



**Horsham  
District  
Council**



## **Gatwick Airport Northern Runway Project**

Planning Inspectorate's Reference: TR020005

### **Issue Specific Hearing 1: Case for Proposed Development Post Hearing Submission**

**Deadline 1: 12 March 2024**

Crawley Borough Council (GATW-AFP107)  
Horsham District Council (20044739)  
Mid Sussex District Council (20044737)  
West Sussex County Council (20044715)  
Reigate and Banstead Borough Council (20044474)  
Surrey County Council (20044665)  
East Sussex County Council (20044514)

Issue Specific Hearing 1: Post Hearing Submission

**Issue Specific Hearing 1 (“ISH1”) on Case for the Proposed Development – 29 February 2024**

**Post Hearing Submissions including written summary of the Legal Partnership Authorities’ Oral Case**

**Note:** These submissions are made by the Legal Partnership Authorities. The Legal Partnership Authorities are comprised of the following host and neighbouring Authorities who are jointly represented by Michael Bedford KC and Sharpe Pritchard LLP for the purposes of the Examination:

- Crawley Borough Council
- Horsham District Council
- Mid Sussex District Council
- West Sussex County Council
- Reigate and Banstead Borough Council
- Surrey County Council
- East Sussex County Council

In these submissions, the Legal Partnership Authorities may be referred to as the “*Legal Partnership Authorities*”, the “*Authorities*”, the “*Joint Authorities*” or the “*Councils*”. Please note that Mole Valley District Council is also part of the Legal Partnership Authorities for some parts of the Examination (namely, those aspects relating to legal agreements entered into between the Applicant and any of the Legal Partnership Authorities) but not all parts and were therefore separately represented in relation to ISH1.

**Purpose of this Submission**

The purpose of these post-hearing submissions is to provide a written summary of the Legal Partnership Authorities’ positions on the Agenda Items discussed at the ISH. This includes both a summary of the Legal Partnership Authorities’ oral representations and, in some cases, further comments on the oral representations made by the Applicant at the ISH.

Whilst the structure of these submissions follows the order of the Agenda Items, they do not include all of the Legal Partnership Authorities’ concerns in relation to each Agenda Item as not all of these positions were rehearsed orally at the ISH due to the need to keep oral representations succinct.

Where the Legal Partnership Authorities positions were not rehearsed orally, these submissions sometimes include references to the relevant sections of the Local Impact Reports (“LIRs”) where a position is set out in further detail. The Legal Partnership Authorities would also be happy to provide answers in writing to any specific further questions which the Examining Authority (“ExA”) may have.

**Attendance:** ISH1 was attended by Michael Bedford KC for the Legal Partnership Authorities, instructed by Emyr Thomas, Partner and Parliamentary Agent, of Sharpe Pritchard LLP. Louise Congdon, Managing Partner of York Aviation LLP, also made representations on behalf of the Legal Partnership Authorities and the ISH was attended by various other representatives from the Legal Partnership Authorities who did not make oral representations.

Examining Authority's Agenda Item / Questions	Legal Partnership Authorities' Post Hearing Submissions	References
<p><b>1. Policy and Extent of the proposed works</b></p> <p><b>1.1. The Applicant will be asked for its view on the extent, breadth and relevance of policy, guidance, and caselaw relating to the Proposed Development; specifically concerning, but not restricted to:</b></p> <ul style="list-style-type: none"> <li>• <b>Airports National Policy Statement (June 2018).</b></li> <li>• <b>Beyond the Horizon – Future of UK Aviation (June 2018).</b></li> <li>• <b>Jet Zero Strategy (July 2022).</b></li> <li>• <b>Recent caselaw and planning approvals/ proposals in the London Airport System.</b></li> </ul>	<p><b><u>Airports National Policy Statement (June 2018)</u></b>  The Authorities note that whilst the Airports National Policy Statement (June 2018) (“ANPS”) only “has effect” in relation to the Northwest Runway at Heathrow, it constitutes an important and relevant matter in the determination of this application.</p> <p>The Authorities’ position in respect of the applicability of the ANPS is set out in further detail the Authorities LIRs. See for example, Paragraph 3.2 of the combined Surrey LIR and paragraphs 6.1 – 6.10 of the Joint West Sussex LIR.</p> <p>The ANPS determines that the preferred location for a new runway is Heathrow but states: <i>“the Government accepts that it may well be possible for existing airports to demonstrate sufficient need for their proposals, additional to (or different from) the need which is met by the provision of a Northwest Runway at Heathrow.”</i> In the Authorities’ view, this aspect of the ANPS may be material to the Northern Runway Project (“NRP”) owing to the Applicant’s assumptions in its core forecast case. In this respect, the Authorities note that the Applicant’s core forecast case has assumed that a Third Runway will not come forward at Heathrow.</p> <p>As such, there are clearly questions as to the extent to which the Applicant has identified a demand which is <i>“additional to (or different from)”</i> that which could be met by the provision of a Northwest Runway at Heathrow. These concerns regarding forecasting are detailed further in relation to Agenda Item 4.1 below.</p> <p>The Authorities also note that the ANPS confirmed policy support for airports making best use of their existing runways as per the separate <i>“Beyond the Horizon: Making Best Use of Existing Runways”</i> policy document. However, the Authorities will reserve their position on the applicability of the MBU guidance to the NRP application pending sight of the further engineering/construction details of the works involved in repositioning/resurfacing the current runway – see below.</p> <p><b><u>Beyond the Horizon: Making Best Use of Existing Runways</u></b>  The Authorities recognise that there is some ambiguity and uncertainty in relation to the scope of Beyond the Horizon: Making Best Use of Existing Runways (“MBU”) and there will need to be some consideration as to the proper interpretation of this policy. Whilst parts of MBU use the expression “existing infrastructure” and parts use the</p>	<p>ANPS para 1.41</p> <p>ANPS para 1.42</p> <p>Beyond the Horizon: Making Best Use of Existing Runways</p>

expression “existing runway”, the Authorities note that the clearest expression of the policy position appears to be formulated in paragraph 1.29, the final paragraph of MBU which is presented in bold. In paragraph 1.29, the words ‘existing runways’ are used.

Nonetheless, as the Courts have made clear, the interpretation and application of policy are two different things. At the date of this submission, the Authorities are yet to form a final view on how MBU is intended to work when applied to the facts of this application as – at this stage – the Authorities are not entirely clear as to the scope of the works being proposed. In particular, the Authorities are concerned that the revised project description does not provide sufficient detail regarding the resurfacing of the 33-metre-wide section of retained existing runway referenced in paragraph 5.2.23. At present, the Applicant’s submission does not provide any detail as to what this ‘resurfacing’ entails.

The Authorities are therefore expecting the Applicant to provide more detail on the scope of the engineering work (as the Applicant agreed to provide by deadline 1 during ISH1) and have not yet come to a view as to whether this is a part of the project which should be viewed as an alteration to a runway, or whether it should be viewed as the creation of a new runway. The Authorities’ view on this issue, once given enough information to enable them to form a view, will inform their view as to the application of the MBU policy.

In any event, the demand modelling undertaken for MBU did not assume the NRP at Gatwick. Whilst the MBU guidance is not necessarily limited only to proposals included in such demand modelling (as the Secretary of State concluded in the second Manston decision (at paragraph 71) which is an aspect of that decision that does not appear to be an issue that will be addressed in the ongoing litigation in relation to the second Manston decision), the weight that is given to the MBU guidance and any support it gives to a specific proposal may differ, depending on whether proposals were or were not part of its demand modelling. Hence, it is at least arguable that MBU did not envisage the bringing into use of the North Runway at Gatwick.

Manston Decision Letter,  
para 71

	<p><b><u>Jet Zero Strategy</u></b></p> <p>The Authorities emphasise, for the avoidance of doubt, that there is clearly a distinction between Jet Zero as a policy document and any capacity data presented within the policy document which may have informed the policy. It certainly cannot be the case, merely because there is inclusion of figures in relation to the Northern Runway Project within Jet Zero, that Government policy in any way endorses the project. This is of course clearly an issue to be tested through the Examination.</p> <p>In relation to Jet Zero, the Authorities also note that the Jet Zero data set deliberately included, within its assumptions, all possible airport developments that might come forward in order to test carbon targets in the context of the highest foreseeable demand within the UK Aviation system, including in relation to the provision of a third runway at Heathrow. The Authorities therefore observe that, as further explained below in relation to agenda item 4.1, any comparisons drawn by the Applicant with the Jet Zero demand quantum must be made with an awareness of these underlying assumptions (and adjusted so as to consider circumstances where Heathrow expansion, or other included expansions, do not come forward so reducing demand overall, particularly in relation to assumed transfer passenger demand).</p> <p><b><u>National Networks National Policy Statement</u></b></p> <p>The Authorities' position in respect of the application of the National Networks Policy Statement is set out in further detail in section 6 of the Joint West Sussex LIR at section 6, paragraphs 6.1 – 6.10.</p> <p><b><u>Further Concerns Regarding Policy and Extent of Proposed Works</u></b></p> <p>As the Applicant argues in their Needs Case, an application to make more intensive use of existing runways should be judged on its own merits. During the ISH, the Applicant also referenced the Stansted 35 million passengers per annum application decision and argued that policy does not limit how many such applications could come forward or be consented, and so the Applicant does not have to assume that Heathrow or any other development will come forward.</p> <p>However, the Authorities note that the Applicant seeks to make a virtue of then having considered the effect of Heathrow in a sensitivity test, albeit suggesting that the prospect of Heathrow coming forward should be given little weight. The Authorities do not agree that little weight can be attached to the prospect of expansion at</p>	<p>DfT, Jet Zero Modelling Framework, Annex D</p>
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	<p>Heathrow, given the support for its expansion in the ANPS and recent statements from Heathrow about its intention to renew consideration of expansion options, or at other airports with applications already under consideration. This needs to be factored into consideration of the realism of the demand forecasts.</p> <p>Furthermore, the second Manston decision makes clear that need is related to the demand for the proposed development and the benefits that flow from that need. As such, the demand forecasts must be robust to underpin the assessment of effects.</p> <p>As the Applicant stated at the ISH – in contrast to the MBU forecast modelling – the JZ modelling did include the potential capacity provided by the NRP in order to ensure that a worst case for carbon was assessed. The modelling also included expansion at Heathrow and growth elsewhere e.g. Luton and London City. There are concerns as to how the Applicant has used these projections in its benchmarking of its forecasts as it assumes all demand is available to Gatwick and would use Gatwick if the NRP goes ahead. This is not robust as some demand is specific to individual airports, in particular the substantial element of transfer passenger demand at Heathrow.</p> <p>At the ISH, the Applicant also placed some reliance on the requirement for greater operational resilience to reduce delays to airlines. The Authorities do not dispute that this would be one form of need for the NRP. However, if the NRP is needed to improve the resilience of the current operation in order to overcome the concerns voiced by airlines regarding the resilience of the existing operation (easyJet RR-1256), this does not appear consistent with the Applicant’s Base Case assumption that it could increase throughput to 67 million passengers per annum in the baseline without the NRP.</p> <p>There is an inherent contradiction in the Applicant’s position that the NRP is needed to overcome current problems of congestion and delay and the claim that it can increase throughput by over 20 million passengers per annum (from 2019 traffic levels) without it. The Authorities do not consider that the Applicant has provided sufficient evidence to justify its position that the future baseline capacity and throughput would reach 67 million passengers per annum.</p>	<p>Needs Case, paragraph 3.3.3</p>
<p><b>2. Recent Growth</b></p>	<p><b><u>Effect of Covid-19</u></b></p> <p>The Authorities observe that Gatwick’s recovery from Covid-19 has been slower than other London Airports with recovery to 2019 traffic levels at 88% for 2023 compared</p>	<p>CAA Airport Statistics</p>

**4.1 The Applicant will be asked about the recent growth of the Airport, including questions relating to the following areas:**

- **Long haul traffic and market.**
- **Low-cost carriers' market.**
- **Passenger catchment.**
- **Effect of Covid-19.**
- **Runway capacity**
- **Slot values and the slot market, to include extent and details of the powers of the Independent Slot Coordinator**

to 92% for the UK as a whole. Indeed, in contrast to Gatwick, Heathrow's recovery was 98% of 2019 levels and Stansted's recovery has reached 99% of 2019 levels. This gives rise to the question as to why this should be so if there is as much excess demand as the Applicant claims. In the Authorities' view, comparisons with Luton Airport may not be helpful to the ExA because of the 18 million cap on passenger numbers which has been in place and the measures taken to ensure that noise contour limits were not breached pending recent approval granted by the Secretary of State permitting growth to 19 million passengers per annum.

In the Authorities' view, the extent of excess demand at Gatwick, given the slower recovery rate, may indicate that there are significant constraints at the Airport which are difficult to reconcile with the Applicant's baseline case of 67.6 million passengers per annum in the absence of the Northern Runway. This point is elaborated further in relation to Agenda Item 5 below.

**Runway Capacity**

In relation to runway capacity, the Authorities observe that the airport is full, particularly at peak times, even at demand levels below 2019. In addition to the concerns this raises regarding the Applicant's baseline case, the Authorities note that the extent of runway capacity (or lack thereof) at Gatwick is a deterrent to airlines growing, in the light of congestion and delay. It also means that it is difficult for airlines to plan new services as there are few slots available in the summer other than in the early evening. It is less likely that the airlines would be willing to commence winter only services if those could not continue into the summer.

*Summer 2024 Runway Movements*

Needs Case section 5.3

Relevant Reps from easyJet (RR-1256) and Gatwick Airline Consultative Committee (RR-1493)

## R60 Demand vs Allocation Histograms

[Return to Home Page](#)

[← Runway Capacity](#)

[Historic vs Allocation View](#)

Please use filters below to select Runway (R60) Histogram view:

### (1) Constraint

- Arrivals R60  
 Departures R60  
 Totals R60

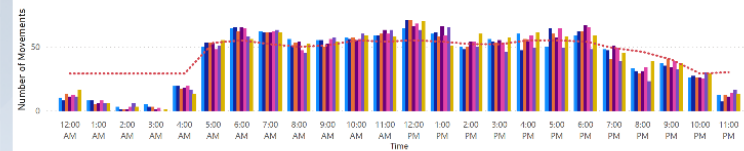
### (2) Weekday

- Select all  
 1  
 2  
 3  
 4  
 5  
 6  
 7

### S24 Demand

● 1 ● 2 ● 3 ● 4 ● 5 ● 6 ● 7 ● Capacity

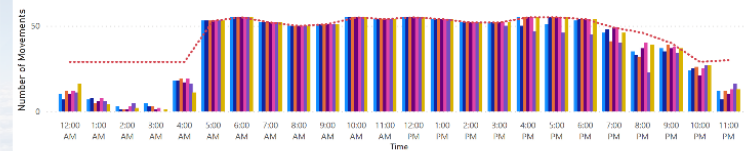
Week Commencing: 12/08/2024



### S24 Allocation (SAL)

● 1 ● 2 ● 3 ● 4 ● 5 ● 6 ● 7 ● Capacity

Week Commencing: 12/08/2024



In the light of this, there must be a large question mark over the realism of the baseline case of growth to 67 million passengers per annum with the existing runway, notwithstanding growth in aircraft size. The Authorities note that the Applicant declined to comment at the ISH on the view expressed by easyJet (**RR-1256**) and the implications for growth.

### Long Haul Traffic and Market

At the ISH, the Applicant emphasised the scope for long haul growth and appeared to suggest that such growth could only be accommodated at Gatwick, with the Applicant citing the limited long-haul growth at Stansted historically, with airlines starting then ceasing services.

By way of response, the Authorities note that this same pattern of 'churn' of long-haul operations is also evident at Gatwick pre-pandemic; with services to the Far East, South Asia and the USA being briefly operated at Gatwick before being pulled by airlines such as JetBlue, Air China, China Airlines, Cathay Pacific, Air India, British Airways and Singapore Airlines between 2014 and 2019. While some of these airlines may have recommenced services at Gatwick since the pandemic, it is not reasonable

Source: Airport Coordination Ltd



	<p>to suggest that the same could not occur at Stansted meaning that the Applicant cannot assume Gatwick Airport will be the only option for long-haul growth in the London area in the near or longer term.</p> <p><b><u>Passenger Catchment</u></b></p> <p>The Applicant was also asked about the catchment area of the Airport and cited a figure of 89% of demand coming from the South East of England. The ExA asked for information on how much demand originated in or was destined for South of London, rather than the entirety of the South East of England. From CAA Survey Data, the Authorities estimate that this amounts to c.66% of the demand that has historically used Gatwick, including Central London. A substantial proportion of demand comes from north, east and west of London, and so would be vulnerable to competition for growth from other airports. This is clear from Figure 6.2-1 of Appendix 4.3.1 to the ES [APP-075].</p>	<p>Figure 6.2-1 of Appendix 4.3.1 to the ES [APP-075].</p>
<p><b>3. Need and Future Demand</b></p> <p><b>5.1 The Applicant will be asked general questions relating to need and future demand, including questions relating to the following areas:</b></p> <ul style="list-style-type: none"> <li><b>o The baseline case.</b></li> <li><b>o Future demand forecasts, including methodology, sources, and assumptions.</b></li> <li><b>o Logistics and technical details of the operation of the potential runways.</b></li> <li><b>o Airspace change proposals and update.</b></li> <li><b>o Hotel provision within the proposal.</b></li> </ul>	<p><b><u>The Baseline Case</u></b></p> <p>The Authorities have undertaken dialogue with the Applicant regarding the Baseline Case. This has been fruitful in part but, as alluded to above, the Authorities still have concerns regarding the realism of the Baseline Case without the Northern Runway.</p> <p>It should also be noted that (as at the date of the ISH) some of the information the Authorities have requested is currently outstanding and there is other information which the Authorities have not yet had the opportunity to review due to it being provided (in draft) in the week of the ISH.</p> <p>In high-level terms, the Authorities have concerns regarding the assumptions which the Applicant has made when calculating their future baseline scenario. Given the large number of variables which go into any forecast of a future baseline, it is imperative that the Applicant's assumptions are robust, conservative and can be benchmarked against experience elsewhere. At the present time, the Authorities do not have any confidence that the assumptions informing the Applicant's future baseline case have been adequately validated or justified – particularly in relation to the Applicant's assumptions that, in the absence of the Northern Runway, the airport and airlines would be able to overcome existing constraints to the extent that the 67</p>	

million passengers per annum figure is reached. Furthermore, if the well-documented delays and congestion at the Airport is part of the Applicant's need case for the Northern Runway, there is some contradiction in the claim that for the future baseline case *without* the runway to assume that solutions to these delays will be found to deliver future baseline growth.

**Future demand forecasts, including methodology, sources, and assumptions.**

As alluded to above, the Authorities do not accept that the methodology used by the Applicant to forecast future growth is robust. Over and above the question as to whether the increased in runway capacity is attainable, the Applicant's forecast modelling also assumes that the profile of demand over the year will become much more like Heathrow, with little difference winter to summer. This does not seem plausible.

In general, there is concern about robustness of forecasting methodology as this appears to be a subjective commercial judgement based on how the NRP might be used. The Authorities contend that Appendix 4.3.1 to the Environmental Statement (Forecast Data Book) [APP-075] puts forward a subjective view as to how many frequencies the airport may be able to attract in particular markets and it is therefore very difficult to relate these estimates back to the underlying scale of the market, especially where other airports in the London Airport system may be competing for a share of the market. The Authorities expert aviation consultant Louise Congdon, Managing Partner of York Aviation LLP, noted (at the ISH) that this approach would only ordinarily be used to conduct forecasts over a 5-to-10-year period and that this is indeed what the Applicant has done. However, the Applicant has also used this approach to extrapolate the forecasts to 2038 and 2049, without any further market analysis or evidence.

The Authorities note that top-down modelling is only presented to verify 'reasonableness' of forecast. The Applicant has stated that this top-down modelling is based on most recent DfT demand modelling for "Jet Zero: One Year On". However, concerns remain that the way these forecasts have been used is not robust and fails to adequately test sensitivity of demand forecasts to capacity being provided

ES Appendix 4.3.1 Forecast Databook, Annex 6

at other airports. The Authorities will respond to further information submitted by the Applicant in this regard in once they have had time to consider it.

In addition, the Authorities note that there has been no sensitivity testing of the Applicant's forecasts to slower (or faster) economic growth, or changes in cost variables such as the cost of carbon or new fuels.

Whilst the Authorities acknowledge that the upper bound of 80.2 million passengers per annum in 2047 may be a worst case for the assessment of effects, it should be noted that – if the baseline is overstated – the effects attributable to the NRP may in fact be greater proportionally either in absolute terms or as a scale of change. For the avoidance of doubt, the Authorities are not arguing that there is not demand for the Northern Runway but only that it is not possible to validate the level of demand at this stage. Without being able to validate this level of demand, it is not possible to have confidence that the benefits and harms of the NRP are being properly assessed. At this moment, the Authorities do not consider that the forecasts have been produced in a way which enables the robustness of the level of demand to be tested, validated, and refined. This has implications for the project's benefits case and may result in any environmental limits (such as the noise envelope) being set inappropriately. Whilst these matters are under discussion with the Applicant, the Authorities do not have confidence, at this stage, that the “with” and “without” development forecasts present a robust basis for assessing the need for and impacts of the NRP.

There are also concerns regarding the potential implications for noise modelling if use of some departure routes (e.g. WIZAD) have to increase to ensure that the claimed capacity is deliverable.

**Airspace Change**

The Authorities do not seek to dispute the regulatory position and accept that the matter of airspace has been raised and cleared with the Civil Aviation Authority (“CAA”). Nonetheless, the Authorities have concerns that if the Applicant's aspirations for a long-term growth in traffic are to be achieved then there will likely be the need for airspace change in the future.

Recently, the Applicant has started initial stakeholder consultation on proposals to modify airspace to the south of the airport as an early stage of the implementation of airspace modernisation. This area is subject to few interfaces with airspace used by other airports so can potentially be progressed ahead of areas to the north of the Airport that interface with Heathrow. Initial options have been shared with local authority stakeholders and suggest alternations to departure routes turning south. These changes could have implications for the capacity assessment if they alter the separations required between departing aircraft and also potentially alter the noise contour areas assessed. However, the Applicant has not modelled the impact of these changes, arguing that air space change is a separate process. Whilst this is correct, the CAA was insistent at Luton that it be demonstrated that setting the noise envelope could accommodate future potential airspace change.

The Authorities have concerns with the potential implications for noise modelling if the use of alternative departure routes must increase to ensure capacity is deliverable in view of increased congestion. One of these routes (WIZAD) flies south of the Airport and would cause increased noise for several communities and the Authorities have concerns that the use of this departure route could increase with implications for the Noise Assessment.

**Hotel provision within the proposal.**

The Authorities recognise that it is proposed that the 4 hotels should be “Associated Development” and so authorised by the development consent order. Whilst the Applicant argues that this development supports operation of airport, reduces impacts and is subordinate, the Authorities (and in particular Crawley Borough Council) have concerns regarding the need to ensure that Control Documents include adequate controls, especially on the provision of additional on-airport parking at hotels. The Authorities’ view is that any such parking should be operational parking only so as to support the Applicant’s Surface Access Commitments. This is particularly important as the hotels will, in due course, exist as commercial operations operated by other parties and so there is no reason that they should be exempt from the Local Planning Authorities wider policies in relation to car parking merely by virtue of their conception under the DCO for authorising consent. The Authorities also need to be assured that all other aspects that would be addressed were the hotels to come forward as TCPA

ES Chapter 5 Project Description AAP030. Work Nos 26,27,28,29 Schedule 1.

	<p>development (such as design/materials and sustainable construction/energy use) will be adequately controlled if they are to be authorised by the DCO.</p>	
<p><b>4. Action Points Arising from the Hearing</b></p>	<p>The Applicant and the Authorities each took an action to provide additional documentation in respect of their position regarding section 104 and section 105 of the Planning Act 2008 and National Policy Statements.</p> <p>Having sought advice from Counsel, the Authorities have collectively come to one position on this issue. <b>This position is set out in Section 6, Paragraph 6.1 – 6.10 of the Joint West Sussex LIR.</b></p>	