

Ardent

Written Representation in respect of Proposed Gatwick
Airport Northern Runway Project

Holiday Inn London Gatwick Airport
Povey Cross Road
RH6 0BA

for
Marathon Asset Management MCAP Global Finance (UK) LLP

March 2024



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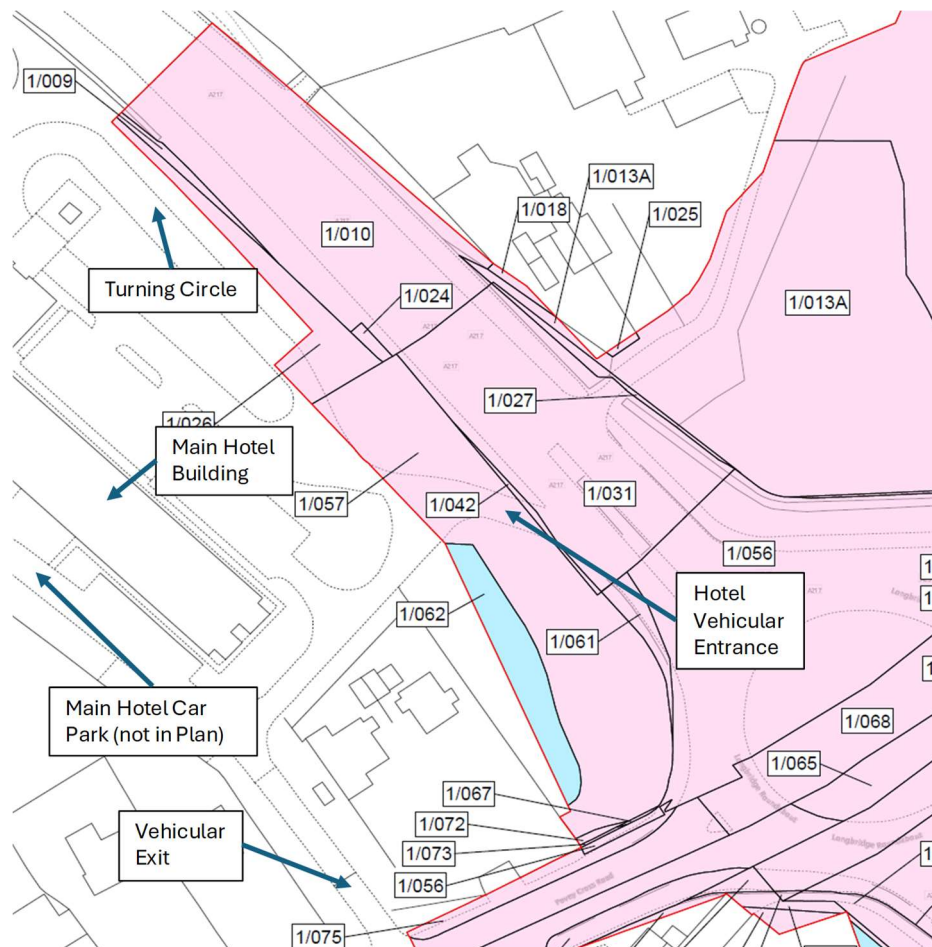
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1.0 INTRODUCTION AND BACKGROUND

- 1.1 These written representations are made on behalf of Marathon Asset Management MCAP Global Finance (UK) LLP ('Marathon'), HI (London Gatwick) Limited and HICP Limited (together 'our Clients'), in accordance with rule 10 of the Infrastructure Planning (Examination Procedure) Rules 2010 ('Representations').
- 1.2 Marathon manages assets for HI (London Gatwick) Limited and HICP Limited. HI (London Gatwick) Limited is the long leasehold owner of land (HM Land Registry title SY574001) held under a headlease between (1) The Metropolitan Railway Surplus Lands Company Limited and (2) Trusthouse Forte (UK) Limited dated 30 April 1987, for a term of 99 years expiring on 31 October 2085. HICP Limited (a group company of HI (London Gatwick) Limited) is the occupational tenant of this land pursuant to an underlease granted by HI (London Gatwick) Limited on 31 March 2016, for a term of 20 years expiring on 1 April 2035 (HM Land Registry title SY836088). Together these interests are referred to as 'the Property' for the purpose of these representations.
- 1.3 The Property comprises land and buildings that operate as a hotel under the 'Holiday Inn' brand at the following address: Holiday Inn London Gatwick Airport, Povey Cross Road, RH6 0BA ('the Hotel'). The Property is situated outside the existing site boundary of Gatwick Airport but adjacent to the northern boundary.
- 1.4 In October 2022, our Clients were notified of the proposed application ('the Application') by Gatwick Airport Limited ('GAL') under section 37 of the Planning Act 2008 for a development consent order ('DCO') to authorise alterations to the northern runway at the Airport, alterations to the current restrictions to allow dual runway operations and associated development ('the Project').
- 1.5 For the purposes of these Representations, it is relevant to note that the Project includes highways works along the A23, A217, Povey Cross Road and the Longbridge Roundabout in close proximity to the Property. These works are identified as Work No. 37 in the Works Plans [AS-017]. It is also proposed that a satellite contractors' compound would be situated opposite to the Property on the other side of the A217, adjacent to the Longbridge Roundabout. This is identified as Work No. 40 in the Land and Works Plans [AS-017]
- 1.6 With regards to our Clients' Property, the draft DCO would authorise the following:
 - a. Compulsory acquisition of 2,249 sqm of the Property (Plots 1/026, 1/042, 1/057, 1/061, 1/067, 1/072 and 1/073 shaded in pink on the plan at Sheet 1 of the Land

Plans [AS-015]) for the purpose of the construction of highway works to the A217, London Road and Longbridge Road; and

- b. Compulsory acquisition of rights over 316 sqm of the Property (Plot 1/062 shaded in blue on the plan at Sheet 1 of the Land Plans [AS-015]) for the purpose of the construction of the amended layout of the A217 and Longbridge Roundabout. Please see an extract from the Land Plans below.



1.7 As subsequently explained in more detail in these Representations, the Project would directly impact our Clients' Property and Hotel operations, both during the construction of the Project and its operation. In particular:

- a. The Project would adversely impact the Property and Hotel operations through **excessive and unjustified compulsory purchase permanent land take**. For the reasons explained below, the proposed land take would have a detrimental impact on future proposals for expansion of Hotel operations at the Property.

- b. During the construction period, the **need to divert the 24-hour shuttle bus service that runs between the Hotel and the airport terminals (known as the Hoppa bus) is likely to have a detrimental impact on its reliability and consequently on a significant proportion of the Hotel's business operations.**
 - c. **The construction of highway works in proximity to the Property would cause disruption, in particular in respect of preventing access to the Property and increased traffic.**
 - d. Both during the construction and operation of the Project, the **noise effects arising from aircraft, ground sources, road traffic and construction are likely to be detrimental to the Hotel's business operations.** Apparent methodological errors in the assessment of noise effects by GAL mean that, at present, the noise effects on the Property cannot be properly understood.
- 1.8 It should be noted that our Clients do not oppose the principle of the Project and would hope that, in due course, it may be able to move to a position of support. However, at present our Clients have significant concerns about the impacts of the Project on its Property and Hotel operations, as well as the way in which those impacts have been assessed and considered by GAL.
- 1.9 In the event that the impacts summarised above are not adequately addressed or mitigated, the consequences are that our Clients' Hotel operations will be detrimentally affected. These issues go to the heart of the market appeal of the Hotel and its ability to compete for customers. As explained in more detail later in these Representations, disruption of the type identified above would result in the loss of trade and longer term reputational damage, with significant financial consequences.
- 1.10 As an Affected Person, our Clients reasonably expect GAL to minimise the interference with its property rights so far as reasonably practicable. It also reasonably expects it to mitigate adverse impacts in line with policy. Only once those options have been exhausted does compensation fall to be considered. Our proposed mitigation and solutions for the above issues (so far as they may be capable of identification at this stage) are outlined in Section 10.
- 1.11 These Representations have been produced by Ardent on behalf of our Clients, with technical input provided by Stantec in respect of surface transport and noise.

2.0 HOTEL PREMISES AND BUSINESS OPERATIONS

Property Layout and Access

- 2.1 The Property is situated adjacent to Longbridge Roundabout at the junction of Povey Cross Road, A23 Brighton Road and A23 London Road.
- 2.2 The sole access to the Hotel is provided from the A217. The access is dual laned over a distance of 30 metres and leads to a turning circle at the front of the Hotel. The access also leads to a single lane route to the main car park at the rear of the Hotel.
- 2.3 All vehicles must exit the Property by a single lane access onto Povey Cross road. The width of this route is constrained by mature trees and an electricity substation to the east and to the west by land within the neighbouring landowner's title, which is also outside the redline boundary for the Project. In effect, the access and exit form a one-way system throughout the Property, which provides for the safe and efficient use of the Property by all vehicles.
- 2.4 The access off the A217 to the turning circle is used by cars, taxis, buses and coaches dropping off and picking up customers from the Hotel. Traffic surveys carried out in June 2023 showed that, on average, 350 vehicles a day entered the Property, including 80 buses over a 24-hour period. This includes a 24-hour service to the Airport terminals known as the 'Hoppa' bus service, which is operated by BM Coaches. Further detail on this service and its importance for our Clients' business model is explained in section 6 below. For present purposes, it is sufficient to note that the Property is the final stop on the Hoppa bus service such that the turning circle on the Property is also used for buses to wait in accordance with the schedule. For this reason, the Hotel provides welfare facilities for drivers. This is explained further below.

Hotel Accommodation

- 2.5 The Hotel currently provides 4-star accommodation with 216 bedrooms, meeting rooms and conference facilities. The Property also has the benefit of a 600-space car park to the rear of the Hotel buildings, and an additional 30-space car park to the front of the Hotel adjacent to the A217.
- 2.6 The Hotel has a favourable reputation, with a 4/5 rating on Tripadvisor and a 7.8 score on Booking.com (with scores of 8+ in all areas other than 'Value-for-Money').

Hotel Business Operations

- 2.7 The Hotel business has four core income streams, the current split for which is as follows: room revenue (65%), food and beverage revenue (23%), other revenue including car parking revenue (8%) and revenue from airline cabin crew contracts (4%).

Room Rates and 'Park, Stay and Go' Packages

- 2.8 The revenue from room-rates accounts for approximately 65% of the annual income. More than 40% of this revenue comes from customers purchasing a 'Park, Stay and Go' package. This allows customers to park at the Property for the duration of their trip, stay at the Hotel and then access the Airport terminals by the Hoppa Bus. As explained above, the Hoppa Bus service provides 24-hour access to the Airport terminals from the Hotel, via stops at other hotels including the Travelodge, Courtyard Marriott, and the Premier Inn. The entire route takes approximately 20 minutes to complete and the service runs once every 20 minutes. The Hotel is the terminus for this service and the busiest stop on the route.¹
- 2.9 The availability and reliability of the Hoppa service is therefore an integral part of a significant proportion of our Clients' revenue from its Hotel operations. Given that the Hotel is the furthest from the Airport, any disruption to the Hoppa Bus service will reduce our Clients' ability to compete with hotels closer to the Airport. In the event that the journey time to the Airport terminals was increased, this would have a direct impact upon the market appeal of the Hotel. Such an effect would be proportionately greater in respect of the Hotel than in respect of other hotels, as it is the furthest from the Airport of those served by the Hoppa bus service and would therefore experience the greatest disruption.

Airline Contracts

- 2.10 The Hotel currently holds, and has historically held, contracts with various airlines to provide accommodation to airline crew during layovers. Further details cannot be provided at this stage due to confidentiality requirements.
- 2.11 Contracts of this type typically require the hotel operator to ensure that rooms allocated under the contract provide the optimum conditions for sleeping, both during daytime and night-time periods; that they are fit for purpose; and that they are quiet rooms, situated away from noise sources. In the event that these obligations are not met, the contracts may be terminated by the airlines. Quiet conditions during

¹ This has been confirmed to Ardent by the Hoppa's operator, BM Coaches.

both the night (as per any typical residential-type receptor) and during the day are therefore extremely important to the Hotel's ability to meet its contractual obligations.

- 2.12 Our Clients are currently in discussions in respect of further contracts to provide cabin crew and pilot accommodation.

Car Park Revenue

- 2.13 At present, the full 600 car parking spaces available in the main Hotel car park are typically fully utilised on a daily basis. An additional 200 space overflow car park towards the north of the Property are used during peak demand, which is typically between February and November. 330 of the 600 space car park are used at any one time for customers using a 'Park, Stay and Go' package.
- 2.14 Due to the high demand and utilisation of the existing car parking facilities at the Property, it would not be acceptable to our Clients for the number of car parking spaces currently available to be reduced, either temporarily or permanently, through internal reconfiguration of the Property. Any reduction in the car parking spaces available would result in the loss of revenue from parking and from room rates as part of the 'Park, Stay and Go' scheme.

3.0 RELEVANT POLICY AND GUIDANCE

- 3.1 These Representations do not set out in full the national policy framework that is relevant to the Project. Instead, this section identifies those aspects of policy that are particularly relevant to the issues raised on behalf of our Clients.

National Policy on Noise

- 3.2 The National Policy Statement for England ('NPSE') provides the policy framework for noise management decisions, in order to ensure that noise levels do not place an unacceptable burden on society. The NPSE introduces the following concepts for categorising noise effects:
- a. 'No Observed Adverse Effect Level' ('NOAEL'), being the level at which no effect can be detected;
 - b. 'Lowest Observed Adverse Effect Level' ('LOAEL'), being the level above which effects on behaviour and adverse impacts on health and quality of life can be detected; and
 - c. 'Significant Observed Adverse Effect Level' ('SOAEL'), being the level above which significant adverse effects on health and quality of life occur.
- 3.3 The policy aim in the NPSE is to avoid, minimise, mitigate and, where possible, reduce significant adverse impacts on health and quality of life within the context of sustainable development.
- 3.4 With specific regard to aviation noise, the Planning Practice Guidance ('PPG') provides guidance on establishing the relevant actions to be taken for noise at different levels. It explains that as noise crosses the lowest observed adverse effect level ('LOAEL') threshold, it "starts to cause small changes in behaviour and attitude" such that "consideration needs to be given to mitigating and minimising those effects". The PPG defines the 'significant observed adverse effect level' ('SOAEL') as the level at which "a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present". The PPG continues, "If the exposure is predicted to be above this level the planning process should be used to avoid this effect occurring, for example through the choice of sites at the plan-making stage, or by use of appropriate mitigation such as by altering the design and layout. While such decisions must be made taking account of the economic and social benefit of the activity causing or affected by the noise, it is undesirable for such exposure to be caused." The PPG also introduces the concept of

‘Unacceptable Adverse Effect Level’ (‘UAEL’), in respect of which the noise hierarchy in the PPG identifies the relevant action as “prevent”.

3.5 Paragraph 191 of the NPPF (2023) sets out the aim of ensuring that development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment. In so doing, proposals should mitigate and reduce to a minimum potential adverse impacts from noise, avoid noise from giving rise to significant adverse impacts on health and quality of life.

3.6 In March 2023, the Government published an update to its policy on aviation noise. The Overarching Aviation Noise Policy Statement (‘OANPS’) states that:

“The Government’s overall policy on aviation noise is to balance the economic and consumer benefits of aviation against their social and health implications in line with the International Civil Aviation Organisation’s Balanced Approach to Aircraft Noise Management. This should take into account the local and national context of both passenger and freight operations, and recognise the additional health impacts of night flights.

The impact of aviation noise must be mitigated as much as is practicable and realistic to do so, limiting, and where possible reducing, the total adverse impacts on health and quality of life from aviation noise.”

3.7 The Government has made clear in the OANPS that the words “limit, and where possible reduce” in the Aviation Policy Framework (2013) remains the appropriate wording. The OANPS explains that *“an overall reduction in total adverse effects is desirable, but in the context of sustainable growth an increase in total adverse effects may be offset by an increase in economic and consumer benefits. In circumstances where there is an increase in total adverse effects, “limit” would mean to mitigate and minimise adverse effects, in line with the [NPSE]”*.

3.8 The Airports National Policy Statement (‘ANPS’), whilst only of effect in relation to proposals for a third runway at Heathrow, is nonetheless an important material consideration for the application. Paragraph 5.68 of the ANPS provides as follows:

“Development consent should not be granted unless the Secretary of State is satisfied that the proposals will meet the following aims for the effective management and control of noise, within the context of Government policy on sustainable development:

- *Avoid significant adverse impacts on health and quality of life from noise;*
- *Mitigate and minimise adverse impacts on health and quality of life from noise;*

- *Where possible, contribute to improvements to health and quality of life.”*

3.9 The National Networks Policy Statement (‘NNPS’) recognises that excessive noise can have wide-ranging impacts on the quality of human life and health, for example, through annoyance and sleep disturbance (para 5.186). The NNPS identifies that the Government’s policy on noise is set out in the NPSE, which promotes good health and good quality of life through effective noise management. The NNPS recognises the need for an Applicant to assess the noise impacts that are likely to arise from the Project, including through identifying noise sensitive premises that may be affected (para 5.189). The test identified in paragraph 5.195 of the NNPS, which mirrors that in the ANPS and NPSE, is as follows:

“The Secretary of State should not grant development consent unless satisfied that the proposals will meet, the following aims, within the context of Government policy on sustainable development:

- *Avoid significant adverse impacts on health and quality of life from noise as a result of the new development;*
- *Mitigate and minimise other adverse impacts on health and quality of life from noise from the new development;*
- *contribute to improvements to health and quality of life through the effective management and control of noise, where possible.”*

3.10 In determining an application, the Secretary of State should consider whether mitigation measures are needed for operational and/or construction noise, over and above those which may form part of the project application. The Secretary of State may wish to impose requirements to ensure delivery of all mitigation measures (paras 5.197 – 5.198).

Construction Traffic Impacts

- 3.11 Paragraph 108 of the NPPF provides that *“Transport issues should be considered from the earliest stages of plan-making and development proposals, so that... (d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects...”*.
- 3.12 Paragraph 5.21 of the ANPS, concerning surface access, states that *“The applicant’s proposals will give rise to impacts on the existing and surrounding transport infrastructure. The Secretary of State will consider whether the applicant has taken all*

reasonable steps to mitigate these impacts during both the development and construction phase....”.

Guidance on Compulsory Acquisition

- 3.13 *‘Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land (2013)’* provides that applicants must be prepared to justify their proposals for the compulsory acquisition of any land to the satisfaction of the Secretary of State (para 7). They must be able to demonstrate that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored. The applicant will also need to demonstrate that the proposed interference with the rights of those with an interest in the land is necessary and proportionate (para 8). Furthermore, the applicant must have a clear idea of how they intend to use the land which it is proposed to acquire (para 9). Applicants must seek to acquire land by agreement wherever possible (para 25) and must provide as much information as possible about the resource implications of acquiring the land (para 17).

4.0 CONSULTATION AND ENGAGEMENT

Consultation during Project Design

- 4.1 In accordance with sections 42 and 44 of the 2008 Act, our Clients are entitled to be consulted on the Project. The Property falls within the 'Inner Consultation Zone' for the purposes of statutory consultation carried out by GAL. This zone covers areas where people live, work or otherwise use, that are closest to the Airport and may be affected by the Project.
- 4.2 GAL carried out statutory consultation in respect of the Project in Autumn 2021. This included within its scope the proposed works to Longbridge Roundabout. The consultation indicated that GAL proposed to increase the footprint of the roundabout northwards; provide compliant lane widths on the circulatory carriageway; extend the segregated left turn lane southbound and widen the underlying stilt structure; and replace the Brighton Road bridge over the River Mole with a wider structure.
- 4.3 Following the period of statutory consultation, GAL published a 'Highway Improvement Changes and Project Update Consultation' document, identifying a number of changes to the Project. The nature of these changes were to increase the scale of the highways works proposed and amend the proposals to the A217, thereby impacting the extent to which the front of our Clients' Property will be affected by the Project.
- 4.4 Our Clients have concerns about the adequacy of the consultation undertaken at that stage, however our Clients' view is that it is appropriate to focus on the current engagement with GAL, which it hopes will be more satisfactory in addressing its concerns.

Engagement and Negotiations

- 4.5 As set out above, acquiring authorities are expected to engage meaningfully with affected parties in order to understand the impact of a scheme and any acquisition of land upon them, as well as seek to acquire land and rights by agreement.
- 4.6 Marathon acquired the corporate entities, HI (London Gatwick) Limited and HICP Limited, which are the registered proprietors of the Property, in May 2021. Prior to Marathon's acquisition of the Property (via this corporate acquisition), GAL's agents contacted the previous owners in November 2019 to give notice of the intention to apply for a DCO, prior to which it confirmed that it would consult with affected parties. In January 2020, the previous owner's legal advisors completed and returned GAL's

Land Information Questionnaire. On behalf of our Clients, Stantec sought additional information on the impact of the Project on the Property, but were informed that the Project was on hold as a result of the COVID-19 pandemic.

- 4.7 Between January 2020 and October 2022, there was no contact between GAL and our Client (or the previous owners). In October 2022, GAL provided some limited information about the proposed Project and the timelines for the DCO application. It was not until 7 June 2023 that there was an initial meeting between Dalcour Maclaren on behalf of GAL and Ardent on behalf of our Clients. This meeting took place only a month before the application for development consent was submitted. At that meeting, Ardent requested a range of additional information in order to understand the impact of the Project on our Property. That included requests for details of noise data; proposed access arrangements to the Property; controls that would be contained within the draft DCO; construction working hours, and information on the when the application would be submitted. This request was reiterated in an email of 12 June 2023.
- 4.8 No substantive response to these requests was received until a partial response was received on 29 September 2023 (nearly three months after the application had been made), with further information on 3 November 2023. This was despite numerous prompts on behalf of our Clients during the period of over three months. The responses received provided insufficient technical information, such that further requests for information had to be made on 17 November 2023. Further responses were not received until three months later, on 14 February 2024.
- 4.9 Due to the quality and nature of the technical information that had been provided, our Clients sought meetings between the parties' respective experts in order to seek to address their concerns about that data and to better understand the impacts of the Project on the Property. One such meeting was held on 17 November 2023, which was attended by Stantec on behalf of our Clients and GAL's surface access consultants. In the event, and in spite of having been pre-arranged, GAL's acoustic consultant was not available to attend such that this meeting was re-scheduled for 6 February 2024.
- 4.10 Whilst our Clients welcome the more recent contact between the parties, they remain of the view that the level of engagement to date has been limited. In particular, it has repeatedly fallen to our Clients to request information and seek to arrange meetings, invariably following up such requests on numerous occasions over a period of months

before any response is received from GAL. Only a single meeting between the parties was held prior to the submission of the DCO application and only one technical meeting in respect of surface transport and acoustics respectively has been held to date. The effectiveness of discussions has been continually hampered by the lack of adequate technical information as to the impacts of the Project on the Property. The limited level of engagement means that our Clients are not confident that GAL has properly understood the nature of our Clients' business operations and the likely impacts upon it.

- 4.11 Our Clients remain keen to engage collaboratively with GAL in order to identify and address the likely impacts of the Project upon the Hotel and the Property, such that its concerns may be addressed through a legal agreement. Should that not occur, our Clients reserve its right to maintain an assertion that no compelling case for the acquisition of its land has been made out and to seek any necessary protections on the face of the Order.
- 4.12 At this stage, on a precautionary basis, our Clients maintain their desire to be heard at one or more compulsory acquisition hearings.² At what stage such attendance is appropriate may depend on the progress able to be made with GAL henceforth.

² In accordance with section 92 of the 2008 Act, our Clients, as an affected party, are entitled to be heard at a compulsory acquisition hearing.

5.0 EXTENT OF PROPOSED COMPULSORY PURCHASE LAND TAKE

5.1 The amended Book of Reference Part 1 [AS-011] identifies that the following Category 1 parcels, which form part of the Property, will be affected by the Project. We note that plots 1/042 and 1/073, which also comprise part of the Property, are also identified for acquisition without recognition of our Clients' interest in that land.

Number on Land Plans	Description of Land	Land Category	Land Requirement
1/026	348 square metres of private road and verges (south of Reigate Road A217)	Cat 1	Permanent Acquisition
1/042	30 square metres of verge, scrubland and access road (west of Longbridge Roundabout)	Cat 1	Permanent Acquisition
1/057	1,762 square metres of public road (Reigate Road, A217), private road (off Reigate Road, A217), footways and verges)	Cat 1	Permanent Acquisition
1/061	90 square metres of public road, verge and footway (Reigate Road, A217)	Cat 1	Permanent Acquisition
1/062	316 square metres of grassed area and woodland 9west of Longbridge Roundabout)	Cat 1	Temporary Acquisition
1/067	4 square metres of woodland (north of Povey Cross Road)	Cat 1	Permanent Acquisition
1/072	11 square metres of woodland	Cat 1	Permanent Acquisition

	(north of Povey Cross Road)		
1/073	4 square metres of scrubland (south west of Longbridge Roundabout)	Cat 1	Permanent Acquisition

5.2 The following Category 2 land parcels, which form part of the Property, are affected by the Project.

Number on Land Plans	Description of Land	Land Category	Land Requirement
1/009	52 square metres of verge (north west of Longridge Roundabout)	Cat 2	Permanent Acquisition

5.3 The following Category 3 land parcels, which form part of the Property, are affected by the Project.

Number on Land Plans	Description of Land	Reason for Acquisition
1/009	52 square metres of verge (north west of Longridge Roundabout)	Works associated with the Longbridge Roundabout junction Minor Works, including protective works, access or utility diversions.
1/026	348 square metres of private road and verges (south of Reigate Road A217)	Works associated with the Longbridge Roundabout junction Minor Works, including protective works, access or utility diversions.
1/057	1,762 square metres of public road (Reigate Road, A217), private road (off Reigate Road, A217), footways and verges)	Works associated with the Longbridge Roundabout junction Minor Works, including protective works, access or utility diversions.
1/061	90 square metres of public road, verge and footway (Reigate Road, A217)	Works associated with the Longbridge Roundabout junction Minor Works, including protective works, access or utility diversions.
1/062	316 square metres of grassed area and	Works associated with the Longbridge Roundabout junction

	woodland 9west of Longbridge Roundabout)	Minor Works, including protective works, access or utility diversions.
1/067	4 square metres of woodland (north of Povey Cross Road)	Works associated with the Longbridge Roundabout junction Minor Works, including protective works, access or utility diversions.

Concerns Regarding CPO Land Take

- 5.4 Our Clients have three principal concerns in respect of the proposed CPO land take under the DCO:
- a. The permanent land take as currently proposed is excessive and not clearly justified;
 - b. The sole access to the Property is proposed for permanent acquisition; and
 - c. There is a lack of clarity over the need to acquire rights.
- 5.5 It is unclear from the DCO documentation how the extent of permanent land take at the Property has been determined through the design of the Project. As a consequence, it cannot be said at present that the land take is justified. In particular:
- a. It is not clear why the full extent of permanent land acquisition is required for the purposes of highway mitigation or for construction purposes. Only a very limited area appears to be required for the relocation of the roundabout. Access to the wider area for the purposes of construction or utilities works could readily be achieved through the acquisition of rights or temporary possession. It falls to GAL to justify why such purposes could not be met by lesser interference;
 - b. The land proposed for permanent acquisition includes the sole access to the Hotel (plot 1/026). This plot includes part of the turning circle used by vehicles to access the Property. It is essential that a suitable access to the Hotel is maintained during construction and reinstated following completion. Our Clients are aware from discussions with GAL that this access will need to be completely closed for a period of time during the construction period (albeit that matter is neither identified or controlled in the application documentation). Suitable alternative access must be identified in advance of any closure, but this is not yet secured through the Order. This is discussed further in Section 7.0 below;
 - c. The permanent acquisition of plots 1/057 and 1/062 will have a material effect on our Clients' ability to redevelop the area of the Property of which these plots

comprise part. Our Clients are actively exploring the potential to extend Hotel operations on this land, which will be materially affected by the extent of permanent land take. Unless the extent of permanent land take is reduced, the development opportunities in respect of this land will be significantly decreased, with implications for the compensation likely to be payable by GAL. It remains unclear whether the rights which are proposed to be acquired over Plot 1/062 would have a material impact on the redevelopment of this land.

- 5.6 Due to the lack of meaningful engagement between the parties, our Clients are concerned that GAL has not understood the implications of the proposed land take for our Clients' Hotel operations and future development plans. The land proposed to be acquired is of significant value and importance to our Clients, such that the loss of this land must be minimised as far as practically possible.
- 5.7 The failure of GAL in this regard also leads us to doubt whether their estimate of compensation required in respect of land take is accurate. In this regard, we note that the Funding Statement only contains what is described as 'current project cost estimate' of £2.2 billion. It does not even identify an overall cost for land assembly [APP-009]. A significantly greater level of detail was required by the Examining Authority considering the application for development consent for the expansion of Luton Airport.

6.0 IMPACT ON 'HOPPA' BUS SERVICE DURING CONSTRUCTION

- 6.1 As explained above, the Hoppa bus service is an essential element of the 'Park, Stay and Go' package provided by the Hotel. The appeal of this package depends critically upon the reliability and efficiency of this service as a means of accessing the Airport. Customers purchasing this package represent a significant proportion of the Hotel's revenue.
- 6.2 GAL's Transport Assessment [APP-258] contains no assessment as to the impact of the highways works on the A23 and the Longbridge Roundabout on the operation of the Hoppa bus service and its terminal at the Hotel. BM Coaches, the operator of the Hoppa bus service, has confirmed to Ardent that it has had no contact from GAL in respect of the Project. This appears to be an omission from the Transport Assessment, which means that the impact on the service and consequently on our Clients' Hotel business cannot be properly understood.
- 6.3 GAL has recently confirmed in discussions that it will be necessary to re-route the Hoppa Bus around the Perimeter Road North for a period during the construction of the highway works, albeit no provision is made for this in the DCO or securing documents. Any such re-routing would have to be approved by the local authority. At this stage, there is no information as to the likely diversion route, the period for which a diversion will be required, the implication of this for journey times and reliability, the likelihood of delays caused by road closures and construction traffic or the overall impacts on the quality of the service. Any adverse impacts to the service would directly impact our Clients' ability to compete with other hotels for customers, customer satisfaction and ultimately result in business losses and reputational damage.
- 6.4 In view of our Clients' concerns about the lack of assessment, our Clients consider that it will be of critical importance for GAL to engage with it in order to identify and mitigate any adverse impacts on the Hoppa bus service and consequently upon our Clients' Hotel operations.

7.0 IMPACT OF CONSTRUCTION WORKS AND TRAFFIC

- 7.1 As explained above, the proposed works to Longbridge Roundabout are immediately adjacent to our Clients' Property. As explained above, GAL proposes to permanently acquire plot 1/026, which comprises the sole access to the Property.
- 7.2 The Transport Assessment [APP-258] contains no assessment of the impact of the construction works on the access to the Hotel. GAL has confirmed in discussions that the access to the Property will need to be closed for a period of time during construction works and possibly relocated. Our Clients' position is that closure of their sole access for any period (including at night) would be unacceptable. An alternative design solution will need to be identified in advance of any works that restrict access to the Property. No such provision is yet made in the DCO or otherwise.
- 7.3 The alternative access will need to provide suitable alternative access for all vehicles, including the Hoppa bus service. Any potential solution will need to take account of the effects of any internal reconfiguration of the Property that may be required. For example, it will be important that any solution does not limit or reduce the level of car parking that is currently available on site, given the current levels of utilisation of those spaces and their importance to the 'Park, Stay and Go' offer.
- 7.4 More broadly, the programme of works along the A23 is likely to result in congestion along this route throughout the construction period. Not only may this impact upon the reliability of the Hoppa bus service (as explained at Section 6.0 above), but it is likely to have an adverse impact on the journey times of guests accessing the Hotel. Our Clients are keen to explore these issues further in discussions with GAL to ensure that suitable mitigation is in place to protect the Hotel's business operations.

8.0 ACOUSTIC IMPACTS

- 8.1 Stantec UK Ltd has undertaken a review of the technical and engineering acoustic documentation provided as part of the DCO application. This review has indicated that there are certain issues with GAL's acoustic assessment, which are explained below.
- 8.2 GAL's noise assessment contained in Chapter 14 of the Environmental Statement [APP-039] does not treat the Hotel as a noise sensitive receptor. As a result, there is limited ability for our Client and the Examining Authority to understand what the impact of the Project is upon the acoustic environment enjoyed by the Hotel.
- 8.3 Stantec's own work indicates that the relative noise impact of the Project on the Holiday Inn has been severely underestimated as a result of:
- a. the Hotel premises being considered to be commercial, rather than being ascribed a level of sensitivity that is akin to residential, given the nature of the use; and,
 - b. conclusions drawn about the potential noise impact relative to baseline sound data.
- 8.4 Fundamentally, both conclusions are considered to be invalid.
- 8.5 With regards to point a), under the Noise Insulation Regulations 1975 residential premises are defined as *'dwellings, and other buildings used for residential purposes'* for which *'residential purposes'* is further defined in legislation as *'a room or suite of rooms [...] which is used by one or more persons live and sleep in'*. This definition covers the use of the Hotel premises and should therefore be considered as a residential receptor (or as having a sensitivity comparable to the same) for the purposes of noise sensitivity.
- 8.6 Hotels are also categorised under Class C use in the Town and Country Planning Order 1987 (as amended), along with other residential premises types.
- 8.7 It is notable that noise criteria comparable to that used for residential receptors has been utilised in the environmental assessment for hotels at other recent airport expansion projects, e.g. Luton Airport.
- 8.8 Indeed, it is considered that the Hotel has a greater sensitivity even than a typical residential property in this case, which makes assessment of the noise impact upon it particularly important. As described previously, the Hotel benefits from contractual arrangements to host cabin crew members and pilots. Whilst the details of these contracts are confidential, such contracts typically include requirements for acoustic

conditions that are conducive to sleep at all times (i.e. during the daytime period, as well as at night). The Hotel is currently in negotiations for further such contracts, which form an important part of its current and planned revenue-generating activities.

- 8.9 Given the heightened sensitivity of the Hotel operations, the Project has the potential for significant impact on the Hotel operations and its continuation and/or winning of the cabin crew contract(s), as well as, reputational damage if guests are unable to obtain adequate rest and sleep during their stay.
- 8.10 As the Hotel was discounted as a noise-sensitive receptor, the DCO documentation fails to adequately assess and address concerns relating to the future noise impact arising due to increased air noise awakenings, ground noise and construction noise.
- 8.11 Based on the limited information that has been provided (of which very little relates directly to the Property), the following initial conclusions can be drawn. There will be:
- a. Significant increase in day-time and night-time instantaneous noise level events as a result of increased air traffic numbers;
 - b. Significant increase in ground noise levels during the night-time period;
 - c. Significant impact during construction works related to the widening of the A217 London Road, works to the Longbridge Roundabout and the A23 Bridgeworks;
 - d. Potential noise impact from the construction compound related to construction traffic movements and items of fixed equipment associated with the serviced site containers, e.g. welfare and office facilities; and
 - e. Potential noise impact due to changes to road traffic volumes.
- 8.12 The identification of a significant increase in instantaneous noise level events (point one) is derived from the assessment for the nearby Barndale Community Care Home, which indicates that there will be a significant increase in the number of exceedances of the 65 dB L_{Amax} daytime and 60 dB L_{Amax} night-time thresholds due to increases in air traffic movements. The significant increase in ground noise levels during the night-time period (point two) is derived from the ground noise predictions for the neighbouring Gatwick Park Hospital. The other points identified above have been inferred from the noise maps, so far as is possible to do so.
- 8.13 With regards to paragraph 8.3 point (b), noise maps have been provided for future scenarios for ground noise and road traffic noise, yet all are referenced against the

baseline acoustic survey data from 2016, limited additional acoustic measurements in 2018 and traffic counts from 2019 [APP-039 , APP-174 and APP-176].

- 8.14 This original data is severely limited, does not have supporting traffic count data provided, and again fails to assess the hotel adequately as a noise sensitive receptor.
- 8.15 Analysing available road traffic noise data for the only nearby measurement location, our initial assessment indicates that the 2019 survey results significantly over-estimate the existing noise climate at the hotel - with sound levels in June 2023 being as much as 6dB lower This is considered to be consistent with the findings of GAL's own recent update to the baseline date to account for post-Covid changes in traffic levels, as to which see paragraph 84 below.
- 8.16 The artificially high baseline therefore severely under-estimates the future impacts across all future scenarios that have been modelled.
- 8.17 For ground noise, the nearest baseline survey measurement locations, 6 and 7, are over 500 m and 700 m away, respectively [APP-176]. Neither location is representative of the acoustic climate at the Hotel, with Location 7 being directly adjacent to the higher speed dual-carriageway section of A23 and Location 6 being approximately 300 m nearer the airfield but directly adjacent to the airport perimeter road. Both positions potentially also benefit from more favourable shielding by the earth bund that surrounds the airport, due to relative proximity within the shadow zone.
- 8.18 As the accuracy of any acoustic model depends heavily on the quality of the input data, where measurements used for validation of the acoustic model are not representative, this casts doubt on the validity of output predictions and their conclusions regarding potential impact.
- 8.19 Furthermore, as traffic noise data has also been included in the assessment of the impact of future ground noise scenarios, changes to the baseline and "without project" scenarios in future years, will also affect the relative significance of the impact of noise from this source.
- 8.20 The Accounting for Covid-19 in Transport Modelling report, produced in response to the request from the Planning Inspectorate in October 2023, indicates that traffic

volumes have noticeably reduced since the original baseline traffic and acoustic surveys, as is borne out by the 2023 noise survey data at the Hotel.

- 8.21 The report concludes that the reference case road traffic projections are 14% lower in 2047 than previously predicted, but that the *“with Project flow increases follow a similar pattern to that presented in the DCO application”* [AS-121].
- 8.22 This implies that the magnitude of change between the baseline and “with project” scenarios may be much larger than current projections would suggest, with a corresponding increase in relative impact on the Hotel.
- 8.23 We understand that the Examining Authority is aware of the potential change to the environmental impacts as a result of the updated traffic baseline data and future projections and that the Applicant is currently updating the environmental statements that rely on this data for their conclusions on impacts and their relative significance. It is our Clients’ view that it will be important for the Examining Authority to ensure that any changes to the traffic baseline data is also reflected in an updated acoustic baseline.
- 8.24 Whilst there is insufficient information to accurately assess the effect of artificially high baseline road traffic data, a crude comparison of 2023 conditions and ground noise projections for Gatwick Park Hospital indicate that instead of there being a low or negligible risk of adverse impact on the Hotel from these two sources, the DCO plans would indicate the potential for a significant adverse impact to the Hotel instead.
- 8.25 There is insufficient information to be able to accurately assess the potential for increased awakenings at the hotel due to air noise, but available data for nearby premises indicate that noise from this source could also have a significant adverse impact on the hotel premises, potentially with awakenings in excess of WHO Guidelines [Section 7 of APP-172 and the World Health Organisation Guidelines for Community Noise 1999, World Health Organisation Night Noise Guidance for Europe 2009]. Awakenings are obviously a particularly significant issue for a business that provides facilities for rest for airline crew at all times of day and the wider public.

- 8.26 For construction noise, intermittent and high noise levels events associated with works proposed to be undertaken just outside the Hotel, are expected to be particularly disruptive to the Hotel and puts the airline contracts at risk.
- 8.27 As night-time construction works are also proposed in the vicinity of the Hotel, there is also significant risk of disturbance being caused to other guests and the associated reputational damage that may occur.
- 8.28 No specific information has been provided on the extent and timing of construction works nor the type of equipment that will be operating and where, relative to the Hotel. It has not therefore been possible to undertake independent assessment of the potential impact that the proposed works will have on the Hotel.
- 8.29 A best practicable means approach to controlling construction noise and vibration is unlikely to provide sufficient protection to the particularly sensitive Hotel and specific measures to protect the hotel effectively have not yet been suggested.
- 8.30 The current acoustic performance of the building façade at the Hotel offers between 24-35dB sound level difference from external to internal (assuming closed windows and trickle vents). This is adequate for present purposes, but may no longer be adequate in circumstances where the noise climate changes as a consequence of the Project.
- 8.31 Failure to sufficiently consider the hotel as a noise sensitive receptor and reliance on inaccurate pre-development acoustic data, severely under-estimates the impact that the proposed DCO works will have on the hotel operations and the commercial contracts it holds.
- 8.32 Our Clients have always been and remain keen to work with GAL to identify potential impacts from noise in both the construction and operation phases, and effective mitigation for the same, more accurately. Until this is done, however, it is considered that the Examining Authority does not have sufficient information before it to be able to accurately assess and report upon the likely impact of the Project upon the Hotel.

9.0 STATUS OF TECHNICAL DISCUSSIONS AND OUTSTANDING ACTIONS

Technical Discussions

9.1 As noted above, a technical review meeting took place on 17 November 2023 attended by our Clients' engineering team, Stantec, and members of GAL's engineering team, including the Construction Lead, Highways Design team and members from Dalcour Maclaren. A summary of the matters discussed (none of which are detailed in or controlled by the application) is set out below:

- a. GAL confirmed that the Property's access will be moved towards the Hotel, incorporating a new curb line, relocation of utilities, changes to the existing grass verge and changes to trees so there is a revised landscaping planting design, new drainage facilities and paving of the new access.
- b. With regards to the issues raised on behalf of our Clients in correspondence, GAL's position was that most of these will be considered at the detailed design stage. Whilst our Clients do appreciate that the detailed design stage has not yet been reached, it will be necessary for GAL to demonstrate that matters are capable of being addressed appropriately at that stage. Such 'proving' is a critical feature of the early design stage. To the extent that outline solutions for site access have been considered but not communicated to our Clients, we consider that such proposals ought to be shared with our Clients as a matter of urgency.
- c. GAL confirmed that access to the Property from the A217 would need to be closed at some point during construction for a period of time. Whilst some suggestions have been made as to how long this would be for, no contractor has been appointed, and statutory undertakers or service providers have not provided any detail as to the services that would need to be installed over the access. This causes our Clients significant concern as to the impact it will have on the operation of the Hotel business and the length and degree of disruption that will be caused.
- d. GAL has suggested that during any temporary closures of the Hotel access off the A217, access to/from the Hotel could be maintained using the existing Hotel exit road connection onto Povey Cross Road. As this road is currently wide enough to accommodate one vehicle only, temporary traffic management measures (e.g. temporary flagmen / temporary traffic signals) in the vicinity of the Povey Cross Road access would be required. Due to the constraints on this route, which

currently forms part of the one-way system within the Property, our Clients have significant concerns about the deliverability of this solution. In particular, it would necessitate the use of third party land that is not included within the red line of the DCO. Further, Stantec has serious concerns about the feasibility of the proposal to rely on temporary traffic management proposal due to the proximity of Povey Cross Road, in close proximity to a number of other uses (such as a petrol station) and highway accesses. The temporary traffic solution would involve stopping traffic on Povey Cross Road in order to allow vehicles to access / egress the Property, thereby causing a highway safety issue and potential backing up to the Longbridge Roundabout. Alternative proposals to access the Property from the A217 to the north of the existing access would require a reconfiguration of the internal layout of the Property. To the extent that the internal roads within the Property are to be used for two way traffic as opposed to as part of the existing one way system, it will be necessary to widen these roads to allow two vehicles (including two buses) to pass safely.

- e. GAL's technical team acknowledged that there is likely to be significant traffic congestion during the construction period of the A23 and Longbridge Roundabout works. For the reasons explained above, this is likely to have a detrimental impact on our Clients' Hotel operations.

9.2 As explained above, GAL's acoustic consultants were not available to attend the meeting.

9.3 On 6 February 2024, a technical review meeting was held which was attended by our Clients' engineering team, Stantec, and members of GAL's engineering team, including the Construction Lead, Highways Design team and members from Dalcour Maclaren. A summary of the matters discussed is set out below. Again these matters are not detailed within or controlled by the application materials:

- a. The sensitivity of the Holiday Inn premises was identified and spectral acoustic performance data in respect of the Hotel was provided.
- b. The discrepancy in the baseline scenario between 2016 data and 2023 data was identified and Stantec requested that the modelling be updated to reflect reduced traffic flows. This is particularly important as Mitchell Environmental confirmed during the meeting that it was GAL's position that other noise sources would be

masked by road traffic noise, such that they would have a negligible impact on the Hotel.

- c. Whilst the modelling outputs in respect of air noise were discussed, no information on the actual levels predicted at the Hotel were provided.
- d. In respect of ground noise, the ground noise contour map was shared by Mitchell Environmental. It was maintained on behalf of GAL that the change would not be significant, albeit it is apparent that the model was not based on acoustic survey data from within proximity of the Hotel, meaning this conclusion cannot be verified. In particular, whilst the absolute noise levels from ground noise events would not increase, the number of those events would increase, such that there could be an increased chance of sleep disturbance and awakenings, potentially in excess of WHO Guidelines.
- e. With regards to construction noise, Mitchell Environmental were unable to confirm the timing of works. This means that it is not possible to understand which periods of time are likely to pose the greatest risk of disturbance to airline crew and hotel patrons, or how long those periods are likely to last. Mitchell Environmental did confirm, however, that the greatest impacts are likely to occur during the Longbridge Roundabout works (daytime only) and the night-time works associated with the A23 Bridgeworks. Stantec highlighted that due to the intermittent and instantaneous high noise level events caused by construction, it will be necessary to give careful consideration as to the effect of construction and how to minimise disturbance to the Hotel. Mitchell Environmental agreed to further develop the mitigation plans to protect the Hotel. In particular, it is unlikely that noise barriers would be effective, as there would be a need to create a gap within the barrier in order to maintain access to the Hotel, which would negate any potential benefit. Mitchell Environmental further agreed to develop suitable trigger action limits to be included in the Construction Noise and Vibration Management Plan and a commitment to undertake noise and vibration monitoring throughout construction. We are yet to receive any details as to the proposed mitigation for the Hotel.

Outstanding Actions

- 9.4 Our Clients and their advisers have made a number of requests for information. As explained above, GAL's response to these requests has been, in part, unsatisfactory. There remains outstanding a number of these requests, which include the following:
- a. Additional information on the future traffic counts summarised in the Accounting for Covid-19 in the Transport Modelling report [AS-121];
 - b. Updated acoustic modelling outputs associated with the revised traffic levels, in particular in respect of our Clients' Property;
 - c. Additional information relating to the anticipated air noise and ground noise effects of the Project on the Hotel specifically. In particular, an assessment of the Property as a noise sensitive receptor, based on ground and air noise models that have been properly validated by data collected in proximity to our Clients' Property;
 - d. Information on the construction traffic projections through the period that the compound on the A217 will be active and the proposed site layout, including the location of parking facilities, in order to allow an assessment of the potential impact on our Client's Property;
 - e. Information on the proposed noise output of the 'serviced site containers', as well as associated power and lighting systems, pumps etc and the proposed installation locations / site layout, in order to allow assessment of the potential impact on our Clients' Property;
 - f. Detailed construction programme information, including details of the proposed equipment types to be used in the vicinity of the Property and the location of such equipment, for the entire works programme, in order to allow assessment of the potential construction noise impact on our Clients' Property.
- 9.5 In addition to those actions set out above, our Clients seek a detailed assessment by GAL of the impact of the construction of the Project on the Hoppa bus service and information on the arrangements for the service during the construction period.

10.0 MITIGATION

10.1 In order to mitigate the risk to our Client's business operations posed by the impacts of the Project, it will be necessary to put in place measures that are capable of avoiding or minimising the impacts identified above. In particular, the following impacts need to be mitigated:

- a. A reduction as far as possible in the permanent land take under the DCO so as to safeguard the development potential of the land towards the south of the Property and protect our Client's private property rights;
- b. The land proposed for permanent acquisition includes the sole access to the Hotel (plot 1/026). This plot includes part of the turning circle used by vehicles to access the Property. It is essential that a suitable access to the Hotel is maintained during construction and reinstated following completion. Our Clients are aware from discussions with GAL that this access will need to be completely closed for a period of time during the construction period (albeit that matter is neither identified or controlled in the application documentation). Suitable alternative access must be identified in advance of any closure, but this is not yet secured through the Order.;
- c. Traffic management solutions that are capable of minimising disruption and delay caused by traffic on the A23 and at the Longbridge roundabout, as well as a clear indication of the programme for such works;
- d. A detailed and receptor specific assessment of, and mitigation of, the noise effects arising from increased number of air traffic movements; ground noise sources, road traffic and construction, supported by validation points at the Hotel. This includes mitigation measures to be contained in a clear construction noise and vibration management plan. It is not possible to identify the likely mitigation required on the present state of information.

11.0 COMPENSATION

- 11.1 In order to demonstrate that its proposed interference with our Clients' rights is proportionate, it is incumbent upon GAL to seek to minimise that interference so far as reasonably practicable, and to avoid or minimise the injurious effects of its Project in accordance with policy. As set out elsewhere in these Representations, our Clients are of the view that such minimisation and mitigation will be possible, provided that GAL engages appropriately.
- 11.2 The effect of such mitigation should be to reduce GAL's compensation liability. However, even if that correct approach is taken, there will inevitably be some impacts which are required to be addressed through compensation.
- 11.3 We will seek to identify relevant heads with GAL in order to ensure our Client is appropriately compensated and in order to avoid later dispute.

12.0 DOCUMENTS REFERRED TO

12.1 We have made reference to the following documents:

- a. Land Use and Construction Phasing Plans – Autumn 2021
- b. Gatwick Northern Runway Project (NRP) Overview Briefing – September 2021
- c. Highway Improvement Changes and Project Update Consultation Document – Summer 2022.
- d. AS-009 - Statement of Reasons v2 - Tracked Version
- e. AS-011 - Book of Reference - Part 1 v2 - Tracked Version
- f. APP-025 - Traffic Regulation Plans - Clearways and Prohibitions - For Approval
- g. AS-017 - Works Plans - For Approval – Version 2
- h. AS-015 - Land Plans - For Approval – Version 2
- i. AP-009 - Funding Statement
- j. APP-039 - ES Chapter 14 Noise and Vibration
- k. AS-121 – Accounting for Covid-19 in Transport Modelling
- l. APP-174 - ES Appendix 14.9.4 Road Traffic Noise Modelling
- m. APP-176 - ES Appendix 14.9.6 Ground Noise Baseline Report
- n. APP-258 – Transport Assessment

13.0 CONCLUSION

- 13.1 As matters stand, it is apparent that:
- a. Our Clients' Property is subject to excessive and unjustified land take; and
 - b. GAL's application fails to provide sufficient information to enable our Clients or the Examining Authority to understand the true impact of the Project upon our Client's Property and Hotel business. What information is available points towards a significant impact.
- 13.2 It is our Clients' preference to work with GAL to ensure that the effects of its Project upon the Hotel are properly understood and mitigated, as required by policy, and to reach a voluntary and commercial agreement with the Applicant which secures a sensible approach to managing the detrimental impacts of the Project on our Clients' Property and Hotel business as well as to minimise the extent of permanent acquisition to that which is genuinely necessitated by Work 37. However, in order to engage on heads of terms for any such agreement, our Clients must be provided with the information it has requested on multiple occasions.
- 13.3 Recent contact has been more positive in tone, if not yet productive. If however GAL is unable to show meaningful engagement with our Clients and their professional team to address our Clients' concerns, they will be seeking appropriate provisions on the face of the draft development consent order for the Project (including development consent order requirements and protective provisions) in addition to appropriate compensation which recompenses for the negative financial and other impacts of the Project on our Clients.