown in Table 6.9, showing 209,410 total aircraft movements at 32 mppa. The preceding text describes how this movement forecast has been built up, from an assessment of PATMs derived by dividing pax</p> |

| Ref. | Provision and Proposed Correction | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|      |                                   | <p>by expected average aircraft size, then with the addition of a defined number of cargo aircraft movements (para 6.6.21) and business aviation movements (paras 6.5.11/12). No specific allowance was made within these projections for exempt flights as they do not count towards passenger or cargo forecasts and so were excluded. By extension this also applies to the 12,460 total forecast for the morning shoulder, which is a component of the 209,410 daily total.</p> <p>Appendix 16.1 of the ES sets the basis for the noise assessment as Chapter 5 of the ES 'approach to assessment', and in turn to the Need Case.</p> <p>"Exempt flights" are, accordingly, disregarded for the purposes of the passenger cap of 32 million passengers per annum (<b>mppa</b>), secured by Requirement 27. That is because the definition of "passengers" in paragraph 1 of Schedule 2 to the made DCO excludes "passengers on exempt flights".</p> <p>"Exempt flights" are also disregarded in the operation of the green controlled growth framework. See elsewhere in Schedule: the definition of "existing number of allocated slots" (Requirement 19); and Requirement 25(15)(b). This was made clear by LR's examination submission "Position on Noise Contour and Movement Limits" (REP9-055) and LR's response to the SoS Consultation of 19 Aug 2024.</p> <p>In its justification for recommending the 12,640 early morning shoulder period, the ExA relied upon the fact that it was "<b>the figure assessed in the ES</b>" (see paragraph 3.18.259 of the RR). The ExA also stated at paragraph 5.2.22 of the RR that "<b>The Applicant's ES assessed a worst-case increase to 209,410 annual air traffic movements of which 12,460 movements would be in the early morning shoulder period (06:00 to 07:00)</b>". At page 526 the ExA states that the limits in Requirement 29 " <b>...should be no greater than those assessed within the ES in order to ensure that effects remain within the Rochdale Envelope</b>".</p> <p>The SoS addressed these matters in the following paragraphs of the DL:</p> |

| Ref. | Provision and Proposed Correction | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|      |                                   | <p>“496. The Secretary of State notes the consideration given by the ExA to the representations on the level of a movement cap and agrees with the ExA that it would be <b><u>inappropriate to allow movements exceeding the assessed parameters</u></b>. Accordingly, the Secretary of State agrees that a cap of 209,410 annual aircraft movements (<b><u>the worst-case scenario in the ES</u></b>) [ER 3.18.234] would be appropriate [ER 3.18.241]” (our emphasis).</p> <p>501. With regard to what would constitute an appropriate annual shoulder movement limit, the Secretary of State agrees with the ExA that it would be inappropriate to apply limits from other airports with different operating models [ER 3.18.258] and that the same principles should apply to the definition of the shoulder period limit as for the annual movement limit. Like the ExA, the Secretary of State is satisfied that there should be an annual shoulder movement limit of 12,460 <b><u>which is the figure assessed in the ES. This would be broadly consistent with a proportional increase from 18 to 32 million passengers per annum</u></b> [ER 3.18.259].” (Our emphasis)</p> <p>As noted above, the derivation of the 209,410 and 12,640 ATM figures excluded “exempt flights” and this was the assumption which carried through into the assessed parameters of the environmental statement. Furthermore, as noted above the 32 mppa passenger cap (referenced in paragraph 501 of the DL) excludes “exempt flights”.</p> <p>The SoS has adopted the ExA’s recommended drafting at Requirement 29. As noted above there is nothing in the DL to suggest that the SoS intended the annual and early morning shoulder caps to <i>include</i> “exempt flights”. This is the basis on which LR interprets Requirement 29 in the made DCO, but the SoS is requested to correct Requirement 29(2), as shown in the left-hand column, for the avoidance of any doubt.</p> <p>Lastly, the SoS is requested to:</p> |

| Ref. | Provision and Proposed Correction                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <ul style="list-style-type: none"> <li>- correct Requirement 29(1) of the made DCO, as shown, so that air traffic “movements<del>s</del>” are expressed in the plural in the context used in sub-paragraph (1), and to make clear that 06:00-07:00 means “local time”; and</li> <li>- correct Requirement 29(2) of the made DCO, as shown, so that it references “aircraft”, rather than “airport”, which is clearly a typographical error.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 32.  | <p><b>Schedule 2, Part 4, paragraph 33(1)</b></p> <p>In table 1, heading of column (3), for “2039–2033” substitute “2029–2033”, and in paragraph 33(2) – for “GCG framework” substitute “green controlled growth framework”.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>Typographical corrections</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 33.  | <p><b>Schedule 2, Part 4, paragraph 33</b></p> <p>Amend paragraph (3) as follows:</p> <p><i>(3) The undertaker must comply with the contour limit values set out for the time periods indicated. Where the airport is operated in excess of the contour limit values, it is not a breach of the terms of this Order for the purposes of Part 8 of the 2008 Act—</i></p> <p><i><u>(a) if the exceedance is due to action taken in emergency circumstances in which there was <del>reasonable reasonably reasonably</del> cause for apprehending injury to persons or serious damage to property;</u></i></p> <p><i><u>(b) if the exceedance results from circumstances which the ESG has certified are beyond the undertaker’s control; or</u></i></p> <p><i><u>(c) in circumstances where sub-paragraphs (a) and (b) do not apply, until two successive Mitigation Plans have not removed the</u></i></p> | <p>At paragraphs 485 of the DL, the SoS notes that her further information request dated 2 August 2024 asked the Applicant to suggest wording for a Requirement which would secure noise contour limits on the face of the DCO, and that without prejudice wording was therefore provided by the Applicant in its <a href="#">response dated 19 August 2024</a>.</p> <p>At paragraphs 486 and 487 of the DL, the SoS sets out why she considers that the noise contour limits on the face of the DCO should reflect the Core Growth Predictions rather than the Updated Faster Growth Predictions as proposed by the Applicant in its letter of response dated 19 August 2024. However, the DL does not note the two conditions that the Applicant requested be applied to noise contour limits were they to be put on the face of the DCO, nor any reason why the requested conditions should not be included in the granted DCO.</p> <p>LR submits that this was an oversight and therefore requests that the conditions are added by way of corrections to Requirement 33(3) as new sub-paragraphs (b) and (c), as shown in the left-hand column. In support of these corrections, it is observed that:</p> |

| Ref. | Provision and Proposed Correction                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|      | <p><b><u>exceedance which gave rise to the requirement for those Mitigation Plans, within the time period stated in those plans to achieve compliance.</u></b></p>                                                                                                                                                                                                                                                                                                                                                    | <ul style="list-style-type: none"> <li>- The exception for breaches which are due to “circumstances beyond the undertaker’s control”, where certified by the ESG, has been endorsed by the SoS elsewhere in the made DCO – see paragraphs 24(3) and 25(3) of Schedule 2, in relation to breaches of GCG thresholds and limits. There is nothing in the DL to suggest that the SoS intended to create a perverse situation where the undertaker is in breach of the noise contours under Requirement 33 and subject to planning enforcement, despite the self-same local authorities, as part of the ESG, having certified that the matter was beyond the undertaker’s control.</li> <li>- Relatedly, there is nothing in the DL to suggest that the SoS intended the undertaker to be in breach, and subject to planning enforcement, where the self-same local authorities, as part of the ESG, have approved a mitigation plan to address the breach. The proposed correction at paragraph (c) would address this.</li> </ul> <p>Otherwise, sub-paragraph (3) requires correction to address the erroneous double references to “reasonably”.</p> |
| 34.  | <p>Add new paragraph 4 as follows:</p> <p><b><u>“(4) The undertaker may make a written request to the Secretary of State to change the contour limits, following consultation on such changes with Luton Borough Council and where appointed, the ESG. The Secretary of State may approve changes to contour limits where the undertaker has demonstrated that such changes would not result in materially new or materially different noise effects than those assessed in the environmental statement.”</u></b></p> | <p>At paragraph 488 of the DL, the SoS “...notes that the Applicant confirmed the GCG Framework review process could enable a noise contour increase as well as a decrease, but that an increase would only be possible in limited circumstances [ER 3.18.218]. The Secretary of State notes that while the Joint Host Authorities accepted this approach, they clarified that no increases would be acceptable where there were no attributable noise benefits...”.</p> <p>An example circumstance for increasing the limits, supported by the Joint Host Authorities, would be following approval to an Airspace Change Proposal that provides for flightpath alternation to provide predictable periods of respite for communities [REP6-094].</p> <p>At paragraph 3.18.221 of the RR the ExA stated: “To provide certainty to local communities that an increase in contour areas would be warranted, in the public</p>                                                                                                                                                                                                                         |

| Ref. | Provision and Proposed Correction                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p><i>interest and consistent with the outcomes of the Applicant's EIA the ExA concludes that a SoS sign off process for any increases in contour area is required...</i></p> <p>The ExA version of the Requirement, as set out on pages 530 and contained in the ExA's recommended DCO (Schedule 2, paragraph 32) duly included the following provision: <i>"The undertaker may make a written request to the Secretary of State to change the contour limits, following consultation on such changes with Luton Borough Council and where appointed, the ESG. The Secretary of State may approve changes to contour limits where the undertaker has demonstrated that such changes would not result in materially new or materially different noise effects than those assessed in the environmental statement."</i></p> <p>Paragraph 489 of the DL states <i>"... the Secretary of State agrees with the inclusion of the ExA's proposed requirement in the recommended Order for the reasons outlined [ER 3.18.221]."</i></p> <p>The made DCO does not provide for this inclusion and therefore is an error which requires correction to align with the SoS's expressed intent. This can be achieved by insertion of a new sub-paragraph (4), as shown in the left-hand column.</p> |
| 35.  | <p><b>Schedule 2, Part 4, paragraph 34(4)</b></p> <p>Amend as follows:</p> <p><i>"(4) The noise insulation programme will be carried out in accordance with the plans approved under sub-paragraphs (1) and (3) and will continue until such time that the relevant planning authority has confirmed in writing that it is satisfied that all eligible properties have been insulated to a satisfactory level <b><u>or it is satisfied that the undertaker has taken all</u></b></i></p> | <p>Paragraph 492 of the DL and elsewhere in the DL, the SoS notes the Overarching Aviation Noise Policy Statement (OANPS) requirement to mitigate noise "as much as is practicable and realistic to do so". This is consistent with paragraph 2.24 of the Noise Policy Statement for England NPSE) that "requires that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life...".</p> <p>Correcting sub-paragraph 34(4) as shown in the left-hand column, ensures that the SoS's intent for paragraph 34 as set out in the DL is honoured while explicitly taking account of the OANPS and the NPSE recognition that the undertaker can only do what it realistically, reasonably and practicably can to provide noise insulation, and this is what policy requires it to do. This was set out in the</p>                                                                                                                                                                                                                                                                                                                                                                                                                         |

| Ref. | Provision and Proposed Correction                                                                                                                                                                                                                                                                                  | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|      | <b><u>reasonable and practicable steps to insulate all eligible properties.</u></b>                                                                                                                                                                                                                                | Applicant's submissions to the examination (see e.g. <a href="#">REP11-049</a> at table 9-1, page 176; LR's <a href="#">19 August 2024 response</a> to the SoS queries on insulation). The DL doesn't set out why paragraph 34 should be framed 'over and above' the requirements of policy. We assume this was an oversight and therefore request this correction.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 36.  | <b>Schedule 2, Part 4, paragraph 34(5)</b><br><br>For "environment" substitute "environmental"                                                                                                                                                                                                                     | Typographical error.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 37.  | <b>Schedule 2, Part 4, heading to paragraph 36</b><br><br>In the paragraph heading, for "highway works" substitute "Highway Works"<br><br>In sub-paragraph (1), for "Highway Works No." substitute "Highway Works, Work Nos."<br><br>In sub-paragraph (2), for "submitted to" substitute "submitted for approval". | Corrections for consistency and clarity.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 38.  | <b>Schedule 2, Part 4, paragraph 42</b><br><br>Omit sub-paragraphs (1), (2), (3) and (4) and replace with "Not used"                                                                                                                                                                                               | <p>The SoS is requested to correct the made DCO by omitting Requirement 42, because by LR's reading it was not intended to be included in the made DCO if LR had concluded a private agreement with Affinity Water on these matters. That agreement was duly completed after the examination closed and before the SoS's decision on the DCO application, and was confirmed by Affinity Water's <a href="#">letter to the SoS dated 9 April 2024</a>, in which it removed all its objections (save those relating to deemed consent, which are not relevant here).</p> <p>It is apparent from the ExA's RR that Requirement 42 was considered necessary by the ExA <b>if</b> agreement between LR and Affinity Water had <b>not</b> been reached (i.e. it was an "either / or" situation). See, by way of example, the following extracts from the RR:</p> |

| Ref. | Provision and Proposed Correction | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|      |                                   | <p>"3.22.49. AW would only agree with the proposals for water supply demand, provision of monitoring data and various Articles in the draft DCO [REP11-091] <b><u>subject to execution of a side agreement</u></b> [REP11-031]....a side agreement was not reached with AW by the end of the Examination and this matter is dealt with below and in the DCO section of this Report.</p> <p>...</p> <p>3.22.90. Given the severe constraints that AW is operating under due to the pressure on water resources in the area, and given the concerns identified about the Applicant's proposed mechanisms for control above, the ExA concludes that restrictions on water consumption during both construction and operation should be secured via the proposed Requirement in the DCO, <b><u>unless already met through the signed side agreement.</u></b></p> <p>...</p> <p>3.22.111. However, this conclusion is <b><u>predicated on a side agreement between AW and the Applicant being signed to ensure that the 2019 water consumption baseline is not exceeded without prior agreement and monitoring of this. This was not provided by the end of the Examination</u></b>....The ExA has therefore recommended a Requirement to secure this. <b><u>If either the side agreement or Requirement are in place</u></b>, then the ExA concludes that issues of water demand and supply are a neutral matter and do not weigh for nor against making the Order..." (Our emphasis)</p> <p>Requirement 42 of the made DL (paragraph 42 of Schedule 2) is not commented on in the DL, but instead it is evident from paragraph 22 of the DL that the SoS was content that the private agreement concluded between LR and Affinity Water would satisfactorily address matters:</p> <p>"22. With regards to Water Resource and Flood Risk, the ExA's conclusion that this weighed neither for or against the Order was subject to <b><u>a side agreement being reached between the Applicant and Affinity Water to ensure that the 2019 consumption baseline is not exceeded during construction without prior agreement and monitoring [ER 3.22.111]. Post examination, the Secretary of State received confirmation from Affinity Water in their letter</u></b></p> |

| Ref. | Provision and Proposed Correction                                                                                                                                                                                             | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|      |                                                                                                                                                                                                                               | <p><b><u>dated 9 April 2024 that the agreement on protective provisions that would avoid detriment to Affinity Water’s undertaking had been reached and their objection was withdrawn.</u></b> Although neither the ExA nor the Secretary of State were provided with details of the protective provisions, the <b><u>Secretary of State is content that an agreement with Affinity Water is now in place, and she is of the same opinion as the ExA that issues of water demand and supply are a neutral matter</u></b> [ER 3.22.111].” (Our emphasis).</p> <p>Accordingly, the SoS is requested to correct the made DCO by removing paragraph 42 of Schedule 2 on the basis that it was seemingly concluded that it was not required. In LR’s view, it would not have been the SoS’s intent to impose a Requirement which interferes with matters agreed privately between Affinity Water as the responsible statutory undertaker, and LR.</p> <p>In terms of the form of this correction, LR has proposed retaining paragraph 42, but simply with the wording “<i>Not used</i>”, to prevent consequential cross-referencing changes being required later in Schedule 2. If the SoS is content to omit paragraph 42 entirely (i.e. including the paragraph number 42) then those later cross-referencing changes would need to be made.</p> |
| 39.  | <p><b>Schedule 5, row containing “6-04” in column (1) and “The rights and restrictive covenants to construct, operate, access, protect, and maintain a habitat mitigation area.” in column (2)</b></p> <p>Omit entire row</p> | <p>The SoS is requested to delete this row from Schedule 5 as a correction which is necessary to align the made DCO with the DL. See the following excerpts from paragraphs 648-650 of the DL which evidence that plot 6-04 is no longer required as a habitat mitigation area:</p> <p><i>“648. ...the Applicant did advise that a right to manage the woodland was not required for Biodiversity Net Gain (“BNG”) purposes and that this could instead be accommodated on land already owned by the Applicant; the ExA was advised that a letter of assurance confirming this had been provided [ER 6.6.21]. Despite this, a final agreement had not been reached at the close of Examination [ER 6.6.22].</i></p> <p><i>649. The ExA is satisfied that although there is some uncertainty over the exact route, the pipeline would need to be routed through plot 6-04 and that a 6 metre</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                           |

| Ref. | Provision and Proposed Correction | Justification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|------|-----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|      |                                   | <p>easement over the pipeline would be required to enable construction, resulting in the removal of some trees, which would need to be replaced. The Secretary of State is likewise satisfied. <b>However, the Secretary of State agrees with the ExA that the wider area of woodland is not required for landscape restoration or for BNG purposes and therefore the Applicant should reduce the land take at plot 6-04 to only what is needed to install, operate and maintain the proposed fuel pipeline [ER 6.6.23]...</b></p> <p>650. In her letter of 2 August 2024, the Secretary of State requested that the Applicant confirm the position regarding the reduction to plot 6-04 and if appropriate, provide an amended land plan to reflect this reduction. <b>The Applicant's response dated 19 August 2024, confirmed that plot 6-04 had been reduced with the woodland land take now at 599m2, and an updated Book or Reference and Land Plans were provided to reflect this. ensure that the rights can only be exercised within the parameters set out in the assurance letter previously provided to the Eldridge family. Consequently, the Secretary of State is content that the outstanding matters are now resolved."</b> (Our emphasis)</p> <p>Note also that article 27(6) was accordingly added to the made DCO to limit the powers of acquisition over plot 6-04 only to those rights required to construct, maintain and operate the fuel pipeline and associated installations. The DL confirms this at paragraph 635 (page 143, second paragraph).</p> <p>The SoS is requested correct Schedule 5 (i.e. to delete the row relating to plot 6-04 as a habitat mitigation area) to align with the SoS's intent, as expressed in the DL.</p> |
| 40.  | Schedule 7, first row, column (2) | Typographical error.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

| Ref. | Provision and Proposed Correction                                                              | Justification                                                                                                                                                      |
|------|------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|      | For “A505 Gispsy Lane” substitute “A505 Gipsy Lane”                                            |                                                                                                                                                                    |
| 41.  | <b>Schedule 8, Part 1, paragraph 10(2)</b><br><br>For subparagraph” substitute “sub-paragraph” | Typographical error.                                                                                                                                               |
| 42.  | <b>Schedule 8, Part 5, paragraph 37(1)</b><br><br>For subparagraph” substitute “sub-paragraph” | Typographical error.                                                                                                                                               |
| 43.  | <b>Explanatory Note, first paragraph</b><br><br>After “redevelop” insert “London”              | Typographical error – the full formal name is London Luton Airport                                                                                                 |
| 44.  | <b>Explanatory Note, fourth paragraph</b><br><br>After “inspected” insert “by appointment”     | The location at which the documents can be inspected is not generally open to the public and so it will be necessary for any inspection to be arranged in advance. |

## **Annex 2 – Draft Correction Order**

(Attached separately)

**Annex 3 – Letter dated 14 May 2025 from the Environment Agency**

(Attached separately)