

Gatwick Airport Northern Runway Project

Comments on the Applicant’s Deadline 1 Submission *Development Consent Order - Schedule of Changes* [REP1-005]

Introduction

1. At Deadline 1 (12 March 2024), the Applicant submitted, amongst other documents, its Draft Development Consent Order – Schedule of Changes (“**the Schedule of Changes**”).
2. The Schedule of Changes sets out, in a table, the changes made to draft Development Consent Order (“**draft DCO**”) by the Applicant.
3. In this document, the Legal Partnership Authorities (“**the Authorities**”) have taken the text from the table in the Schedule of Changes and added a new, fifth, column in which the Authorities have added their comments on each of the changes.
4. For a comprehensive summary of the Authorities’ concerns with the drafting of the draft DCO, please see Appendix M (comments on the draft Development Consent Order [PDLA-004] (Version 3.0, February 2024)) of West Sussex County Council’s Local Impact Report [**REP1-069**].

Row	Provision	Change	Reasoning	Comment
1.	Recitals	The Secretary of State is satisfied that replacement land (as that term is defined in section 131(12) of the 2008 Act) has been or will be given in exchange for the special category land identified in Part 1A of Schedule 10 to this Order within the Order limits to be permanently acquired, and that the replacement land has been or will be vested in the person or persons in whom the that special category land is vested and subject to the same rights, trusts and incidents as attach to the that special category land, and that, accordingly, section 131(4) of the 2008 Act applies in respect of that land; The Secretary of State is satisfied that the special category land identified in Part 1B of Schedule 10 to this Order is required for the widening or drainage of an existing	Sections 131 and 132 of the Planning Act 2008 (the " 2008 Act ") apply where a DCO authorises the compulsory acquisition of land, or rights over land, which is part of a common, open space or fuel or field garden allotment. Such an order is subject to special parliamentary procedure (" SPP ") unless the Secretary of State is satisfied that an exception set out in those sections applies. Following further analysis of the current land ownership of the special category land and refinement of the design proposals for the replacement open space, GAL has adjusted the	While the drafting is fine, the Authorities are considering the land ownership position to ensure Part 1B of Schedule 10 is accurate.

	<p>highway or partly for the widening and partly for the drainage of such a highway and the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public, and that accordingly section 131(5) of the 2008 Act applies in respect of that land;</p> <p>The Secretary of State is also satisfied that, in respect of the parcels of open space land within the Order limits over which rights will be acquired The Secretary of State is satisfied that rights to be acquired over the land identified in Part 3A of Schedule 10 to this Order will be the rights being acquired are for a temporary (although possibly long-lived) purpose, and that accordingly section 132(4B) of the 2008 Act applies in respect of that land; and</p> <p>The Secretary of State is satisfied that rights to be acquired over the land identified in Part 3B of Schedule 10 to this Order, or when imposed on the relevant open space land, will leave that land no less advantageous than it was before to the persons in whom it is vested, other persons, if any, entitled to rights of common or other rights and the public,</p>	<p>provisions of sections 131 and 132 on which it intends for the Secretary of State to rely such that SPP is not required. This change is set out in the revised recital to the DCO.</p>	
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		and that accordingly, sections 132(4B) and 132(3) (respectively) of the 2008 Act applies in respect of that land.		
2.	Recitals	The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120, and 122 and 123 of the 2008 Act, makes the following Order—	For completeness, section 123 of the 2008 Act has been added to the provisions referenced in this recital.	The Authorities consider this amendment is fine.
3.	Article 2 (interpretation)	“airport” means London Gatwick Airport, an airport within has the same meaning given as in Part 1 of the Civil Aviation Act 2012 (b) and is located within comprised of the area shown on the airport boundary plan;	This definition has been amended for clarity, to emphasise that references to the "airport" refer specifically to London Gatwick Airport. The definition continues to refer to the airport boundary plan.	For additional clarity, should the reference to “Part 1” be replaced with “section 66 (airports”) which includes the definition of “airport”?
4.	Article 2 (interpretation)	Deletion of definition of "approved plans" and addition of definition of "parameter plans": “parameter plans” means the plans certified as such by the Secretary of State under article 52 (certification of documents, etc.)	References to "approved plans" have been amended to refer to specific named plans which will be listed in Schedule 12 (documents to be certified) and be certified by the Secretary of State, most notably the "parameter plans" which specify the limits for the purpose of article 6 (limits of works). The term "approved plans" is no longer used in the draft DCO and the definition has been deleted.	The Authorities consider this amendment is fine.
5.	Article 2 (interpretation)	New definitions for local authorities: "CBC" means Crawley Borough Council;	References to specific authorities have been included throughout	The Authorities consider this amendment is fine.

		<p>"MVDC" means Mole Valley District Council;</p> <p>"RBBC" means Reigate and Banstead Borough Council;</p> <p>"TDC" means Tandridge District Council;</p>	<p>the draft DCO in place of references to the "relevant planning authority", to provide certainty as to the body which is intended to exercise particular functions (including discharge of requirements). These definitions have been added to facilitate these changes.</p>	<p>It should be noted that while the new definitions are acceptable, the Authorities are considering whether the proposed revised arrangements for (i) the discharge of requirements and (ii) any corresponding consultation are appropriate. The Authorities intend to provide a response on this point at Deadline 3 (Friday 19 April 2024).</p>
6.	Article 2 (interpretation)	<p>Relocation of definition:</p> <p>"outline landscape and ecology management plan" means the document certified as such by the Secretary of State under article 52 (certification of documents, etc.)</p>	<p>This definition has been relocated from article 40 (special category land) to article 2 (interpretation) given its wider relevance throughout the draft DCO.</p>	<p>The Authorities consider this amendment is fine.</p>
7.	Article 2 (interpretation)	<p>Amendments to the following definitions:</p> <p>"relevant highway authority" means, in any given provision of this Order, the highway authority for the highway to which the provision refers or relates;</p> <p>"relevant planning authority" means in any given provision of this Order, the planning authority for the area of land to which the provision refers or relates;</p>	<p>Minor amendments have been made to these definitions to clarify the manner in which they are intended to apply.</p>	<p>The Authorities consider these amendments are fine.</p>
8.	Article 2 (interpretation)	<p>New definition:</p> <p>"requirement" means a requirement set out in Schedule 2 (requirements), and a</p>	<p>This definition has been added for ease of cross-referencing in the body of the draft DCO to the</p>	<p>The Authorities consider this amendment is fine.</p>

		reference to a numbered requirement is a reference to the requirement set out in the paragraph of the same number in that Schedule;	requirements in Schedule 2 (requirements).	
9.	Article 2 (interpretation)	New definition: "substantially in accordance with" means that the plan or detail to be submitted should in the main accord with the outline document and where it varies from the outline document should not give rise to any new or any materially different environmental effects in comparison with those reported in the environmental statement.	In response to representations from the joint local authorities, this definition has been added to clarify the meaning of "substantially in accordance with", which is used in article 40 (special category land) and requirements 7, 8, 11, 12, 13 and 22 of the draft DCO.	The Authorities consider this amendment is fine.
10.	Article 6 (limits of works)	(1) Subject to paragraph (2), each numbered work must be situated within the limits of the corresponding numbered area shown on the works plans. (2) Any of Work Nos. 35, 36 or 37 (surface access works) may be situated within the limits shown on the works plans of Work Nos. 35, 36 and 37 taken as a whole. (3) In constructing Work Nos. 6, 9, 10, 11, 12, 15, 16, 22, 23, 26, 27, 28, 30 and 31 the undertaker may not deviate vertically from the levels shown or noted on the approved parameter plans except as approved pursuant to requirement 4 Schedule 2 (requirements).	Changes have been made to these paragraphs of this article to: <ul style="list-style-type: none"> clarify that the plans which specify the levels to which the works are limited are the parameter plans (as newly defined and included in Schedule 12 (documents to be certified), rather than the broader term "approved plans"; specify the relevant requirements in Schedule 2 (requirements) pursuant to which detailed designs which deviate from the 	The Authorities consider these amendments are fine.

		<p>(4) In constructing Work Nos. 35, 36 and 37 (surface access works), the undertaker may deviate—</p> <p>(a) vertically from the levels shown or noted on the approved parameter plans to a maximum of 1.5 metres upwards and to a maximum of 2 metres downwards; and</p> <p>(b) laterally to the extent shown or noted on the approved parameter plans or as otherwise approved pursuant to requirement 5 or 6(1) (as relevant) Schedule 2 (requirements).</p> <p>(5) In constructing Work Nos. 4(b) and 4(e) (exit/entrance taxiways), the undertaker—</p> <p>(a) may deviate laterally to the extent shown or noted on the approved parameter plans; but</p> <p>(b) where an area is specified in square metres on the approved parameter plans for a component of these works, must not exceed that area,</p> <p>(c) unless otherwise approved pursuant to Schedule 2 (requirements)</p>	<p>specified limits can be approved, in response to representations from National Highways; and</p> <ul style="list-style-type: none"> remove the final sentence of paragraph (5) given that Work Nos. 4(b) and 4(e) are excepted development (as defined) and are therefore not subject to detailed design approval pursuant to the requirements. 	
11.	Article 6 (limits of works)	<p>(6) The limits set out in paragraphs (1), (3) and (5) do not apply where it is demonstrated by the undertaker to CBC's the relevant planning authority's satisfaction and the relevant planning authority CBC certifies accordingly that works in excess of these limits would not give rise to any materially new or materially different environmental effects</p>	<p>In this and several other provisions throughout the draft DCO (all noted below), references to "relevant planning authority" have been replaced with references to specific authorities which GAL considers best placed to exercise those functions / discharge those requirements.</p>	<p>The response given in Row 5 in respect of requirements applies similarly here: the Authorities are considering whether the revised drafting is appropriate.</p>

		in comparison with those reported in the environmental statement.	Given CBC's role as the local planning authority for the majority of the land within the Order limits, GAL considers that CBC should exercise (or at least lead) in exercising most functions allocated to such an authority under the draft DCO. This article is one such example where the function (allowing deviations from the limits of works) has been allocated to CBC.	
12.	Article 9 (planning permission)	(5) Nothing in this Order restricts undertaker any person from seeking or implementing, or the relevant planning authority from granting, planning permission for development within the Order limits.	Entities other than the undertaker may need to seek and implement planning permissions for development within the Order limits. Such entities include NATS, which operates air traffic services; airline operators, which operate aircraft hangars and other facilities; and hotel operators. This change clarifies that such entities are not restricted from seeking or implementing planning permission.	The Authorities consider this amendment is fine.
13.	Article 11 (street works)	The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets as are within the Order limits and may— (a) break up or open the street, or any sewer, drain or tunnel within or under it;	The minor amendment has been made for clarification.	The Authorities consider this amendment is fine (and note the amended form of the provision is included in several made DCOs).

14.	Article 13 (stopping up of streets)	(2) No street specified in columns (1) and (2) of Part 1 of Schedule 3 is to be wholly or partly stopped up under this article unless— (a) the new street to be substituted for it, which is specified in column (4) of that Part of that Schedule, has been completed to the reasonable satisfaction of the relevant street authority and is open for use; or (b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided to the reasonable satisfaction of the relevant street authority and subsequently maintained by the undertaker between the commencement and termination points for the stopping up of the street until the completion and opening of the new street in accordance with sub-paragraph (a).	This change has been made at the request of the joint local authorities, to specify that temporary alternative routes provided in place of stopped-up streets must be to the reasonable satisfaction of the relevant street authority, in the same manner as permanent replacement streets.	The Authorities welcome this amendment.
15.	Article 16 (access to works)	16.—(1) The undertaker may, for the purposes of the authorised development and with the consent of the street authority (such consent not to be unreasonably withheld or delayed and no consent to be required in respect of airport roads), form and layout means of access, or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.	This change has been made at the request of the joint local authorities, to reflect that this article confers powers in respect of streets other than airport roads. In respect of such roads, GAL is willing to accept that the consent of the relevant street authority should be obtained before forming or improving means of access, to ensure that	Regarding article 16(1), the Authorities consider only the words “and with the consent of the street authority ... and no consent to be required in respect of airport roads” should be added. Regarding paragraph (3), paragraph 9 of Appendix M (comments on the draft Development Consent Order [PDLA-004] (Version 3.0, February 2024)) of West Sussex County Council’s Local Impact Report [REP1-

		<p>(2) The private means of access set out in columns (1) and (2) of Part 2 of Schedule 3 (private means of access to be stopped up and substitute private means and new private means) may be removed by the undertaker to the extent specified in column (3) of that Part of that Schedule and if removed must be replaced by the means of access as set out in column (4) of that Part of that Schedule.</p> <p>(3) If a street authority which receives a valid application for consent under paragraph (1) fails to notify the undertaker of its decision before the end of the period of 56 days beginning with the date on which the application was made, it is deemed to have granted consent.</p>	<p>this has no unacceptable impact on the street in question. Paragraph (3), which mirrors similar provision in other articles in the draft DCO, is a necessary inclusion to enable the undertaker to exercise the power conferred by this article and undertake works in an efficient and expedient manner. The deemed approval provision does not remove the street authority's ability to refuse the application but imposes a deadline by which it must exercise the function allocated to it.</p>	<p>069] explains why the 56-day deeming provision should be omitted.</p> <p>If the provision is retained, it should be followed by the following provision, which has been included consistently in highways DCOs since 2020, and which requires the undertaker to inform the authority of the deeming provision when it makes its application –</p> <p>“(X) Any application to which this article applies must include a statement that the provisions of paragraph (4) apply to that application”.</p> <p>The officers dealing with an application under article 12 might not be aware of the deeming provision and so it is reasonable for any application to inform the recipient of that significant power. In addition, a failure to inform the recipient of the power should have a consequence and new paragraph (X) should be followed by –</p> <p>“(Y) If an application for consent under paragraph (4) does not include the statement required under paragraph (X), then the provisions of paragraph (3) will not apply to that application”.</p> <p>In addition, if retained, paragraph (3) should be amended to state that the 56 days will</p>
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				start to run from the date the application is “received” (and not “made”, as currently drafted).
16.	Article 22 (discharge of water)	Addition of: (11) A sewerage undertaker is deemed to have granted consent to the discharge of trade effluent into a public sewer under paragraph (3) where the public sewer belongs to the sewerage undertaker and consent under section 118 (consent required for discharge of trade effluent into public sewer) of the Water Industry Act 1991 has been granted in respect of the discharge.	This wording has been added to ensure that, if a sewerage undertaker grants consent to the discharge of trade effluent under the Water Industry Act 1991, a separate approval is not also needed under article 22(3) to facilitate the discharge of this effluent.	The Authorities have no comments on this provision.
17.	Article 25 (felling and lopping of trees and removal of hedgerows)	(1) The undertaker may fell, or lop or remove any tree, or shrub or hedgerow within or overhanging land within the Order limits, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree, or shrub or hedgerow— (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or (b) from constituting an imminent danger to persons using the authorised development, or property within the authorised development.	Changes have been made to this article to consolidate the provisions on (i) trees and shrubs and (ii) hedgerows, which were previously dealt with under separate paragraphs. This ensures that works to any tree, shrub or hedgerow are subject to the constraints in paragraph (2) and clarifies the operation of the article. An additional provision has been included in paragraph (2) following representations from the joint local authorities, requiring the undertaker to comply with the relevant British	The Authorities consider the addition of subparagraph 2(a) is necessary; however, (i) the power under paragraph (1) should be subject to the consent of the local planning authority or (ii) any hedgerow which the Applicant intends to remove etc. should be cross-referred to in a Schedule. Paragraph 22.1 of Advice Note Fifteen: Drafting Development Consent Orders (Republished July 2018 (version 2)) is clear on this point. It states – “It is recommended that DCO Articles of this kind [i.e. articles which provide for interference with hedgerows] are made relevant to the specific hedgerows intended for removal. To support the ExA, the Article

		<p>(2) In carrying out any activity authorised by paragraph (1), the undertaker must:</p> <p>(a) insofar as relevant, act in accordance with British Standard 3998:2010 (Tree work – Recommendations) or any British Standard which supersedes it;</p> <p>(b) do no unnecessary damage to any tree, or shrub or hedgerow; and must</p> <p>(c) pay compensation to any person for any loss or damage arising from such activity.</p> <p>(3) Any dispute as to a person’s entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.</p> <p>(4) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2), remove any hedgerow within the Order limits that is required to be removed.</p> <p>(4) The powers conferred by paragraphs (1) and (4) removes any obligation upon the undertaker</p>	<p>Standard insofar as that is relevant to works being carried out under this article. GAL is content to commit to this in this article.</p>	<p>should include a Schedule and a plan to specifically identify the hedgerows to be removed (whether in whole or in part). This will allow the question of their removal to be examined in detail. Alternatively, the Article within the DCO could be drafted to include powers for general removal of hedgerows (if they cannot be specifically identified) <u>but this must be subject to the later consent of the local authority</u>". [Emphasis added].</p> <p>Article 25 is inconsistent with this recommendation: it does not include a schedule or plan, yet it still seeks to remove (under article 25(4)) “any obligation” to secure consent.</p> <p>In addition, article 25(1)(b) allows the undertaker to fell or lop a tree or shrub to prevent a danger to property within the authorised development. This unprecedented text might have been added following a request by one of the Authorities; however, the Authorities now consider it should be omitted.</p> <p>Paragraph 31 of Appendix M (comments on the draft Development Consent Order [PDLA-004] (Version 3.0, February 2024)) of West Sussex County Council’s Local Impact Report [REP1-069] provides more detail on this article.</p>
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		to secure any consent under the Hedgerow Regulations 1997(a) in undertaking works pursuant to paragraphs (1) or (4) . (5) In this article “hedgerow” has the same meaning as in the Hedgerow Regulations 1997 and includes important hedgerows.		
18.	Article 27 (compulsory acquisition of land)	The undertaker may— (a) acquire compulsorily so much of the Order land as is required for the construction, operation or maintenance of the authorised development, or to facilitate it, or is incidental to it, or is required as replacement land; and	This wording has been added following representations from the joint local authorities, for greater clarity. It is not considered that this inclusion materially affects the operation of this article.	The Authorities did not request for this amendment to be made.
19.	Article 33 (modification of the 1965 Act)	(1)(a)(ii) for “the three-year applicable period mentioned in for the purposes of section 4” substitute “the period of ten years as set out in article 31 (time limit for exercise of authority to acquire land compulsorily) of the Gatwick Airport (Northern Runway Project) Development Consent Order 202[]”.	This change has been made to reflect the recent amendment to the statutory provision referred to (section 5B of the 1981 Act) by section 185(2)(b) of the Levelling-up and Regeneration Act 2023.	The Authorities consider the drafting change is fine; however, the Authorities maintain their objection to the undertaker’s ability to take up to 10 years to exercise powers to acquire land or interests. Paragraph 33 of Appendix M (comments on the draft Development Consent Order [PDLA-004] (Version 3.0, February 2024)) of West Sussex County Council’s Local Impact Report [REP1-069] sets out the Authorities’ concerns with the 10-year period.
20.	Article 34 (application of the 1981 Act and modifications)	(8)(b) for “the three-year applicable period mentioned in for the purposes of section 5A” substitute “the period of ten years as set out in article 31 (time limit for exercise of	This change has been made to reflect the recent amendment to the statutory provision referred to (section 5B of the 1981 Act) by	The Authorities consider the drafting change is fine; however, the Authorities maintain their objection to the undertaker’s ability to take up to 10 years to exercise powers to acquire land or interests.

	of the 2017 Regulations)	authority to acquire land compulsorily) of the Gatwick Airport (Northern Runway Project) Development Consent Order 202[]”.	section 185(3)(b) of the Levelling-up and Regeneration Act 2023.	Paragraph 33 of Appendix M (comments on the draft Development Consent Order [PDLA-004] (Version 3.0, February 2024)) of West Sussex County Council’s Local Impact Report [REP1-069] sets out the Authorities’ concerns with the 10-year period.
21.	Article 39 (temporary use of land for maintaining the authorised development)	(3) Not less than 14 28 days before entering upon and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken.	This change has been made following representations from the joint local authorities. The amended period of 28 days is considered reasonable and proportionate and is preceded in many recently made DCOs including the Manston Airport (article 30), A38 Derby Junctions (article 34), A303 (Amesbury to Berwick Down) (article 30) and Longfield Solar (article 28) DCOs.	The Authorities welcome this amendment.
22.	Article 40 (special category land)	(1) On the exercise by the undertaker of the Order rights, the special category land identified in Part 1 of Schedule 10 (special category land to be permanently acquired and for which replacement land is provided) is not to vest in the undertaker until the undertaker has acquired the replacement land identified in Part 2 of Schedule 10 (replacement land) (to the extent not already in its ownership) and an open space management plan has been	Changes have been made to article 40 (special category land) to reflect the revised application of sections 131 and 132 of the 2008 Act, as described in row 1 of this table above. The special category land subject to the Order has been divided in Schedule 10 by reference to which limb of sections 131 or 132 of the 2008 Act applies, and changes have been made to the cross-	It would be helpful if the Applicant could explain why the vesting of the open space land in the undertaker should not wait until a scheme for the provision of replacement land as open space has been implemented to the satisfaction of the relevant body. The Authorities are considering whether the proposed revised arrangements for (i) the discharge of requirements and (ii) the corresponding consultation are appropriate. The Authorities intend to provide a response

		<p>submitted to, and approved in writing by, the relevant planning authority CBC (in consultation with RBBC and MVDC).</p> <p>(2) The open space management plan submitted under paragraph (1) must be substantially in general accordance with the outline landscape and ecology management plan and must include a timetable for the laying out of the replacement land as open space.</p> <p>(3) On the requirements of paragraph (1) being satisfied, the special category land identified in Part 1 of Schedule 10 is to vest in the undertaker (or any specified person) and be discharged from all rights, trusts and incidents to which it was previously subject.</p> <p>(4) The undertaker must implement the open space management plan approved by the relevant planning authority CBC under paragraph (1) and on the date on which the replacement land is laid out and provided in accordance with that plan, the replacement land is to vest in RBBC the persons in whom the special category land specified in paragraph (1) was vested on the date of the exercise of the Order powers (if the replacement land is not already owned by those persons RBBC) and is</p>	<p>references in this article accordingly.</p> <p>Paragraph (2) has been amended as part of the rationalisation throughout the draft DCO to remove any references to "general accordance" and replace these with "substantially in accordance", which as a phrase has been clarified by the introduction of the new definition noted at row 10 of this table above.</p> <p>To provide reassurance as to the content of the open space management plan, it has been included in paragraph (2) that this plan will include a timetable for the laying out of the replacement land as open space.</p> <p>Paragraph (1) has been amended to allocate the approval process to CBC, albeit that it must discharge this function in consultation with RBBC and MVDC given that the replacement land sits partially outside CBC's administrative boundary.</p> <p>New paragraph (5) has been added to ensure that the decision-making and appeal provisions in</p>	<p>on this point at Deadline 3 (Friday 19 April 2024).</p>
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		<p>to be subject to the same rights, trusts and incidents as attached to the special category land previously in the ownership of RBBC.</p> <p>(5) Article 55 (procedure in relation to certain approvals etc.) and Schedule 11 (procedure for approvals, consents and appeals) shall apply to the approval by CBC of the open space management plan under paragraph (1) as if CBC were the "discharging authority" and this article were a "requirement".</p> <p>(6) In this article— “Order rights” means rights and powers exercisable over the special category land by the undertaker under article 27 (compulsory acquisition of land) and article 28 (compulsory acquisition of rights and imposition of restrictive covenants); “outline landscape and ecology management plan” means the document certified as such by the Secretary of State under article 51 (certification of documents, etc.); and “specified person” means a person other than the undertaker for whose benefit the replacement land or rights are being acquired.</p>	<p>Schedule 11 apply to the submission and approval of an open space management plan under this article in the same manner as if this provision were a requirement, despite article 55 referring specifically to requirements and discharging authority.</p>	
23.	Article 46 (disregard of certain	<p>Addition of new article:</p> <p>(1) In assessing the compensation payable to any person on the acquisition from that person of any land or right over any land</p>	<p>This article provides for the tribunal to disregard certain interests in and enhancements to the value of land in assessing</p>	<p>The Authorities consider this amendment is fine.</p>

	<p>improvements, etc.)</p>	<p>under this Order, the tribunal must not take into account—</p> <p>(a) any interest in land; or</p> <p>(b) any enhancement of the value of any interest in land by reason of any building erected, works carried out or improvement or alteration made on the relevant land, if the tribunal is satisfied that the creation of the interest, the erection of the building, the carrying out of the works or the making of the improvement or alteration as part of the authorised development was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.</p> <p>(2) In paragraph (1) “relevant land” means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works constructed or the improvement or alteration made as part of the authorised development, directly or indirectly concerned.</p>	<p>compensation arising out of that land's compulsory acquisition where the creation of the interest or the making of the enhancement was undertaken with a view to obtaining compensation or increased compensation. The wording of this article mirrors section 4 (assessment of compensation) of the Acquisition of Land Act 1981 (the "1981 Act"). It is necessary to replicate the wording of that section in the Order because section 4 of the 1981 Act only applies to a compulsory purchase where another statutory instrument has applied its provisions. The 2008 Act does not do so, so section 4 of the 1981 Act would not apply to compulsory acquisition authorised by a DCO in the absence of wording such as in this article. Sections 120(3), 120(5)(a) and Schedule 5 (by virtue of section 120(3)) of the 2008 Act allow the application in a DCO of statutory provisions which relate to the payment of compensation. This article complies with section 126 of the 2008 Act as it does not have the effect of modifying or excluding the application of an</p>	
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			existing provision relating to compulsory purchase compensation. The article has precedent in Article 38 of the Boston Alternative Energy Facility Order 2023, Article 44 of the A47 Wansford to Sutton Development Consent Order 2023 and Article 50 of the M25 Junction 28 Development Consent Order 2022.	
24.	Schedule 2 (requirements), paragraph 1 (interpretation)	Addition of new definition "flood resilience statement"; [and] "surface access engineering drawings and sections"; means the document of that description certified by the Secretary of State under article 52 (certification of documents, etc.);	These documents are now referenced in the requirements and have therefore been defined as documents / plans to be certified by the Secretary of State under article 52 (certification of documents, etc.).	The Authorities consider these amendments are fine; though the second definition should be "surface access general arrangements, engineering drawings and sections " (see paragraph 1 of Schedule 2, Requirement 5(2), and Schedule 12 to the dDCO [REP1-006]).
25.	Schedule 2 (requirements), paragraph 1 (interpretation)	Addition of new definition: "begin" has the meaning given in section 155 (when development begins) of the 2008 Act and shall have a meaning distinct to "commence" in this Order;	This definition has been added in relation to the changes to requirement 3 (time limit and notifications).	The Authorities do not consider that the timeframes under Requirement 3(2) are long enough. Moreover, the Authorities continue to consider the full implications of the new definition of "begin".
26.	Schedule 2 (requirements), paragraph 1 (interpretation)	"emergency flights" means planned air transport movements which do not carry commercial passengers, which include but are not restricted to-- [...]	This definition has been amended to clarify that emergency flights will not necessarily be 'planned' given their emergency nature.	The Authorities consider this amendment is fine.

27.	Schedule 2 (requirements), Various	"following consultation with..." has been replaced with "in consultation with..."	This minor change has been made for consistency throughout the requirements and to clarify that the discharging authority should approve the submitted plan / details in consultation with the other body, rather than the other body needing to be consulted on the plan / details by the undertaker before it is submitted to the discharging authority.	The Authorities consider this amendment is fine.
28.	Requirement 3 (time limit of notifications)	<p>(1) The authorised development must commence begin no later than the expiration of five years beginning on the start date.</p> <p>(2) No part of the authorised development is to commence until a written notice of the works comprising that part is given to the relevant planning authority 14 days prior to the commencement of that part.</p> <p>(2) The undertaker must notify CBC:</p> <p>(a) within 10 working days of the date on which the authorised development begins;</p> <p>(b) at least 30 working days prior to the anticipated date of commencement, provided that commencement may still lawfully occur if notice is not served in accordance with this sub-paragraph;</p>	<p>This requirement has been amended to replace "commence" with "begin" in sub-paragraph (1), with the latter term being defined by reference to section 155 of the 2008 Act.</p> <p>This aims to ensure that the carrying out of any material operation (including those carved out of the definition of "commence" in the DCO) will satisfy requirement 3 and ensure that the DCO does not lapse despite material operations having been carried out pursuant thereto.</p> <p>Additional notification requirements have been introduced into sub-paragraph (2), to ensure that CBC is made aware</p>	<p>The Authorities do not consider that the timeframes under paragraph (2) are long enough; moreover, the Authorities are considering whether it would be appropriate for local authorities other than CBC to be notified under Requirement 3.</p> <p>Moreover, and as mentioned in paragraph 43 of Appendix M (comments on the draft Development Consent Order [PDLA-004] (Version 3.0, February 2024)) of West Sussex County Council's Local Impact Report [REP1-069], the Authorities would welcome the local highway authority also being notified when the beginning or commencement the matters mentioned in paragraph (2) take place within its administrative area.</p>

		(c) within 10 working days of the actual date of commencement; and (d) within 7 working days of the commencement of dual runway operations.	when key project milestones are approaching and/or have taken place. This will assist CBC in monitoring compliance with other requirements which are by reference to these milestones.	
29.	Requirement 4 (detailed design)	<p>(1) No part of the authorised development (except for the highway works and excepted development) is to commence until details of the layout, siting, scale and external appearance of the buildings, structures and works within that part have been submitted to and approved in writing by the relevant planning authority CBC (in consultation with MVDC and RBBC).</p> <p>(2) The details referred to in sub-paragraph (1) must be in accordance with the design principles in appendix 1 of the design and access statement and engineering drawings and sections, and subject to article 6 (limits of works) be within the limits shown on the works plans unless otherwise agreed in writing with the relevant planning authority CBC (in consultation with MVDC and RBBC).</p> <p>(3) The authorised development must be carried out in accordance with the details approved by the relevant planning authority CBC under sub-paragraph (1) unless otherwise agreed in writing with the</p>	<p>The following changes have been made to this requirement:</p> <ul style="list-style-type: none"> • a discharging authority and consultees have been specified in place of the "relevant planning authority", for certainty; • the reference to "engineering drawings and sections" in sub-paragraph (2) has been deleted as these drawings and sections are only relevant to highway works, which are dealt with under requirements 5 and 6 rather than requirement 4; and • by way of commitment to design control over excepted development, given that this will be exempted from detailed design approval under requirement 4, a new commitment has been 	<p>In R4(1), "excepted development" is carved out of the definition of authorised development, and the effect of this is that excepted development does not require the planning authority's approval. Excepted development is airport development under the Town and Country Planning (General Permitted Development) Order 2015 which is given deemed planning permission. Instead of granting approval, the planning authority must be consulted on the excepted development. The Councils' concerns with "excepted development" are set out in paragraph 6 of Appendix M (comments on the draft Development Consent Order [PDLA-004] (Version 3.0, February 2024)) of West Sussex County Council's Local Impact Report [REP1-069].</p> <p>As mentioned in the response in Row 5, the Authorities are considering whether the proposed revised arrangements for (i) the discharge of requirements and (ii) any corresponding consultation exercise are appropriate. The Authorities intend to</p>

		<p>relevant planning authority CBC (in consultation with MVDC and RBBC).</p> <p>(4) No excepted development may be carried out until the relevant planning authority CBC has been consulted on that development.</p> <p>(5) Excepted development must be carried out in accordance with the design principles in appendix 1 of the design and access statement unless otherwise agreed with CBC.</p>	<p>added that excepted development will be carried out in accordance with the Project's design principles unless otherwise agreed.</p>	<p>provide a response on this point at Deadline 3 (Friday 19 April 2024).</p>
30.	Requirement 5 (local highway works – detailed design)	<p>(2) The details referred to in sub-paragraph (1) must be in accordance with the approved plans, the design principles in appendix 1 of the design and access statement and the surface access general arrangements, engineering and structure section drawings engineering drawings and sections, and subject to article 6 (limits of works) be within the limits shown on the works plans unless otherwise agreed in writing with the relevant highway authority.</p>	<p>The documents in accordance with which the detailed design for the local highway works must be submitted have been clarified.</p>	<p>Paragraph (2) refers to “the design principles in appendix 1 of the design and access statement”. The Authorities’ concerns in respect of this document are set out in the LIRs (and include: the document lacks detail, it contains ambiguous wording, and it will not ensure the delivery of high-quality development). Clearly, those concerns must be addressed before this provision can be considered acceptable.</p>
31.	Requirement 7 (code of construction practice)	<p>Construction of the authorised development must be carried out substantially in accordance with the code of construction practice unless otherwise agreed with the relevant planning authority CBC.</p>	<p>This requirement has been amended following representations from the joint local authorities, to specify that the authorised development must be carried out in accordance with the code of construction practice.</p>	<p>The Authorities consider the deletion of “substantially” is fine.</p> <p>As mentioned in the response in Row 5, the Authorities are considering whether the proposed revised arrangements for (i) the discharge of requirements and (ii) any</p>

			As described at row 10 above, a specific discharging authority has been included in place of "relevant planning authority".	corresponding consultation exercise are appropriate. The Authorities intend to provide a response on this point at Deadline 3 (Friday 19 April 2024).
32.	Requirement 8 (landscape and ecology management plan)	<p>(1) Prior to commencement of any No part of the authorised development is to commence until a landscape and ecology management plan for that part must be has been submitted to and approved in writing by the relevant planning authority CBC (in consultation with RBBC, MVDC or TDC to the extent that they are the relevant planning authority for any land to which the submitted plan relates).</p> <p>(2) Where a landscape and ecology management plan submitted pursuant to sub-paragraph (1) relates to highways works, the relevant planning authority CBC must approve it also in consultation with the relevant highway authority.</p> <p>(3) Each landscape and ecology management plan submitted pursuant to sub-paragraph (1) must be substantially in general accordance with the outline landscape and ecology management plan and must include a timetable for the implementation of the landscaping works it contains.</p> <p>(4) The relevant part of the authorised development must be carried out</p>	<p>The following changes have been made to this requirement:</p> <ul style="list-style-type: none"> the syntax of the requirement has been amended for consistency with other pre-commencement requirements; a specific discharging authority and consultees have been included in place of "relevant planning authority" for certainty; the use of "in general accordance" has been replaced with "substantially in accordance" for clarity; and "substantially" has been removed from the sub-paragraph requiring compliance with the approved plan to ensure adequate control of activities. 	<p>The Authorities' concerns with the outline landscape and ecology management plan (as described in the LIRs) must be addressed before this provision can be considered acceptable.</p> <p>As mentioned in the response in Row 5, the Authorities are considering whether the proposed revised arrangements for (i) the discharge of requirements and (ii) any corresponding consultation exercise are appropriate. The Authorities intend to provide a response on this point at Deadline 3 (Friday 19 April 2024).</p>

		<p>substantially in accordance with the relevant landscape and ecology management plan approved pursuant to sub-paragraph (1) unless otherwise agreed with CBC.</p>		
33.	Requirement 10 (surface and foul water drainage)	<p>(1) No part of the authorised development (except for the highway works and excepted development) is to commence until written details of the surface and foul water drainage for that part, including means of pollution control and monitoring, have been submitted to and approved in writing by the lead local flood authority CBC (in consultation with West Sussex County Council, the Environment Agency and Thames Water Utilities Limited).</p> <p>(2) The drainage details approved pursuant to sub-paragraph (1) must be in general accordance with the drainage design principles in appendix 1 of the design and access statement.</p> <p>(3) The authorised development must be constructed in accordance with the details approved under sub-paragraph (1) unless otherwise agreed in writing by CBC (in consultation with West Sussex County Council, the Environment Agency and Thames Water Utilities Limited) the lead local flood authority.</p> <p>(4) No excepted development involving surface or foul water drainage may be</p>	<p>The following changes have been made to this requirement:</p> <ul style="list-style-type: none"> • a specific discharging authority and consultees have been included in place of the "lead local flood authority", for certainty; • following representations from Thames Water Utilities Limited, they have been included as a body to be consulted by the discharging authority; • to remove reference to "general accordance"; and • by way of commitment to design control over excepted development, given that this will be exempted from detailed drainage design approval under requirement 10, a new commitment has been added that excepted development will be carried out in accordance 	<p>R.10 is drafted similarly to R.4: it provides that no part of the authorised development may commence until written details of the surface and foul water drainage for that part have been approved by the CBC. Again, works defined as 'excepted development' are outside the scope of this requirement.</p> <p>As with R4(1), the Councils consider the reference to "excepted development" should be omitted, as should sub-paragraph (5). In addition, "foul water drainage" is a not the statutory responsibility of CBC.</p> <p>As mentioned in the response in Row 5, the Authorities are considering whether the proposed revised arrangements for (i) the discharge of requirements and (ii) any corresponding consultation exercise are appropriate. The Authorities intend to provide a response on this point at Deadline 3 (Friday 19 April 2024).</p>

		<p>carried out until the relevant planning authority CBC has been consulted on that development.</p> <p>(5) Excepted development involving surface or foul water drainage must be carried out in accordance with the drainage design principles in appendix 1 of the design and access statement unless otherwise agreed with CBC.</p>	<p>with the Project's drainage design principles unless otherwise agreed.</p>	
34.	Requirement 11 (local highway surface water drainage)	<p>(1) No part of the local highway works is to commence until written details of the surface water drainage for that part, including means of pollution control and monitoring, have been submitted to and approved in writing by the relevant highway authority (following in consultation with the Environment Agency and the relevant lead local flood authority).</p> <p>(2) The drainage details approved pursuant to sub-paragraph (1) must be substantially in general accordance with the surface access drainage strategy.</p> <p>(3) The local highway works must be constructed in accordance with the details approved under sub-paragraph (1) unless otherwise agreed in writing by the relevant highway authority (following in consultation with the Environment Agency and the relevant lead local flood authority).</p>	<p>Minor changes have been made to this requirement for consistency with the changes detailed above, including replacing the use of "general accordance" with the defined term "substantially in accordance".</p>	<p>The Authorities consider these amendments are fine.</p>

35.	Requirement 12 (construction traffic management plan)	<p>(1) No part of the authorised development is to commence until a construction traffic management plan has been submitted to and approved in writing by the relevant highway authority CBC, (following in consultation with West Sussex County Council, Surrey County Council and National Highways the relevant planning authority on matters related to its their function).</p> <p>(2) The construction traffic management plan submitted under sub-paragraph (1) must be substantially in accordance with the outline construction traffic management plan.</p> <p>(3) The authorised development must be constructed in accordance with the construction traffic management plan referred to in sub-paragraph (1), unless otherwise agreed in writing with the relevant highway authority CBC (following in consultation with West Sussex County Council, Surrey County Council and National Highways on matters related to their function) the relevant planning authority on matters related to its function.</p>	In response to representations from the joint local authorities, the discharging authority and consultees for this requirement have been updated and specified.	<p>R12(2) refers to the “outline construction traffic management plan”, which needs to be improved, as described in the LIRs. The Authorities’ concerns with this document must be addressed before this provision can be considered acceptable.</p> <p>As mentioned in the response in Row 5, the Authorities are considering whether the proposed revised arrangements for (i) the discharge of requirements and (ii) any corresponding consultation exercise are appropriate. The Authorities intend to provide a response on this point at Deadline 3 (Friday 19 April 2024).</p>
36.	Requirement 13 (construction	(1) No part of the authorised development is to commence until a construction workforce travel plan has been submitted	In response to representations from the joint local authorities, the discharging authority and	R13(2) refers to the “outline construction workforce travel plan”, which needs to be improved, as described in the LIRs. The

	workforce travel plan)	<p>to and approved in writing by the relevant highway authority CBC, (following in consultation with West Sussex County Council, Surrey County Council and National Highways the relevant planning authority on matters related to its their function).</p> <p>(2) The construction workforce travel plan submitted under sub-paragraph (1) must be substantially in accordance with the outline construction workforce travel plan.</p> <p>(3) The authorised development must be constructed in accordance with the construction workforce travel plan referred to in sub-paragraph (1), unless otherwise agreed in writing with the relevant highway authority CBC (following in consultation with West Sussex County Council, Surrey County Council and National Highways the relevant planning authority on matters related to its their function).</p>	consultees for this requirement have been updated and specified.	<p>Authorities' concerns with this document must be addressed before this provision can be considered acceptable.</p> <p>As mentioned in the response in Row 5, the Authorities are considering whether the proposed revised arrangements for (i) the discharge of requirements and (ii) any corresponding consultation exercise are appropriate. The Authorities intend to provide a response on this point at Deadline 3 (Friday 19 April 2024).</p>
37.	Requirement 14 (archaeological remains)	<p>(2) The Any part of the authorised development in West Sussex (other than Work No. 34(b)) must be carried out in accordance with the written scheme of investigation for West Sussex, unless otherwise agreed in writing with West Sussex County Council.</p>	This sub-paragraph of the requirement has been updated to clarify that only parts of the authorised development within West Sussex should be subject to the written scheme of investigation agreed with West Sussex County Council. For areas within Surrey, the only written scheme of investigation	The Authorities are considering whether the amendments to paragraph (2) are appropriate.

			that is considered necessary following discussions with Surrey County Council is the scheme in respect of Work No. 34(b).	
38.	Requirement 18 (noise insulation scheme)	(1) Within not more than 3 months following the commencement of any of Work Nos. 1 – 7 (inclusive) the undertaker shall submit to each relevant planning authority CBC details of how the noise insulation scheme is to be promoted and administered to persons considered to be vulnerable to noise related effects to ensure equitable access to the noise insulation scheme and once approved the undertaker shall comply with the approved details when promoting and administering the noise insulation scheme.	A specific discharging authority has been included in place of "relevant planning authority", for certainty.	As mentioned in the response in Row 5, the Authorities are considering whether the proposed revised arrangements for (i) the discharge of requirements and (ii) any corresponding consultation exercise are appropriate. The Authorities intend to provide a response on this point at Deadline 3 (Friday 19 April 2024).
39.	Requirement 19 (airport operations)	Relocation of: (1) The undertaker must serve notice on the relevant planning authority no later than 7 days after the commencement of dual runway operations informing of the same.	This has been relocated to requirement 3 (time limit and notifications).	Please see the response to Row 28.
40.	Requirements 20 (surface access) and 21 (carbon action plan)	"relevant planning authority" has been replaced with "CBC"	A specific discharging authority has been included in place of "relevant planning authority", for certainty.	The Authorities are considering the implications of this amendment.

41.	Requirement 22 (public rights of way)	<p>(1) No development of any new or diverted public right of way listed in Part 3 of Schedule 4 (footways and cycle tracks) may be carried out until a public rights of way implementation plan for that public right of way has been submitted to and approved by the relevant highway authority the relevant planning authority.</p> <p>(2) Each public rights of way implementation plan submitted pursuant to sub-paragraph (1) must be substantially in general accordance with the public rights of way management strategy and in accordance with the rights of way and access plans.</p> <p>(3) The development of any new or diverted public right of way listed in Part 3 of Schedule 4 must be carried out substantially in accordance with the relevant public rights of way implementation plan approved pursuant to sub-paragraph (1) unless otherwise agreed with the relevant highway authority.</p>	<p>Given that public rights of way are managed by the highway authority for an area rather than the planning authority, the discharging authority has been amended such that the discharging authority better reflects existing authority functions.</p> <p>The other changes, regarding "substantially in accordance" and the addition of "unless otherwise agreed", have been made for consistency with the changes described above and other requirements.</p>	<p>As mentioned in the response in Row 5, the Authorities are considering whether the proposed revised arrangements for (i) the discharge of requirements and (ii) any corresponding consultation exercise are appropriate. The Authorities intend to provide a response on this point at Deadline 3 (Friday 19 April 2024).</p>
42.	Requirement 23 (flood compensation delivery plan)	<p>(1) Prior to the commencement of the first of Work Nos. 4(a), 4(b), 4(f), 4(g), 4(h), 4(i), 4(j), 14, 23(a), 25, 36(a), 36(b) or 37(a), a flood compensation delivery plan setting out the timeframe for delivering Work Nos. 30(a) (earthworks to enable provision of a water attenuation facility storage tank), 31(b) (constructing a flood compensation area at Car Park X), and Work No. 38(a)</p>	<p>Following representations from West Sussex County Council, the works which are required to form part of the flood compensation delivery plan to be submitted pursuant to this requirement have been amended to include the other works which form part of the Project's flood mitigation.</p>	<p>While the drafting changes are fine, CBC will obviously need to be satisfied with the flood compensation delivery plan. The Authorities are considering whether the replacement of "the relevant planning authority" with "CBC" is appropriate.</p>

		(constructing a flood compensation area at Museum Field) and 39 (works associated with the River Mole) must be submitted to and approved by the relevant planning authority CBC in consultation with the Environment Agency. (2) The authorised development must be constructed in accordance with the flood compensation delivery plan referred to in sub-paragraph (1), unless otherwise agreed in writing with the relevant planning authority CBC in consultation with the Environment Agency.	A specific discharging authority has been included in place of "relevant planning authority", for certainty.	
43.	Requirement 24 (flood resilience statement)	Addition of new requirement: Flood resilience statement 24. The authorised development must be carried out in accordance with the flood resilience statement unless otherwise agreed with CBC.	Following representations from the joint local authorities, GAL has added this new requirement to secure the flood resilience statement.	Save for the point mentioned below, while the drafting of the new requirement is fine, the Authorities are not entirely satisfied with the flood resilience statement. The point referred to above concerns the discharge of new requirement 24 by CBC; the Authorities are considering the appropriate method for discharging this requirement.
44.	Schedule 3	Permanent -Stopping Up of Highways and Private Means of Access & Provisions of New Highways and Private Means of Access	By its nature, stopping up is permanent. The word "permanent" has been deleted from the schedule heading due to redundancy.	The Authorities consider this amendment is fine.
45.	Schedules 4 – 7	Minor referencing changes throughout.	Changes have been made to these schedules to correct typographical and cross-referencing errors and	The Authorities are considering the amendments to Schedule 4 (Public Rights of Way, Footways and Cycle Tracks to be

			reflect updated colour schemes on the underlying plans.	Stopped Up). The Authorities consider the amendments to Schedules 6 and 7 are fine.
46.	Schedule 9, Part 1 (protective provisions for the protection of electricity, gas, water and sewage undertakers)	Minor amendments to paragraph 2, 4 and 9.	These changes have been made to aid clarity in interpretation and correct typographical errors.	The Authorities have no comments to make on these protective provisions, which do not affect them.
47.	Schedule 10 (special category land)	Changes to the table structure in this Schedule.	These changes have been made to reflect the updated approach to special category land and the revised recitals and article 40 (special category land).	The Authorities are still considering the implications of these proposed amendments.
48.	Schedule 12 (documents to be certified)	Changes to the structure of, and description of documents in, the table.	These changes have been made to align the plans submitted into the examination (and which will ultimately be certified by the Secretary of State) with the defined terms for these documents in the draft DCO and ensure that only documents which are secured or referenced in the DCO are included in Schedule 12.	The Authorities consider the amendments to be fine.
49.	Throughout	Correction of various cross-references throughout.	These changes have been made to reflect the revised numbering of articles and requirements.	The Authorities consider these amendments are fine.

50.	Throughout	"at least" replaced with "no less than"	This minor change has been implemented for clarity.	The Authorities consider these amendments are fine.
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