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## **SUMMARY OF REPRESENTATIONS MADE AT ISH2 AND ISH4 SUBMITTED BY NATIONAL HIGHWAYS LIMITED**

### **APPLICATION BY GATWICK AIRPORT LIMITED (THE APPLICANT) FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE GATWICK AIRPORT NORTHERN RUNWAY PROJECT (THE PROJECT)**

#### **1 Introduction**

- 1.1 This document sets out National Highways' summary of its representations made at Issue Specific Hearing 2 on Control Documents / the Development Consent Order held on 1 March 2024 (ISH2), and Issue Specific Hearing 4 on Surface Transport held on 5 March 2024 (ISH4).
- 1.2 National Highways is a statutory consultee in the planning process and is responsible for infrastructure that is directly impacted by the Applicant's proposals.

#### **2 Summary of representations made at Issue Specific Hearing 2**

- 2.1 ISH2 was attended in person by (1) Mustafa Latif-Aramesh, Partner at BDB Pitmans legal advisors for National Highways, (2) Rahil Haq, Senior Associate at BDB Pitmans legal advisors for National Highways, and (3) Christopher Bate, National Highways.

*Agenda item 3 – Future Airport Operations*

- 2.2 As a preliminary point, National Highways clarified that it does not object to the principle of the Project, and its objection was strictly related to the impact of the Project on National Highways and the Strategic Road Network (SRN). National Highways hopes to be able to withdraw its objection once its concerns, as set out in its Relevant Representation **[TR020005/RR/3222]** and Written Representation to be submitted at Deadline 1, are resolved.
- 2.3 National Highways confirmed that it had scheduled an upcoming meeting with the Applicant to discuss its key issues.
- 2.4 National Highways sought to set out a high-level summary of its issues. Further detail has been set out below where appropriate.
- 2.5 Transport Mitigation Fund (Requirement 20): National Highways considers that the approach to planning controls over future airport operations is inadequate in the context of the surface access impacts. National Highways has not yet seen conclusive evidence (through modelling) that the Applicant's proposals will not have a detrimental impact on the safe and effective operation of the wider SRN. National Highways' concern is that it is currently not able to confirm whether further mitigations beyond the current limits of the proposed highway enhancements are necessary.
- 2.6 National Highways' view of the Surface Access Commitments **[TR020005/APP/090]** document is that it is vague in large parts. For example, A "public transport" journey is one where the majority of the journey (measured by proportion of overall travel time) is made by rail, local bus, regional/express bus or coach or any other commercially operated shared transport services available for public use – this means that those who travel to Redhill, and then use a car for the remaining journey would be excluded even though there could be a cumulative impact on the SRN.
- 2.7 Large parts of the document are undefined, giving rise to significant uncertainty. For example, the Applicant will provide "reasonable financial support" in commitments 5, 6 and 7 but no definition of such support is provided. Many of the commitments lack independent oversight and approval – for example, commitments 8, 9 and 10 require no approval from a Highway Authority.
- 2.8 Of particular concern to National Highways is commitment 14 which introduces a "Transport Mitigation Fund". The intention, according to the Applicant, is to "give assurance that resource will be available for additional interventions in support of the commitments set out in this document, or to provide mitigation of an unforeseen or unintended impact from the Project." No parameters for intervention are specified, no sums are secured and notably given the sole requirement which secures the commitments is Requirement 20 (surface access) of the draft Development Consent Order (dCO)

**[TR020005/PDLA/004]**, it is difficult to see how this would be capable of enforcement given the lack of defined terms and requirements for intervention.

- 2.9 National Highways acknowledges that ISH2 was held to assist the Examining Authority (ExA) gain a preliminary understanding of the key issues. However, National Highways would like to make the following additional points on this agenda item, which it was unable to raise orally. Further details will be set out in National Highways' Written Representation submitted at Deadline 1.
- 2.10 The Applicant should clarify the scope of the Transport Mitigation Fund and seek to implement a requirement which defines the:
- 2.10.1 scope of the Transport Mitigation Fund;
  - 2.10.2 level of commitment within the Transport Mitigation Fund;
  - 2.10.3 relevant thresholds which would trigger the activation of the Transport Mitigation Fund;
  - 2.10.4 parties to be consulted during the development of any Transport Mitigation Fund proposals; and
  - 2.10.5 parties that would act as the approval body for the Transport Mitigation Fund proposal.
- 2.11 The Planning Statement **[TR020005/APP/245]** suggests that the Transport Mitigation Fund would further be secured by the Section 106 agreement, but again no details are provided, and it is difficult to see how this would secure necessary interventions on the SRN as the Applicant has not discussed National Highways being a party to the section 106.
- 2.12 Requirement 20 also allows the Surface Access Commitments to be amended with the approval of the local planning authority. This should be substituted with a requirement to obtain the consent of the Local Highway Authorities, including National Highways.
- 2.13 National Highways requests that the Applicant and ExA consider the DfT's policy paper, "Strategic road network and the delivery of sustainable development" (DfT Circular 01/2022). That document makes clear at para 44 that "development promoters must put forward clear targets and commitments to manage down the traffic impact of development and maximise the accessibility of and within sites by walking, wheeling, cycling, public transport and shared travel. Targets for achieving a modal shift to sustainable transport will need to be subject to sustained monitoring and management."
- 2.14 The Airports National Policy Statement (June 2018, DfT) (ANPS) which is also an important and relevant consideration for this application sets out that

“applicant should demonstrate in its assessment that the proposed surface access strategy will support the additional transport demands generated by airport expansion” (para 5.16).

- 2.15 Those specific policy requirements necessitate a much more robust monitoring and management regime than the Applicant has put forward in the case of the Project.
- 2.16 National Highways is concerned that the Applicant has not outlined how this demand would be assessed nor what thresholds would trigger the need for additional parking. Furthermore, the Applicant does not provide details on how any additional parking provision would be secured.

Agenda Item 4 – The Authorised Development – Schedule 1

- 2.17 National Highways sets out its four key issues with the scope of works proposed by the Applicant. Additional detail has been provided in this post hearing submission to clarify National Highways’ key concerns.
- 2.18 National Highways understanding of the Applicant’s traffic modelling is that it relies on a future baseline of 2029, where the highway works are not present, and a comparison with a future baseline of 2032 where the second runway operations are assumed to be operational, with the surface access works in place. Under Requirement 6 the Applicant intends to use reasonable endeavours to obtain a provisional certificate in respect of the highway works “by the third anniversary of the commencement of dual runway operations”. That means it is plausible that the full passenger capacity sought by the Applicant could be obtained, with no requirement to have actually delivered the highway works for another three years.
- 2.19 In effect, this provides insufficient control over future airport operations and how they relate to impacts which may actually arise. National Highways is requesting that, absent modelling information for 2029, Requirement 6 of the dDCO **[TR020005/PDLA/004]**, is amended so that The Project highway works are in place prior to the commencement of the second runway operation.
- 2.20 The Transport Assessment Report **[TR020005/APP/258]** sets out that the future baseline also includes improvements planned as part of the Applicants Capital Investment Plan (CIP), intended to address increases in airport-related and background demand that would occur without the Project. In effect, this assumption remains unsecured, and therefore falls squarely within the scope of insufficient planning controls over future airport operations. As such, National Highways has proposed a requirement to secure this assumption, details of which will be set out in National Highways’ Written Representation.

- 2.21 National Highways requires confidence that the Applicant has undertaken the required level of due diligence to assess any effects or impacts that are a consequence of construction.
- 2.22 National Highways' view is that there is insufficient modelling available on the construction impacts of the proposed development. The timing of these construction works may need to be staggered in order to avoid adverse impacts on the SRN. By way of example: For the proposed Airport Way Railway Bridge Works, National Highways notes that Stage two would require lane one of the Westbound carriageway to have a full closure, which would include peak time operation.
- 2.23 National Highways recognises that, due to the complex works that comprise the surface access works, there will be a need to undertake works during night time closures. However, National Highways notes that the Applicant's submission provides insufficient detail on the required closures to enable National Highways to fully understand the impact on the operation of the SRN.
- 2.24 On Biodiversity Net Gain (BNG), National Highways considers that there is an absence of appropriate environmental mitigation from Schedule 1 to the dDCO **[TR020005/PDLA/004]**. Overall, the Project claims to provide 20% BNG, however given the significant effects of woodland, particularly in association with woodland loss during enabling works for the surface access improvements along the A23, there is a concern that National Highways will fail to meet the requirement to have no net loss on its estate affected by the Applicant's proposals. Whilst National Highways acknowledges that the scheme as a whole may provide 20% BNG, National Highways' estate risks suffering from net loss as a result of the scheme.
- 2.25 National Highways considers that land forming part of the SRN could provide a route for providing enhancement, which the Applicant should provide in light of the specific policies in the ANPS (paragraph 5.91, 5.96, 5.104). In light of those policies in the ANPS, National Highways, therefore, requires the Applicant to provide further information to demonstrate that, within the limits of the SRN, the proposed mitigation conserves and enhances habitats to maximise biodiversity and, where possible, achieve at least no net loss.

Agenda Item 6 – Legal agreements

- 2.26 National Highways confirms that the Protective Provisions are progressing and the draft is currently with National Highways for review. National Highways proposes to submit its preferred set of Protective Provisions at the later end of the examination should agreement not be reached with the Applicant.

### 3 Summary of representations made at Issue Specific Hearing 4

- 3.1 ISH4 was attended in person by (1) Mustafa Latif-Aramesh, Partner at BDB Pitmans legal advisors for National Highways, (2) Christopher Bate, National Highways.

#### Agenda Item 6 – Strategic Transport Modelling

- 3.2 On the basis of the approach taken by the ExA in the previous hearings, National Highways provided a brief overview of its key issues, however further detail has been provided below to supplement the statements made and to assist the ExA. Further details will be set out in the Written Representation and updated Principal Areas of Disagreement Summary Statement (PADSS).
- 3.3 National Highways confirmed that a meeting had been held after ISH2 with the Applicant, and that it was cautiously optimistic that some concerns would be addressed in due course. National Highways confirmed its intention to submit marked up copies of the Surface Access Commitments [TR020005/APP/090] and outline Construction Traffic Management Plan [TR020005/APP/085], the timeframes of which will be set out in National Highways' Written Representation.
- 3.4 **Issue 1: Future Baseline:** National Highways is broadly satisfied that initial reporting of the covid-adjustment scenario in the Strategic Transport Modelling Report [TR020005/APP/260] demonstrates that the strategic model is responding as anticipated, and that background traffic demand reduces overall. However, National Highways' position is conditional on the outputs of more localised micro-simulation being provided by the Applicant.
- 3.5 By way of background, the "core model" presented by the Applicant has a number of misplaced assumptions – for example, in the Applicant's core modelling the Lower Thames Crossing is assumed to be open in 2029, rather than 2032 as proposed, and it includes a smart motorway scheme which is no longer being proposed. The Applicant has provided a sensitivity analysis to rectify these issues, but National Highways requires local modelling to account for the change in the assumptions as well.
- 3.6 In addition, National Highways retains a residual concern around use of staff travel data from 2016. The Transport Assessment Report [TR020005/APP/258] outlines that there is an existing Airport Surface Access Strategy (ASAS) requirement to undertake a staff travel survey in early 2023. However, National Highways notes that this information has not been included in the Applicant's submission and it is not clear how it has been included in the scope or reporting within the Transport Assessment Report [TR020005/APP/258]. Following discussions with the Applicant, National Highways understands that survey data from 2023 is available and will be made



available to National Highways directly so that National Highways' concerns can be alleviated. Without sight of this information, National Highways cannot assess whether the assessment relying on historical data remains an accurate depiction which may undermine the conclusion of the Transport Assessment Report [TR020005/APP/258].

- 3.7 **Issue 2: Assessment periods are not tied to the commitments or impacts:** As set out at ISH2, the dDCO [TR020005/PDLA/004] does not secure any highway works until 2032 when the airport will already be at 100% capacity, but this fails to account for the interim period, from when the airport is first open (2029). The concern is that interim growth between 2029 and 2032 has not been considered, and there is no security for the highway works to be in place at the relevant time. There is therefore insufficient modelling information to justify the flexibility being sought in this context. The Applicant has committed to further discussions on assuring National Highways that a worst case reasonable assessment has been undertaken.
- 3.8 **Issue 3: Business as Usual (BAU) works / CIP works:** As noted in ISH2, there is a concern about the "BAU upgrades" which are not secured but assumed in the future baseline. Without security of this intervention, the assumption in the future baseline is not appropriate. National Highways understands that the Applicant is willing to move on this point and awaits the precise wording ensuring the security of the scheme.
- 3.9 **Issue 4: Construction impacts:** Whilst it is acknowledged that any construction assumptions would be illustrative, a reasonable worst-case scenario should be provided in order to determine there are no severe impacts on the SRN. Where mitigation is shown to be required, this should be secured in a framework, noting that construction methodology may need to be adapted. In order to be helpful to the ExA, National Highways is proposing to provide a more detailed mark up of suggestions which should be included in the outline Construction Traffic Management Plan [TR020005/APP/085].
- 3.10 National Highways requests that the Applicant provides VISSIM modelling that reflects the worst case scenario for all construction stages that will be required to implement the surface access works, clearly denoting any assumptions that have been made in respect to traffic management restrictions such as lane closures, narrow lanes, and contraflows which may impact operational efficiency.
- 3.11 National Highways considers the issues which it has raised can be addressed through the following measures:
- 3.11.1 Mitigation for construction work: National Highways requires suitable mitigation for construction works affecting the SRN. National Highways requests that (1) sensitivity modelling is provided which would address

the concerns it has identified, (2) ensuring that National Highways has an approval role in relation to traffic management plans which have the potential to affect the SRN; (3) a robust set of controls which ensure that measures are taken promptly to remove impacts from the SRN where they arise.

- 3.11.2 Highway works in dDCO to be constructed and in place by 2029: National Highways requires the highway works secured in the draft DCO (the surface access works) to be constructed prior to the date of the commencement of dual runway operations (i.e. 2029). This is to ensure that the impacts on the SRN are mitigated and account for any growth between 2029 and 2032.
  - 3.11.3 “Business-As-Usual” Airport Works to be secured in the Development Consent Order (DCO): National Highways has already requested a form of requirement to secure these works in the dDCO and this will be set out in the Written Representation.
  - 3.11.4 Bespoke monitoring and mitigation regime: In light of the specific requirements of the Airports National Policy Statement, and the fact that the Proposed Development is a trip-generating private sector development, National Highways considers there is a requirement for a robust monitoring and management regime for impacts which are forecast to, or may otherwise, arise on the SRN. The Surface Access Commitments document **[TR020005/APP/090]** needs to be fundamentally strengthened. National Highways confirmed that at Deadline 2 it will provide a detailed commentary on how that document needs to change given the concerns raised this would require the Applicant to monitor the impacts on the SRN (and where appropriate the wider road network), and take steps to mitigate impacts where not anticipated by the model and not already mitigated.
- 3.12 On the issue of using data from June or August for a reasonable worst case when assessing traffic volumes, National Highways can confirm that it has accepted the Applicant’s response and considers this point now agreed at entry 5.170 of the Statement of Common Ground (SoCG) between the parties.

Agenda item 4 – Rail modelling

- 3.13 National Highways notes that the rail model has not been updated using post-Covid rail and passenger data. National Highways therefore requests that the Applicant justify this approach and consider any corresponding impacts on the traffic forecasts. National Highways understands from comments made at ISH4 that this approach has not yet been agreed with other relevant interested parties, notably Network Rail. From discussions with the Applicant on the



SoCG, National Highways understands that work is currently being undertaken and will be submitted to the ExA in due course.

Agenda item 5 – Car parking assessment

- 3.14 National Highways restated its intention to mark up a version of the Surface Access Commitments document **[TR020005/APP/090]** as the document makes assumptions that are not secured.
- 3.15 National Highways notes that the Applicant reports that additional parking provision would only be provided where there is demand. National Highways is concerned that the Applicant has not outlined how this demand would be assessed nor what thresholds would trigger the need for additional parking.
- 3.16 Furthermore, the Applicant does not provide details on how any additional parking provision would be secured. National Highways requested that the Applicant provides further information regarding how additional parking needs would be assessed and secured.
- 3.17 The Applicant's assumption to "provide up to 6,570 additional car parking spaces, making a total of approximately 53,270 spaces available for staff and passenger parking" is not secured under the terms of the DCO. Instead, commitment 8 of the Surface Access Commitments sets out that the Applicant will "support for effective parking controls and/or monitoring on surrounding streets if considered necessary by the relevant local authority". Aside from being vague, this provides little confidence that the assumptions on car parking provision are justified.

Agenda item 6 – Modal targets and controls

- 3.18 National Highways restated its intention to mark up a version of the Surface Access Commitments document **[TR020005/APP/090]** to address concerns around modal targets and controls.
- 3.19 National Highways noted that these commitments will include the need to provide additional bus/coach services. However, this is not in the Applicant's remit to provide. National Highways requested details of what engagement or agreements have been undertaken to determine the viability of meeting this commitment.
- 3.20 The Applicant is only committed to providing reasonable funding for a minimum of five years for any additional services. National Highways requests additional detail on any agreements that are in place or alternatively what securities can be established for the continuity of this programme after the five-year commitment ends.

- 3.21 National Highways acknowledged the comments from the Applicant on potential methods for National Highways to enforce measures relevant to the SRN and understands that these will be discussed further.

Agenda item 7 - Pedestrians and cyclists – movement frameworks

- 3.22 The Applicant has identified through the use of pink linework on the Rights of Way and Access Plan **[TR020005/APP/018]** that the proposed footway or cycleway improvements are part of the surface access works. However, this detail does not allow National Highways to distinguish between different types of features such as footpaths, shared footway / cycleways or segregated footway / cycleways.
- 3.23 National Highways requested information from the Applicant in order for National Highways to consider the suitability of the Applicant's proposals in accordance with the DMRB CD143. It was acknowledged that the Applicant has agreed to provide an updated plan at a future deadline.