Gatwick Airport Northern Runway Project

The Applicant's Response to Local Impact Reports Appendix C – Response to DCO Drafting Comments from the West Sussex Authorities

Book 10

VERSION: 1.0

DATE: APRIL 2024

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1 Introduction

1.1.1 This document is the Applicant's response to Appendix M to the **Joint West Sussex Local Impact Report: Comments on the draft Development Consent Order** [PDLA-004] (Version 3.0, February 2024), **Local Impact Report Appendices** [REP1-069].

2 Applicant's response

Ref.	Applicant Response
1.	The Applicant refers to and reiterates the explanation provided in row 2.7.1.1 of the **Statement of Common Ground Between Gatwick Airport Limited and Crawley Borough Council** [REP1-032] for the exceptions to the definition of "commencement". The Applicant further refers to its response to DCO1 in section 3.20 of its **Applicant's Response to Local Impact Reports** (Doc Ref. 10.15) In respect of the Councils' comment on the CoCP, this is already apparent on the face of the DCO. Requirement 7 specifies that *"**Construction** of the authorised development must be **carried out** in accordance with the code of construction practice unless otherwise agreed with CBC"* (emphasis added). There is no reference to commencement. Therefore, any part of the authorised development being carried out is subject to the CoCP. Duplicative wording in a separate requirement is unnecessary. All pre-commencement activities will be subject to the CoCP and its associated management plans (see requirement 7); the written schemes of investigation for Surrey and West Sussex (see requirement 14); the carbon action plan (see requirement 21) and the flood resilience statement (see requirement 24). These control measures provide sufficient assurance that impacts of pre-commencement works will be adequately managed.
2.	The Applicant refers to its response to DCO1 in section 3.20 of **Applicant's Response to Local Impact Reports** (Doc Ref. 10.15) regarding the use and relevance of precedent.
3.	The Applicant refers to its response to DCO.1.15 in **Applicant's Response to ExQ1** (Doc Ref. 10.16).
4.	Article 6 has been amended to further clarify its intended mode of operation and the documents referred to in version 6.0 of the **draft DCO** (Doc Ref. 2.1) submitted at Deadline 3. By way of additional information, in the draft DCO the "Order limits" are defined by reference to the **Works Plans** (Doc Ref. 4.5), which clearly show the Project redline. The "airport" is defined by reference to the airport boundary plan, currently

	at **Appendix 1 to the Glossary** (Doc Ref. 1.4)**.** In respect of operational land, the response to Action Point 9 in **The Applicant's Response to Actions from Issue Specific Hearing 2: Control Documents / DCO** [REP1-063] explains what constitutes the Applicant's operational land and further commentary is offered in the responses to Action Points 9 and 10 in section 5.5 of the **Applicant's Response to Deadline 2 Submissions** (Doc Ref. 10.20).
5.	The Applicant refers to the explanation provided at paragraph 4.1.24 of its **Written Summary of Oral Submissions from Issue Specific Hearing 2: Control Documents / DCO** [REP1-057]. The Applicant does not consider that a prescribed mechanism is required as regards potential incompatibility dealt with by article 9(4). The question of incompatibility under article 9(4) is only likely to arise in the event that enforcement action is pursued in respect of an extant planning permission. In such circumstances, it would be for the defendant party to rely on article 9(4) and particularise how it affects the enforcement action in question.
6.	The Applicant strongly disagrees with the Councils' remarks on article 9(5). All works forming part of the Project have been included in the Applicant's application and there is no basis on which to suggest that the works proposed are a *"partial and incomplete description of the proposed development".* To the contrary, as per the Applicant's response to Action Point 11 in **The Applicant's Response to Actions from Issue Specific Hearing 2: Control Documents / DCO** [REP1-063], many of the works forming part of the DCO application could otherwise have been carried out by the Applicant under its permitted development rights. The Applicant has chosen to seek a DCO for the Project as a whole, holistically, and accepts that the Project should be controlled as a whole through the DCO and related control documents. However, this approach does not mean that the Applicant should be deprived of its permitted development rights over the operational airport in future if the DCO is granted, as now appears to be the Councils' suggestion. The Applicant does not consider it appropriate for a DCO, which is granted in respect of a defined project which will be built out and in due course completed, to disapply permitted development rights relating to that site for the purpose of future, distinct development. The rationale for the provision by Government (under the authority of Parliament) of permitted development rights to airport operators such as the Applicant is to allow them to carry out development in support of the effective and efficient running of an airport. This rationale remains – and is indeed amplified – if this DCO is granted and the northern runway is brought into routine use. In any event, article 9(5) merely restates and clarifies what the Applicant considers to be the existing position at law, and the Applicant does not consider that a DCO without this wording would restrict the subsequent use of permitted development rights. However, it is considered preferable to clarify this expressly.
7.	Sections 73A, 73B, 73C and 78A of the 1991 Act are prospective provisions that will be applied through sections 55 and 57 of the Traffic Management Act 2004. These provisions are not yet in force, but should they become legislation then

	they are disapplied for the purpose of the Project. The disapplication of these provisions (which are designed primarily to regulate the carrying out of street works by utility companies in respect of their apparatus) is appropriate given the scale of highway works proposed under the DCO, the specific authorisation given for those works by the DCO and the specific provisions in the DCO which would regulate the carrying out of the works included in the DCO and ensure sufficient measures to mitigate any impacts of these works. The disapplication of these provisions is well precedented, including in article 8 of the A66 Northern Trans-Pennine Development Consent Order 2024 and article 11 of the Boston Alternative Energy Facility Order 2023. Section 77 of the 1991 Act provides that, where a highway is used as an alternative route to a highway that is restricted or prohibited due to street works, the undertaker must indemnify the highway authority of the highway used as a diversion in respect of costs of strengthening that highway or making good any damage caused by the diverted traffic. It is appropriate to disapply this provision in a DCO context because the impacts of the Project, including as regards traffic, have been subject to a full EIA and, where impacts have been identified, appropriate mitigation has been incorporated into the Project's design or otherwise secured. Section 77 of the 1991 Act would cut across this mitigation package. The disapplication of section 77 of the 1991 Act is precedented in article 15 of the Sizewell C (Nuclear Generating Station) Order 2022. As regards the highway authority's permit scheme, the Applicant is considering the implications of this proposal and will discuss this further with the relevant highway authorities.
8.	The Applicant refers to and reiterates the explanation provided in row 2.7.1.8 of the **Statement of Common Ground between Gatwick Airport Limited and West Sussex County Council** [REP1-033]. The Applicant further refers to its response to DCO.1.22 in its **Response to ExQ1** (Doc Ref. 10.16).
9.	The Applicant reiterates its position that deeming provisions are justified and appropriate. A failure to respond to requests for consent/approval in a timely manner can lead to significant delays in a construction timetable. Use of deeming provisions in respect of some key consents/approvals is therefore considered reasonable and in alignment with the objectives of the Planning Act 2008 to ensure efficient delivery of nationally significant infrastructure projects. The time period after which consent is deemed given has been extended to 56 days in response to the Councils' previous comments and the Applicant considers that this period is sufficient for matters subject to deemed consent to be thoroughly considered and a decision reached, even if further information is requested of the undertaker. The Applicant does not consider the scenario posited by the Councils, that the appeal process in paragraph 4 of Schedule 11 to the DCO would need to be

	followed in the event that an application was refused due to a poor-quality submission and delayed provision of further information by the undertaker, to be realistic. If the approving body had not had a reasonable period of time to consider further information provided by the undertaker, the undertaker would be highly unlikely to trigger an appeal under paragraph 4 of Schedule 11. It would be simpler, faster and more likely to result in approval for the undertaker to resubmit the application for approval under the relevant article and commence the 56-day deeming period anew. The Applicant therefore does not consider the reason provided by the Councils for omitting deeming provisions to be convincing. It is noted that deeming provisions are well precedented in recently made DCOs, including the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024, the A12 Chelmsford to A120 Widening Development Consent Order 2024 and the Boston Alternative Energy Facility Order 2023 (all of which, it is noted, use a shorter period than the draft DCO of 28 days after which consent is deemed to have been granted).
10.	The Applicant appreciates the rationale of this proposed wording and has incorporated this drafting in version 6.0 of the **draft DCO** (Doc Ref. 2.1) submitted at Deadline 3 (Doc Ref. 2.1). To avoid unnecessarily repeating the same drafting across the several articles to which deeming provisions apply, the Applicant has drafted a new article 56 (deemed consent) which includes the Councils' proposed drafting and has cross-referenced to this article in articles 12(4), 14(8), 16(4), 18(10), 22(5) and 24(6).
11.	The Applicant emphasises that an approving body would only breach an obligation not to unreasonably withhold or delay consent if it had done so unreasonably. In the circumstance cited by the Councils, where authorities are *"receiving considerable numbers of requests for approval and will of course ensure that they are dealt with as quickly as possible",* it is anticipated that the authorities would be able to substantiate that they were acting reasonably. It is well precedented in recently made DCOs to specify that consent must not be unreasonably withheld or delayed and include a deeming provision – see e.g. article 13 of the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024, article 18 of the A12 Chelmsford to A120 Widening Development Consent Order 2024 and article 13 of the Boston Alternative Energy Facility Order 2023.
12.	With the Applicant's addition of article 56 in version 6.0 of the **draft DCO** (Doc Ref. 2.1) submitted at Deadline 3 (Doc Ref. 2.1), the time period has been standardised.
13.	This change was made in version 5.0 of the **draft DCO** (Doc Ref. 2.1) submitted at Deadline 1**.**
14.	The Applicant does not consider it necessary to specify streets by reference to a new schedule because article 14(4) of the draft DCO provides that any alteration, diversion, prohibition or restriction on use of a street must be with the consent of the street authority.

	Both cited precedents, the Sizewell C (Nuclear Generating Station) Order 2022 and Hinkley Point C (Nuclear Generating Station) Order 2013, provide a list of streets in respect of which the street authority need only be consulted about diversions or restrictions etc., with street authority consent needed in respect of all other streets. The Applicant's proposed article 14 replicates just the latter half of those precedent articles and is therefore justified.
15.	Please see the Applicant's responses to 9 – 11 above.
16.	The Councils' position on this is noted, but the Applicant does not consider it useful to any party to limit the Councils' discretion to address a variety of situations that may arise under article 14 when the existing drafting would already facilitate the solution the Councils are seeking (i.e. temporary diversions on a case-by-case basis should the relevant street authority consider this necessary).
17.	The Applicant is not aware of any precedent for the Councils' proposed new wording and does not consider it justified, not least because it is unclear what would constitute an alternative route being "available" and what level of effort would be required of the Applicant to make such a route "available". The Applicant notes that the street authority must consent to any temporary alteration, diversion, prohibition or restriction on use of a street under paragraph (4) and can attach reasonable conditions, which would allow it to ensure the provision of a suitable diversion. The Applicant considers that the present wording is well-balanced and notes that it is well precedented in materially the same form in DCOs including article 14 of the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024, article 13 of the Boston Alternative Energy Facility Order 2023 and article 13 of the Southampton to London Pipeline Development Consent Order 2020.
18.	The Applicant refers to its responses to 9 – 12 above. In respect to the use of "made" and "received", this has now been standardised by the inclusion of new article 56 (deemed consent), which uses "made". The alternative would introduce uncertainty as to when an application was "received", which may be affected by factors outside the undertaker's control, such as internal processing of mail within recipient entities.
19.	While the Applicant considers that its present drafting is accurate, it is happy to accommodate the Councils' preferred drafting and has made these changes in version 6.0 of the **draft DCO** (Doc Ref. 2.1) submitted at Deadline 3.
20.	Noted – the Applicant is happy to discuss this with WSCC.
21.	This change was made in version 5.0 of the **draft DCO** (Doc Ref. 2.1) submitted at Deadline 1**.**
22.	The Applicant considers that traffic regulations that are specified in schedules to the DCO should not require subsequent traffic authority consent as these measures can be scrutinised during the examination. However, the Applicant is

	content that exercise of the power in article 18(3) to revoke, amend or suspend existing traffic regulation orders or implement new restrictions which are not specified in the DCO should be subject to traffic authority consent (provided they do not relate to airport roads). It is acknowledged that notification is required in respect of any exercise of the article 18 powers. Article 18 has been amended in version 6.0 of the **draft DCO** (Doc Ref. 2.1) submitted at Deadline 3 to ensure that the above is clear in the drafting.
23.	Please see the Applicant's responses to 9 – 11 above.
24.	As is currently the case for traffic regulation orders made by the Applicant in its role as an airport operator, any instruments would be available for inspection at the Applicant's registered office address.
25.	Please see the Applicant's responses to 9 – 12 and 18 above.
26.	Noted.
27.	Please see the Applicant's responses to 9 – 12 above.
28.	Please see the Applicant's responses to 9 – 12 above.
29.	Please see the Applicant's responses to 9 – 12 above.
30.	Please see the Applicant's responses to 9 – 12 above.
31.	The Councils' reference to Advice Note Fifteen is noted but the Applicant draws the Councils' attention to the fact that this offers only a recommendation in respect of articles of this kind, rather than a binding rule or precedent. Indeed, the weight of precedent in made DCOs is for articles that authorise the removal of hedgerows within the Order limits without subsequent local authority consent. For example, article 17(6) of the A66 Northern Trans-Pennine Development Consent Order 2024, article 31(4) of the Drax Power Station Bioenergy with Carbon Capture and Storage Extension Order 2024 and article 34(4) of the Manston Airport Development Consent Order 2022 all authorise the removal of any hedgerow within the Order limits. None of these precedents refer to a plan specifically identifying hedgerows to be removed. The Applicant's article 25 offers greater protection than these precedents in that it provides that the undertaker may only fell, lop or remove a hedgerow if it reasonably believes it to be necessary to prevent the hedgerow from obstructing or interfering with the construction, maintenance or operation of the authorised development or related apparatus, rather than the broader precedented wording that the removal is "required". The Applicant's article 25 also offers the largely unprecedented protection that works must be carried out in accordance with BS 3998:2010, as previously requested by the Councils, and includes the standard entitlement to compensation should persons be harmed by the works authorised by the article. The Applicant therefore considers that article 25 as currently drafted is proportionate and justified and rejects the alternative articles proposed.

	The Applicant is surprised that, the Councils having requested the addition of a reference to danger to property, which the Applicant duly incorporated, the Councils now request the removal of this wording. The Applicant considered this wording useful and proportionate when suggested by the Councils and does not consider that adequate reasoning has been provided for the Councils' new contrary position. The Applicant has removed the reference to "important hedgerows" in article 25(5) because, as noted by the Councils, the Applicant has not identified any such hedgerows affected by the proposed development.
32.	This correction has been incorporated into version 6.0 of the **draft DCO** (Doc Ref. 2.1) submitted at Deadline 3.
33.	The Applicant refers to its response to DCO.1.29 in its **Response to ExQ1** (Doc Ref. 10.16).
34.	This departure was not purposeful and has been corrected in version 6.0 of the **draft DCO** (Doc Ref. 2.1) submitted at Deadline 3.
35.	The Applicant refers to its response to DCO.1.32 in its **Response to ExQ1** (Doc Ref. 10.16). The M25 J28 DCO decision is noted, but the Secretary of State in that case concluded that the wording should not be included in the DCO because there was a lack of justification. For the reasons set out in its response to DCO.1.32, the Applicant considers that the wording is clearly justified by the nature of the Project and its constituent works. It is further noted that the Lower Thames Crossing DCO application includes materially the same wording as is sought by the Applicant and the applicant for that DCO has offered detailed justification in its Explanatory Memorandum as to why the same conclusion should not be reached as for M25 J28. The London Luton Airport Expansion DCO application is also seeking the wording sought by the Applicant. The Applicant considers that this emerging precedent supports the need for these provisions.
36.	This wording has been incorporated into version 6.0 of the **draft DCO** (Doc Ref. 2.1) submitted at Deadline 3.
37.	Section 131 of the Planning Act 2008 indicates that replacement land need not be provided before special category land can be acquired pursuant to a development consent order. Section 131 allows for an order to authorise the compulsory acquisition of such land without the need for special parliamentary procedure provided that the Secretary of State is satisfied that, inter alia, *"replacement land has been **or will be given** in exchange for the order land"* (emphasis added). The approach adopted in article 40 of the draft DCO is precedented in several recently made DCOs. Article 45 of the Chelmsford to A120 Widening Development Consent Order 2024, article 38 of the A38 Derby Junctions Development Consent Order 2023 and article 34 of the A303 (Amesbury to Berwick Down) Development Consent Order 2023 all allow the acquisition of special category land once the Secretary of State (in consultation with the relevant

	planning authority) has certified that a scheme for the provision of the replacement land as open space and a timetable for the implementation of the scheme has been received from the undertaker. In each case the scheme need not have been laid out prior to acquisition of the special category land. Article 40 of the draft DCO similarly provides that special category land is not to vest in the undertaker until an open space delivery plan has been submitted to and approved by Crawley Borough Council (in consultation with Reigate & Banstead Borough Council and Mole Valley District Council). This delivery plan must include a timetable for (i) the submission of a landscape and ecology management plan pursuant to requirement 8 for each part of the replacement land and (ii) the laying out of each part of the replacement land as open space. Through the Applicant's submission of and adherence to the delivery plan, the relevant local authorities will have oversight of, and be involved in, the delivery of the replacement open space.
38.	In version 6.0 of the **draft DCO** (Doc Ref. 2.1) submitted at Deadline 3, the disapplication of section 23 of the Land Drainage Act 1991 in article 47 has been removed. This reflects that the Applicant only anticipates requiring ordinary watercourse consent in respect of one component of the Project, the extension to the culvert to the east of Balcombe Rd on the Haroldslea Stream. The Applicant is content for the existing regime for ordinary watercourse consent to apply in respect of this singular instance and therefore does not propose to disapply this regime or replace it with bespoke arrangements in protective provisions included in the DCO.
39.	The Applicant refers to its response to DCO.1.37 in its **Response to ExQ1** (Doc Ref. 10.16). The current drafting is necessary, proportionate and precedented and should be retained.
40.	The Applicant refers to 2.19.5.2 of the **Statement of Common Ground Between Gatwick Airport Limited and Crawley Borough Council** [REP1-032] and 2.17.1.5 of the **Statement of Common Ground Between Gatwick Airport Limited and West Sussex County Council** [REP1-033].
41.	The Applicant refers to its response to para. 15.58 in section 3.15 of its **Response to Local Impact Reports** (Doc Ref. 10.15).
42.	The Applicant's approach to subsequent approval of detailed documents pursuant to requirements and subsequent compliance with those documents was refined in version 5.0 of the **draft DCO** (Doc Ref. 2.1) submitted at Deadline 1. References to *"general accordance"* in the operative requirements have been removed. The Applicant has retained some references to detailed documents needing to be *"substantially in accordance with"* the relevant outline document or strategy – this is justified to facilitate minor improvements to the principles underlying the original document/strategy upon submission of the subsequent details (e.g. due to advances in technology or best practice). In any event, the submitted details will be subject to the approval of the relevant discharging authority under the terms of the requirement.

	A definition of *"substantially in accordance"* was also provided in version 5.0 of the **draft DCO** (Doc Ref. 2.1) to provide further clarity: *"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*
43.	As regards the use of "start date" in requirement 3(1), the Applicant refers to its response to DCO.1.29 in its **Response to ExQ1** (Doc Ref. 10.16). For the same reason that it is inappropriate for the time in which the undertaker can exercise its compulsory acquisition powers to be eroded by potentially protracted legal challenges and appeals, it is similarly inappropriate for the time within which the undertaker can begin development to be so diminished. As regards the comment on notice periods, substantial changes were made to the notification requirements in requirement 3(2) in version 5.0 of the **draft DCO** (Doc Ref. 2.1) at Deadline 1. Given CBC's central role in overseeing the delivery of the Project and acting as the primary discharging authority for control documents, the Applicant considers it appropriate that CBC be the entity notified of the Project milestones set out.
44.	The Applicant refers to its response to 6 above and to section 4.2 of its **Written Summary of Oral Submissions from Issue Specific Hearing 2: Control Documents / DCO** (Doc Ref. 2.1) in relation to the justification for a concept of "excepted development" in the DCO. The Applicant has responded in its **Response to Local Impact Reports** (Doc Ref. 10.15) in relation to the Councils' comments on the Design Principles.
45.	The Applicant has responded in its **Response to Local Impact Reports** (Doc Ref. 10.15) in relation to the Councils' comments on the CoCP.
46.	The Applicant has responded in its **Response to Local Impact Reports** (Doc Ref. 10.15) in relation to the Councils' comments on the oLEMP.
47.	The Applicant refers to its response to 44 above as regards "excepted development". The discharging authorities for requirements 10 and 11 were updated in version 5.0 of the **draft DCO** (Doc Ref. 2.1) submitted at Deadline 1. The Councils are invited to review these amended requirements and provide any further comments on the appropriate authorities.
48.	The Applicant has responded in its **Response to Local Impact Reports** (Doc Ref. 10.15) in relation to the Councils' comments on these control documents.
49.	The Applicant invites the Councils to please specify any proposed drafting changes to this requirement. In the absence of such proposals, the Applicant considers that the current drafting is appropriate.

50.	The Applicant refers to its responses on requirements 15 and 16 in DCO.1.40 in its **Response to ExQ1** (Doc Ref. 10.16) and its responses to NV6 and DCO3 in its **Response to Local Impact Reports** (Doc Ref. 10.15).
51.	The Applicant refers to its responses to NV5 and DCO4 in its **Response to Local Impact Reports** (Doc Ref. 10.15).
52.	The requirements drafted by reference to the commencement of dual runway operations (requirements 6(2), 15(1), 16(4), 17, 18(4), 18(6), 19(1) and 20) all have effect "from" or "following" (or equivalent) that date or require actions to have been taken by a certain anniversary of the commencement of dual runway operations. It is therefore appropriate for the purposes of monitoring compliance with these requirements for the undertaker to notify CBC of the actual date on which commencement of dual runway operations occurs. In respect of the comment on what is now requirement 19(1) (previously numbered 19(2)), the Applicant refers to its response to Action Point 1 in **The Applicant's Response to Actions from Issue Specific Hearing 2: Control Documents / DCO** [REP1-063], which explains the definition of "commercial air transport movements" and why it would be inappropriate to impose a hard limit on flights that do not fall within this definition, which are urgent and largely unplanned in nature. The Applicant further refers to its response to comments on Action Point 1 in section 5.5 of its **Response to Deadline 2 Submissions** (Doc Ref. 10.20). In respect of the comment on what is now requirement 19(2) (previously numbered 19(3)), the Applicant refers to its response to East Sussex County Council with ref. N1 in the main body of this document. In respect of a new requirement to restrict use of the northern runway to departures, The Applicant refers to its response to DCO.1.40 on requirement 19 in in its **Response to ExQ1** (Doc Ref. 10.16).
53.	In relation to the Surface Access Commitments, the Applicant refers to its response to DCO.1.8 in its **Response to ExQ1** (Doc Ref. 10.16) and to the revised **ES Appendix 5.4.2: Surface Access Commitments** (Doc Ref. 5.3 submitted at Deadline 3. In relation to managed growth, the Applicant refers to its submissions under Agenda Item 5 of its **Written Summary of Oral Submissions from Issue Specific Hearing 2: Control Documents / DCO** [REP1-057].
54.	The Applicant refers to its response to AQ05 in section 3.11 of its **Response to Local Impact Reports** (Doc Ref. 10.15).
55.	*Row omitted in Appendix M.*
56.	The Applicant refers to its response to AQ08 in section 3.11 of its **Response to Local Impact Reports** (Doc Ref. 10.15).
57.	The Applicant refers to its responses to EN.1.5 and EN.1.6 in its **Response to ExQ1** (Doc Ref. 10.16).

58.	The Applicant refers to its response to NV12 of **its Response to Local Impact Reports** (Doc Ref. 10.15).
59.	A requirement to this effect is not appropriate or necessary. As noted in paragraph 2.6.4 of the **Capacity and Operations Summary Paper** [REP1-053], the WIZAD SID is a tactical routing, meaning it is not flight plannable, but may be dynamically allocated by air traffic control (typically a late stage of taxiing the aircraft) instead of the Route 4 SID were circumstances to necessitate (e.g. to alleviate airspace congestion or to avoid hazards to the north of the aerodrome, such as poor weather). Under the Project, the use of the WIZAD/Route 9 SID would be based on the same airspace route structure and operated in accordance with any existing restrictions or requirements, in particular the noise abatement procedures - which include associated Noise Preferential Routes - set by the DfT under section 78(1) of the Civil Aviation Act 1982 and published in the UK Aeronautical Information Publication (UKAIP). Any changes to those restrictions/procedures would need to separately proposed and designated by the DfT, but are not required for the purposes of the Project.
60.	Noted.
61.	The Councils suggestion is noted but is not considered necessary. As the Councils note, an appeal under paragraph 4 of Schedule 11 to the draft DCO may require significant time and expenditure and the undertaker would be mindful of that before triggering those provisions. In circumstances where "major works" are being submitted for approval, the undertaker is therefore realistically going to take a pragmatic approach to agreeing any request from the discharging authority for an extension of time. In any event, the Applicant considers that the standard 6 or 8 week deadline is perfectly adequate for detailed consideration of details that may be subject to approval. Drafting has been included in version 6.0 of the **draft DCO** (Doc Ref. 2.1) submitted at Deadline 3 to provide for the payment of fees by the undertaker to discharging authorities providing their agreement, endorsement or approval in respect of requirements to which Part 1 of Schedule 11 to the DCO applies. The specified fee is by reference to the fee payable to local planning authorities in respect of the discharge of planning conditions for non-householder development in regulation 16 of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012. This approach is well precedented, including in paragraph 4 of Schedule 11 to the Drax Power Station Bioenergy with Carbon Capture and Storage Extension Order 2024, paragraph 2 of Schedule 4 to the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024 and paragraph 26 of Schedule 2 to the Manston Airport Development Consent Order 2022.