



# Gatwick Airport Northern Runway Project

The Applicant's Response to the Examining Authority's  
Written Questions – Case for the Proposed Development  
Appendices

**Book 10**

VERSION: 1.0

DATE: APRIL 2024

Application Document Ref: 10.16

PINS Reference Number: TR020005

## Table of Contents

Appendix A: Stansted Decision	1
Appendix B: Manston Decision	2
Appendix C: Bristol Decision	3

## Appendix A: Stansted Decision



## Appeal Decision

Inquiry held over 30 days between 12 January 2021 and 12 March 2021

Site visits made on 17 December 2020 and 10 March 2021

**by Michael Boniface MSc MRTPI, G D Jones BSc(Hons) DipTP MRTPI and Nick Palmer BA (Hons) BPI MRTPI**

**Panel of Inspectors appointed by the Secretary of State**

**Decision date: 21 June 2021**

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### **Appeal Ref: APP/C1570/W/20/3256619 London Stansted Airport, Essex**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Stansted Airport Limited against the decision of Uttlesford District Council.
  - The application Ref UTT/18/0460/FUL, dated 22 February 2018, was refused by notice dated 29 January 2020.
  - The development proposed is airfield works comprising two new taxiway links to the existing runway (a Rapid Access Taxiway and a Rapid Exit Taxiway), six additional remote aircraft stands (adjacent Yankee taxiway); and three additional aircraft stands (extension of the Echo Apron) to enable combined airfield operations of 274,000 aircraft movements (of which not more than 16,000 movements would be Cargo Air Transport Movements) and a throughput of 43 million terminal passengers, in a 12-month calendar period.
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**This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 26 May 2021. It amends the appearances list only.**

### **Decision**

1. The appeal is allowed and planning permission is granted for airfield works comprising two new taxiway links to the existing runway (a Rapid Access Taxiway and a Rapid Exit Taxiway), six additional remote aircraft stands (adjacent Yankee taxiway); and three additional aircraft stands (extension of the Echo Apron) to enable combined airfield operations of 274,000 aircraft movements (of which not more than 16,000 movements would be Cargo Air Transport Movements) and a throughput of 43 million terminal passengers, in a 12-month calendar period at London Stansted Airport, Essex in accordance with the terms of the application, Ref UTT/18/0460/FUL, dated 22 February 2018, subject to the conditions contained in the attached Schedule.

### **Application for Costs**

2. At the Inquiry an application for costs was made by Stansted Airport Limited against Uttlesford District Council. This application is the subject of a separate Decision.

## Preliminary Matters

3. The Inquiry was held as a wholly virtual event (using videoconferencing) in light of the ongoing pandemic. The Panel undertook an accompanied site visit to the airport on 10 March 2021 and an unaccompanied visit around the surrounding area on the same day. An unaccompanied visit to the publicly accessible parts of the airport and surrounding area also took place on 17 December 2020.
4. On 18 May 2018, during the course of the planning application, the Council agreed to a request from the appellant to change the description of development to include a restriction on cargo air transport movements. This is the basis upon which the Council subsequently determined the application. The appeal has been considered on the same basis.
5. The Council resolved to grant planning permission for the development on 14 November 2018 but subsequently reconsidered its position before formally refusing planning permission. In light of the Council's reasons for refusal, its subsequent statement of case in this appeal and given the length of time that had passed since the application was made, an Environmental Statement Addendum (October 2020) (ESA) was produced to update the original Environmental Statement (February 2018) (ES). The Council consulted on the ESA so that all parties had an opportunity to consider its content. As such, the Panel is satisfied that no party is prejudiced by its submission at the appeal stage.
6. The ES and ESA were prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations), including technical appendices and a non-technical summary. They cover a range of relevant topics, informed at the ES stage by a Scoping Opinion from the Council. The Panel is satisfied that the totality of the information provided is sufficient to meet the requirements of Schedule 4 of the EIA Regulations and this information has been taken into account in reaching a decision. Accordingly, while some of the evidence is critical of the ES and ESA, including in respect to their conclusions regarding carbon emissions, there is no significant contradictory evidence that causes the ES or the ESA to be called into question.
7. A local campaign group known as Stop Stansted Expansion (SSE) was granted Rule 6 status and participated as a main party to the Inquiry. However, shortly before the Inquiry opened it elected to rely on its written evidence for several topics so that a witness was not made available for cross-examination on those topics<sup>1</sup>. As such, this evidence was untested and has been considered by the Panel on this basis.
8. Rule 6 status was also granted jointly to Highways England and Essex County Council (the Highway Authorities) who initially opposed the proposal on highway grounds. However, these issues were resolved before the exchange of evidence and the Highway Authorities subsequently withdrew from the appeal proceedings, subject to appropriate planning obligations being secured.
9. The Council's fourth reason for refusing planning permission referred to the adequacy of infrastructure and mitigation measures needed to address the

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<sup>1</sup> Historical Background, Noise, Health and Well-Being, Air Quality, Surface Access (Rail)



impacts of the development. This reason was partly addressed following agreement with the Highway Authorities about the scope of highways mitigation required, including at Junction 8 of the M11. The adequacy and need for other forms of mitigation are addressed in the body of this decision in relation to relevant topics and/or in relation to the discussion on conditions and planning obligations, such that this is not a main issue in the appeal.

10. Upon exchange of evidence between the parties, it became clear that the Council accepted that planning permission should be granted for the development, subject to conditions and obligations. However, there remained significant divergence between the parties as to the form and extent of any conditions and much time was spent discussing this matter over the course of the Inquiry.
11. On 20 April 2021, the Government announced that it would set a new climate change target to cut emissions by 78% by 2035 compared to 1990 levels and that the sixth Carbon Budget will incorporate the UK's share of international aviation and shipping emissions. The parties were invited to make comment and their responses have been taken into account in reaching a decision<sup>2</sup>.

### **Main Issues**

12. The main issues are the effect of the development on aircraft noise, air quality and carbon/climate change.
13. However, it is first necessary to consider national aviation policy and some introductory matters.

### **Reasons**

#### *National Aviation Policy and Introductory Matters*

14. The Aviation Policy Framework (March 2013) (APF) sets out the Government's high-level objectives and policy for aviation. It recognises the benefits of aviation, particularly in economic terms, and seeks to ensure that the UK's air links continue to make it one of the best-connected countries in the world. A key priority is to make better use of existing runway capacity at all UK airports. Beyond 2020, it identifies that there will be a capacity challenge at all of the biggest airports in the South East of England.
15. There is also, however, an emphasis on the need to manage the environmental impacts associated with aviation and a recognition that the development of airports can have negative as well as positive local impacts. Climate change is identified as a global issue that requires action at a global level, and this is said to be the Government's focus for tackling international aviation emissions, albeit that national initiatives will also be pursued where necessary.
16. More recently, the Government published the ANPS<sup>3</sup> and MBU<sup>4</sup>, on the same day, as early components of the forthcoming Aviation Strategy. The ANPS is primarily concerned with providing a policy basis for a third runway at Heathrow and is relevant in considering other development consent

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<sup>2</sup> Having heard a significant amount of evidence on carbon and climate change during the Inquiry, the matters raised by the announcement did not necessitate reopening the Inquiry. Nor was it necessary for the ES to be further updated, as the announcement does not have a significant bearing on the likely effects of the development

<sup>3</sup> Airports National Policy Statement: new runway capacity and infrastructure at airports in the South East of England (June 2018)

<sup>4</sup> Beyond the horizon, The future of UK aviation, Making best use of existing runways (June 2018)

- applications in the South East of England. It is of limited relevance to the current appeal as it is not a Nationally Significant Infrastructure Project (NSIP). Although the ANPS does refer to applications for planning permission, it notes the findings of the Airports Commission on the need for more intensive use of existing infrastructure and accepts that it may well be possible for existing airports to demonstrate sufficient need for their proposals, additional to (or different from) the need which is met by the provision of a Northwest Runway at Heathrow.
17. MBU builds upon the APF, again referencing work undertaken by the Airports Commission which recognised the need for an additional runway in the South East by 2030 but also noted that there would be a need for other airports to make more intensive use of their existing infrastructure. On this basis, MBU states that the Government is supportive of airports beyond Heathrow making best use of their existing runways<sup>5</sup>. There is no requirement flowing from national aviation policy for individual planning applications for development at MBU airports, such as Stansted, to demonstrate need<sup>6</sup> for their proposed development or for associated additional flights and passenger movements. This was not disputed by the Council and whilst SSE took a contrary view, even its witness accepted that there was a need for additional capacity within the London airport network, beyond any new runway at Heathrow<sup>7</sup>.
  18. The in-principle support for making best use of existing runways provided by MBU is a recent expression of policy by the Government. It is given in full knowledge of UK commitments to combat climate change, having been published long after the Climate Change Act 2008 (CCA) and after the international Paris Agreement. It thoroughly tests the potential implications of the policy in climate change terms, specifically carbon emissions. To ensure that Government policy is compatible with the UK's climate change commitments the Department for Transport (DfT) aviation model was used to look at the impact of allowing all MBU airports to make best use of their existing runway capacity<sup>8</sup>. This methodology appears to represent a robust approach to the modelling.
  19. International aviation emissions are not currently included within UK carbon budgets and are instead accounted for through 'headroom' in the budgets, with a planning assumption for aviation emissions of 37.5Mt of CO<sub>2</sub>. Whilst the Government has recently announced that international aviation will expressly form part of the sixth Carbon Budget, its budget value has not yet been defined.
  20. Of course, the headroom approach of taking account of emissions from international aviation which has been used to date means that accounting for such carbon emissions as part of the Carbon Budget process is nothing new. What is set to change, however, is the process by which it is taken into account. As of yet, there has been no change to the headroom planning assumption. Nor has there been any indication from the Government that

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<sup>5</sup> There is nothing in MBU which suggests that making best use proposals cannot involve operational development of the type proposed in this case

<sup>6</sup> Notwithstanding conclusions in relation to Manston Airport, which is not comparable to the current proposal (being a Development Consent Order scheme, involved an unused airfield and was a cargo-led proposal rather than passenger)

<sup>7</sup> Brian Ross in response to questions from the Inspector

<sup>8</sup> Emissions from UK airports not included in the model are unlikely to be significant as they are small and offer only short-range services

there will be a need to restrict airport growth to meet the forthcoming budget for international aviation, even if it differs from the current planning assumption. The specific carbon/climate change implications of this appeal are considered in more detail below.

21. MBU sets out a range of scenarios for ensuring the existing planning assumption can be met, again primarily through international agreement and cooperation, considering carbon traded or carbon capped scenarios. It concludes that the MBU policy, even in the maximum uptake scenario tested, would not compromise the planning assumption.
22. Notwithstanding that conclusion, no examples of MBU-type airport development having gained approval since the publication of MBU were brought to the attention of the Inquiry<sup>9</sup> and whilst numerous other airports have plans to expand, none of those identified appear to have a prospect of receiving approval before this scheme. As such, it can be readily and reasonably concluded that this development would not put the planning assumption at risk.
23. Consistent with the APF, MBU differentiates between the role of local planning and the role of national policy, making it clear that the majority of environmental concerns, such as noise and air quality, are to be taken into account as part of existing local planning application processes. Nonetheless, it adds that some important environmental elements should be considered at a national level, such as carbon emissions, which is specifically considered by MBU. The Council apparently understood this distinction in resolving to grant planning permission in 2018. However, it subsequently changed its position, deciding that carbon is a concern for it as local planning authority despite MBU, and this led, at least in part, to the refusal of planning permission, as well as to its subsequent case as put at the Inquiry.
24. Since publication of MBU, UK statutory obligations under the CCA have been amended to bring all greenhouse gas emissions to net zero by 2050, compared to the previous target of at least 80% reduction from 1990 levels. In addition, the Government has indicated a new climate change target to cut emissions by 78% by 2035 compared to 1990 levels, effectively an interim target on the journey to net zero. Notwithstanding these changes, MBU has remained Government policy. There are any number of mechanisms that the Government might use to ensure that these new obligations are achieved which may or may not involve the planning system and may potentially extend to altering Government policy on aviation matters.
25. These are clearly issues for the Government to consider and address, having regard to all relevant matters (not restricted to aviation). The latest advice from the Committee on Climate Change (CCC) will be one such consideration for the Government but it cannot currently be fully known to what extent any recommendations will be adopted. The Government is clearly alive to such issues and will be well aware of UK obligations<sup>10</sup>.

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<sup>9</sup> With the potential exception of the Southampton Airport scheme, which involved a runway extension to accommodate larger aircraft. No detailed evidence in relation to this scheme was provided by the parties, but it would not alter the Panel's conclusions on MBU support even if an increase in capacity resulted from the scheme

<sup>10</sup> Not least from the recent Supreme Court Judgement in respect of the ANPS - R (on the application of Friends of the Earth Ltd and others) v Heathrow Airport Ltd [2020] UKSC 52



26. The ES and ESA contain detailed air traffic forecasts which seek to demonstrate the difference between a 'do minimum' scenario, where the airport makes use of its existing planning permission within its relevant restrictions, and the 'development case' scenario where the appeal development were to proceed. The forecasts are prepared in accordance with industry guidance and practise by a professional in this field working as a Director in the aviation department for a global consulting service.
27. The Council, whilst highlighting the inherent uncertainty in forecasts and projections into the future, did not dispute the appellant's position on forecasting, concluding that the predictions were reasonable and sensible<sup>11</sup>. SSE made a series of criticisms of the inputs and assumptions used by the appellant, but these were largely based on assertion and often lacked a clear evidential basis. Different opinions about the likely number of passengers per air transport movement, fleet replacement projections, dominance of / reliance on a single airline at Stansted and cargo expectations were all rebutted by the appellant with justification for the inputs and assumptions used. The Panel was not persuaded that the conclusions in the ES and ESA were incorrect or unreliable. Indeed, they are to be preferred over the evidence of SSE on this matter, which was not prepared by a person qualified or experienced in air traffic forecasting. Accordingly, the forecasts contained within the ES and ESA are sufficiently robust and the best available in this case.
28. The appellant's forecasts do not align with those prepared by the Government in 2017 (DfT forecasts) which are used as the basis for conclusions in MBU, as referred to above. However, there is no reason why they should. The DfT makes clear that its forecasts are a long-term strategic look at UK aviation, primarily to inform longer term strategic policy. They do not provide detailed forecasts for each individual airport in the short-term and the DfT acknowledge that they may differ from local airport forecasts, which are prepared for different purposes and may be informed by specific commercial and local information not taken into account by the DfT. As such, the DfT states that its forecasts should not be viewed as a cap on the development of individual airports.
29. On this basis, the Panel does not accept that a divergence between the appellant's and the DfT's forecasts indicate any unreliability in the data contained in the ES and ESA. Nor is there any justification for applying a reduction to the appellant's forecasts<sup>12</sup>. Furthermore, SSE's forecasting witness recently challenged the validity and reliability of the DfT forecasts in the High Court while acting for SSE, thereby further calling into question the credibility of their now contradictory evidence to this Inquiry.
30. It remained unclear throughout the Inquiry, despite extensive evidence, why the speed of growth should matter in considering the appeal. If it ultimately takes the airport longer than expected to reach anticipated levels of growth, then the corresponding environmental effects would also take longer to materialise or may reduce due to advances in technology that might occur in the meantime. The likely worst-case scenario assessed in the ES and ESA, and upon which the appeal is being considered, remains just that. Conversely,

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<sup>11</sup> Proof of Hugh Scanlon, UDC/4/1

<sup>12</sup> This is notwithstanding examples of previous air traffic forecasts for Stansted and other airports that have not been borne out for whatever reason. Any reduction to account for perceived optimism bias would be arbitrary and unlikely to assist the accuracy of the forecasts

securing planning permission now would bring benefits associated with providing airline operators, as well as to other prospective investors, with significantly greater certainty regarding their ability to grow at Stansted, secure long-term growth deals and expand route networks, potentially including long haul routes.

31. SSE argued that the 'do minimum' case had been artificially inflated to minimise the difference from the 'development case'. However, there is no apparent good reason why the airport would not seek to operate to the maximum extent of its current planning restrictions if the appeal were to fail. Indeed, as a commercial operator, there is good reason to believe that it would. The fact that it does not operate in this way already does not mean it cannot or will not in future. In fact, the airport has seen significant growth in passenger numbers in recent years, since Manchester Airports Group took ownership, albeit that these have latterly been affected by the pandemic.
32. As such, there is no good reason to conclude that the air traffic forecasts contained within the ES and ESA are in any way inaccurate or unreliable. Of course, there is a level of uncertainty in any forecasting exercise but those provided are an entirely reasonable basis on which to assess the impacts of the proposed development. The Panel does not accept that there has been any failure to meet the requirements of the EIA Regulations, as concluded above.

#### *Aircraft Noise*

33. The overarching requirements of national policy, as set out in the National Planning Policy Framework (the Framework) and the Noise Policy Statement for England (NPSE), are that adverse impacts from noise from new development should be mitigated and reduced to a minimum and that significant adverse impacts on health and quality of life should be avoided. It is a requirement of the NPSE that, where possible, health and quality of life are improved through effective management and control of noise.
34. The APF states that the overall policy is to limit and, where possible, reduce the number of people significantly affected by aircraft noise. The APF expects the aviation industry to continue to reduce and mitigate noise as airport capacity grows and that as noise levels fall with technology improvements the benefits are shared between the industry and local communities.
35. While the APF states that the 57 dB LAeq 16 hour contour should be treated as the average level of daytime aircraft noise marking the approximate onset of significant community annoyance, the 2014 Survey of Noise Attitudes (SoNA) indicates that significant community annoyance is likely to occur at 54 dB LAeq 16 hour. The latter metric has been used by the Civil Aviation Authority in its *Aviation Strategy: Noise Forecast and Analysis – CAP 1731*. It has also been used in the Government's consultation *Aviation 2050, The future of UK aviation*. The Council and the appellant agree that the 54 dB LAeq 16 hour contour should be the basis for future daytime noise restrictions in this case.
36. The NPSE describes the concepts of Lowest Observed Adverse Effect Level (LOAEL) and Significant Observed Adverse Effect Level (SOAEL). The LOAEL is set at 51 dB LAeq 16 hour in the DfT's Air Navigation Guidance and is the level above which adverse effects on health and quality of life can be detected. These levels apply to daytime hours. The corresponding levels at night are

a LOAEL of 45 dB LAeq 8 hour and onset of significant annoyance at 48dB LAeq 8 hour.

37. The World Health Organisation's (WHO) Environmental Noise Guidelines 2018 (ENG) recommend lower noise levels than those used in response to SoNA. The Government has stated in *Aviation 2050* that it agrees with the ambition to reduce noise and to minimise adverse health effects, but it wants policy to be underpinned by the most robust evidence on these effects, including the total cost of action and recent UK specific evidence which the WHO did not assess. These factors limit the weight that can be given to the lower noise levels recommended in the ENG.
38. Aircraft modernisation is reducing aircraft noise over time. It has been demonstrated that the daytime 57 dB and 54 dB noise contours will decrease in extent over the period to 2032, both with and without the development, albeit that the 54 dB contour would be slightly larger in the development case (DC) compared to the do minimum (DM) scenario. The 51 dB LOAEL contour is however predicted to increase slightly in extent compared to the 2019 baseline.
39. The night-time 48 dB contour is also predicted to decrease in extent and this reduction would be greater in the DC than in the DM scenario. This is based upon there being a greater amount of fleet modernisation, including fewer of the noisier cargo flights.
40. The ESA compares the DC with the DM scenario at 2032, which is when the maximum passenger throughput is predicted to be reached, and at 2027 which is identified as the transition year. In 2032 there would be an increase in air noise levels during the daytime of between 0.4 and 0.6 dB which is assessed as a negligible effect. There would be a beneficial reduction in night-time noise of between 0.3 and 0.8 dB in the DC compared to DM, but this is also assessed as negligible.
41. Saved Policy ENV11 of the Uttlesford Local Plan 2005 (ULP) resists noise generating development if this would be liable to adversely affect the reasonable occupation of existing or proposed noise sensitive development nearby. The ESA demonstrates that this would not be the case.
42. It is necessary to ensure that the benefits in terms of the reduction in noise contours over time arising from fleet modernisation, and the reduction in night noise are secured in order that these are shared with the community in accordance with national policy in the APF. The Council's position is that the development is acceptable in terms of aircraft noise, subject to suitable mitigation measures. Condition 7 defines the maximum areas to be enclosed by 54 dB LAeq 16hour, and 48 dB LAeq 8 hour noise contours and requires that the area enclosed by each of those contours is reduced as passenger throughput is increased, in accordance with the findings of the ESA.
43. There is no control of the night-time noise contour under the existing permission. This is instead subject to control under the Government's night flight restrictions which impose a Quota Count. It is noted that the Secretaries of State in granting the last planning permission considered that there was no need for such a condition because of the existing controls.
44. However, the night flight restrictions do not cover the full 8 hour period used in the LAeq assessment. Consequently, if only the night flight restrictions were to

- be relied upon, there would be no control of aircraft noise between 23:00 and 23:30 hours and between 06:00 and 07:00 hours. The ESA has demonstrated that the reductions in night noise would be beneficial to health. For these reasons, inclusion of the  $L_{Aeq}$  8hour restriction in condition 7 would be necessary. In coming to this view, the Panel has taken into account the dual restrictions that would apply. However, the night noise contour requirement in condition 7 would be necessary to secure the benefit and it has not been demonstrated that the night noise restrictions would be sufficient in this respect.
45. The Panel has considered SSE's submissions concerning the methodology used in the ES and ESA. The use of  $L_{Aeq}$  levels in the assessment is in accordance with Government policy and reflects the conclusions of SoNA, but the ES and ESA also include assessments of the number of flights exceeding 60 and 65 dB(A) and maximum single event noise levels. The assessments of aircraft noise are comprehensive, and the methodology used is justified and widely accepted as best practice, including by the Government and industry. The Council considers that the methodology used is robust. The Panel has also considered the evidence on air traffic forecasts and, for the reasons given elsewhere in this decision, is satisfied that the assumptions regarding fleet replacements are robust.
  46. SSE has referred to the number of complaints about noise increasing in recent years. However, it is also relevant to consider the number of complainants which has significantly decreased. These factors have been taken into account in the ES and ESA.
  47. The existing sound insulation grant scheme (SIGS) provides for financial assistance to homeowners and other noise-sensitive occupiers, to be used to fund sound insulation measures. This uses a contour which is based on 63 dB  $L_{Aeq}$  16 hour for daytime and the aggregate 90 dBA SEL footprint of the noisiest aircraft operating at night.
  48. The submitted Unilateral Undertaking (UU) provides for an enhanced SIGS whereby a 57 dB daytime contour is used, thereby increasing its extent and the number of properties covered. This is consistent with the evolving perceptions of the level of significant adverse effects and exceeds the levels recommended for such measures as stated in the APF. The use of this contour together with the 90 dBA SEL footprint as qualifying criteria would provide mitigation against both daytime and night-time noise. The latter criterion recognises that sleep disturbance is more likely to arise from single events than average noise levels over the night-time period.
  49. The UU also applies to specific identified noise-sensitive properties including schools, community and health facilities and places of worship. An assessment of these properties has been undertaken using the daytime 57 dB contour used for residential properties, the number of flights above 65 dB and the maximum sound levels of aircraft flying over properties. Inclusion of properties in the list in Schedule 2 Part 1 of the UU means that bespoke measures may be discussed between the property owner and the airport operator and that further noise surveys may be undertaken. Thaxted Primary School does not qualify for inclusion in the list under the criteria used. However, submissions were made to the Inquiry that the school should be included. It has provisionally been included in the list subject to the Panel's decision.

50. Thaxted Primary School is outside, but adjacent to the boundary identified for the SIGS. This is represented by the 57 dB LAeq 16 hour and 200 daily flights above 65 dB (N65 200). The school is well outside the 63 and 60 dB contours, the former being the level that Government policy recognises, in the APF, as requiring acoustic insulation to noise-sensitive buildings and the latter the level to which this may potentially be reduced.
51. Departing aircraft predominantly take off towards the south-west, away from the school. Those that do take off towards the north-east turn onto standard routes away from the school before reaching it. The school is, however exposed to noise from arriving aircraft.
52. Standards for internal noise levels in schools are set out in *Building Bulletin 93 – Acoustic design of schools: performance standards* (BB93). These use LAeq 30mins as a metric because school pupils experience noise over limited periods and not over the full daytime period. No assessment has been undertaken using this metric. It is, however, possible to determine the effect of the proposal having regard to the maximum sound levels of aircraft flying over the property in question.
53. It has been demonstrated that the school would not be exposed to LAmax flyover levels of 72 dB or more. The Council agrees that this maximum level would ensure that internal noise levels would not exceed 60 dB, with windows open. This provides a good degree of certainty that noise levels would be in accordance with BB93 which states that indoor ambient noise levels should not exceed 60 dB LA1, 30 mins.
54. No representations have been made either by the school or the education authority with regard to inclusion of Thaxted Primary School in the list. It has not been demonstrated that the school should be included in the list in terms of any specific need for mitigation. For these reasons the inclusion of Thaxted Primary School in the list of properties in Schedule 2 Part 1 of the UU would not be necessary and on this basis this provision would not meet the tests in the Community Infrastructure Levy Regulations 2010 (the CIL Regulations).
55. The noise assessments in the ES and ESA take into account ground noise from aircraft. The Council's reason for refusal concerns only aircraft noise and not noise from ground plant and equipment or surface access. The Panel has considered the evidence provided by SSE in respect of the latter, but these do not alter its conclusions on this main issue.
56. It has been demonstrated beyond doubt that the development would not result in unacceptable adverse aircraft noise and that, overall, the effect on noise would be beneficial. Subject to the mitigation provided by the UU and the restrictions imposed by condition 7, the development would accord with Policy ENV11 of the ULP and with the Framework.

#### *Air Quality*

57. Although air pollution levels around the airport are for the most part well within adopted air quality standards, an area around the Hockerill junction in Bishop's Stortford has nitrogen dioxide levels that are above those standards. This is designated an Air Quality Management Area (AQMA). The development would increase emissions from aircraft, other airport sources and from road vehicles,



- but this would be against a trend of reduction in air pollution as a result, amongst other things, of increasing control of vehicle emissions.
58. The pollutants which are assessed are oxides of nitrogen (NO<sub>x</sub>), particulate matter (PM<sub>10</sub>) and fine particulate matter (PM<sub>2.5</sub>). Ultrafine particulates (UFP) are recognised as forming a subset of PM<sub>2.5</sub> and they are likely to affect health. However, there is no recognised methodology for assessing UFP and the most that can be done is a qualitative, rather than quantitative assessment.
  59. Policy ENV13 of the ULP resists development that would involve users being exposed on an extended long-term basis to poor air quality outdoors near ground level. The Policy identifies zones on either side of the M11 and the A120 as particular areas to which the Policy applies.
  60. Paragraph 170 of the Framework states that development should, wherever possible, help to improve local environmental conditions such as air quality. Paragraph 181 states that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of AQMAs and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified.
  61. Emissions of NO<sub>x</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> would increase slightly in the DC compared to the DM scenario. They would also increase in comparison to the 2019 baseline. However, pollutant levels resulting from other sources, notably road traffic, are forecast to decline. The ES and ESA demonstrate that there would be no exceedance of air quality standards at human receptors and that air quality impacts would be negligible. The overall effect of the development in terms of air quality would be in accordance with the Framework and with the Clean Air Strategy, which refers to the need to achieve relevant air quality limit values. While the Framework seeks to improve air quality where possible, it recognises that it will not be possible for all development to improve air quality.
  62. While the proposed development would not improve air quality, the UU secures a number of measures to encourage the use of public transport and to reduce private car use, including single occupancy car trips. The airport has a Sustainable Development Plan which, whilst not binding, commits to reducing air pollution. It has already achieved significant increases in use of public transport, thereby limiting emissions and these initiatives would be continued. The measures would have other objectives such as reducing carbon emissions, which would not necessarily benefit air quality but nonetheless the provisions of the UU would overall be likely to secure improvements in air quality.
  63. Although it has raised a number of issues concerning the methodology used and the robustness of the assessments during the appeal process, the Council made no request for further information under the EIA Regulations.
  64. SSE has commented on a number of aspects of the air quality assessments, including the transport data used, the receptors assessed and modelling. The appellant has provided clarification of the aspects that have been queried by SSE and has justified the approach taken and the assumptions made. The appellant's responses provide sufficient reassurance that the assessments are soundly based and that they are conservative.

65. The air quality assessment depends on the assessment of road traffic in terms of vehicle emissions. Surface access is dealt with elsewhere in this decision, but the transport modelling forms a robust assessment which has been accepted by the Highway Authorities. Consequently, this forms a sound basis for the air quality assessment.
66. The Clean Air Strategy includes a commitment to significantly tighten the current air quality objective for fine particulates, but no numerical standard has yet been set. The current objective for PM<sub>2.5</sub> is 25µg/m<sup>3</sup>. The 2008 WHO guidelines recommend an ultimate goal for annual mean concentrations of PM<sub>2.5</sub> of 10µg/m<sup>3</sup>. The Clean Air Strategy commits to examine the action that would be necessary to meet this limit but no timescale for this has been set.
67. The ESA assesses the largest concentration of PM<sub>2.5</sub> in 2032 to be 11.6µg/m<sup>3</sup> in the DC. This is well below the current objective but slightly above the more ambitious WHO guideline. The great majority of the modelled concentrations would be below that guideline value. The assessment also shows that the effect of the development by comparison to the DM scenario would be negligible. The proposal would not unacceptably compromise the Clean Air Strategy in reducing concentrations of PM<sub>2.5</sub> and accords with the current objective.
68. The Bishop's Stortford AQMA is within East Hertfordshire District Council's (EHDC) administrative area. Policy EQ4 of the East Hertfordshire Local Plan 2018 requires minimisation of impacts on local air quality. That Policy also requires, as part of the assessment, a calculation of damage costs to determine mitigation measures. The ES and ESA demonstrate that there would be negligible effects for which the UU secures mitigation measures. EHDC has consequently raised no objection to the proposal.
69. The AQMA is centred around a traffic signal-controlled road junction which is enclosed by buildings on all sides. The A1250 is at a gradient on both sides of the junction. It is likely that the high monitored levels of pollutants here result from emissions from queuing traffic and the enclosing effect of the buildings. Nitrogen dioxide (NO<sub>2</sub>) levels have been declining here in recent years, with a reduction in levels between 2012 and 2019. However, NO<sub>2</sub> levels remain above the air quality standard for 3 of the 4 locations monitored and significantly above the standard for 2 of those locations.
70. An adjustment factor has been used to compensate for the difference between modelled and measured concentrations of NO<sub>2</sub> in the AQMA. Uttlesford District Council is concerned that this factor is unusually high, but it has been undertaken in accordance with Defra's Local Air Quality Management Technical Guidance TG16 and on this basis, is not considered unreasonable. This guidance was used together with the Emission Factor Toolkit and Defra's background pollutant concentrations maps in predicting future improvements in air quality. Sensitivity tests using less optimistic assumptions regarding future improvements in air quality were incorporated in the ES and ESA. While there is acknowledged uncertainty in predicting future levels, a rigorous approach has been used in the assessment.
71. It is not disputed that airport activities contribute less than 1% to NO<sub>x</sub> concentrations in Bishop's Stortford. The appellant's transport modelling demonstrates that any increase in traffic along the A1250 and through the Hockerill junction would, at worst be 1.3% of current traffic flow in the DC

compared to DM. This extra traffic would not necessarily be evenly distributed throughout the day. Queuing traffic would tend to increase emissions and the adjacent buildings would have an enclosing effect. Nonetheless, this level of additional traffic would be unlikely to appreciably affect pollution levels in the AQMA.

72. It is common ground that UFPs result from combustion sources including burning of aviation fuel, which contains higher levels of sulphur than fuel used for road vehicles. It is also agreed that there is no reliable methodology for assessing the quantity of UFPs that would result from the development. It is the quantity of these particulates, rather than their mass, that is particularly relevant in terms of implications for human health.
73. Although the development would result in increases in PM<sub>2.5</sub>, the ES and ESA demonstrate that those increases would be negligible compared to the DM scenario. It is also the case that ambient levels of PM<sub>2.5</sub> are predicted to reduce over time. The assessment considers the mass of PM<sub>2.5</sub>. While assumptions can be made about the mass of UFPs as a subset of PM<sub>2.5</sub> reducing over time, it is not possible to conclude on the number of UFPs in the absence of any recognised assessment methodology. That said, the Health Impact Assessment considered epidemiological research, which includes the existing health effects of PM<sub>2.5</sub> and thus UFPs as a subset. This concluded that there would be no measurable adverse health outcomes per annum.
74. The Aviation 2050 Green Paper proposes improving the monitoring of air pollution, including UFP. While the significance of UFP as a contributor to the toxicity of airborne particulate matter is recognised, footnote 83 of the Green Paper notes that the magnitude of their contribution is currently unclear.
75. The Council, while raising concern over UFPs, is nonetheless content that permission could be granted subject to conditions requiring monitoring of air quality. The UU secures such monitoring, and condition 10 requires implementation of an air quality strategy, which is to be approved by the Council.
76. The nearby sites of Hatfield Forest and Elsenham Woods are Sites of Special Scientific Interest (SSSI). Policy ENV7 of the ULP seeks to protect designated habitats.
77. The ES and ESA assessments were undertaken in accordance with Environment Agency<sup>13</sup> and Institute of Air Quality Management (IAQM)<sup>14</sup> guidance. The ESA demonstrates that the development would result in long-term critical loads for NO<sub>x</sub> concentrations at the designated sites being increased by less than 1%.
78. Previous monitoring has shown that 24-hour mean NO<sub>x</sub> concentrations can greatly exceed annual mean concentrations. Condition 10 requires a strategy to minimise emissions from airport operations and surface access. A condition has also been suggested which would require assessment of 24-hour mean NO<sub>x</sub> concentrations at the designated sites and provision of any necessary mitigation. The IAQM guidance states that the annual mean concentration of NO<sub>x</sub> is most relevant for its impacts on vegetation as effects are additive. The 24-hour mean concentration is only relevant where there are elevated concentrations of sulphur dioxide and ozone which is not the case in this

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<sup>13</sup> Environment Agency H1 guidance

<sup>14</sup> Institute of Air Quality Management: Land-Use Planning & Development Control: Planning for Air Quality (2017)

country. Natural England has accepted the assessment and has not requested use of the 24-hour mean concentration.

79. The UU includes obligations to monitor air quality, and to discuss with the Council the need for any measures to compensate for any adverse effect on vegetation within the designated sites. Because monitoring of air quality and necessary mitigation in respect of the SSSIs would be secured by the UU, the suggested condition to assess 24-hour mean NOx concentrations would not be necessary.
80. The ES concluded that there would be no significant effect at ecological receptors. The Council considers that the development would be acceptable in air quality terms subject to imposition of suitable conditions to limit the air quality effects and to secure mitigation measures.
81. For the reasons given, it has been demonstrated that the development would not have an unacceptable effect on air quality and that it accords with Policies ENV7 and ENV13 of the ULP.

#### *Carbon and Climate Change*

82. There is broad agreement between the parties regarding the extremely serious risks associated with climate change. These risks are acknowledged and reflected in Government policy. Indeed, in this regard, the Framework states, amongst other things, that the environmental objective of sustainable development embraces *mitigating and adapting to climate change, including moving to a low carbon economy*. It adds that *the planning system should support the transition to a low carbon future in a changing climate ... and ... should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions*.
83. Nonetheless, in spite of that general accord there remains much disagreement between the main parties to the Inquiry over how the effects of the development on climate change should be assessed, quantified, monitored and managed, including into the future.
84. The Government has recently made it clear that it will target a reduction in carbon emissions by 78% by 2035 compared to 1990 levels and that the sixth Carbon Budget, scheduled to be introduced before the end of June 2021, will directly incorporate international aviation emissions rather than by using the headroom / planning assumption approach of the previous budgets. The first of these measures will introduce a target for reducing emissions prior to the net zero target of 2050, acting as an intermediate target, and is set to be enshrined in law.
85. The latter measure will alter the way in which such emissions are accounted for. The Government intends to set the sixth Carbon Budget at the 965 MtCO<sub>2e</sub> level recommended by the CCC. As outlined above, carbon emissions from international aviation have always been accounted for in past carbon budgeting. There is no good reason to assume that the coming change in how they are accounted for will significantly alter Government policy in this regard or that the Government intends to move away from its MBU policy.
86. Indeed, the Government's press release expressly states, amongst other things, that *following the CCC's recommended budget level does not mean we are following their policy recommendations*. Moreover, it also says that *the*

*Government will 'look to meet' this reduction through investing and capitalising on new green technologies and innovation, whilst maintaining people's freedom of choice, including on their diet. For that reason, the 6CB will be based on its own analysis, and 'does not follow each of the Climate Change Committee's specific policy recommendations.'*

87. As outlined in the *National Aviation Policy and Introductory Matters* subsection, there is in-principle Government policy support for making best use of existing runways at airports such as Stansted, and MBU thoroughly tests the potential implications of the policy in terms of carbon emissions. International aviation carbon emissions are not currently included within UK carbon budgets, but rather are accounted for via an annual 'planning assumption' of 37.5MtCO<sub>2</sub>. MBU policy establishes that, even in the maximum uptake scenario tested, this carbon emissions planning assumption figure would not be compromised.
88. The contents of the ES and ESA, which - unlike MBU - specifically assess the potential impacts of the appeal development, support the conclusions of MBU in this regard. Indeed, they indicate that the proposed development would take up only an extremely small proportion of the current 'planning assumption'. For instance, the ESA shows in 2050 that the additional annual carbon emissions from all flights resulting from the development are likely to be in the region of 0.09MtCO<sub>2</sub>, which would equate to only 0.24% of the 37.5MtCO<sub>2</sub> planning assumption<sup>15</sup>.
89. This assessment assumes that the airport would not seek to use its permitted total of 274,000 ATMs in the event that the appeal were to be dismissed. Yet, in practice, it seems more likely that it would, as a commercial operator, seek to maximise flights. Consequently, the relative increase in carbon emissions resulting from the development would be likely to be less than as predicted in the ESA compared to what might happen if the proposed development were not to proceed.
90. In light of the CCC's recommendations and the Government's 20 April 2021 announcement, the 37.5MtCO<sub>2</sub> planning assumption, as a component of the planned total 965 MtCO<sub>2e</sub> budget, may well change. Even if it were to be reduced as low as 23MtCO<sub>2</sub>, as is suggested might happen by the Council's carbon/climate change witness with reference to the advice of the CCC on the sixth Carbon Budget, an increase in emissions of 0.09MtCO<sub>2</sub> resulting from the appeal development in 2050 would be only some 0.39% of this potential, reduced figure.
91. Unsurprisingly, the carbon emission figures in the ESA vary across the years modelled to 2050 and over the three scenarios employed from 2032 ('Pessimistic', 'Central' and 'Best practice'). For instance, the predicted additional annual carbon emissions from flights increases steadily from the base-year of 2019 over the years to 2032 leading to a predicted increase of some 0.14MtCO<sub>2</sub> in 2032<sup>16</sup>, which equates to 0.38% of the planning assumption. Notwithstanding these variations, in each case the annual values for all years and scenarios would, nonetheless, remain only a very small

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<sup>15</sup> 0.09MtCO<sub>2</sub> is the difference between the 'Annual Development Case Central' and the 'Annual Do Minimal Central' scenarios of the ESA

<sup>16</sup> 0.14MtCO<sub>2</sub> is the difference between the 'Development Case Pessimistic' and the 'Do Minimum Pessimistic' scenarios of the ESA



- proportion of both the Government's established planning assumption and a potentially reduced assumption of 23MtCO<sub>2</sub>.
92. Of course, these are annual emissions figures and, as such, they need to be summed in order to give the full, cumulative amount of predicted additional carbon emissions resulting from flights associated with the appeal development for any year on year period, such as the 2019 to 2050 period used in the ESA. Consequently, the cumulative additional emissions predicted in the ESA for the entire 2019-2050 period or for the 2032-2050 period are far greater than the 0.09MtCO<sub>2</sub> forecast for the year 2050. However, the Government's planning assumption of 37.5MtCO<sub>2</sub> is also an annual figure, as is the figure of 23MtCO<sub>2</sub>, such that the relative cumulative amounts of carbon emissions would remain proportionately small.
93. Notwithstanding reference to a range of planned airport development as part of the appeal process, the fact that no examples of MBU-type development having been approved since the publication of MBU were brought to the attention of the Inquiry lends further support to the conclusion that this development alone would not put the planning assumption at risk<sup>17</sup>.
94. Although UK statutory obligations under the CCA have been amended since the publication of MBU to bring all greenhouse gas emissions to net zero by 2050, with an additional target of a 78% reduction in carbon emissions by 2035 set to be introduced, MBU remains Government policy. Given all of the foregoing and bearing in mind that there are a range of wider options that the Government might employ to meet these new obligations and that aviation is just one sector contributing to greenhouse gas emissions to be considered, there is also good reason to conclude that the proposed development would not jeopardise UK obligations to reach net zero by 2050 or to achieve the planned 2035 intermediate target. On this basis, given the very small additional emissions forecast in relative terms, there is also no reason to expect that the Council's climate emergency resolution should be significantly undermined.
95. The aviation emissions assessments of the ES and ESA are reported as CO<sub>2</sub> only rather than in the wider terms of carbon dioxide equivalent emissions (CO<sub>2</sub>e), which also includes nitrous oxide (N<sub>2</sub>O) and methane (CH<sub>4</sub>), and which the Government has adopted for its sixth Carbon Budget. While it may have been beneficial to have used CO<sub>2</sub>e in preference to CO<sub>2</sub> in the ES and ESA, this was not a matter raised by the Council during scoping, nor at any other stage prior to the exchange of evidence. The approach of the ES and ESA, in this regard, is also consistent with the DfT's 2017 Forecasts and with the MBU policy. Consequently, the approach adopted in the ES and ESA is not flawed or incorrect as such. In any event, the evidence indicates that were N<sub>2</sub>O and CH<sub>4</sub> to have been included in the ES and ESA assessments, the results would not change significantly on the basis that N<sub>2</sub>O and CH<sub>4</sub> account for in the region of only 0.8 to 1.0% of total international aviation CO<sub>2</sub>e emissions.
96. In addition to carbon and carbon dioxide equivalent emissions, other non-carbon sources have the potential to effect climate change. Nonetheless, they are not yet fully understood, with significant uncertainties remaining over their effects and how they should be accounted for and mitigated. There is currently no specific Government policy regarding how they should be dealt

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<sup>17</sup> Subject to footnote 9 above

with and uncertainty remains over what any future policy response might be. Moreover, no evidence was put to the Inquiry which clearly and reliably establishes the extent of any such effects.

97. The nature of non-carbon effects resulting from aviation has parallels with carbon effects in that they are complex and challenging, perhaps even more so than carbon effects given the associated greater uncertainties, and that they largely transcend national boundaries. Consequently, in the context of MBU development, it is reasonable to conclude that they are matters for national Government, rather than for individual local planning authorities, to address. It is also noteworthy that the current advice on this matter from the CCC to the Government appears largely unchanged compared to its previous advice.
98. In this context, therefore, the potential effects on climate change from non-carbon sources are not a reasonable basis to resist the proposed development, particularly bearing in mind the Government's established policy objective of making the best use of MBU airports. Moreover, if a precautionary approach were to be taken on this matter, it would be likely to have the effect of placing an embargo on all airport capacity-changing development, including at MBU airports, which seems far removed from the Government's intention.
99. The reason for refusal relating to carbon emissions and climate change refers only to the proposed development's effects resulting from additional emissions of international flights. Nonetheless, the evidence put forward as part of the appeal process also refers to wider potential effects on climate change, including carbon emissions from sources other than international flights.
100. Discussion and testing of the evidence during the Inquiry process revealed no good reasons to conclude that any such effects would have any significant bearing on climate change. Indeed, the Statement of Common Ground on Carbon between the appellant and Council states that *the emissions from all construction and ground operation effects (i.e. all sources of carbon other than flight emissions) are not significant*. It adds that *Stansted Airport has achieved Level 3+ (carbon neutrality) Airport Carbon Accreditation awarded by the Airport Council International*.
101. Given the conclusions outlined above regarding the potential effects of the appeal development arising from international flights, the evidence does not suggest that the combined climate change effects of the development would be contrary to planning policy on such matters, including the Framework, or that it would significantly affect the Government's statutory responsibilities in this regard. Furthermore, no breach of the development plan associated with carbon/climate change is cited in the relevant reason for refusal and none has been established as part of the appeal process.
102. Accordingly, for all of the foregoing reasons, having due regard to current national aviation policy and wider planning policy, including the development plan and the Framework, the proposed development would not have a significant or unacceptable effect on carbon/climate change.

### **Other Matters**

103. Other topic areas considered during the Inquiry that are not expressly assessed above included Local Context, Health & Well Being, Ecology, Socio-Economic Impacts, and Surface Access (Road & Rail). Before assessing the

planning balance, these are considered in turn, followed by any remaining matters raised by interested parties during both the planning application stage and the appeal process.

#### *Local Context*

104. The airport is located in a pleasant rural context. Hamlets, villages and small towns, many of which have conservation areas and listed buildings, are dispersed amongst countryside. Nonetheless, the operational development proposed in this case would all be well contained within the airport boundaries.
105. The only material effect apparent in the wider area would be from increased passenger flights over time. Other types of flight are not expected to increase to their current caps as a result, given that the overall limit on annual air transport movements would not change. The main consequences of this for local people are discussed above. Given the Panel's conclusions on these matters, it is not expected that the proposed development would alter the airport's rural context or affect nearby heritage assets in any way bearing in mind the current permitted use of the airport and its likely future use were the appeal to be dismissed.

#### *Health & Well Being*

106. The Health Impact Assessment (HIA) considers health impacts arising from noise and air quality both from airport operations and from surface access, and socio-economic factors. The ES and ESA conclude that health effects in terms of air quality would be negligible and that there would be a minor beneficial effect from a reduction in the number of people exposed to night-time air noise. The ES and ESA further conclude that the development would have a major beneficial effect on public health and wellbeing through generation of employment and training opportunities and provision for leisure travel.
107. Research underpinning the WHO ENG guidelines was considered as part of the HIA, and the ES and ESA have taken a more precautionary approach than those guidelines. Whilst criticisms are made by other parties, no alternative detailed assessment has been put forward that would cast doubt on the findings of the ES and ESA or indicate that the likely effects would differ from those assessed. The conclusions of the ES and ESA are considered reliable.

#### *Ecology*

108. Given the conclusions of the Air Quality sub-section, in light of the wider evidence, including the findings of the ES and ESA, and subject to the identified suite of mitigation to be secured via the UU and conditions, there is no good reason to believe that the appeal development would have any effects on biodiversity and ecology that would warrant the refusal of planning permission.

#### *Socio-Economic Impacts*

109. The ES and ESA demonstrate that the proposal would be of social and economic benefit by enabling increased business and leisure travel. Leisure travellers would benefit from increased accessibility to foreign destinations. Businesses would benefit through increased inward investment. The economy would benefit through increased levels of employment and expenditure. Associated with employment growth, training facilities would be supported. Representatives of business, including local and regional business

organisations, transport operators, and the Stansted Airport College expressed their support for the proposal at the Inquiry. The social and economic benefits of the proposal are not disputed by the Council.

110. SSE and interested parties have questioned several of the assumptions made in the ES and ESA, including those regarding the level of job creation, the suitability of those jobs for local people and the effect of the proposal on the trade balance. The appellant has demonstrated, however, that the assumptions made in the ES and ESA are appropriate and robust. The evidence base that has been used and the modelling undertaken are also questioned but these are sufficient to demonstrate the benefits. Furthermore, even if some of the assumptions made by SSE and interested parties proved to be correct, such as a lower level of job creation than expected, a considerable number of beneficial jobs would still be created.
111. It is likely that increased economic prosperity in the south-east and east of England would not be at the expense of growth elsewhere in the country but would rather assist the growth of the UK economy as a whole. There is no reason to believe that the development would divert investment from other parts of the country that need investment or prejudice the Government's 'levelling-up' agenda, particularly as the development seeks to meet an established need for airport expansion in the south-east of England.

#### *Surface Access*

112. As outlined above, both Highways England and Essex County Council withdrew from the appeal proceedings following the identification of a mechanism to secure the delivery of a suite of highways related mitigation. No objections have been made to the appeal scheme by Network Rail or by the rail operators that serve Stansted. Indeed, there is broad support from those quarters. There are, nonetheless, remaining concerns expressed by other parties, including SSE, regarding surface access.
113. Notwithstanding that criticism is made of the methodology, assumptions and evidence that has led the statutory highway authorities and rail operators to their respective current positions, they appear to be well founded, based on a good understanding of the operation of the airport and the surrounding surface access infrastructure, both rail and highway, including capacity and modal share. This includes in respect to dealing with two-way car trips and the likely effects of the development on the highway network through Stansted Mountfitchet and Takeley, which were the subject of considerable discussion at the Inquiry. No alternative traffic counts, surveys, modelling or comprehensive assessment of the potential effects of the development in respect to surface access have been put to the Panel.
114. The Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The evidence put to the Inquiry falls far short of demonstrating that this would be the case.
115. Subject to securing and delivering the range of proposed mitigation, which includes improvements to Junction 8 of the M11 and the Prior Wood Junction, as well as to the local road network and to public transport, the development would have no significant effects in terms of surface access. Moreover,

Stansted Airport is and would continue to be well served by the strategic highway network and wide ranging public transport services, including its integrated rail, bus and coach stations.

### *Other Considerations*

116. There was much discussion during the Inquiry and in written evidence about previous expansion at the airport and the conclusions of decision makers at that time. The last planning permission to increase the capacity of the airport was granted in 2008. Putting aside that previous applications did not involve the form of development sought here, planning policy and other considerations have changed significantly since that time and it is not possible to draw any meaningful parallels with the consideration of this appeal.
117. Public engagement occurred in advance of the planning application, as set out in the Statement of Community Involvement (February 2018), the results of which informed the development now under consideration. Further extensive consultation took place at both the planning application and appeal stages and a significant number of responses have been received, both supporting and opposing the scheme, covering a range of topics. The Panel is satisfied that all statutory requirements have been met in these regards and that interested parties have had good opportunity to comment and engage with the planning application and appeal processes.
118. The planning application and appeal have progressed in accordance with normal process and procedure and there is no evidence before the Inquiry that suggests otherwise. It was necessary to hold the Inquiry using a virtual format in accordance with the Planning Inspectorate's Interim Operating Model and in light of restrictions in place as a result of the pandemic. This allowed the appeal to progress in an efficient and expedient way, whilst upholding the opportunity for interested parties to engage with the process. Indeed, many local people and organisations spoke at the Inquiry over several days. It would not have been appropriate to unnecessarily delay the appeal pending potential changes in Government or local policy. Appeals must be determined in accordance with the circumstances at the time of the decision.
119. The respective Secretaries of State were asked several times to recover the appeal for their own determination but declined to do so, determining that the issues involved are of no more than local significance. There is no requirement for appeals to be recovered and the Panel has properly considered the proposals on behalf of the Secretary of State, having had regard to all the evidence, including the case made by the Council and comments from local people. There is a statutory right to appeal planning decisions which is vital to the operation of the planning system and the public costs involved are not a material consideration.
120. In addition to the foregoing matters, concern has been expressed by a range of interested parties, including by Parish Councils. These cover a range of topics, including: local infrastructure, services and facilities, and their potential cost to the public sector; vibration; malodour; rat-running; public safety and risk; water resources, sewerage and flooding; wider pollution issues, including littering and from light; effects on agriculture; parking, including 'fly parking' and the cost of drop-off at the airport; demand for more housing, including affordable housing; the combined effects of planned airport development elsewhere; the 'monopoly' held by the appellant at the airport; the local



economy being said to be over-reliant on the airport; current and potential future flight paths; the effects of stacking aircraft; the physical works proposed are said not to be needed to support the proposed changes to flight and passenger numbers; the existing quality of the airport, including security, management and size; a new airport should be developed in the Thames Estuary instead of the appeal scheme; damage to the highway network, including erosion, and to property; stress for residents and businesses associated with uncertainty over development and activity at the airport; and alleged aviation fuel dumping.

121. These matters are largely identified and considered within the Council officer's reports on the appeal development. They were also before the Council when it prepared its evidence and when it submitted its case at the Inquiry and are largely addressed in its evidence and in the various statements of common ground. The Council did not conclude that they would amount to reasons to justify withholding planning permission. The Panel has been provided with no substantiated evidence which would prompt us to disagree with the Council's conclusions in these respects subject to the UU and the imposition of planning conditions.

122. Some of the submissions from interested parties refer to potential interference with human rights. Given the foregoing conclusions, particularly in terms of the appeal process and the main issues, any interference with human rights that might result from the appeal being allowed would not be sufficient to give rise to a violation of rights under Article 1 of the First Protocol to the Convention, as incorporated by the Human Rights Act 1998.

123. Interested parties have also referred to a number of matters which are either not planning matters or not relevant to the appeal. These include property values, compensation claims, and the conduct and motives of the appellant and of Council members and officers. Any potential future development or further increase in capacity at the airport would require a further planning application which would be subject to the Council's consideration. The lawfulness or otherwise of past development at the airport is a matter for the Council, as local planning authority.

### **Planning Obligations**

124. Planning obligations made under S106 of the Town and Country Planning Act 1990 as a Unilateral Undertaking, dated 26 March 2021 (the UU), were completed after the Inquiry closed in line with an agreed timetable. In the event that planning permission were to be granted and implemented it would be subject to the obligations of the UU, which would include the securing of:

- Noise Mitigation - a new enhanced sound insulation grant scheme for a defined area in the vicinity of the airport to replace existing measures. This would include a greater number of properties than the existing scheme through use of a lower noise contour;
- Transport
  - Mechanisms and funding to secure improvements to Junction 8 of the M11 and to the Priory Wood Junction, local road network improvements and monitoring, and local bus service improvements;
  - The airport operator shall join the Smarter Travel for Essex Network;

- Expanded Sustainable Transport Levy (to replace the existing Public Transport Levy) to be used to promote the use of sustainable transport by passengers and airport staff;
  - Enhanced rail users discount scheme, with higher rate of discount and revised eligibility;
  - Revised targets for mode share (applying 'reasonable endeavours' to achieve those targets) – non-transfer passenger mode share of 50% by public transport, of 20% (by 39mppa) and 12% (by 43mppa) by 'kiss and fly', and 55% (by 39mppa) of staff access by single occupancy private car; updated working arrangements for the airport's Transport Forum, Airport Surface Access Strategy and Travel Plan; and a study of and pursuant improvements to the on-site bus and coach station;
- Skills, education and employment – continuance of the Stansted Airport Employment Forum and Combined Local Benefits, including the on-site education centre for local children and schools, the on-site airport Employment Academy, Stansted Airport College, and local supply chain support;
  - Community - a new, replacement Community Trust Fund to help mitigate any adverse health and / or quality of life effects arising from the development as a result of increased noise levels and a reduction in the amenity of local green spaces;
  - Air Quality and Ecology – protection and enhancement of environmentally sensitive sites, including air quality and ecological monitoring at the airport, Eastend Wood and Hatfield Forest, and pursuant compensation;
  - Water quality – retention of the requirement to monitor local watercourses; and
  - Monitoring – payments to support the Council's costs associated with monitoring the UU's planning obligations.
125. The Council has submitted detailed statements (the CIL Statements), which address the application of statutory requirements to the planning obligations within the UU and also set out the relevant planning policy support / justification. Having considered the UU in light of Regulation 122 of the CIL Regulations and Government policy and guidance on the use of planning obligations, we are satisfied that most of the obligations therein would be required by and accord with the policies set out in the CIL Statements.
126. The exception to this is the inclusion of Thaxted Primary School within the SIGS in Schedule 2 Part 1 of the UU, for the reasons outlined in the *Noise* section above. For those reasons, its inclusion is not necessary and as such does not accord with the CIL Regulations. Subject to this exception, the SIGS is necessary to ensure the development accords with national and local policy requirements to minimise and mitigate adverse noise impact and to avoid significant adverse impact.
127. Subject to the above noted exception, the Panel is satisfied that the remainder of the obligations are directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms. Furthermore, the UU and its terminology are sufficiently precise and enforceable.

## Conditions

128. Conditions were suggested by all three main parties to the appeal in the event that planning permission were to be granted, and these have been taken into account in formulating the conditions imposed.
129. A five year period for the commencement of development has been imposed rather than the standard three year period promoted by the Council, to allow greater flexibility in light of the anticipated impact of the pandemic on the airport and wider aviation industry. Although not suggested by any party, it is also considered necessary in the interests of certainty to specify the plans approved and with which the development must accord.
130. A scheme of water resource efficiency measures is secured to minimise water consumption in accordance with Policy GEN2 of the ULP. It is also considered necessary to secure a surface water drainage scheme in order to avoid flooding as a result of the development.
131. A Construction Environmental Management Plan is needed to minimise the impact of the works on neighbouring occupants and to ensure that acceptable living conditions are maintained in accordance with Policy GEN4 of the ULP.
132. A Biodiversity Management Strategy is necessary in light of findings contained within the submitted ecological surveys. There is a need to conserve and enhance protected and priority species in accordance with statutory obligations and Policy GEN7 of the ULP.
133. For the same reason, the mitigation and enhancement measures and/or works identified in the Preliminary Ecological Appraisal (Feb 2018), Preliminary Ecological Appraisal Update (October 2020) and Ecology Mitigation Strategy (February 2018), are necessary. The Preliminary Ecological Appraisal Update is referenced as the most up to date appraisal, which includes measures beyond those contained in the Ecological Mitigation Strategy, in particular, provisions for the protection of ground nesting birds. A licence will also be required from Natural England, who do not object to the appeal proposal, for the translocation of protected species.
134. Condition 7 restricts noise emanating from aircraft in line with that permissible under the extant planning permission up to 35 million passengers per annum. After that, a progressive improvement in noise conditions is secured over time in line with the ES/ESA predictions to protect the living conditions of neighbouring occupants in accordance with Policy ENV11 of the ULP, and consistent with the APF's objective to share the benefit of improvements to technology with local communities.
135. There are currently no noise restrictions imposed by planning condition for night flights and Stansted, as a designated airport, is controlled by separate night flight operating restrictions imposed by the DfT. These operate on a Quota Count system over a 6.5 hour night-time period, meaning that there is a 1.5 hour period that remains uncontrolled, beyond the 16 hour daytime period imposed by condition 7. In order to ensure certainty that the noise impacts of the development will be as anticipated in the ES/ESA, and to avoid harm to the living conditions of local residents, it is considered necessary to impose a night-time restriction by condition in this case, alongside the daytime restrictions and notwithstanding some existing DfT control.

136. In order to clarify the terms of the planning permission and to ensure that the development and associated effects do not exceed those assessed, conditions are attached which restrict the total number of aircraft movements, the number of cargo air transport movements and passenger throughput during any 12 month period.
137. There is dispute between the parties regarding whether and to what extent it is necessary to control the effects of noise, air quality and carbon arising from the development.
138. Condition 7, discussed above, satisfactorily secures a betterment in noise conditions over time so as to make the development acceptable, such that there is no need or justification for imposing further measures in respect to noise.
139. The effect of the development on local air quality is expected to be very small and would not put nationally prescribed air quality standards or limits at risk in the area. Nevertheless, the appellant proposes a condition to secure an Airport Air Quality Strategy that would be updated over time in a continued effort to minimise emissions and contribute to compliance with relevant limit values or national objectives for pollutants. The provision of electric vehicle charging points can also be secured by separate condition as a measure necessary to minimise air pollution associated with the development. This is considered sufficient to make the development acceptable in planning terms, in accordance with Policy ENV13 of the ULP and the objectives of the Framework.
140. International aviation emissions are not currently directly included in UK carbon budgets and Government policy is clear that there is sufficient headroom for MBU development at all airports, including Stansted. Carbon emissions associated with the development from sources other than international aviation are expected to be relatively small and would not themselves materially impact upon carbon budgets, including the planned sixth Carbon Budget which will directly include international aviation emissions, or otherwise conflict with the objectives of the Framework. As such, a condition limiting carbon is not necessary.
141. The appeal proposal accords with current policy and guidance and there is no evidence that it would compromise the ability of future generations to meet their own needs. The conditions discussed above are sufficient to make the development acceptable in planning terms.
142. The Council proposes alternative conditions to deal with noise, air quality and carbon. Its primary case involves a condition, referred to during the Inquiry as 'condition 15', which would impose restrictions based upon the impacts assessed in the ES/ESA, along with future more stringent restrictions (using some interpolated data from the ES/ESA) and a process that would require the Council's reassessment and approval periodically as the airport grows under the planning permission, allowing for a reconsideration against new, as yet unknown, policy and guidance. In light of the Panel's conclusions on these matters, there is no policy basis for seeking to reassess noise, air quality or carbon emissions in light of any potential change of policy that might occur in the future. Furthermore, it would be likely to seriously undermine the certainty that a planning permission should provide that the development could be fully implemented. This appeal must be determined now on the basis of

- current circumstances and the proposed 'condition 15' is not necessary or reasonable.
143. As an alternative to 'condition 15', two other conditions (dealing with air quality and carbon) are suggested by the Council. These would also impose future restrictions defined by the Council. Again, it follows from our conclusions on the main issues that these are not necessary to make the development acceptable in planning terms, so these have not been imposed.
144. It is also unnecessary to require an assessment of impacts of the full proposed airport expansion on 24-hour mean NO<sub>x</sub> concentrations at Elsenham Woods SSSI and Hatfield Forest SSSI given that this has not been requested by Natural England and the ES/ESA indicates that the development would not be significant in ecology terms.
145. SSE suggested a separate set of conditions, though many were broadly in line with those agreed between the Council and the appellant as considered above. No additional trigger for the commencement of development is needed as this permission must necessarily have been implemented for passenger numbers to exceed 35 million in any 12-month period. Noise restrictions beyond that imposed by condition 7 are suggested by SSE but these seek arbitrary limits with no certainty that they would be achievable. They are not necessary or reasonable in light of the Panel's findings as outlined above. Similarly, no evidence was put to the Inquiry which would justify imposing specific restrictions on helicopter movements. Publication of passenger throughput figures on the airport's website is not necessary to make the development acceptable, as conceded by SSE during the Inquiry.
146. SSE also sought a requirement for the provision of a taxi holding area close to the terminal to minimise unnecessary empty running, whereby taxis drop off at the airport but do not pick-up a return fare. A taxi company is already based at the airport and the appellant explained that it has recently provided a holding area within the mid-stay car park that might assist with such concerns. Regardless, extensive sustainable transport measures are secured by planning obligations so that a specific requirement of this type is unnecessary.
147. Additional air quality and carbon requirements to those sought by the Council were suggested by SSE but given the Panel's conclusions on these matters, these are not reasonable or necessary. Finally, SSE sought restrictions on future applications for development at the airport in terms of passenger numbers or a second runway, though recognised the difficulties of complying with the tests for conditions. Such restrictions are not relevant to the development being sought and would not be necessary or reasonable.
148. The wording of conditions has been amended as necessary to improve their precision and otherwise ensure compliance with the tests for conditions contained in the Framework. So far as the conditions require the submission of information prior to the commencement of development, the appellant has provided written confirmation that they are content with the wording and reasons for being pre-commencement requirements.



## Planning Balance

149. The development plan, so far as it is relevant to this appeal, is the ULP. Although dated, it contains a number of policies<sup>18</sup> relevant to this proposal which are not materially inconsistent with the objectives of the Framework and continue to provide a reasonable basis upon which to determine the appeal, alongside other material considerations.
150. Policy S4 of the ULP provides for development directly related to or associated with Stansted Airport to be located within the boundaries of the airport.
151. Policy ENV11 of the ULP seeks to avoid harm to noise sensitive uses. The evidence indicates that the overall effect of the proposal on aircraft noise would be beneficial. Even at their peak, noise levels would not exceed that permissible under the existing planning permission. After that, it is expected that noise would reduce as a result of factors such as fleet mix and advances in technology. This improvement in noise conditions over time can be secured by condition in line with Government policy to share the benefits of airport expansion with local communities. As such, there would be no conflict with Policy ENV11 or the similar objectives of the Framework to protect living conditions.
152. Not all development can have the effect of improving air quality and by its very nature, there would inevitably be some additional air pollution from the proposed development which must weigh against the proposal. However, the ES/ESA assesses the impacts as being negligible at all human receptors and no exceedances of the air quality standards are predicted for any of the pollutants at human receptors in the study area. NO<sub>x</sub> concentrations at all ecological receptors are predicted to be below the critical level/air quality standard of 30µg/m<sup>3</sup> for all scenarios tested. The predicted changes in nitrogen deposition at the Hatfield Forest SSSI and NNR and Elsenham Woods SSSI remain less than 1% of the sites' lower critical loads. Ongoing monitoring of air quality within the SSSIs is provided for within the submitted Unilateral Undertaking. Overall, there would be no material change in air quality as a result of the development. As such, there would be no conflict with Policy ENV13 of the ULP, which seeks to avoid people being exposed on an extended long-term basis to poor air quality; or the similar objectives of the Framework.
153. Carbon emissions are predominantly a matter for national Government and the effects of airport expansion have been considered, tested and found to be acceptable in MBU. It is clear that UK climate change obligations would not be put at risk by the development, including in light of the Government's 20 April 2021 announcement. Carbon emissions from other sources associated with the development, such as the operation of airport infrastructure, on site ground based vehicles and from people travelling to and from the site are relatively small and would be subject to extensive sustainable transport measures secured by conditions and obligations that would minimise impacts as far as possible. Therefore, this matter weighs against the proposal only to a limited extent and could not be said to compromise the ability of future generations to meet their needs, or otherwise conflict with the objectives of the Framework taken as a whole.

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<sup>18</sup> Relevant ULP policies were reviewed by the Council and the appellant for the purposes of the appeal

154. The Highway Authorities are satisfied that the development would not unacceptably affect highway safety or capacity and the Panel agrees. All infrastructure and mitigation measures required to make the development acceptable in planning terms can be secured by conditions or planning obligations. On this basis, there would be no conflict with ULP Policies GEN1, GEN6, GEN7, ENV7, ENV11 or ENV13 so far as they require infrastructure delivery or mitigation.
155. The Council and the appellant agree that the proposed development accords with the development plan, taken as a whole. It is further agreed that the Framework's presumption in favour of sustainable development should apply as a result of the proposals' accordance with an up-to-date development plan<sup>19</sup>. In these circumstances the Framework states that development should be approved without delay.
156. In addition, the scheme receives very strong support from national aviation policy. Taken together, these factors weigh very strongly in favour of the grant of planning permission. Furthermore, the development would deliver significant additional employment and economic benefits, as well as some improvement in overall noise and health conditions.
157. The Council has recently withdrawn its emerging Local Plan such that it has no prospect of becoming part of the development plan and attracts no weight in the determination of this appeal. There are a number of made Neighbourhood Plans in the local area, but none contain policies that have a bearing on the outcome of the appeal.
158. Overall, the balance falls overwhelmingly in favour of the grant of planning permission. Whilst there would be a limited degree of harm arising in respect of air quality and carbon emissions, these matters are far outweighed by the benefits of the proposal and do not come close to indicating a decision other than in accordance with the development plan. No other material considerations have been identified that would materially alter this balance.

## **Conclusion**

159. In light of the above, the appeal is allowed.

*Michael Boniface*

INSPECTOR

*G D Jones*

INSPECTOR

*Nick Palmer*

INSPECTOR

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<sup>19</sup> Framework paragraph 11(c)

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Philip Coppel, of Queens Counsel  
and Asitha Ranatunga, of Counsel

Instructed by Elizabeth Smith, Interim Legal  
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They called

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### FOR THE APPELLANT:

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They called

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FOR STOP STANSTED EXPANSION:

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Wald, both of Queens Counsel

Instructed by Brian Ross, Deputy Chairman  
of Stop Stansted Expansion (SSE)

They called<sup>20</sup>

Ken McDonald FCA

Founder, Secretary and Trustee of The  
Hundred Parishes Society and SSE Executive  
Committee Member

Brian Ross<sup>21</sup> BCom(Hons)  
MBA FRSA MSPE

Deputy Chairman of SSE

Peter Lockley MA

Barrister

Michael Young BA(Hons)  
FCA

SSE Executive Committee Member

Bruce Bamber BSc MA MSc  
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Director of Railton TPC Ltd

INTERESTED PERSONS:

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The Three Horseshoes Public House, Duton  
Hill

Vere Isham

Broxted Parish Council

Dr Graham Mott

Elsenham Parish Council

Cllr Jenny Jewell

Great Canfield Parish Council

Neville Nicholson

Helions Bumpstead Parish Council

Dr Zoe Rutterford

Henham Parish Council & Chickney Parish  
Meeting

Cllr Neil Reeve

High Easter Parish Council

Julia Milovanovic

Moreton Bobbingworth & The Lavers Parish  
Council

Peter Jones

Stansted Mountfitchet Parish Council

Cllr Barrett

Stebbing Parish Council

Cllr Geoff Bagnell

Takeley Parish Council

Cllr Duncan McDonald

Much Hadham Parish Council

Richard Haynes JLL

Thaxted Parish Council

John Devoti

Howe Green and Great Hallingbury Residents

Alex Daar

Chairman of East Hertfordshire Green Party

Tim Johnson

The Aviation Environment Federation

Alex Chapman

New Economics Foundation

Jonathan Fox

Local Resident

Michael Belcher

Local Resident

Maggie Sutton

Local Resident

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<sup>20</sup> Although other proofs of evidence were submitted in support of SSE's case, including those of Peter Sanders CBE MA DPhil, Prof Jangu Banatvala CBE MA MD(Cantab) FRCP FRCPath FMedSci DPH, Martin Peachey MA(Cantab), John Rhodes MA(Oxon), Dr Claire Holman and Colin Arnott BA MPhil MRTPI, only the five witnesses listed were called to give evidence at the Inquiry

<sup>21</sup> Mr Ross gave evidence in respect to the Inquiry topics of 'air traffic forecasting and predictions', 'socio-economic impacts' and 'planning matters'. For the latter of these topics he adopted the proof of evidence of Mr Arnott

Simon Havers	Local Resident
Irene Jones	Local Resident
Mark Johnson	Local Resident
Edward Gildea	Uttlesford Green Party
Raymond Woodcock	Local Resident
Cliff Evans	Local Resident
George Marriage	Local Resident
Quintus Benziger	Local Resident
Jonathan Richards	Local Resident
Vincent Thompson	Local Resident
Peter Franklin	Local Resident
Roger Clark	Local Resident
Martin Berkeley	Local Resident
Suzanne Walker	Local Resident
David Burch	Director of Policy, Essex Chamber of Commerce
Andy Walker	Director of Policy, Suffolk Chamber of Commerce
Freddie Hopkinson	CBI East
Harriet Fear MBE	Chair, Cambridge Ahead
Pete Waters	Executive Director, Visit East of England
Dr Andy Williams	UK VP Strategy, AstraZeneca
Martyn Scarf	UK Director, World Duty Free
Chris Hardy	Managing Director, National Express
Jonathan Denby	Director of Corporate Affairs, Greater Anglia
Karen Spencer MBE	Principal, Stansted Airport College
Robert Beer	The Easter and Rodings Action Group



**SCHEDULE OF CONDITIONS FOR APPEAL REF APP/C1570/W/20/3256619:**

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this decision.
2. Prior to reaching 35mppa, a scheme for the provision and implementation of water resource efficiency measures during the operational phases of the development shall be submitted to and approved in writing by the local planning authority. The scheme shall include the identification of locations for sufficient additional water meters to inform and identify specific measures in the strategy. The locations shall reflect the passenger, commercial and operational patterns of water use across the airport. The scheme shall also include a clear timetable for the implementation of the measures in relation to the operation of the development. The approved scheme shall be implemented, and the measures provided and made available for use in accordance with the approved timetable.
3. Prior to the commencement of construction works, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The construction works shall subsequently be carried out strictly in accordance with the approved CEMP, unless otherwise approved in writing by the local planning authority.

The CEMP shall incorporate the findings and recommendations of the Environmental Statement and shall incorporate the following plans and programmes:

- (a) External Communications Plan
  - (i) External communications programme
  - (ii) External complaints procedure
- (b) Pollution Incident Prevention and Control Plan
  - (i) Identification of potential pollution source, pathway and receptors
  - (ii) Control measures to prevent pollution release to water, ground and air (including details of the surface/ground water management plan)
  - (iii) Control measures for encountering contaminated land
  - (iv) Monitoring regime
  - (v) Emergency environmental incident response plan
  - (vi) Incident investigation and reporting
  - (vii) Review/change management and stakeholder consultation
- (c) Site Waste Management Plan
  - (i) Management of excavated materials and other waste arising
  - (ii) Waste minimisation
  - (iii) Material re-use
- (d) Nuisance Management Plan (Noise, Dust, Air Pollution, Lighting)
  - (i) Roles and responsibilities
  - (ii) Specific risk assessment – identification of sensitive receptors and predicted impacts
  - (iii) Standards and codes of practice
  - (iv) Specific control and mitigation measures
  - (v) Monitoring regime for noise

- (e) Management of Construction Vehicles
  - (i) Parking of vehicles of site operatives
  - (ii) Routes for construction traffic

The CEMP shall include as a minimum all measures identified as "Highly Recommended" or "Desirable" in IAQM "Guidance on the assessment of dust from demolition and construction," Version 1.1 2014 commensurate with the level of risk evaluated in accordance with the IAQM guidance, for construction activities which are within the relevant distance criteria from sensitive locations set out in Box 1 and Tables 2, 3 and 4 of the IAQM guidance.

The CEMP shall provide for all heavy goods vehicles used in the construction programme to be compliant with EURO VI emissions standards, and for all Non Road Mobile Machinery to be compliant with Stage V emissions controls as specified in EU Regulation 2016/1628, where such heavy goods vehicles and Non Road Mobile Machinery are reasonably available. Where such vehicles or machinery are not available, the highest available standard of alternative vehicles and machinery shall be used.

4. Prior to commencement of the development, a detailed surface water drainage scheme for the airfield works hereby approved based on the calculated required attenuation volume of 256m<sup>3</sup>, shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented before any of the aircraft stands and taxiway links hereby approved are brought into use. The scheme shall be implemented in accordance with the approved details as part of the development, and shall include but not be limited to:
  - Detailed engineering drawings of the new or altered components of the drainage scheme;
  - A final drainage plan, which details exceedance and conveyance routes, and the location and sizing of any drainage features; and
  - A written report summarising the scheme as built and highlighting any minor changes to the approved strategy.
5. A Biodiversity Management Strategy (BMS) in respect of the translocation site at Monks Farm shall be submitted to, and approved in writing by, the local planning authority prior to the commencement of construction works. The BMS shall include:
  - Description and evaluation of features to be managed;
  - Ecological trends and constraints on site that might influence management;
  - Aims and objectives of management;
  - Appropriate management options for achieving aims and objectives;
  - Prescriptions for management actions;
  - Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period);
  - Details of the body or organisation responsible for implementation of the Strategy; and
  - Ongoing monitoring and remedial measures.

The Strategy shall also set out (where the results from monitoring show that conservation aims and objectives of the BMS are not being met) how

contingencies and/or remedial action shall be identified, approved by the local planning authority and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The BMS shall be implemented in accordance with the approved details.

6. All ecological mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Stansted – Ecology Mitigation Strategy (RPS, February 2018) forming part of Appendix 16.1 and 16.2 of the Environmental Statement and in the Conclusions and Recommendations of the Preliminary Ecological Appraisal Update (RPS, 5 October 2020), Appendix 16.A of the Environmental Statement Addendum.
7. The area enclosed by the 57dB(a) Leq, 16h (0700-2300) contour shall not exceed 33.9 sq km for daytime noise.

By the end of the first calendar year that annual passenger throughput exceeds 35million, the area enclosed by the following contours shall not exceed the limits in Table 1:

54 dB L <sub>Aeq, 16hr</sub>	57.4 km <sup>2</sup>
48 dB L <sub>Aeq, 8hr</sub>	74.0 km <sup>2</sup>

By the end of 2032 or by the end of the first calendar year that annual passenger throughput reaches 43million (whichever is sooner), Stansted Airport Limited, or any successor or airport operator, shall reduce the areas enclosed by the noise contours as set out in Table 2. Thereafter the areas enclosed by the contours as set out in Table 2, shall not be exceeded.

54 dB L <sub>Aeq, 16hr</sub>	51.9 km <sup>2</sup>
48 dB L <sub>Aeq, 8hr</sub>	73.6 km <sup>2</sup>

For the purposes of this condition, the noise contour shall be calculated by the Civil Aviation Authority's Environmental Research and Consultancy Department (ERCD) Aircraft Noise Contour model (current version 2.4), (or as may be updated or amended) or, following approval by the local planning authority, any other noise calculation tool such as the Federal Aviation Administration Aviation Environmental Design Tool (current version 3.0c) providing that the calculations comply with European Civil Aviation Conference Doc 29 4<sup>th</sup> Edition (or as may be updated or amended) and that the modelling is undertaken in line with the requirements of CAA publication CAP2091 (CAA Policy on Minimum Standards for Noise Modelling). All noise contours shall be produced using the standardised average mode.

To allow for the monitoring of aircraft noise, the airport operator shall make noise contour mapping available to the local planning authority annually as part of demonstrating compliance with this condition. Contours should be provided in 3dB increments from 51 dB L<sub>Aeq, 16hr</sub> and 45 dB L<sub>Aeq, 8hr</sub>.

8. The passenger throughput at Stansted Airport shall not exceed 43 million passengers in any 12 calendar month period. From the date of this permission, the airport operator shall report the monthly and moving annual total numbers of passengers in writing to the local planning authority no later than 28 days after the end of the calendar month to which the data relate.

9. There shall be a limit on the number of occasions on which aircraft may take-off or land at the site of 274,000 Aircraft Movements during any 12 calendar month period, of which no more than 16,000 shall be Cargo Air Transport Movements (CATMs). From the date of the granting of planning permission, the developer shall report the monthly and moving annual total numbers of Aircraft Movements, Passenger Air Transport Movements and CATMs in writing to the local planning authority no later than 28 days after the end of the calendar month to which the data relate.

The limit shall not apply to aircraft taking off or landing in any of the following circumstances:

- a) The aircraft is required to land at the airport because of an emergency, a divert or any other circumstance beyond the control of the operator and commander of the aircraft; or
  - b) The aircraft is engaged on the Head of State's flight, or on a flight operated primarily for the purposes of the transport of Government Ministers or visiting Heads of State or dignitaries from abroad.
10. Prior to the airport first handling 35mppa, an Airport Air Quality Strategy (AAQS) shall be submitted to and approved in writing by the local planning authority. The AAQS shall set out how the airport operator shall take proportionate action to contribute to compliance with relevant limit values or national objectives for pollutants through:
- a) Measures to minimise emissions to air from its own operational sources;
  - b) Measures to influence actions to be undertaken to improve air quality from third party operational sources; and
  - c) Measures that reduce emissions through the Airport Surface Access Strategy (ASAS), the Sustainable Transport Levy and the Local Bus Network Development Fund.

Thereafter, the AAQS shall be reviewed at the same time as the ASAS reviews (at least every 5 years or when a new or revised air quality standard is placed into legislation) and submitted to and be approved in writing by the local planning authority. At all times the AAQS shall be implemented as approved, unless otherwise approved in writing by the local planning authority.

11. Within 6 months of the date of this planning permission a scheme for the installation of rapid electric vehicle charging points at the airport shall be submitted to and approved in writing by the local planning authority. The scheme shall indicate the number and locations of the charging points and timetable for their installation. The approved scheme shall be fully implemented in accordance with the approved timetable and retained thereafter.
12. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan: NK017817 – SK309; Site Plan: 001-001 Rev 01; Mike Romeo RET: 001-002 Rev 01; Yankee Remote Stands: 001-003 Rev 01; Runway Tango: 001-004 Rev 01 and Echo Stands: 001-005 Rev 01.

## Appendix B: Manston Decision





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for Transport

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18 August 2022

Dear Sirs,

**PLANNING ACT 2008  
APPLICATION FOR THE PROPOSED MANSTON AIRPORT DEVELOPMENT  
CONSENT ORDER**

**1. Introduction**

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to say that consideration has been given to the Application dated 17 July 2018 by RiverOak Strategic Partners Limited under section 37 of the Planning Act 2008 for the development and reopening of Manston Airport to operate as a dedicated air freight facility (“the Development”).

2. The Application was accepted for examination on 14 August 2018. A panel of four Inspectors, Kelvin MacDonald, Martin Broderick, Jonathan Hockley and Jonathan Manning (“the Examining Authority”), were appointed by the Planning Inspectorate to examine the Application.

3. The examination was conducted on the basis of written and oral submissions submitted to the Examining Authority and by eight issue-specific hearings, two compulsory acquisition hearings and four open floor hearings held in Margate and Sandwich in Kent. The Examining Authority also conducted one unaccompanied site inspection on 8 January 2019 and one accompanied site inspection on 19 March 2019. The examination of the Application was completed on 9 July 2019.

4. A decision to grant development consent for the Development was published on 9 July 2020. On 15 February 2021, the High Court of Justice quashed the decision grant the Development consent. Following the High Court’s judgement, the Secretary of State is now required to redetermine the Application.

5. Although the 9 July 2020 decision letter refers to the decision of “the Secretary of State”, the Rt Hon Grant Shapps was not involved in the decision to grant development consent because of a conflict of interest following previous statements of support made prior to his appointment as the Secretary of State for Transport. For

the same reason, the Secretary of State played no role in the redetermination of the decision on this Application. The 9 July 2020 decision was taken by the Minister of State for Transport at the time, Andrew Stephenson. This decision has been re-taken by the Parliamentary Under Secretary of State for Transport, Karl M<sup>c</sup>Cartney. While both the 9 July 2020 and this decision have not been taken by the Secretary of State, by law, they must be issued in the name of the Secretary of State.

6. The Examining Authority's report ("ER") was published on the Planning Inspectorate's website alongside the decision of the Secretary of State dated 9 July 2020. The Examining Authority's findings and conclusions are set out in sections 4 to 10, and the Examining Authority's overall summary conclusions and recommendations are set out in section 11.

7. The Order, as applied for, seeks permission for both the use of the existing runway and other airport infrastructure and the introduction of new facilities comprising:

- the upgrade of runway 10/283 and re-alignment of the parallel taxiway;
- stands for multiple air freight aircrafts;
- installation of new high mast lighting for aprons and stands;
- construction of cargo facilities;
- construction of a new air traffic control tower;
- construction of a new airport fuel farm;
- construction of a new airport rescue and firefighting service station;
- development of the Northern Grass Area for airport-related businesses;
- highway improvement works;
- extension of passenger service facilities including an apron extension to accommodate an additional aircraft stand and increasing the current terminal size;
- an aircraft maintenance, repair and overhaul facility and end-of-life recycling facilities;
- a flight training school;
- a fixed base operation for executive travel; and
- business facilities for aviation-related organisations [ER 1.1.3].

8. The Secretary of State notes that 2052 relevant representations ("RR") were received in the RR period, and all those who submitted RRs were provided with an opportunity to become involved in the examination of the Application as Interested Parties [ER 1.4.26]. There were also 23 submissions which purported to be RRs but could not be treated as such because they were either late or not in the prescribed form or both. These were accepted as Additional Submissions to the examination. Apart from Canterbury City Council, which as a Local Authority is an Interested Party, the parties who made these representations were treated as Other Persons for the purposes of the Examination [ER 1.4.27]. In all, the Examining Authority accepted 585 representations as Additional Submissions, which were considered by the Examining Authority to be potentially important and relevant to the examination [ER 1.4.28]. The Applicant, Interested Parties and Other Persons were provided with opportunities to make Written Representations, comment on Written Representations from the Applicant and other Interested Parties, summarise their oral submissions made during the examination in writing, and comment on documents issued for consultation by the

Examining Authority. All Written Representations and other examination Documents were also taken into account by the Examining Authority [ER 1.4.29 – 1.4.30].

## **II. Summary of the Examining Authority's Recommendation**

9. The main issues considered by the Examining Authority during the examination were:

- a) need for the Development;
- b) air quality;
- c) archaeology and the historic environment;
- d) biodiversity;
- e) climate change;
- f) ground conditions;
- g) landscape, design and visual impact
- h) noise and vibration;
- i) operational matters;
- j) socio-economics;
- k) traffic and transport;
- l) water resources;
- m) habitats regulations assessment; and
- n) compulsory acquisition.

10. The Examining Authority concluded that the Applicant had failed to demonstrate sufficient need for the Proposed Development, additional to (or different from) the need which is met by the provision of existing airports, and that is important and relevant against the case for development consent being given [ER 8.3.2].

11. The Examining Authority ascribed public benefits considerable weight in favour of the Development [ER 6.3.216 & 8.2.99] and concluded that overall, the socio-economic benefits from the Development weigh moderately in favour of the granting of development consent [ER 8.2.189].

12. The Examining Authority concluded that the impact from the Development on the following receptors are neutral in the consideration of the granting of development consent:

- air quality [ER 8.2.43];
- biodiversity [ER 8.2.62];
- ground conditions [ER 8.2.82];
- landscape and visual impact [ER 8.2.120]; and
- water resources [ER 8.2.227].

13. The Examining Authority considered the following impacts weigh against the Development:

- Climate change: the Development's contribution of 1.9% of the total UK aviation carbon target for 2050 and the impact this has on Government's ability to meet its carbon reduction targets, including carbon budgets [ER 6.5.71] weighs moderately against the Development [ER 8.2.75].
- Heritage Assets: less than substantial harm to three Scheduled Monuments, ten Listed Buildings and four Conservation Areas [ER 6.3.211] and less than substantial harm from the removal of WWII structures of unknown significance

[ER 6.3.195 & 6.3.212]. The Examining Authority concluded that the harm caused to the heritage assets are outweighed by the public benefits from the Development [ER 6.3.216]. However, the Examining Authority concluded that overall, impacts on heritage assets weighs moderately against the Development [ER 8.2.103].

- Noise: potential impacts on up to 40 residential caravans due to the lack of clarity on the effectiveness of mitigation measures for these receptors [ER 6.8.480 & 6.8.494]. The Examining Authority considered that impacts from noise weighs moderately against the Development [ER 8.2.150].
- Operational Issues: insufficient justification for the entirety of the Northern Grass Area [ER 6.9.120], the potential future need for a public safety zone (“PSZ”) [ER 6.9.127], the relocation of the High Resolution Direction Finder (“HRDF”) antenna within the Development site [ER 6.9.131] and doubt over the number of stands proposed [ER 6.9.132]. Overall, the Examining Authority concluded that operational issues weigh moderately against the granting of development consent [ER 8.2.176].
- Traffic and Transport: impacts on the local road network where the Examining Authority considers that appropriate mitigation measures or funding for improvements have not been secured. [ER 6.11.549 - 6.11.558 & ER 6.11.570]. The Examining Authority concluded that overall, traffic and transport issues carry substantial weight against the granting of the Development [ER 8.2.218].

14. The Examining Authority recorded that Public Health England established matters agreed with the Applicant in the form of a letter dated 28 March 2019. The Secretary of State notes that there were no matters listed as not being agreed between Public Health England and the Applicant [ER 1.4.38]. In particular the Examining Authority noted that Public Health England agreed that the quantitative exposure response health assessment for changes in air quality applied higher risk ratios than typically applied in the UK, and that this resulted in a conservative assessment, protective of health. The Examining Authority also noted that on this basis, Public Health England agreed with the Applicant that potential health outcomes from changes in air quality have been addressed [ER 6.2.111]. The Examining Authority agreed with Public Health England that the air quality assessment can be considered to be conservative and protective of public health [ER 6.2.114].

15. On compulsory purchase powers, the Examining Authority concluded that because the overall need for the Development had not been established, and because it did not find a level of need that would meet the criteria of there being a compelling case in the public interest for the compulsory acquisition of the land required for the Development, it was not satisfied that there was a compelling case in the public interest for the compulsory purchase powers sought by the Applicant [ER 9.7.16 – 9.7.17].

16. The Examining Authority’s overall conclusion was that the benefits of the Development would not outweigh its impacts and the Secretary of State should not grant development consent [ER 11.3.1].

17. In the event the Secretary of State disagreed with the Examining Authority’s recommendation to refuse consent, the Examining Authority attached to its report [ER Annex E] recommended actions on 26 outstanding issues to be taken ahead of a decision to grant development consent [ER 11.3.2]. During the decision-making

period, the Secretary of State [consulted Interested Parties on 17 January 2020](#) on these outstanding issues. The Secretary of State took into account the responses to his consultation in granting development consent for the Development on 9 July 2020.

### III. Procedure Following the Quashing of the Secretary of State's Decision

18. Pursuant to rule 20(2) of the Infrastructure Planning (Examination Procedure) Rules 2010 ("the 2010 Rules"), following the judgment of the High Court to quash the Secretary of State's 9 July 2020 decision to grant development consent the Secretary of State is required to redetermine the Application.

19. Following a procurement exercise under the Department for Transport's Specialist Technical Advice for Rail and other Transport Modes Framework, Ove Arup and Partners Limited was appointed to act in the capacity of an Independent Assessor ("Independent Assessor") to assist in the redetermination of the Application. The Independent Assessor was tasked to:

- analyse the Application, the Examining Authority's report and relevant examination documents including existing forecasts, aviation and other policy documents referenced during the examination, and any relevant post-examination representations;
- provide input on and agree the scope of the Statement of Matters (defined below);
- consider any evidence submitted in response to the redetermination process relating to the issue of need and to summarise their findings in a report; and
- following publication of their report and consultation with Interested Parties on it, analyse any second-round representations received on the report and finalise it.

20. Pursuant to rule 20(2) of the 2010 Rules, the Secretary of State published on 11 June 2021 a statement setting out the matters in relation to which the Secretary of State considered further representations were needed for the purposes of the redetermination of the Application ("[Statement of Matters](#)").

21. The Secretary of State conceded the Judicial Review challenge to the 9 July 2020 decision by way of a consent order on the basis that the decision letter did not give sufficient reasons explaining why the Secretary of State disagreed with the Examining Authority's recommendation to refuse consent, and in particular on why he disagreed with the Examining Authority's conclusions on need. The decision issued was quashed by the High Court on 15 February 2021. Given this, the lapse of time following the examination of the Application and so that the Secretary of State can take into consideration impacts on the proposal as a result of the COVID-19 pandemic, the emerging of the UK as a sovereign trading nation and any other relevant factors, the Statement of Matters included the following questions:

- whether the quantitative need for the Development has been affected by any changes since 9 July 2019, and if so, a description of any such changes and the impacts on the level of need from those changes (such as, but not limited to, changes in demand for air freight, changes of capacity at other airports, locational requirements for air freight and the effects of Brexit and/or Covid);



- the extent to which the Secretary of State should, in his re-determination of the Application, have regard to the sixth carbon budget (covering the years between 2033 – 2037) which will include emissions from international aviation; and
- any other matters arising since 9 July 2019 which Interested Parties consider are material for the Secretary of State to take into account in his re-determination of the Application.

22. The Statement of Matters also requested:

- the Applicant to confirm either the continued currency of the environmental information produced for the Application (including information submitted to inform the Habitats Regulation Assessment), or where necessary, to submit updated information.
- the Government Legal Department to confirm consent or otherwise to the compulsory acquisition under section 135 of the Planning Act 2008 in relation to plots 019c and 05b held as Queen’s Nominee in respect of bona vacantia land.
- confirmation or otherwise from both the Met Office and the Secretary of State for Housing, Communities and Local Government of consent to the compulsory acquisition under section 135 of the Planning Act 2008 in relation to plot 27.

23. The consultation on the Statement of Matters closed on 9 July 2021 and over 480 responses were received.

24. The Secretary of State consulted Interested Parties on the Independent Assessor’s draft report<sup>1</sup> on 21 October 2021 to provide Interested Parties an opportunity to comment on it, and to invite representations on the responses to the Statement of Matters (“[the second round of consultation](#)”). The Secretary of State also requested:

- comments from the Applicant on Network Rail’s representation dated 1 July 2021, in particular regarding Network Rail’s request for inclusion of protective provisions, and an update on negotiations with Network Rail.
- the Applicant to provide an update on the progress made on the progress made regarding the High Resolution Direction Finder.
- the air quality assessments be updated so that they refer to the most current background deposition and concentration datasets from the Air Pollution Information Service as necessary, or explain why no updates are required.
- the Applicant to confirm that the references to mitigation in Annex 5, Appendix B of the Applicant’s submission of 9 July 2021 refer to mitigation measures that are already included within the draft DCO provisions rather than additional mitigation measures.
- the Applicant to confirm whether it is satisfied that its assessment of the impacts on the historic environment and heritage assets submitted in support of the Application remains current in light of Kent County Council’s (“KCC”)

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<sup>1</sup> [Manston DRAFT Assessors Report - Publicationv1.1.docx \(planninginspectorate.gov.uk\)](#)

representation highlighting major excavations near the Development, or where deemed necessary to submit any updated information.

- the Book of Reference be updated to include schedule to highlight and explain any changes since the last version of the Book of Reference dated 9 July 2019.

25. The second round consultation closed on 3 December 2021 and approximately 310 representations were submitted in response to this consultation.

26. The Secretary of State conducted a [third round of consultation](#) to seek clarification from the Applicant on the following residual issues:

- to confirm how the Applicant's submissions on air quality submitted in the redetermination process took account of the works implemented on the development site between 24 January 2019 and 30 June 2021 so that it could operate as a temporary Inland Border Facility.
- any environmental impacts from the operation of the site as a temporary Inland Border Facility that may affect: the conclusions presented in the Environmental Statement and the Water Framework Directive Report; the information to inform and the Habitats Regulations Assessment.
- a summary of the works that have been implemented on the Development site as a result of its use as an Inland Border Facility; and
- for an updated Schedule of Changes that explains why the Applicant considers that plots 019c and 050b are no longer considered to be Crown Land.

27. The deadline for responses was 28 March 2022. The Secretary of State also received representations from 12 representations from Interested Parties including the Applicant.

28. In total, the Secretary of State received over 800 representations in response to the redetermination process. All representations have been made publicly available on the Planning Inspectorate webpage for the Manston Airport DCO Application.

29. In addition to the representations submitted in response to his consultations, the Secretary of State also received correspondence from Interested Parties outside of formal consultation. As set out in his redetermination consultation letter dated 21 October 2021 and in the redetermination consultation letters, correspondence received outside of formal consultation have been treated as redetermination correspondence and are published as such alongside this letter.

#### **IV. Summary of the Secretary of State's Consideration and Decision on the Application**

30. **The Secretary of State has carefully considered the Examining Authority's report, the Independent Assessor's Report, all representations received from Interested Parties pursuant to the 2010 Rules and otherwise, all other relevant information, and the Application and its supporting documents in deciding, under section 114 of the Planning Act 2008 to grant development consent for the Application.** This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116(1)(a) of the 2008 Act and regulation 23(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 which apply to the Application by operation of regulation 37(2) of the Infrastructure

Planning (Environmental Impact Assessment) Regulations 2017<sup>2</sup>. A copy of the Order to be made as part of the Secretary of State's decision and a Habitats Regulation Assessment is published alongside this letter on the Planning Inspectorate's website

31. The Secretary of State's consideration of the Examining Authority's report and other relevant matters including representations received pursuant to rule 20(2)(b) of the 2010 Rules and otherwise is set out in the following sections of this letter. Where not stated, the Secretary of State can be taken to agree with the Examining Authority's findings, conclusions and recommendations as set out in the Examining Authority's Report and the reasons given for the Secretary of State's decision are those given by the Examining Authority in support of the conclusions and recommendations. All "ER" references are to the specified paragraph in the Examining Authority's Report. Paragraph numbers in the Examining Authority's Report are quoted in the form "ER x.xx.xx" as appropriate. This letter should therefore be read alongside the Order and the Examining Authority's Report that are published on the Planning Inspectorate website for the Application.

32. The Development site lies within the local government area of Thanet District Council within the administrative County of Kent. The Secretary of State has had regard to the Local Impact Reports ("LIRs") submitted by Kent County Council ("KCC") [ER 4.3.14 – 4.3.21] and Thanet District Council ("TDC") [ER 4.3.22 – 4.3.23], who are the relevant local authorities for the area of the Development, and the relevant and emerging Development Plan [ER 3.10 and 4.5]. He has also had regard to the LIRs submitted by Canterbury City Council ("CCC") [ER 4.3.2 – 4.3.9] and Dover District Council ("DDC") [ER 4.3.10 – 4.3.13] and to all other matters which are considered to be important and relevant to the Secretary of State's decision as required by section 105 of the Planning Act 2008. In making the decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the decision.

33. As indicated above, approximately 900 representations including redetermination correspondence have been received in response to the procedure followed by the Secretary of State pursuant to rule 20(2) of the 2010 Rules and otherwise. The Secretary of State has considered these representations carefully alongside the points raised in redetermination correspondence. Unless otherwise specified in this letter, the Secretary of State considers the representations received through the redetermination process do not raise substantial new issues not already considered by the Examining Authority in its report. The Secretary of State is of the view that a number of the representations and redetermination correspondence rehearse arguments raised during the examination of the Application and, to the extent that they have already been addressed by the Examining Authority in its consideration and subsequent report, they are not further addressed in this letter.

## **V. Secretary of State's consideration of the Examining Authority's findings and conclusions in relation to the planning issues**

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<sup>2</sup> The Applicant submitted a scoping report before the 2017 EIA Regulations came into force and so the 2009 EIA Regulations continue to apply to the Application in accordance with transitional arrangements. Further to advice issued by the Planning Inspectorate on behalf of the Secretary of State in a scoping opinion dated 10 August 2016, the Applicant took account of the 2017 EIA Regulations in relation to the production and content of its Environmental Statement. However, it did not request a new scoping opinion [ER 1.5.2 and 1.5.6].

## NEED

34. The Secretary of State notes that the Examining Authority considered this matter in detail during the examination and in section 5 of the recommendation report. The Examining Authority's overall conclusion was that the levels of freight that the Development can be expected to handle are modest and could be catered for at existing airports (Heathrow, Stansted, East Midlands Airport and others if demand existed). The Examining Authority considered that the Development appeared to offer no obvious advantages to outweigh the strong competition that such airports offer. The Examining Authority therefore concluded that the Applicant had failed to demonstrate sufficient need for the Development additional to or different from the need which is met by the provision of existing airports [ER 5.7.28].

35. During the redetermination process, the Applicant responded to the consultation on the Statement of Matters contending that need is mentioned only in paragraph 1.42 of the Airports National Policy Statement ("ANPS") which states:

*"the Government accepts that it may well be possible for existing airports to demonstrate sufficient need for their proposals, additional to (or different from) the need which is met by the provision of a Northwest Runway at Heathrow."*

36. The Applicant stated that the ANPS gives no further explanation as to what 'sufficient' means in this context. The Applicant also contends that the Examining Authority's report largely assumes that need is determinative as to whether the DCO should be granted, but does not agree that this should be the case. The Applicant also drew attention to paragraph 17 of the Stansted decision letter which states:

*"There is no requirement flowing from national aviation policy for individual planning applications for development at MBU [Making Best Use] airports, such as Stansted, to demonstrate need for their proposed development or for associated additional flights and passenger movements."*

37. The Secretary of State agrees with the Applicant that the ANPS does not provide an explanation of 'sufficient need'. He also agrees that the MBU policy, which is relevant to this Application, does not require making best use developments to demonstrate a need for their proposals to intensify use of an existing runway or for any associated Air Traffic Movements ("ATMs"). The Secretary of State notes, however, that the MBU policy states that a decision-maker, in taking a decision on an application, must take careful account of all relevant considerations, particularly economic and environmental impacts and proposed mitigations (MBU paragraph 1.29). The Secretary of State considers that the benefits expected from a proposed development would materialise if there is a need for that development. Therefore, in order to assess whether the expected economic benefits will outweigh the expected environmental and other impacts from this Development, the Secretary of State has considered need in the context of identifying the likely usage of the Development from the evidence submitted in the Examining Authority's Report, the Independent Assessor's Report and the representations submitted by Interested Parties during the redetermination process. The Secretary of State's consideration of need, set out in the sub-sections below, will include consideration of:

- Relevant national aviation planning policy, aviation policy and local policy;

- the capacity deficit identified in aviation policy; and
- Demand and forecasts.

38. The Secretary of State does not agree with the way in which the Examining Authority has attempted to establish whether there is a need for the Development and his reasons for this are set out below. The Secretary of State's reasons for disagreeing with the Independent Assessor, who agreed with and adopted the approach taken by the Examining Authority (IAA 1.3, p. 2), is also set out below

### Relevant Policies

39. The Secretary of State agrees with the Examining Authority that, while the Application is a 'Nationally Significant Infrastructure Project' as defined in section 23 of the Planning Act 2008 by virtue of being an airfield able to handle at least 10,000 cargo movements per year [ER 1.1.9], the ANPS does not have effect in relation to the Application [ER 3.2.3]. In the absence of a specific National Policy Statement that is applicable to the Development, the provisions in section 105(2) of the Planning Act 2008 provides the bases for decision-making for the Application. In taking a decision on an application, section 105(2) requires the Secretary of State to have regard to:

- (a) any local impact report (within the meaning given by section 60(3)) submitted to the Secretary of State before the deadline specified in a notice under section 60(2);
- (b) any matters prescribed in relation to development of the description to which the Application relates; and
- (c) any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State's decision [ER 3.1.3].

40. The Secretary of State considers that the following policies listed in section 3 of the Examining Authority's report are relevant and important in respect of establishing whether the Development complies with relevant National and Local Policy:

- Airports National Policy Statement designated in June 2018<sup>3</sup>;
- Beyond the horizon. The future of UK aviation - Making best use of existing runways<sup>4</sup>, 2018;
- Aviation Policy Framework 2013<sup>5</sup>;
- Aviation 2050 — the future of UK aviation: A Consultation<sup>6</sup>;
- General Aviation Strategy<sup>7</sup>;
- Beyond the horizon. The future of UK aviation – Next steps towards an aviation strategy<sup>8</sup>, 2018; and

<sup>3</sup> [Airports National Policy Statement: new runway capacity and infrastructure at airports in the South East of England \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684222/airports-national-policy-statement-new-runway-capacity-and-infrastructure-at-airports-in-the-south-east-of-england.pdf) ("ANPS")

<sup>4</sup> [Beyond the horizon the future of UK aviation \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684222/beyond-the-horizon-the-future-of-uk-aviation-making-best-use-of-existing-runways.pdf) ("MBU")

<sup>5</sup> [Aviation Policy Framework \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684222/aviation-policy-framework-2013.pdf) ("APF")

<sup>6</sup> [aviation-2050-print.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684222/aviation-2050-print.pdf) ("Aviation 2050: TFA")

<sup>7</sup> [General Aviation Strategy Responding to the HS2 Growth Taskforce \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684222/general-aviation-strategy-responding-to-the-hs2-growth-taskforce.pdf)

<sup>8</sup> [Beyond the horizon – The future of UK aviation \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684222/beyond-the-horizon-the-future-of-uk-aviation-next-steps-towards-an-aviation-strategy.pdf)



- Thanet District Council Local Plan<sup>9</sup> (adopted July 2020); and the Local Impact Reports submitted during the examination.

41. In addition to the above documents, the Independent Assessor also identified the emerging policies and objectives in the Transport Decarbonisation Plan and the Jet Zero Consultation, which were published following the close of the examination, as relevant to the Application. The Secretary of State has considered these documents in the Climate Change section below.

## National Policy

### **Aviation Planning Policy**

42. The Airports National Policy Statement (“ANPS”) and the ‘The future of UK aviation: making best use of existing runways’ (“MBU”) policy are Government’s planning policies that apply to airport development.

#### *Airports National Policy Statement*

43. The ANPS provides the primary basis for decision making on development consent order applications for Government’s preferred scheme for a Northwest runway at Heathrow Airport to address the capacity gap identified by the Airports Commission. Paragraph 1.13 of the ANPS sets out:

- Government’s policy on the need for new airport capacity in the South East of England;
- Government’s preferred location and scheme to deliver new capacity; and
- particular considerations relevant to a development consent application to which the Airports NPS relates.

44. Chapter 2 of the ANPS sets out the need for additional capacity in the South East of England. It states that aviation demand is likely to increase significantly with all major airports in the South East of England expected to be full by the mid-2030s, and that, even on the Department’s low demand forecast, demand is expected to outstrip capacity at these airports by at least 34% by 2050 (paragraph 2.12). Chapter 2 of the ANPS notes that air freight is a key element of the time-critical supply chains used in sectors such as advanced manufacturing industries where components and products are predominantly moved by air, and that UK manufacturing competitiveness and a successful and diverse UK economy will drive the need for quicker air freight (paragraph, 2.7). Chapter 3 of the ANPS sets out why the Heathrow Northwest Runway project, with a package of supporting measures, is Government’s preferred option for meeting the need for new capacity in the South East of England set out in chapter 2.

45. Although the ANPS focuses on the delivery of capacity through the provision of the Northwest Runway at Heathrow, it states at paragraph 1.42 that:

*“... in light of the findings of the Airports Commission on the need for more intensive use of existing infrastructure as described at paragraph 1.6 above, the Government accepts that it may well be possible for existing airports to demonstrate sufficient need for their proposals, additional to (or*

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<sup>9</sup> [LP-adjusted.pdf \(thanet.gov.uk\)](https://www.thanet.gov.uk/LP-adjusted.pdf)

*different from) the need which is met by the provision of a Northwest Runway at Heathrow.”*

46. The ANPS also takes into account the Airports Commission’s recommendation that there remains a need to make best use of existing airport infrastructure (ANPS 2.22). At paragraph 1.39 it states:

*“...Government has confirmed that it is supportive of airports beyond Heathrow making best use of their existing runways. However, we recognise that the development of airports can have positive and negative impacts, including on noise levels. We consider that any proposals should be judged on their individual merits by the relevant planning authority, taking careful account of all relevant considerations, particularly economic and environmental impacts.”*

*Beyond the horizon: The future of UK aviation Making Best Use of Existing Runways*

47. The Examining Authority is correct that the principle of airports making the best use of their existing capacity and runways is a common theme running through Government aviation policy from the Airport Policy Framework 2013, the work of the Airports Commission, the ANPS and through to the recent aviation policy consultation documents [ER 5.5.28]. The MBU policy was published by the Department for Transport in June 2018 and adopted alongside the ANPS and confirms Government support for airports beyond Heathrow making best use of their existing runways. It recognises that development of airports can result in negative impacts as well as positive local impacts, and that any development seeking to make best use of their existing runway will therefore need to demonstrate how it will mitigate local environmental issues as part of their planning application (MBU paragraphs 1.23-1.24 & 1.29). The MBU policy is clear that it does not prejudge the decision of the relevant planning authority which must take into consideration all relevant matters, in particular the economic and environmental impacts that are expected as a result of a development and proposed mitigations (MBU paragraph 129). The MBU policy does not limit the number of MBU airport developments that might be granted and does not include a cap on any associated increase in ATMs as a result of intensifying use at MBU developments.

## **Aviation Policy**

### *Aviation Policy Framework*

48. The Aviation Policy Framework (“APF”) published in March 2013 recognises that the aviation sector is a major contributor to the economy and sets out Government support for the growth of the aviation sector within a framework that maintains a balance between the benefits of aviation and its costs (APF, executive summary, paragraph 5). One of Government’s main objectives is to ensure that aviation continues to make the UK one of the best connected countries in the world, and included in this is increasing links to emerging markets so that the UK can compete successfully for economic growth opportunities (APF executive summary, paragraph 9). The APF recognises the importance of the aviation sector in supporting export-led growth in sectors where the goods are of high value or time critical, and identifies air freight as a key element of the supply chain in the advanced manufacturing sector in

which the UK is looking to build competitive strength (APF paragraph 1.6). It highlights that a successful and diverse economy will drive a need for quicker air freight, with access to such services crucial to keeping UK manufacturing competitive in the global marketplace (APF paragraph 1.8). The 'Supporting airports across the UK' section (APF pages 20 – 24) recognises that airports create local jobs and fuel opportunities for economic rebalancing in their wider region or area as they act as focal points for business development and employment. The aviation sector in the UK is largely privatised and operates in a competitive international market, and, as set out in paragraph 8 of the executive summary, Government continues to welcome significant levels of private investment in airport infrastructure. The APF recognises that maintaining the UK's international connectivity is a complex and contentious one, but that solving it is crucial to securing the UK's long-term economic growth (APF executive summary, paragraph 24).

#### *Aviation 2050: The future UK aviation - A consultation*

49. The Independent Assessor identified 'The Aviation 2050: The Future of UK Aviation – A consultation' ("Aviation 2050") document as relevant to the Development and noted that there had been no change to the status of this document since the examination of the Application (IAA, page 8 – 9). The Aviation 2050 document was published by the Department for Transport in December 2018 was the final part of the Government's consultation on the policy proposals for the development of a long-term Aviation Strategy to 2050 and beyond. The Aviation 2050 paper highlights that the UK has the largest aviation network in Europe and the third largest in the world and that aviation directly contributes at least £22 billion to the economy and supports around half a million jobs. The aim of the Aviation Strategy is to achieve a safe, secure and sustainable aviation sector that meets the needs of consumers and of a global, outward-looking Britain. The objectives of the strategy are to: help the aviation industry work for its customers; ensure a safe and secure way to travel; build a global and connected Britain; encourage competitive markets; support growth while tackling environmental impacts; and develop innovation, technology and skills.

50. The Aviation 2050 paper is clear that there is a need to increase capacity in the South-East by 2030, and that the forecasted aviation demand in the period to 2030 can be met through a northwest runway at Heathrow and by airports beyond Heathrow making best use of their existing runways, subject to environmental and other impacts being addressed (Aviation 2050, paragraph 3.11). It recognises the benefits of this growth to the UK, providing it takes place sustainably, and considers that a thriving aviation sector is tangible evidence of economic confidence, growing tourism, increased trade, and business investment (Aviation 2050, page 6). Chapter 4 sets out Government support for regional growth and connectivity, and identifies regional airports as vital for local economies, providing domestic and global connectivity, employment opportunities, and a hub for local transport. It wants to maximise these benefits through markets that operate for consumers and local communities, and support airports that deliver the connectivity regions need, an industry that provides high quality training and employment opportunities to all, and a freight sector unburdened by unnecessary barriers.

51. On leaving the European Union, the consultation paper also acknowledges that the UK's future prosperity depends on our ability to reach out to the rest of the world, to forge new trade links, to connect and compete (Aviation, 2050 page 6). It notes that

the global economy could more than double in size between now and 2050 (Aviation 2050, paragraph 1.11) and the motivation behind a new aviation strategy is that in order to remain competitive on the global stage, and to safeguard its role as one of the leading aviation and aerospace sectors, the UK must be well positioned to take advantage of new opportunities, while managing the potential economic, political and environmental headwinds along the way (Aviation 2050, page 13). The Aviation 2050 paper acknowledges that future success cannot be taken for granted and that the aviation sector faces global challenges; rising demand coupled with changing customer expectations, technological change and tight profit margins in a fiercely competitive market (Aviation 2050, page 6). Infrastructure development is seen by the Government as key to unlocking growth potential (Aviation 2050, paragraph 1.12).

52. In respect of air freight, the consultation paper also notes that there were record quantities of freight handled by UK airports in 2017, highlighting the growing importance of aviation to the transport of freight. Globally, air freight grew more than twice as fast as overall global trade during 2017 – the widest margin of outperformance since 2010. The changing nature of the goods and services traded means that air freight is becoming increasingly significant to the economy, transporting high value, high tech products, medicines and just in time deliveries (Aviation 2050, paragraph 1.19).

53. Chapter 7 of the Aviation 2050 consultation paper sets out Government support for General Aviation. The 2050 paper states that the Government aims to ensure that there are appropriate and proportionate policies in place to protect and support general aviation and its contribution to GDP and jobs. It recognises that the needs of general aviation have to be seen in the wider context of civil and military aviation. In areas such as the use of airspace and the allocation of slots it is important to balance the needs of private flying, commercial general aviation and scheduled aviation, so that all classes of aviation are properly and proportionately considered and the benefits GA can be supported.

54. In 2019, Government published a consultation response on legislation enforcing the development of airspace change proposals and an associated impact assessment.

55. Given the unprecedented challenges faced by the aviation sector as a result of the COVID-19 pandemic, instead of a response to the remaining parts of the Aviation 2050 consultation Government instead published 'Flightpath to the Future: a strategic framework for the aviation sector'<sup>10</sup> ("Flightpath to the Future") on 26 May 2022. Flightpath to the Future is a strategic framework that builds on the responses received to the Aviation 2050 consultation. It established Government's ambitions and commitments for aviation over the next 10 years. Page 21 of the Flightpath to the future document recognises the importance of improving the UK's freight market. It identified air freight as a key enabler of international trade, playing an integral part of the future success of the UK economy. Point 4 of the 10 point plan for the future of aviation contained within the document sets out Government's plan to deliver the ambition for the use of sustainable aviation fuel by 2030 to put the sector on course for Jet Zero by 2050. Point 5 highlights a plan to capture the potential of new technology and its uses to achieve quicker, quieter and cleaner flights. Point 6 recognises the importance of the UK's extensive airport, airfield and aviation infrastructure networks in unlocking local benefits and levelling up the UK through trade, air freight, aerospace, investment

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<sup>10</sup> [Flightpath to the future \(publishing.service.gov.uk\)](https://publishing.service.gov.uk) ("FPF")

and tourism and improved connections across the UK and regions. Point 7 focuses on the delivery of enhanced skills and diversity across the sector and Point 8 recognises the importance of general aviation and sets out the aim to make the UK the best place in the world for general aviation.

### *General Aviation Strategy & General Aviation Roadmap*

56. The General Aviation Strategy<sup>11</sup> published in March 2015 details the Government's vision to make the UK the best place in the world for general aviation as a flourishing, wealth generating and job producing sector of the economy (GAS, page 8).

57. Page four of the General Aviation Strategy notes the role of general aviation in training future pilots and engineers, the employment of skilled workers and that general aviation accounts for nine tenths of our aircrafts and over half of our pilots. It directly supports almost 10,000 jobs and indirectly nearly 30,000 more. These include aerospace engineers, those involved in advanced avionics and those training the next generation of pilots. The General Aviation Strategy also notes that general aviation is worth three billion pounds annually to the UK economy. While general aviation flying activity has fallen significantly in recent years, business aviation and air taxis had experienced growth in movements of around 7% since 2005. The economic value of flight hours has also risen, both in real and nominal terms. Research conducted painted a picture of a sector that has enormous potential. If the level of flight hours could reach or surpass 2006 levels, while maintaining the current economic value per flight, it noted this would add some £0.7 billion to the UK economy. While the general aviation sector has been in decline Government considers that it is still possible to reverse this trend and the General Aviation Strategy sets out a number of reasons for being optimistic (GAS, page 8).

58. Section 8 of the General Aviation Strategy sets out issues in the planning system for general aviation accessible airfields. A key issue which emerged from the economic research into general aviation was the perception that low priority was being given to the strategic importance of general aviation aerodromes in the course of planning decisions and the potential for greater consideration to be given to these within planning policy in the future. In respect of planning for new airfields, the General Aviation Strategy states that a new general aviation accessible airfield had not opened in the UK for many years, partly due to market conditions but also because of the difficulty of finding suitable sites. It also notes that this was at a time that a number of airfields had closed. Opposition to new airfields is recorded as often being high within local communities, especially where the potential benefits of a general aviation airfield to the area may be poorly understood and the potential adverse effects are publicised and more readily appreciated. The Strategy also notes that improvements to infrastructure at airfields is key to their survival in an industry where technology changes very quickly, and existing general aviation airfields find it difficult to gain planning consent to develop their existing facilities. Economic research into general aviation recommended that the Government should continue to encourage planning authorities to ensure that they take the economic and employment role local airfields play into account in their Local Plans and in all planning decisions.

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<sup>11</sup> [General Aviation Strategy Responding to the HS2 Growth Taskforce \(publishing.service.gov.uk\)](http://publishing.service.gov.uk)

59. The importance of general aviation is further highlighted in the Written Ministerial Statement of 27 April 2021<sup>12</sup> and Government's General Aviation Roadmap<sup>13</sup> published on 23 April 2021, which provides an update on Government's General Aviation programme of work to support the sector, achievements in the 12 months following the development of the General Aviation Action Plan and a summary of the work of the Civil Aviation Authority's General Aviation Unit.

#### The Secretary of State's Conclusions on National Policy

60. Both current and emerging policies recognise that there is a need to increase capacity in the South East by 2030 (APF paragraphs 1.54 & 1.109, ANPS paragraphs 2.11 & 2.32, Aviation 2050 paragraphs 1.20, 3.11), and that capacity is forecast to be full in the South East by the 2030(s) (APF paragraphs 1.54 & 1.109 and ANPS paragraph 2.12). The Aviation 2050 consultation document also states that capacity demand up to 2030 can be met through the Heathrow Northwest Runway project and other airports making best use of their existing infrastructure, subject to environmental issues being addressed (Aviation 2050 paragraph 3.11).

61. As well as setting out Government's policy on the need for new airport capacity in the South East of England by 2030, the ANPS also identifies the Northwest Runway project at Heathrow as Government's preferred scheme to meet the demand for additional capacity (ANPS paragraph 2.33), but is also supportive of other airports making better use of their existing runways (ANPS paragraph 1.39). The MBU policy is Government's response to the Airports Commission's recommendation on the need for airports other than Heathrow to make better use of existing infrastructure (MBU paragraph 1.3), and confirms Government support for this subject to the consideration of economic and environmental impacts (MBU paragraph 1.29). The Secretary of State notes that the Development will reopen as a freight focused airport with aircraft maintenance and repair services, General Aviation, some passenger and business services and aims to create a hub for aviation-related commercial opportunities in the South East of England. The Secretary of State also notes that the Development is not of the same scale as the Heathrow Northwest Runway scheme described in the ANPS, and the redevelopment of the site to bring it back into an operational airfield will involve the use of existing onsite infrastructure such as the existing 2,748m long runway.

62. The Secretary of State notes that the Aviation Policy Framework highlights the importance of the UK's General Aviation network (APF, paragraphs 1.86 – 1.90), and that this is supported by the General Aviation Strategy, the General Aviation Roadmap and the National Planning Policy Framework (paragraph 106(f)). The Examining Authority recorded that General Aviation was not examined in depth in the examination or covered in detail in the Applicant's Azimuth Report, but noted the support for General Aviation facilities in the Aviation Policy Framework and the National Planning Policy Framework and the representations made on this matter [ER 5.2.17, 5.7.27]. The Applicant has sought permission in the development consent order for a total annual General Aviation limit of 38,000 movements. The Secretary of State considers that granting consent would serve to implement Government aims on General Aviation activities and therefore places substantial weight on the contribution the Development would make in this respect.

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<sup>12</sup> [General Aviation in the UK - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/written-ministerial-statements/2021/04/27)

<sup>13</sup> [General Aviation Roadmap - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/general-aviation-roadmap)



63. The Secretary of State is also satisfied that the Development aligns with the objectives set out in the 'Aviation 2050: The future of UK aviation' consultation document which sets out the importance of aviation to the whole of the UK, the crucial role air freight plays in the economy in particular as the UK develops new trading relationships, the need to increase capacity through more intensive use of existing runways and airspace and the connection aviation provides both within the UK and with the rest of the world. As set out above, the Flightpath to the Future policy document was published in place of a response to the remaining parts of the Aviation 2050 consultation given the recent challenges faced by the aviation sector. This document highlights the importance of air freight as an integral part of the future success of the UK economy (FpF, page 21) and identifies airport expansion as key to enhancing the UK's global connectivity (FpF, point 3 on page 9). The Secretary of State is satisfied that the Development, which will reopen as an air freight airport, will contribute towards the main objectives of Government's aviation policies in particular increasing links with emerging markets so that the UK can compete successfully for economic growth opportunities and ensuring that the UK continues to be one of the best connected countries in the world (APF, executive summary paragraph 9 and paragraph 1.57).

64. The Secretary of State is aware that a number of Interested Parties in their responses submitted during the redetermination process argued that the MBU policy does not apply to this Development because it is a disused airport focused on providing air freight services, it was discounted as an option by the Airports Commission and because it was not accounted for in the modelling conducted in support of the MBU Policy.

65. On whether the MBU policy applies to disused airports, the Secretary of State considers that in this instance the policy does apply. While the airport is not currently in operation and requires planning permission to reopen the Development site, it includes existing airport infrastructure that the Applicant will reuse. As well as constructing new facilities to return the airport to operation, the Applicant will make use of the existing 2,748m long runway, taxiways, aprons, cargo and other facilities still extant. While the MBU policy does not specifically mention air freight, as set out in paragraph 44 above the ANPS does take into account the need for air freight capacity and is supportive of airports other than Heathrow making best use of their assets (paragraph 46 above).

66. The Secretary of State does not agree that the Airports Commission dismissed the option for the delivery of air services at the Development site in its Interim Report<sup>14</sup>. Paragraph 5.96 of the Interim Report states that several submissions drew the Airports Commission's attention to the concept of smaller airports and airfields in the vicinity of congested airports being developed for the handling of specific types of traffic, with an emphasis on business and General Aviation, referred to as 'reliever airports' (IR, page 220). The Secretary of State notes that while the focus of this Development is to provide air freight services, the Development will also deliver General Aviation activities, passenger operations, aircraft maintenance and repair services, create a hub for aviation-related commercial opportunities and provide capacity to relieve pressure in the South East and the wider UK airport network.

67. The Airports Commission recognised the benefit that reliever airports could play in reducing pressure in other airports at London and the South East, and concluded

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<sup>14</sup> [Airports Commission: Interim Report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

on page 16 in Appendix 2<sup>15</sup> of the Interim Report the following on the potential use of Manston Airport as a reliever airport:

*“This proposal presents some potential as a reliever airport, but does not address the larger question of London & South East capacity. The concept of reliever airports is considered in short and medium term work. Please see Appendix 1 for further information.”*

68. On reliever airports, item 82 on page 33 in Appendix 1<sup>16</sup> of the Interim Report concludes:

*“The Commission is supportive of the reliever airports concept. The Commission recognises that this may be the best way to cater for the needs of business users without disrupting the wider airport system.”*

69. In the sub-section titled ‘Reliever airports and support for business aviation’ in section 5 of its Interim Report, the Airports Commission recommends at paragraph 5.99 that:

*“Government policy should promote the benefits of smaller airports in the London and South East system for accommodating business and general aviation.”*

70. It is clear to the Secretary of State that the Airports Commission’s Interim Report and appendices demonstrated support for reliever airports and acknowledged there were potential benefits from the use of the Development site for this purpose. However, it ruled out recommending the proposal to develop Manston airfield as a reliever airport as a solution to the key question of providing the additional long-term capacity and connectivity in the UK identified in the ANPS.

71. Regarding the forecasts underpinning the MBU policy, the Secretary of State does not agree that an operational Manston Airport would be unforeseen growth because it was not specifically listed in these forecasts. The Secretary of State would point out that neither of the relevant aviation planning policies (the ANPS and the MBU policy) restricts growth at airports beyond Government’s preferred Heathrow Northwest Runway option to only those listed in the forecasts or those not listed but captured by the ranges used in forecasting as is the case for smaller airports. The MBU Policy acknowledges that airports making best use of their existing runways could lead to increased carbon emissions, and that environmental concerns must be taken into account as part of the relevant planning application process. All MBU developments, regardless of whether they are listed in the forecasts or not, are required to assess the environmental impacts from the proposed development on its own and also in-combination with other existing or known projects. This includes the assessment of carbon impacts. It is then for the relevant planning authority to take into account these impacts in determining whether or not an application for a MBU development should be granted.

72. For the reasons above, the Secretary of State is satisfied that the principle of the Development is supported by relevant national aviation and aviation planning policies.

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<sup>15</sup> [Appendix 2: Assessment of Long-term Options \(publishing.service.gov.uk\)](#)

<sup>16</sup> [Appendix 1: Assessment of Short- and Medium-Term Options \(publishing.service.gov.uk\)](#)

## Local Policy and Impact Reports

### *Thanet District Council Local Plan*

73. The Secretary of State notes that the Development site is located wholly within the administrative boundary of Thanet District Council. At the time of examination, Thanet District Council was in the process of preparing a new local plan (“the emerging Local Plan”) which was published for consultation in August 2018 and submitted to the Secretary of State of the then Ministry of Housing, Communities and Local Government for examination in October 2018. The Examining Authority concluded that until the emerging Local Plan had been adopted, the Local Plan adopted in 2006 (“the 2006 Local Plan”) was the statutory local planning policy document for Thanet District Council and that the Saved Policies of the 2006 Local Plan are important and relevant [ER 3.10.2] in the case of the Development. Given the advanced stage of its preparation, the Examining Authority also considered that the policies in the emerging Local plan to be important and relevant [ER 3.10.5]. The Examining Authority recorded that while TDC’s Local Impact Report states the adopted Thanet Local Plan 2006 allocated the use of Manston Airport for aviation use [ER 8.2.12], its emerging Local Plan took a neutral stance and did not allocate the Development site for aviation or any other use so as not to prejudice the Application [ER 8.2.14].

74. The Examining Authority concluded that the principle of the development was supported by the 2006 Local Plan, subject to it being acceptable in other regards [ER 4.5.1], and afforded the emerging Local Plan moderate weight [ER 4.5.3]. Taking into consideration the relevant policies, the Examining Authority concluded that the principle of the Development is supported by the adopted development plan and does not conflict with the emerging Local Plan.

75. Following the close of the examination, the emerging Local Plan was adopted on 9 July 2020. The adopted Local Plan includes a specific policy (Policy SP07) which safeguards the Development site for aviation use which is supportive of the Development subject to it being acceptable in other regards. The Secretary of State agrees with the Independent Assessor that the principle of the Development is supported by policy SP07 (IAA section 4.3, page 13), and that more weight should be afforded to this now adopted policy in the redetermination of the Application than given in the examination to the emerging Local Plan. The Secretary of State also agrees with the Independent Assessor that while Policy SP04 (Economic Growth) which plans for a minimum of 5,000 additional jobs in Thanet to 2031 does not identify the Development as an employment site, the policy is supportive of all new job creation both within and outside of identified employment sites (IAA section 4.3, page 13).

### *Local Impact Reports*

76. The Planning Act 2008 is clear that consideration of an Application must take into account the local impacts of any development. The Secretary of State has had regard to the Local Impact Reports submitted by TDC, KCC, DDD and CCC. The Secretary of State notes that none of the Local Impact Reports made any specific comments on the need for the Development [ER 5.2.8 - 5.2.14]. While TDC’s Local Impact Report stated that the adopted Thanet Local Plan 2006 allocates the use of Manston Airport for aviation use [ER 8.2.12], its emerging Local Plan took a neutral stance and did not allocate the Application site for aviation or any other use so as not to prejudice the Application [ER 8.2.14]. TDC’s Local Impact Report recognised the potential for the Development to deliver socio-economic benefits to the local authority

area, but stated that there is a need to understand job creation within and outside of Thanet local and regional economy [ER 6.10.4]. On socio-economic benefits, the Secretary of State notes that both DDC and CCC's Local Impact Reports recognised the positive benefits from the Development to the East Kent economy [ER 6.10.14 – 6.10.15].

77. The Secretary of State received representations from TDC, KCC, DDC and CCC in response to the redetermination process. None of these responses raised any objection to the Development on the basis of need. DDC, CCC and KCC's Skills & Employment Manager's representations highlighted again the socio-economic benefits that are expected to arise as a result of the Development.

#### The Secretary of State's Conclusion on Compliance with Local Policy

78. The Secretary of State is aware that a number of Interested Parties put forward representations during the redetermination process objecting to the Development on the basis that it did not comply with relevant Local Policy. On the question of need, the Secretary of State agrees with the Independent Assessor that the principle of the Development accords with the use of the site as set out in Local Policy SP07 (IAA section 4.3, page 13). The Secretary of State is also of the view that granting development consent would serve to implement this policy and has therefore attached substantial weight to the contribution that the Development would make in this regard. While noting the various concerns raised in the LIRs, the Secretary of State notes that none of the LIRs submitted during the examination specifically mention whether the need for the Development has been established. Further, the socio-economic benefits which are expected to flow from the Development were highlighted in the LIRs and in responses to the redetermination process.

#### Air Freight Demand & Forecast

79. The Secretary of State notes that air freight demand and forecasts were scrutinised by the Examining Authority during the examination. He also notes the Examining Authority's extensive review of the various demand forecast reports submitted by various Interested Parties, and has taken note of the different approaches to forecasting employed by the Applicant and other Interested Parties [ER 5.6.60 – 5.6.69]. The Examining Authority also noted that the Department's 'UK Aviation Forecasts: Moving Britain Ahead 2017'<sup>17</sup> ("UK Aviation Forecasts 2017") included an assumption for air freight and did not model air freight in detail [ER 5.6.70].

80. The Secretary of State notes that the Applicant's Azimuth Report sets out drivers of demand for dedicated air freight services identified through a qualitative study and a forecast for air freight and passenger traffic for the Development over the first twenty years of operation. The Secretary of State is aware that during the examination, the Applicant submitted the Northpoint Report compiled by Northpoint Aviation which takes a top-down analysis assessment of the Applicant's Azimuth Report [ER 5.6.51]. The Examining Authority noted the explanation given in the Northpoint Report on the differences between the bottom-up forecasting approach taken in the Azimuth Report and the top-down analysis used in other reports. The benefit of the bottom-up approach is described in the Northpoint Report as involving

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<sup>17</sup> [UK aviation forecasts 2017 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

discussions with key market and industry players to provide dynamic insights and is of benefit when taking into account demand for a fast moving industry such as aviation which will look very different in 10 to 20 years than it does now [ER 5.6.60]. The top-down approach is described as relying on the extrapolation of historic data and performance and on the notion that the key to the understanding the future is in the past [ER 5.6.60].

81. The Secretary of State has considered the reasons given by the Applicant for taking a qualitative bottom-up approach to forecasting in it's Azimuth Report which are: 1) data to extrapolate is only available until 2014; and 2) the history of underinvestment when it previously operated as an airport before it closed in 2014 [ER 5.6.53]. The Secretary of State also notes that the airport previously provided both passenger and air freight services, and this Development proposes to focus on the provision of air freight services.

82. The Secretary of State is aware that the Applicant conducted numerous interviews with a range of air freight companies, policy-based bodies and promotional associations [ER 5.6.54] that identified: problems with freight at Heathrow and Channel crossings; that the freight market would expand but there is considerable pressure on price for air freight carriers; that the potential effect of Brexit and changes in fuel price were trigger points for contraction / expansion; that the use of bellyhold over pure air freight was due to availability; and potential markets in perishables, oversized freight and handling of live animals [ER 5.6.55]. The Secretary of State also notes that comments were made on improved passenger access to Stansted Airport, findings regarding airport capacity in the South East and fuel savings for road freight to Manston as opposed to East Midlands Airport. The Applicant stated that the academic and industry experts that had been contacted through the research process had validated the qualitative approach taken in the Azimuth Report [ER 5.6.53]. The Secretary of State notes that during the examination, the Applicant confirmed that a separate viability assessment was conducted to ensure that the forecast in the Azimuth Report would occur at a price that would make the Development viable, but that this was confidential [ER 5.6.51]. The Examining Authority considered that because the Applicant withheld the transcripts of interviews and other sensitive data, this limits the weight that could be given to this information and concluded:

*“While potentially useful and interesting, the fact that the transcripts have not been made available as part of the Azimuth Report due to the confidentiality of the interviews and the commercial sensitivity of the data collected limits the weight that can be given to them.”* [ER 5.6.57] and

*“...on the basis of the evidence provided, the ExA cannot conclude that academic and industry experts have validated the approach of the Azimuth Report. While noting the statement that further evidence was commercially confidential, without access to such evidence the ExA is unable to take this into account.”* [ER 5.6.59].

83. The Examining Authority records that when questioned on this point, the Applicant confirmed that interviews also took place with key airports, the air freight sector, industry organisations, officials in my Department, leading academics and other consulting experts and businesses with the objective of confirming the Applicant's core forecasting analysis [ER 5.6.58]. The Secretary of State notes that during the examination, the Applicant requested the Examining Authority to take into account that other developments have been granted planning consent without the

disclosure of commercially and other sensitive information [ER 5.6.58]. The Independent Assessor's also noted that the Examining Authority reduced the weight attached to the Applicant's evidence due to a lack of interview transcripts, the size of interview sample and being unable to verify academic and industry validation (IAA section 2.1.1, page 4).

84. During the redetermination process, the Applicant commissioned a report from the International Bureau of Aviation ("IBA report") on whether additional air cargo capacity is required in the South East of England and submitted it in response to the second round of consultation. The IBA report contends that 2021 data links GDP growth and air cargo growth. The IBA Report also states that 2019 air freight figures show that cargo is being handled by airports other than Heathrow Airport, and that total UK air freight figures to 2020 (including the pandemic slump) and Civil Aviation Authority's five year data leads the IBA to forecast demand for between 13,000 and 35,000 extra full freighter flights per annum by 2030 with no additional capacity at Heathrow and only 6,000 increased movement at Stansted airport. The Secretary of State notes that these predictions are based on freight tonnage increases of circa 23% in the 10 year period 2019 to 2030, which appear consistent with the anticipated overall UK annual growth rate of between 2.4% and 1.8% between 2022 and 2036 referred to in the Independent Assessor's report (IAA, pages 40 - 41) on the subject of future freighter tonnages. The IBA report also states that there has been significant movement of air cargo to road between 2000 to 2019, and that this is likely a result of a lack pure air freight capacity which has meant that air freight is landed in continental Europe and then moved by road freight into the UK. The Applicant submitted similar evidence on increased road freight displacing air freight in its first submission in the redetermination process. The Secretary of State is of the view that this data demonstrates a sustained growth in air freight demand.

85. The Applicant and other Interested Parties also made reference to the 'Developing Cargo at Airports' July 2021 Airport Council International report and to a claimed new found importance of air cargo. It identified both direct revenue benefits to airport operators as a result of the COVID-19 pandemic such as the significant increase in e-commerce, and indirect benefits in the form of supporting local industry, creating employment opportunities, and enabling global trade. The Secretary of State also notes a number of Interested Parties submitted other similar news and industry articles and reports highlighting the increase in air freight generally, the move to narrow bodied aircraft reducing belly hold capacity, that the COVID-19 pandemic has demonstrated that air freight cannot rely on passenger flights, and of road freight vulnerability to disruption.

86. The Secretary of State notes that in respect of vulnerability to disruptions, the lorry data submitted during the examination to demonstrate that the Development might attract existing and future road freight was not accepted by the Examining Authority. [ER 5.6.111 – 5.6.112 and 5.6.133].

87. The Secretary of State has also considered the references to the Airport Council International report and to a claimed new found importance of carbon reduction and sustainable practices, the Air Cargo News dated November 2021 which states that shipping operators were expanding into air freight and other Air Cargo News extracts dated July – August 2021 reporting on bellyhold capacity constraints, continued growth in e-commerce demand and a move from shipping to air freight.



88. The Secretary of State notes that the Independent Assessor's report highlights on page 29 that *"Even the most up-to-date data used cannot be said to reflect a fully post-Covid world, although travel restrictions are being relaxed, some remain in force, for example for unvaccinated passengers, and supply chain disruption continues to have impacts"* Page 38 of the Independent Assessor's report states that the long-term impacts of Brexit and the extent to which recent figures have been affected by Covid-19 are unclear, and states: *"To the extent that Brexit leads to growth in the UK's long-distance trade in goods, and to which this generates demand for dedicated air freight, it will support the need case for Manston Airport, but the Independent Assessor has not seen any evidence – one way or another – on these matters."*

#### The Secretary of State's Conclusion on Demand & Forecast Assessments

89. The Secretary of State accepts that there will always be a level of uncertainty in any demand forecast and agrees with the author of the Azimuth Report that assessing demand for freight is no easy matter [ER 5.6.53]. The Secretary of State notes that the approach taken by the Applicant relies on an in-depth understanding of the changes that are taking place within the sector in a way that does not miss any currently unmet demand. The Examining Authority concluded that the Applicant's forecasts seem ambitious in light of the historical performance of the airport [ER 5.7.4]. The Secretary of State considers that, given the circumstances noted in paragraphs 81 - 82 above, the qualitative approach taken in the Azimuth Report is preferable to the other forecasts considered by the Examining Authority. Given the dynamic changes that are currently taking place in the aviation sector as a result of the challenges and opportunities from the COVID-19 pandemic, the opportunities from the UK's emergence as a sovereign trading nation and the age of the available data allied with historic under investment, the Secretary of State, contrary to the Examining Authority [ER 5.7.4] and the Independent Assessor, places little weight on forecasts that rely on historic data and performance to determine what share of the market the Development might capture.

90. The Secretary of State notes that while the Examining Authority found the Applicant's Azimuth Report potentially useful and interesting, it gave it limited weight because the transcripts of interviews and other commercially sensitive or confidential information had not been made available [ER 5.6.57]. The Secretary of State notes that the Independent Assessor observed the reduced weight that the Examining Authority gave the Azimuth Report and made no further comment (IAA, page 4). While the Secretary of State agrees with the Examining Authority that the Azimuth Report is a comprehensive document, he disagrees with the Examining Authority that the lack of access to the information withheld by the Applicant reduces the weight that can be placed on it [ER 5.7.13]. The Secretary of State is of the view that withholding commercially and other sensitive information from the planning process is justified. The Secretary of State notes that Table 3 in Volume II of the Azimuth Report provides a list of the organisations and key market players it interviewed. A forecast of demand is included in Table 1 in Volume III of the Azimuth Report and a more detailed forecast was included in Appendix 3.3 of the Applicant's Environmental Statement. The Application was publicised and examined in the normal way and all Application documents and representations submitted during the examination were made publicly available such that there was opportunity for anyone not notified to also submit comments. The Secretary of State did not receive any representations that persuaded him that the conclusions of the Azimuth Report are incorrect.

91. The Secretary of State is aware that his Department's UK Aviation Forecasts 2017 does not model air freight in detail and therefore labelled it as an assumption. However, he is satisfied that the Azimuth Report, which is supported by the Northpoint Report and provides a top-down view of the air freight market and employs a scenario-based analysis [ER 6.6.60], demonstrates that there is demand for the air freight capacity that the Development seeks to provide. The Secretary of State has therefore afforded the Azimuth Report substantial weight in the planning balance.

92. The Secretary of State agrees that industry and other news reports submitted during the redetermination process support the view that e-commerce and air freight demand is increasing, and that these news reports are consistent and support some of the assumptions made in the Azimuth Report. However, the Secretary of State is only able to attach little weight to such reports because they have not been assessed for whether they represent a balanced view of material that is in the wider press.

93. The Secretary of State accepts that there is uncertainty in how the aviation sector may look post-Brexit (IAA page 55) or post-Covid (IAA section, page 29), and agrees with the Independent Assessor's that even the most up-to-date data cannot be said to fully reflect how the sector may look going forward (IAA, page 29) However, it is because of this uncertainty that the Secretary of State places significant weight on the reopening and development of the site for aviation purposes, rather than losing the site and existing aviation infrastructure to other redevelopment.

94. Finally, the Secretary of State places substantial weight on the fact that there is a private investor who has concluded that the traffic forecasted at the Development could be captured at a price that would make the Development viable, and is willing to invest in redeveloping the site on that basis.

### Capacity

95. The Secretary of State notes that the Examining Authority concluded that it was not convinced that a substantial gap between capacity and demand for general air freight within the South East existed. This was on the basis that capacity is available or could be available within the South East or at other airports in reach of the South East should the demand exist [ER 5.7.23]. The Examining Authority was of the opinion that general air freight would continue to be well served in the UK with spare capacity at Stansted in the short term (to 2030) and the proposed Northwest Runway at Heathrow in the longer term, and that new integrators are more likely to wish to be sited in a more central location [ER 5.7.24]. The Secretary of State notes that that the Examining Authority's conclusions also relied on capacity that might become available at existing airports elsewhere [ER 5.6.2 – 5.6.37]. It also relied on capacity that the Examining Authority considered could largely be achieved relatively simply through permitted development rights or existing facilities [ER 5.7.23].

96. The Secretary of State also notes that the Independent Assessor employed the same approach as the Examining Authority in considering capacity and took account of capacity at: Heathrow Airport; Gatwick and Luton; Stanstead Airport; and developments at East Midlands Airport (IAA, section 5.3). The Independent Assessor concluded that the delay in the delivery of the Heathrow Northwest Runway project is a significant change with potential to improve the need case for the Development (IAA, page 47). The Independent Assessor considered that a delay in the opening of the Heathrow Northwest Runway project is likely, and that this strengthens the need for

the Development (IAA, page 47). The Independent Assessor also concluded that if the Heathrow Northwest Runway project were to be prevented or substantially delayed by factors such as successful legal challenge to a decision to grant consent in future or on planning grounds, this would also support the need for the Development to address the shortfall in capacity that this would create (IAA, page 47). However, the Independent Assessor also concluded that the uncertainty in respect of this delay needs to be considered alongside existing capacity, and in light of other airports expansion plans which are progressing (IAA, page 48). The Independent Assessor took into account capacity that will be made available through the Stansted appeal decision (IAA, pages 48 – 51) and capacity that might come forward in future through the Gatwick and Luton Airport expansion plans (IAA page 48). The Secretary of State notes that the Gatwick and Luton Airport expansion projects are at the pre-application consultation stages and have yet to come forward. The Secretary of State also notes that the conclusion that there will be capacity to meet any demand for air freight could be met at East Midlands Airport, reached by the Independent Assessor and some Interested Parties, is based in part on the potential for growth at this airport [ER 5.6.31] & (IAA page 52). The Examining Authority's conclusion that capacity is available or could be made available at other airports within the South East of England [ER 5.7.23] also relies in part on the potential for growth at these other airports.

#### Secretary of State's Conclusion on Capacity

97. On the matter of capacity being made available at airports elsewhere, the Secretary of State accepts that there is potential for all existing airports to expand in future to increase capacity. However, the Secretary of State is of the view that in considering whether there is a demand for the capacity the Development aims to provide, he is not able to attach weight to applications that have yet to come forward. This is because there is no certainty that capacity from such applications will be delivered. For example, aspiration plans setting out future growth may be modified or changed, or they may not come forward at all. Where planning permission is required, both the ANPS and the MBU policies are clear that they do not prejudge the decision of the relevant planning authority responsible for decision-making on any planning applications. Such applications are subject to the relevant planning process and may not ultimately be granted consent by the decision-maker. In addition, the aviation sector in the UK is largely privatised and operates in a competitive international market, and the decision to invest in airport expansion is therefore a commercial decision to be taken by the airport operator. This means that while increase in demand for air freight services could potentially be met by expansion at other airports, those airport operators may not decide to invest in changes to their infrastructure to meet that demand. It is therefore not possible to say with any certainty whether indicative capacity set out in growth plans will result in actual future capacity.

98. The Stansted Airport expansion plan also demonstrates why potential capacity from future plans at other existing airports can only be indicative of future capacity and is therefore not a material consideration. During the examination of this Application, the planning application seeking expansion at Stansted Airport sought an annual cap of 274,000 ATMs including 20,500 air freight movements. The planning permission granted following appeal, in May 2021, maintains an overall annual ATM cap of 274,000 but has reduced the cap of freight ATMs to 16,000, thereby increasing allowable passenger ATMs over freight. The Secretary of State is aware that the

Applicant raised in the Azimuth Report and during the examination the possibility that Stansted Airport would prioritise passenger flights over freight, and that the Examining Authority concluded that there was no clear evidence to suggest that this might be the case [ER 5.6.26]. The Secretary of State also notes that the Independent Assessor took into account capacity that might come forward in future through the Gatwick and Luton Airport expansion plans. The Secretary of State would point out that both the Gatwick Airport Northern Runway project and the Expansion of London Luton Airport project are at the pre-application consultation stages.

99. The Secretary of State received representations from a number of Interested Parties on the uncertainties in the delivery of the Heathrow Northwest runway during the redetermination process. As set out above, this is also acknowledged by the Independent Assessor who concluded that the uncertainty about the future expansion at Heathrow now than at the time of the examination of the Application strengthens the need for this Development (IAA, page 48). The Secretary of State is aware that an application for the Heathrow Northwest Runway project has yet to be submitted to the Planning Inspectorate, and a timetable for the submission of an application has yet to be confirmed. As also set out above, the Independent Assessor considered that the uncertainty in respect of Heathrow's expansion plan needs to be considered alongside existing capacity and in light of other airports expansion plans which are progressing. However, the Secretary of State notes that having agreed with the Examining Authority's conclusions (IAA, page 2), the Independent Assessor has taken the same approach as the Examining Authority in taking into account capacity that may become available through aspirational and potential future growth at other existing airports.

100. The Secretary of State also received representations that referenced the Loadstar article dated 8 November 2021, International Air Transport Association ("IATA") data from 2019 and commentary on the inability of Heathrow to accommodate rising freight demand. The Secretary of State also notes that the IBA report also contends that reliance should not be made on capacity at Heathrow. Using 2019 and 2021 data, the IBA forecasts a return to pre-pandemic belly hold freight levels at Heathrow by 2023, and that 2019 data shows that belly hold capacity is dominant at Heathrow for meeting freight demand.

101. The Secretary of State disagrees with the reliance the Examining Authority places on capacity could largely be achieved through permitted development rights or existing airport facilities [ER 5.7.23]. As set out by the Examining Authority, permitted development rights for the extension or construction of a runway or passenger terminal is not permitted above a certain level, and should an Environmental Impact Assessment be required then permitted development rights would not apply [ER 5.6.38]. An airport operator is also required to consult the relevant Local Planning Authority(s) before carrying out any extension or construction works under permitted development rights [ER 5.6.39]. As with aspirational growth plans for expansion, the decision to increase capacity through general permitted development or existing facilities is a commercial decision to be taken by the airport operator, and the Secretary of State's is unable to place weight on capacity that airport operators have not indicated they intend to and are able to create through permitted development rights.

102. The Secretary of State notes that the Examining Authority [ER 5.6.45] and the Independent Assessor (IAA section 5.3) consider that there is spare capacity at other airports [ER 5.6.45]. It appears that in concluding this, the Examining Authority and the Independent Assessor are relying in part on aspirational growth plans and the

potential for growth at other airports. Such capacity is not required to be taken into account by policy, and it is not in the Secretary of State's view otherwise obviously material to the Secretary of State's decision on this Application for the reasons set out above, principally the lack of any certainty that such potential capacity will ever come forward. To the extent that possible capacity is legally material, the Secretary of State gives no significant weight to it for the same reasons. The Secretary of State accepts that there may currently be existing capacity at other airports such as Stansted and East Midlands Airport. However, the Secretary of State's focus is on the long-term capacity gap identified in relevant aviation policy and forecasted to occur by 2030 in the South East of England. Even if the impacts from the COVID-19 pandemic and other recent events result in short-term fluctuations in demand as suggested by the Independent Assessor (IAA, p. 31, 39, 41, 42 and 56) and other Interested Parties, by their nature such short-term impacts would not give rise to certainty over the long-term demand forecast.

### Locational Factors

103. The Examining Authority considered whether the Development is favourably located to meet air freight demand in the South East of England [ER 5.6.125 – 5.6.145]. The Examining Authority notes that there was a split in the view on the suitability of the location of the Development between Interested Parties. The Applicant argued that the time taken to travel from Manston to most M25 and London destinations is faster from Manston than from EMA, and that the geographical location of the Development provided cost advantages to customers [ER 5.6.126]. Others argued that Manston is not favourably located because: it is not positioned to serve the wider South East Area or the UK; that only the South East and the East of England can be reached within a three-hour drive from Manston whereas most of England and Wales is within three hours of the East Midlands Airport; freight is less time sensitive than passengers; the extensive network of long haul flights from Heathrow means that it attracts freight from the whole of the UK; there is a lack of critical mass of manufacturing nearby; the lack of a passenger hub; and proposed night flight restrictions, [ER 5.6.127 & 5.6.128]. The Examining Authority also records that many Interested Parties said that with the sea to the north and east, the Development site is not conducive to attracting freight or to act as a centre for imports, and conversely that Manston is ideally located to release pressure on the South East [ER 5.6.130]. The Secretary of State notes that these arguments were largely mirrored in the representations submitted by Interested Parties in response to the redetermination process, including the representation by air freight company Midnight Zulu Limited that Manston has particular benefits over other UK locations for air freight arriving from East Africa. The Examining Authority concluded that while Manston may be in closer proximity for the significant import demand from the population density in the South East, East Midlands Airport is in a position that can benefit from fairly easy access to this import demand and also the export demand from the manufacturing heartlands of England and Wales [ER 5.6.137]. The Independent Assessor considered representations submitted during the redetermination on locational requirements, and concluded that the evidence submitted in these representations did not lead to them to conclude differently to the conclusion reached by the Examining Authority on this matter in its report (IAA, page 54).

104. The Examining Authority agreed with the Applicant that price is not the only determinant in where freight businesses may locate, and that other factors such as

facilities, speed, handling efficiency and location are also relevant [ER 5.7.25 While accepting that evidence was not strong on the point of whether bellyhold freight would be cheaper than pure freight from the representations submitted, the Examining Authority was attracted to the argument that freight transported on passenger flights would be substantially cheaper than freight transported on a flight whose sole income is from freight [ER 5.6.113]. The Examining Authority concluded that while factors such as efficiency would play a key role on how to transport freight, price must be a determining factor.

105. The Examining Authority also considered that should demand be present, facilities could be constructed at other airports that could match the Applicant's plan and was therefore not convinced that the location of the Development was entirely favourable [ER 5.7.25].

### Secretary of State's Conclusion on Locational Factors

106. While the Secretary of State considers that there are locational advantages of existing facilities that are available in both the East Midlands and in East Kent, there is no requirement in the MBU policy for an applicant to demonstrate that it is better placed locationally in comparison to other existing airports to intensify use of its runway. In addition, as set out in the Aviation Policy Framework, aviation in the UK is largely privatised and operates in a competitive international market. The Government supports competition as an effective way to meet the interests of air passengers and other users (APF, paragraph 8).

107. For these reasons, the Secretary of State does not consider the advantages of one location over the other as being a decisive consideration in this case.

### E-Commerce

108. The Examining Authority noted that the Applicant aims to attract new e-commerce retailers and distributors which it refers to as 'new integrators'. The Secretary of State notes that the Applicant is of the view that there has been an increase in e-commerce air freight operations, and that this increase cannot be provided at other constrained airports in the South East [ER 5.6.114 – 5.6.115]. The Examining Authority considered that time is less important to new integrators [5.6.140] and therefore the proximity of the Development would not provide a great benefit to these new integrators as it is located in the South East of England [ER 5.6.141].

109. During the redetermination process, the Applicant and other Interested Parties brought to the Secretary of State's attention 2021 data from IBA setting out a demand more generally from e-commerce, the 2021 Centre for Economics and Business Research ("CEBR") report on economic growth post-Brexit and the importance of aviation trade routes, CBRE's global e-commerce outlook report, data on freight diversion to EU aviation hubs, data on increase in B2B e-commerce, and references to 2021 DHL data, 2017 Arup data and undated IATA data.

110. Interested Parties also brought to the Secretary of State's attention the IBA Report dated November 2021 which suggests that commerce requires full freighters and not bellyhold freight, and information such as the DHL 2021 data and the Loadstar December 2021 report that indicates against a return to the pre-pandemic freight / bellyhold split. The Secretary of State also notes that the Applicant references the Skift



Report published in November 2021 on pandemic trading patterns boosting e-commerce and that it suggests a return to previous patterns is unlikely. The Secretary of State has also noted the references to the IBA report which set out that the increasing levels of e-commerce is increasing the percentage of freight carried by air because of delivery time pressures. The Secretary of State also notes the 2021 data from retailers suggesting an increase in retailer flight capacity.

111. The Independent Assessor agrees that e-commerce demand is growing, but is of the view that there is no robust data to demonstrate that e-commerce has increased levels of air freight (IAA, pages 15 – 24). The Independent Assessor notes that air freight has not increased its market share over this time-period and remains at 1.5% of the total in comparison to shipping (IAA, page 19). The Secretary of State notes that there is clearly a dispute over the 2020/2021 figures which remains unresolved, particularly on the point as to whether there has been an increase in air freight generally or whether this is a short-term increase as a result of the COVID-19 pandemic.

112. The Independent Assessor considered the representations made by the Applicant on the role of new integrators using their own in-house air transport operation and the difference between them and that of traditional air freight integrators (IAA, page 23 - 24). It is the Independent Assessor's view that the large-scale use of in-house air transport is not consistent with how e-commerce retailers have organised their supply chains as they tend to use shipping and road transport in preference to air transport as the distances are shorter in the UK in comparison to the U.S.A, China and to a lesser extent Europe (IAA, page 24).

113. The Independent Assessor considered the submissions which stated that the reduction in passenger flights as a result of the COVID-19 pandemic resulted in an increase in the number of dedicated air freight flights, but concluded that this is not evidence of longer term demand in increase in air freight, that the increase in air freight flights at Heathrow Airport was filling available slots and that the supply chains will adjust and return to previous trade patterns (IAA, pages 25 - 31). A number of Interested Parties including the Applicant are of the view that this recent freight increase is evidence of an increase in underlying unmet demand for air freight due to the dominance of bellyhold freight capacity in the UK.

#### The Secretary of State's Conclusions on E-Commerce

114. The Secretary of State considers that there will always be a level of uncertainty in the precise extent to which this data establishes a sustained increase in air freight demand from new e-commerce integrators. He considers that the information submitted by various Interested Parties appears to support the assumption that air freight demand is likely to increase post 2019, and that there is a potential for the increase in total amounts of air freight even if they do not represent an increase in the proportion of total freight. However, the Secretary of State is only able to place little weight on news reports.

115. On the question of new integrators and the use of in-house air transport, the Secretary of State is of the view that it is unlikely that e-commerce would not make some use of increased air freight capacity if such capacity were made available.

116. The Secretary of State considers both the view that the recent increase in dedicated air freight movements demonstrates unmet and pent up demand for air

freight, and the Independent Assessor's view that this increase in air freight movements was a temporary direct replacement of lost bellyhold capacity as a result of the freight market operating freighters in the slots vacated by passenger flights (IAA, page 28), both rely on a degree of assumption. The Secretary of State notes that while the Independent Assessor considers that there is no clear evidence that recent growth in e-commerce sales has created a shift in transport modes to favour air cargo (IAA, page 24), he concludes that it is possible that the evidence submitted does in fact demonstrate an increase in air freight demand. Further, the Secretary of State notes that the Independent Assessor's conclusion that there is no underlying and unmet demand for air freight conflicts with its explanation that an increase in air freight was due to airport operators taking advantage of available capacity (IAA, page 27 & 28), as it would only be able to do so if underlying demand existed.

### Air Freight Demand and Brexit

117. The Secretary of State has considered the Applicant's argument that continuing post-Brexit trade deals should be recognised as a generator of demand for air freight services and makes reference to the Air Cargo news report dated August 2021, CEBR data released in July 2021 and the Thames Estuary Growth Commission report published in 2018. Thirty seven trade agreements have taken effect since 1 January 2021 and the Secretary of State acknowledges that this is indicative to some extent of a rising demand for air freight services. The Secretary of State notes that the Applicant has argued that if GDP shrinks, the Development would help redress that and referenced IATA data from 2015 and ICAO data from 2005.

118. The Secretary of State notes that while the Independent Assessor considers that increase in post Brexit trade will drive demand for air freight services is a plausible argument, the Independent Assessor also considers that there is no clear evidence to support this (IAA, page 39). The Independent Assessor is of the view that the if GDP shrinks, this would lead to a drop in demand for air freight and that the Applicant's projections may be overly optimistic (IAA, page 40). The Independent Assessor does not appear to accept the conclusions in the CEBR Report on trade growth, but the Secretary of State notes that this also appears to be influenced by locational factors and whether the Development is locationally suited to meet air freight demand (IAA, page 37 – 38).

### The Secretary of State's Conclusion on Air Freight Demand and Brexit

119. The Secretary of State accepts that there is unlikely to be clear evidence about what may happen in the future as a result of trade deals. However, the Secretary of State is of the view that it is important to approach this question with the accommodation of growth that could occur in the UK economy in mind. While the Secretary of State notes the Independent Assessor is of the view that a falling GDP may result in a drop in air freight, the Secretary of State, taking into consideration the important role aviation plays in the growth of the UK economy as set out in the Aviation Policy Framework, takes a more optimistic view. For these reasons, the Secretary of State considers that Brexit factors weigh in favour of the granting of the Development. For the reasons given in paragraph 106 above, the Secretary of State does not consider the question of whether East Midlands Airport or the Development is better

located to provide air freight is decisive, and therefore gives little weight to the Independent Assessor's conclusions on the CEBR Report on growth.

### Supply chain Resilience

120. The Secretary of State notes the argument put forward by the Applicant in its response to the second round of consultation that the Development would provide resilience against unprecedented events, and referenced Bloomberg's 10 November 2021 article which reports that there has been an increase in air freight movements to overcome surface supply chain transport obstructions. The Secretary of State has also considered the points made by the Applicant on the issue of resilience that the training of pilots at the Development will provide.

121. The Independent Assessor concluded that as the Development would create dedicated air freight capacity this would result in resilience against transport disruptions, but concluded that while this supports the case for the Development it is not a decisive factor (IAA, page 42). The reasons given by the Independent Assessor for this conclusion is that such events are rare, some would lead to short-term disruption and would not create a sustained demand and because it was of the view that a high impact/long-term event or enough lower impact/short-term events would not generate sustained demand.

### The Secretary of State's Conclusion on Supply Chain Resilience

122. Whether or not a factor is decisive is a matter for the Secretary of State to determine. The Secretary of State agrees with the argument that providing capacity to increase air freight to respond to worldwide logistics constraints will add vital resilience to the UK's trading position, although as set out elsewhere in this decision letter he is able to give news and industry articles only limited weight. The Secretary of State would refer to the recently published 'The Future of Freight: a long-term plan'<sup>18</sup> ("the Freight Plan") which places resilience as one of Government's key objectives for the freight sector. Resilience is identified as critical because the sector underpins every supply chain into, within and out of the UK, and is therefore a theme that runs throughout the issues and priorities identified in the Freight Plan (FFP, paragraph 2.17). The Freight Plan states that reliability in the freight sector must be complemented by resilience and in particular the sector's ability to anticipate, absorb, resist, or avoid disruption and to recover when it does occur (FFP, paragraph 2.5).

123. The Freight Plan ascribes Government and business focus on the resilience of supply chains to a number of recent external factors and unforeseen events such as the COVID-19 pandemic, shortage of drivers for heavy goods vehicles, congestion and price increases within the global deep-sea shipping market, impacts from the UK's exit from the EU as a sovereign trading nation, and the ongoing conflict in Ukraine (FFP, paragraph 2.17). It recognises that resilience in the freight and logistics sector will continue to be tested in the future as geopolitical tensions continue to evolve, noting that the global maritime freight system relies heavily on flows through the South China Sea, Straits of Malacca and Hormuz and the Suez Canal (paragraph 2.18). The Plan highlights the importance of the air freight network and states that looking forward, Government will update and improve the UK's extensive portfolio of Air Service Agreements; enabling international connectivity and breaking down market

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<sup>18</sup> [Future of Freight \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

access barriers in the air cargo sector, giving operators commercial and operational flexibility (FFP, paragraph 1.9). It also highlights the importance of air freight both at the national and regional level, acting as a catalyst for national and local benefits (FFP, paragraph 1.9).

124. The Secretary of State is of the view that as the Development would create dedicated air freight capacity this would result in resilience against surface and other supply chain transport disruptions and unanticipated events. The Secretary of State also considers that while the training of pilots at the Development site is not directly relevant to air freight demand, he acknowledges the connection between the ability to train commercial pilots in the UK and overall trade resilience in the UK. The Secretary of State affords the contribution the Development would make in terms of resilience of the freight sector substantial weight in the planning balance.

#### The Secretary of State's Overall Conclusion on Need

125. The Secretary of State notes that the Examining Authority attempted to establish whether there are any existing and future capacity constraints in the South East and wider UK airports [ER 5.2.5]. The Secretary of State would point out that the ANPS and other aviation policies are clear that capacity in the South East of England will be full by 2030 if capacity is not delivered through the Heathrow Northwest Runway project and other airports making best use of their existing runways (subject to environmental issues being addressed) (Aviation 2050: TFA, 3.11). The Secretary of State accepts that there may be some existing capacity at other airports. However, the Secretary of State would point out that his focus is on the long-term capacity gap identified in the relevant aviation policies as occurring by 2030, and not detailed forecasts for individual airports which can vary depending on the scope of such forecasts and inputs such as specific local and commercial information which are of particular relevance in the short-term (UK Aviation Forecasts 2017, paragraph 1.3). Nevertheless, as set out above the Secretary of State has considered the Examining Authority's consideration of the various demand forecasts submitted during the examination of the Application and is satisfied that the Applicant's Azimuth Report demonstrates that there will be a demand for the capacity that the Development will release. The Independent Assessor highlights that the uncertainty around the delivery of the Heathrow Northwest Runway project strengthens the need for this Development (IAA, page 48). The Secretary of State notes that the Independent Assessor asserts that the uncertainty in respect of the Heathrow Northwest Runway project must be considered alongside existing capacity and in light of other airport expansion plans (IAA, page 48). However, as set out above, the Secretary of State cannot give weight to capacity that might come forward through growth aspirations, planning applications that might come forward in future, and capacity that could in principle be released through general permitted development. The Secretary of State therefore places substantial weight on the capacity that this Development will deliver in the South East of England.

126. The Secretary of State agrees with the Examining Authority that the Azimuth Report is a comprehensive document [ER 5.7.13] but disagrees that it can only be given limited weight due to the withholding of sensitive information [ER 5.6.57]. The Secretary of State also disagrees with the Examining Authority's reliance on historical data and performance to determine whether there will be a demand for the capacity that the services the Development will deliver [ER 5.7.4]. As set out above, the

Secretary of State is satisfied that the approach taken in the Azimuth Report, which is supported by the Northpoint Report, is appropriate and preferable. The Secretary of State is therefore satisfied that the Development will relieve pressure on the UK airport network in the South East of England, where a shortfall in capacity is expected to occur by 2030.

127. The Secretary of State considers that refusing this application is likely to result in the permanent loss of an existing and important aviation asset to redevelopment, and this would be contrary to the MBU policy which sets out the need for airports beyond Heathrow to make intensive use of their existing runways, subject to environmental issues being addressed. The Secretary of State therefore places substantial weight on the Development's compliance with the MBU policy. Further, refusing the Development would not be in keeping with the Thanet District Council Local Policy SP07 which safeguards the Development site for aviation use.

128. The Secretary of State also places substantial weight on the capacity that would be released by the Development to address demand for air freight services, particularly in light of the Independent Assessor's conclusion that new trade deals following Brexit may increase demand for air freight services (IAA, page 34). The Secretary of State also places substantial weight on the supply-chain resilience the Development would provide against unforeseen disruptions (FFP, paragraph 2.17). The Secretary of State notes that General Aviation was not covered in detail during the examination [ER 5.7.27]. Given Government support for General Aviation highlighted in the General Aviation Strategy, the General Aviation Roadmap and the Written Ministerial Statement of 27 April 2021, the Secretary of State also places substantial weight on the General Aviation movements that the Development will release.

129. As set out above, the MBU policy is clear that the Secretary of State, in taking a decision on an application, must give careful consideration to the expected economic benefits that may flow from a proposed development and weigh those benefits against the various impacts from that development. The Secretary of State consideration of the expected economic benefits from the Development is considered in the 'Socio-Economic' and 'Planning Balance' section below. The Secretary of State's consideration of the residual harm that would occur as a result of the Development has also been taken into account in the following paragraphs and in the 'Planning Balance' section below.

## **ARCHAEOLOGY AND THE HISTORIC ENVIRONMENT**

130. The Examining Authority's consideration of archaeology and the historic environment is set out in Chapter 6.3. The Examining Authority concluded that the Development would cause less than substantive harm to 15 heritage assets and limited harm to the character of Conservation Areas in St Nicholas at Wade and Ramsgate Heritage Action Zone due to the visual effects of aircrafts [ER 6.3.205].

131. The Secretary of State notes that during the examination, Historic England raised concerns regarding impacts on non-designated assets and in particular the demolition of the T2 Hangar and the WWII Dispersal Bay. The Supporters of Manston Airport also raised concerns regarding the potential loss of the Dispersal Bay [ER 6.3.189]. The Secretary of State also notes that Historic England was of the view that inadequate surveying of these assets meant that it had not been possible to determine

the importance of these structures [ER 6.3.188] and there was therefore a lack of sufficient data to make properly informed decisions about the Development.

132. The Applicant stated that Manston Airport is not listed as a historically significant key military site and that the 2017 Historic England Listing Selection Guide for Military Structures guidance identified that it is only groups of structures and individual examples of strong intrinsic or associational importance that would be considered of national significance [ER 6.3.187]. The Examining Authority records that Historic England accepted that Manston is not a historically significant key military site, but stated that inadequate surveying of these assets meant that their importance was unknown [ER 6.3.188].

133. The Secretary of State notes that the Applicant considers it unlikely that either of these assets would be of a level of value required for designation [ER 6.3.190 – 192]. During the examination, the Written Scheme of Investigation was updated to ensure a detailed assessment of these two assets, along with a drawn and photographic record in accordance with Historic England guidance, and a Statement of Significance setting out a brief narrative of the historical use and alterations of these structures and setting out the significance of these assets to allow informed decision-making during master planning [ER 6.3.192]. The Examining Authority considered the effect of the loss of these assets are appropriately mitigated by further survey and assessment works and the reporting of such works, alongside the recording of the structures before removal. The Examining Authority concluded that there would remain less than substantial harm that would be caused by the demolition of these assets which weighs against the granting of the Development.

134. The Examining Authority's overall conclusion on Archaeology and Heritage Assets was that the public benefits outweigh the harm caused by the Development, to which it has ascribed considerable weight [ER 8.2.99]. However, given its conclusions on need and noting that heritage assets are irreplaceable, the Examining Authority did not consider clear and convincing justification for that harm has been demonstrated by the Development [ER 8.2.102].

#### The Secretary of State's Conclusion on Archaeology and the Historic Environment

135. The Secretary of State thanks Historic England for alerting him to the changes to the historic environment policy in the National Planning Policy Framework ("NPPF") and the publication of the Ramsgate Conservation Area Appraisal Consultation Draft document. The Secretary of State has taken these into consideration in taking his decision.

136. The Secretary of State agrees with the Examining Authority that there will be limited harm due to visual impacts during operation of the Development on the character of the Conservation Areas in St Nicholas at Wade and Ramsgate Heritage Action Zone (ER 6.3.205). The Secretary of State also agrees with the Examining Authority's overall conclusion that the public benefits outweigh the harm from the Development on heritage assets [ER 8.2.99], and that this weighs considerably in favour for the granting of the Development.

137. However, the Secretary of State notes that the Examining Authority's conclusion of less than significant harm on the non-designated T2 Hangar and WWII Dispersal Bay relies on the recording of the assets before demolition. The Secretary of State notes that the ANPS (paragraph 5.209) advises that the ability to record



heritage assets should not be a factor in deciding whether consent should be granted. The Secretary of State is persuaded by the Applicant's argument that it is unlikely that a detailed assessment of these assets will find that they are of designatable importance. However, the Secretary of State accepts that it is not possible to confirm this to be the case until the detailed assessment has been completed. The Secretary of State has therefore included a requirement for the Applicant to consult Historic England on any further steps they should take before the removal of these assets should the detailed assessment required by the revised Written Scheme of Investigation find that they are of designatable quality.

138. The Secretary of State has considered the impacts on the T2 Hangar and WWII Dispersal Bay, St. Nicholas at Wade Conservation Area and the Ramsgate Heritage Zone further in the planning balance section below.

## **CLIMATE CHANGE**

### *Decarbonising Transport – A Better, Greener Britain*

139. The 'Decarbonising Transport – A Better, Greener Britain'<sup>19</sup> ("the Decarbonising Transport Plan") was published on 14 July 2021 and follows on from 'Decarbonising transport: setting the challenge' published in March 2020 which laid out the scale of reductions needed to deliver transport's contribution to carbon budgets and delivering net zero by 2050. The Decarbonising Transport Plan sets out Government's commitments and the actions needed to decarbonise the entire transport system in the UK. It sets out the pathway to net zero transport in the UK, the wider benefits net zero transport can deliver and the principles that underpin Government's approach to delivering net zero transport. It states that the combining of projections for domestic and international aviation emissions through the inclusion of international aviation in the UK's sixth carbon budget in 2033 means that aviation emissions will continue to fall to 2050. The Decarbonising Transport Plan recognises that the technology pathway to zero emissions is not yet certain for aviation (DTP, page 30) and accepts that where positive emissions remain in transport sectors, these will need to be offset by negative emissions elsewhere across the economy (DTP, 46). However, it also highlights that with the right investment and the emergence of new zero emission technologies it could be possible for achieving even deeper cuts in greenhouse gas emissions from aviation (DTP, page 46).

### *Jet Zero: our strategy for net zero aviation*

140. The 'Jet Zero: our strategy for net zero aviation'<sup>20</sup> ("Jet Zero") consultation document set out Government's Vision for the aviation sector to reach net zero aviation by 2050. The consultation ran from 14 July 2021 to 8 September 2021. A further technical consultation to help inform the final outcome of the Jet Zero consultation ran from 31 March 2022 to 25 April 2022<sup>21</sup>. This consultation invited views on the 'Jet zero: further technical consultation' and the accompanying 'Jet zero: modelling framework' documents. These documents updated the evidence and analysis on the abatement potential and costs of four policy measures (proposed system efficiencies, sustainable

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<sup>19</sup> [Decarbonising Transport – A Better, Greener Britain \(publishing.service.gov.uk\)](https://publishing.service.gov.uk) ("DTP")

<sup>20</sup> [jet-zero-consultation-a-consultation-on-our-strategy-for-net-zero-aviation.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk) ("JZS")

aviation fuel, zero emissions flight and markets and removals) in the Jet Zero consultation. These documents also set out the results of modelling using the updated evidence for the four illustrative scenarios to UK net zero aviation by 2050 contained in the Jet Zero consultation document, and summarised the outcomes and overall impact of the new analysis on Government's strategy for achieving Jet Zero.

141. 'The Jet Zero Strategy: delivering net zero aviation by 2050'<sup>22</sup> ("the Jet Zero Strategy") and the 'Jet zero consultation: summary of responses and government response'<sup>23</sup> were both published on 19 July 2022. The Jet Zero Strategy states that Jet Zero can be achieved without Government intervention to directly limit aviation growth (JZS, paragraph 3.57). It sets out policies that will influence the level of aviation emissions the sector can emit, and maximise in-sector emissions reductions through a mix of measures that will ensure the UK aviation sector reaches net zero by 2050 (JZS, paragraph 3.1). These measures include: improving the efficiency of the existing aviation system; sustainable fuels; new technology; markets and removals; sustainable travel choices for consumers; and addressing non CO<sub>2</sub> emissions (JZS, page 26). The Jet Zero Strategy also sets out how the aviation sector will achieve net zero aviation by 2050 and introduces a carbon emission reduction trajectory that sees UK aviation emissions peak in 2019, with residual emissions of 19.3 MtCO<sub>2e</sub> in 2050, compared to 23 MtCO<sub>2e</sub> residual emissions in the Climate Change Committee's Net Zero Balanced Pathway (JZS, paragraph 3.58).

142. The Examining Authority noted that, specifically for the Development, it will need to be demonstrated to make economic sense (i.e. to establish a need case) in a net-zero world and the transition towards it [ER 6.5.45]. For the reasons set out above, the Secretary of State considers there is a clear need and public benefit case for the Development.

143. The Applicant noted that action will need to be taken at UK Government level to deliver net zero by 2050, with air related emissions being managed at a national level. In its response to the Statement of Matters, the Applicant suggested that the Government is more likely to achieve the highest carbon reductions and meet the sixth carbon budget by way of a new facility built around an existing runway, rather than seeking to upgrade existing facilities while they are operational.

144. The Independent Assessor noted that the policy position in the Jet Zero Strategy consultation documents when the policy is confirmed is likely to remain broadly as it was at the time of the examination in relation to carbon emissions from airport expansion proposals, with individual promoters needing to demonstrate that their proposal would not jeopardise the achievement of the sector-wide goal [IAA, pages 10 - 11].

#### *Aviation Strategy and 6<sup>th</sup> carbon budget*

145. The Secretary of State has considered subsequent changes to the Government's position on climate change, including the announcement by the Government that it would target a 68% reduction in UK emissions by 2030 compared to 1990 levels pursuant to Article 4 of the Paris Agreement, and the inclusion of international aviation emissions in the sixth carbon budget and its target to reduce

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<sup>22</sup> [jet-zero-strategy.pdf \(publishing.service.gov.uk\)](#) ("JZS")

<sup>23</sup> [Jet Zero consultation: summary of responses and government response \(publishing.service.gov.uk\)](#)

emissions by 78% by 2035 compared to 1990 levels. The carbon budget for the 2033-2037 budgetary period was set at 965 Mt CO<sub>2</sub> by way of Carbon Budget Order 2021.

### The Secretary of State's Conclusions on Climate Change

146. The Secretary of State notes the Examining Authority considered that, given the evidence presented, climate change issues have been adequately assessed, and that the requirements of the NPPF, the 2017 EIA Regulations and the ANPS are met [ER 6.5.70]. The Examining Authority's overall conclusion was that the construction and operation of the Development would avoid significant climate effects in accordance with the NPPF, ANPS and 2017 EIA Regulations [ER 6.5.70]. The Examining Authority was satisfied that the mitigation measures secured in the draft DCO by requirements 4, 6, 7, 8, 10 and 13 (covering: Detailed design; outline Construction Environmental Management Plan; Operational Environmental Management Plan; Ecological mitigation; Landscape; and Surface and foul water drainage) would address the concerns of Interested Parties regarding climate change effects [ER 6.5.64]. On balance, the Examining Authority concluded there are no matters relating to specific impacts of the Development on climate change which weigh against granting development consent [ER 8.2.73].

147. However, more widely, the Examining Authority noted that under section 30 of the Climate Change Act 2008 greenhouse gas emissions from international aviation do not count as emissions from sources in the UK for the purposes of carbon targets and budgeting, except as provided by Regulations made by the Secretary of State [ER 6.5.21 and 6.5.44]. On 1 May 2019 the UK Government declared a climate emergency and 'Net Zero-The UK's contribution to stop global warming' was published the following day. This publication included the Committee on Climate Change's recommendation of a new emissions target for the UK of net-zero greenhouse gases by 2050 [ER 6.5.23]. The Climate Change Act 2008 was amended on 26 June 2019 through the Climate Change Act 2008 (2050 Target Amendment) Order 2019 to establish the net-zero greenhouse gas target in law [ER 6.5.25]. The Examining Authority noted that the Committee on Climate Change accordingly advised that the planning assumptions for international aviation should be to achieve net-zero emissions by 2050 [ER 6.5.44], and its emerging advice to Government was that this should be reflected in the UK's emerging Aviation Strategy, which means reducing actual emissions in the international aviation sector.

148. The Examining Authority concluded that the Development's Carbon Dioxide contribution of 730.1 Kt CO<sub>2</sub> per annum (N.B. at full capacity on a worst-case scenario assessment), would according to the Applicant have formed 1.9% of the total UK aviation carbon target of 37.5 Mt CO<sub>2</sub> for 2050, will have a material impact on the ability of Government to meet its carbon reduction targets, including carbon budgets [ER 8.2.74]. The Examining Authority concluded that this weighs moderately against the case for development consent being given [ER 8.2.75].

149. However, the Secretary of State is satisfied that Government's Transport Decarbonisation Plan and the Jet Zero Strategy, which set out a range of non-planning policies and measures that will help accelerate decarbonisation in the aviation sector, will ensure Government's decarbonisation targets for the sector and the legislated carbon budgets can be met without directly limiting aviation demand. For this reason, he does not accept the Examining Authority's view that carbon emissions is a matter

that should be afforded moderate weight against the Development in the planning balance, and considers that it should instead be given neutral weight at the most.

150. For the reasons set out in the paragraphs above, the Secretary of State is content that climate change is a matter that should be afforded neutral weight in the planning balance.

## **NOISE AND VIBRATION**

151. The Secretary of State notes that a significant proportion of the relevant representations received by the Examining Authority raised aviation noise as a concern and the examination therefore primarily focused on operational noise effects [ER 6.8.5]. The Secretary of State also notes that the Examining Authority examined a wider scope of potential noise affects including noise and vibration impacts from construction and operational activities in order to take into account impacts on a range of potential human and ecological receptors [ER 6.8.3].

152. The Examining Authority concluded that with the controls and measures included in the DCO during the examination, noise from the Development would be sufficiently mitigated. The controls and measures within the DCO covering operational noise mitigation, airport operation and monitoring include:

- a ban on night flights – restricting scheduled flights between 23:00 and 06:00 (requirement 21) and a restriction on noisier aircraft between 06:00 to 07:00 (requirement 9) [ER 8.2.124];
- noise Quota Counts (“QCs”) to control noise impacts (requirement 9) – setting a QC for aircraft in the 06:00 to 07:00 period and restricting noisier aircraft with QC 4, 8 or 16 to mitigate noise in the late part of the night-time quota period [ER 8.2.125];
- contour to limit annual noise emissions – the contour area and relevant noise contours are secured in the DCO (requirement 9) and the contour area cap is considered a reasonable approach to mitigate and minimise the population exposed to aircraft noise above the day and night-time Lowest Observed Adverse Effect Level (“LOAEL” – the level above which adverse effects on health and quality of life can be detected) [ER 8.2.126];
- residential properties –with habitable rooms within the 60dB LAeq (16 hour) day time contour will be eligible for noise insulation and ventilation detailed in the noise mitigation plan (Requirement 9) [ER 6.8.247];
- schools – the restrictions on passenger air transport departures during the period 09:00 to 12:00 is, with the funding commitments for insulation and ventilation in the UU in favour of Kent County Council, considered adequate to avoid significant adverse noise effects [ER 8.2.136]; and caps on the annual air traffic movements for cargo, passenger and general aviation (requirement 21) to the worst-case assessment in the Environmental Statement [ER 8.2.123].

153. The Examining Authority concluded that the financial contribution for insulation and ventilation for schools in the Unilateral Undertaking (“UU”) in favour of Kent County Council together with requirement 21 covering Airport Operations would adequately mitigate the impacts of noise and vibration effects of the Development on schools. The

Examining Authority was also satisfied that a financial contribution for Noise Monitoring Stations and independent noise monitoring assessment of their data in the UU in favour of Thanet District Council will ensure that the provisions of the Noise Mitigation Plan and DCO are complied with [ER 8.2.148].

154. The Secretary of State notes that the Examining Authority's overall assessment of the Developments compliance with the Noise Policy Statement England 2010 ("NPSE"). The NPSE, which is mirrored in the ANPS, states at paragraph 1.7 that a proposal should meet the following aims:

*Through the effective management and control of environmental, neighbour and neighbourhood noise within the content of Government policy on sustainable development:*

- *avoid significant adverse impacts on health and quality of life;*
- *mitigate and minimise adverse impacts on health and quality of life; and*
- *where possible, contribute to the improvement of health and quality of life.* [6.8.489]

155. The Examining Authority concluded that with the inclusion of its recommended measures and controls to mitigate impacts from noise, it is able to conclude that on balance, the Development meets the first and second aim of the NPSE. As the third aim is to be achieve "where possible", the Examining Authority considered that the Applicant has demonstrated that it has addressed the third aim and notes the annual financial contributions for monitoring and for school insulation and ventilation mitigation [ER 8.2.491 – 8.2.492].

156. The Examining Authority also concluded that with the inclusion of its amendments to the DCO related to the control of noise and appropriate mitigation, and given the evidence presented, the Development generally accords with the relevant national and local policies and guidance in respect of noise [ER 6.8.489 – 6.8.493 and ER 8.2.145 – 8.2.149].

157. However, given the uncertainty regarding the efficacy of noise insulation and ventilation schemes for caravans, there remained a potential that the mitigation of noise impacts may not be possible for up to 40 residential caravans at Smugglers Leap caravan park, and there remained the possibility of SOAEL being exceeded at this receptor [ER 6.8.366]. The Secretary of State notes that the should it prove impossible to achieve an appropriate level of acoustic performance as defined by BS 3632:2015, then the Applicant will consider relocation in line with the provisions in section 5 of the Noise Mitigation Plan [ER 6.8.364]. The Examining Authority considers relocation is likely to result in significant effects on health and quality of life and therefore fails to satisfy the first aim of the NPSE [ER 8.2.147] and that this weighed against the Development [ER 8.2.150].

158. The Examining Authority also considered that while the inclusion of requirement 21(2) in the recommended DCO mitigates against potential impacts from night flights, the impacts for night noise flights from emergency flights and flights for humanitarian purposes could not be entirely excluded [ER 8.2.124].

159. On implication of noise impacts from a Human Rights perspective, the Examining Authority concluded that because the Applicant has been unable to demonstrate sufficient need for the Development and because the socio-economic benefits of the Development are overstated, the proposed interference with the Human

Rights of individuals is not justified in the public interest and the degree of interference would not be proportionate [ER 6.8.434 – 6.8.435].

#### The Secretary of State's Conclusion on Noise and Vibration

160. The Secretary of State agrees with the conclusions of the Examining Authority at paragraphs ER 8.2.121-8.2.123, ER 8.2.127-8.2.135, ER 8.2.137, ER 8.2.139-8.2.141 and ER 8.2.144-8.2.146.

161. The Secretary of State disagrees with the Examining Authority's conclusion on need for the Development [ER 8.2.142] and has reached his own conclusions on the need for the Development which is set out in the 'Need' section above. The Secretary of State's conclusion on the implications of noise impacts with respect to Human Rights therefore differs from that of the Examining Authority set out in paragraphs ER 6.8.433 – 6.8.435. The Secretary of State has concluded that in light of the reasons given in the 'Need' section above and in the 'Socio-Economic' section below, there are no additional restrictions which are required to be imposed to safeguard the Human Rights of persons adversely affected by the Development, and that the proposed interference is justified in the public interest and proportionate.

162. The Secretary of State agrees with the Examining Authority that given the uncertainty over the effectiveness of the noise insulation measures for residential caravans, the potential for significant effects from noise cannot be ruled out for up to 40 residential caravans at Smugglers Leap caravan park. In respect of relocation, should the noise insulation measures prove ineffective the Secretary of State accepts that relocation can have significant effects on health and quality of life [ER 8.2.147]. The Secretary of State also agrees that potential impacts from emergency or humanitarian night flights cannot be entirely excluded [ER 6.8.470]. The Secretary of State has considered this further in the planning balance section below.

163. Although subject of a separate regulatory procedure on which the Secretary of State expresses no views, he notes that in considering its relevance to noise controls, in making a recommendation the Examining Authority has accorded no weight to the separate Manston Airspace Change Process ("ACP") application relating to the detailed design of airspace and specific flight paths [ER 6.8.286]. The Secretary of State also notes that should the flight paths assessed as part of the ACP application differ to the extent that likely significant effects not assessed as part of the Applicant's Environmental Statement are identified, the Examining Authority considers that this could potentially constitute a material change which would require an application to be submitted to the Secretary of State under the Planning Act [ER 6.8.297]. Given that the Applicant and CAA also have a Statement of Common Ground in place, the Secretary of State agrees with the Examining Authority that the potential for new or previously unassessed impacts to arise is limited [ER 6.8.298, 6.8.474 and 8.2.127].

#### **OPERATIONAL ISSUES**

164. The Secretary of State notes the Examining Authority's consideration of operational matters in Chapter 6.9 of its report. The Secretary of State agrees with the Examining Authority in respect of its conclusions on operational matters [ER 8.2.151 – 8.2.176], except where stated below. In light of the areas where he disagrees with the conclusions of the Examining Authority, the Secretary of State also does not



consider that operational matters weigh moderately against the granting of development consent being given for the Development.

165. The Examining Authority concluded that overall, given the illustrative nature of the proposed development of the Norther Grass Area (“NGA”), insufficient justification had been provided for the inclusion of this area in the DCO [ER 8.2.161]. However, the Examining Authority recommended [ER 10.4.80], to restrict development in this area to development that has a direct relation to the Development, that the definition of “airport-related” development be amended to read:

*“airport-related” development means development directly related to and required to support operations at Manston Airport including, but not limited to freight distribution centres, including freight forwarding and temporary storage facilities”*

166. The Secretary of State notes that the Applicant intends to use the NGA for airport related businesses consisting of B1 and B8 use class development [ER 6.9.64]. The Secretary of State also notes that the Applicant confirmed during the examination of the Application that the range of uses it has provided for this area is illustrative rather than definitive because it had not marketed the site and therefore had no definitive list of end users to assign to different plots or buildings [ER 6.9.65]. The Secretary of State disagrees with the Examining Authority’s conclusion that insufficient justification has been provided for this area. The Secretary of State accepts that the Applicant is unable to confirm the exact use and layout of this area of development until further information becomes available in future, and is satisfied with the illustrative nature of the proposed development for this area. This will allow for greater flexibility during the detailed design and implementation stages when the Applicant is able to finalise the layout and assigned uses to the area. The Secretary of State is also satisfied with the definition of the works relating to this development area included within the DCO. The Secretary of State has also included in the DCO the Examining Authority’s recommended amendment to the definition of “airport-related” development and is satisfied that this will restrict development in this area to such developments. The Secretary of State considers that the whole NGA is essential so that the airport has adequate land for airport-related development.

167. As indicated above in the ‘Noise and Vibration’ section above, the Secretary of State expresses no views in relation to Airspace Change Process [ER 8.2.163] or the Aerodrome Certificate [ER 8.2.162] as these are both the subject of separate regulatory procedures.

168. The Secretary of State notes the conclusions of the Examining Authority concerning the possible requirement in future of Public Safety Zones (“PSZs”). These are the subject of separate procedures and are contingent on a number of factors including future growth, future fleet mix and crash data, calculations of risk, and policy in force at the time. The Secretary of State therefore considers it is not possible to currently say with any certainty in what year of operation a PSZs would be likely to be imposed. In addition, the socio-economic impacts of the PSZs are difficult to determine as they are dependent on future decision making by land-owners, developers and the Local Planning Authority. Due to the uncertainty of a number of factors that could alter before a PSZ may be required, the Secretary of State places little weight on the Examining Authority’s conclusion that the negative effects of the PSZ weigh against the Development [ER 8.2.164 – 8.2.168].

169. The Secretary of State notes the discussion during the examination regarding the High Resolution Direction Finder (“HRDF”- a navigational aid to aircraft operating in the area and critical to maintaining the UK emergency response capabilities for the management of air safety incidents) and that the Applicant and MoD remained some way apart from agreement at the end of the examination [ER 6.9.129]. The Ministry of Defence (“MoD”) objected to the Development as it considered that it would have a significant and detrimental impact on the capability of safeguarded technical equipment located within the boundaries of the Development [ER 6.9.130]. The Secretary of State notes that in its response dated 31 January 2020 to his consultation letter of 17 January 2020 the MoD maintained its objection to the relocation of the HRDF and confirmed no resolution on this matter appeared imminent. In response to the redetermination process, the MoD confirm in its letter dated 9 July 2021 that it maintained its objection to the Development and that the matter or relocation of the HRDF remained outstanding.

170. The Secretary of State has given careful consideration to this issue. He notes the proposals from the MOD in their letter dated 31 January 2020 and agrees to MOD’s proposed amendment to requirement 24(1) but disagrees with the amendments proposed for 24(3). Notwithstanding this requirement, the Secretary of State also accepts that there is still no guarantee that the HRDF can be moved at this time, but would encourage the Applicant and the MOD to continue to engage in constructive dialogue to seek a workable solution to resolve this issue. The Secretary of State’s consideration of the compulsory acquisition of the HRDF land is set out below.

## **TRAFFIC AND TRANSPORT**

171. The Secretary of State has carefully considered the traffic and transport evidence put before the Examining Authority and has had regard to the comments and conclusions of the Examining Authority [ER 6.11 and ER 8.2.192 – ER 8.2.218]. The Secretary of State notes that the Transport Assessment submitted in support of the Application was revised during the examination following the development of KCC’s SATURN strategic highway model (Thanet Strategic Transport Model) and to take into account a request from the Examining Authority to ensure robust modelling (“the revised Transport Assessment”) [ER 6.2.90], and that the revised Transport Assessment was subsequently updated. The Secretary of State also notes the Examining Authority’s view that the assessment of impact in the original and revised Transport Assessment and additional work undertaken by the Applicant has been robust [ER 6.11.66].

172. The Secretary of State agrees with the Examining Authority that the Development will not have any material adverse impacts on the Strategic Road Network and no mitigation is required in this regard. He notes that National Highways withdrew its objection and Kent County Council did not raise any outstanding objections on this point. In addition, he agrees with the Examining Authority that the Development complies with the National Policy Statement for National Networks [ER 8.2.198].

173. The Secretary of State is satisfied that there would be no unacceptable impacts from construction traffic, which would be controlled by measures in the Construction Traffic Management Plan and secured through requirement 6 in the DCO [ER 8.2.206].

174. The Secretary of State welcomes the measures proposed by the Development in relation to accessibility for persons with additional needs. He notes that the Examining Authority was unable to reach a firm conclusion as to whether the Development appropriately seeks to promote sustainable modes of transport and recommended that the Secretary of State seek clarification from relevant parties before coming to a view on this matter [ER 8.2.212]. The Examining Authority also considered that the recommended draft DCO should contain a specific Requirement on this matter. The Secretary of State consulted on the Examining Authority's recommended revised text of requirement 7, which sets out that the Applicant must agree a Bus Service Enhancement Scheme. This also includes the enhancement of existing services and the provision of shuttle bus services. The ExA considered that with the imposition of the revised text in requirement 7 there would be sufficient provision of bus services to allow accessibility to the airport by means other than private vehicles and thus considered the Development has made all reasonable attempts to ensure that the airport would be accessible for users with additional needs. In its response to the Secretary of State's consultation during the decision-making period, the Applicant agreed to the inclusion of revised requirement 7. The Secretary of State is satisfied that there would be suitable provision of bus services and has concluded that on the evidence submitted the Development would appropriately promote sustainable modes of transport [ER 6.11.433 – 6.11.435, ER 8.2.193 – 8.2.197 and ER 8.2.207-8.2.212].

175. The Secretary of State notes the conclusions of the Examining Authority in relation to the impact of the Development on the local road system and on the off-site junctions in particular, and also notes the findings of the Examining Authority in relation to the mitigation schemes proposed in relation to those junctions (and those where no mitigation is proposed). The Secretary of State sees no reason to disagree with the Examining Authority's findings and has taken these into account as part of the planning balance. The Secretary of State also notes the Examining Authority's conclusions in respect of the proposed UU to KCC and agrees that it is an appropriate mechanism to secure junction improvement works in this case. The Secretary of State notes the concerns of KCC and the findings of the Examining Authority in relation to the amounts and timings of the financial contributions for junction improvements and to the UU not fulfilling the requirements of regulation 122 of the Community Infrastructure Levy ("CIL") Regulations 2010 and that it should be disregarded in reaching a conclusion on this matter. However, the Secretary of State notes that the Applicant asserts that the cost estimates prepared for each junction improvement have been based upon a combination of engineering experience, recognised industry publications and recently returned tenders for schemes of a comparable scale and complexity. Furthermore, he also notes that the Examining Authority acknowledges that the junction improvement schemes are not yet fully detailed and have been developed to a concept preliminary design standard and that a 44% optimism bias allowance has been made to the costs [ER 6.11.294 – 6.11.302]. On balance, the Secretary of State is satisfied that the UU would comply with the requirements of the CIL Regulations 2010 and therefore should be taken into account and disagrees with the Examining Authority that it should be disregarded as part of concluding on this matter. The Secretary of State accepts that there is the potential for short term congestion and delays on the local road system caused by the Development to occur before appropriate mitigation is delivered; however, he considers that the residual cumulative impact on the road network would not be severe and gives limited weight to these effects [ER 8.2.199 – 8.2.204]. On a related matter, it is also noted that if not all of the mitigation for junction improvements

is considered necessary the UU provides for the contributions to be put towards other highways improvements which KCC deem necessary to mitigate the effects of the Development project. KCC consider this would be compliant with regulation 122 of the CIL Regulations 2010 and the Examining Authority accepts this view [ER 6.11.308 - 6.11.309].

176. It is noted that the Applicant's approach to contributing to the delivery of the Manston-Haine link road is considered by the Examining Authority to be reasonable and pragmatic to its delivery and that this is a matter of neutral weight [ER 8.2.205]. Given the importance of delivery of the link road locally, and the Examining Authority's conclusion that the provisions set out in the UU in favour of KCC will help to deliver the link road [ER 6.11.392], the Secretary of State disagrees with the Examining Authority that this should be a matter of neutral weight. While the Secretary of State agrees that the Development would help deliver the link road, he accepts that the delivery of the link road is not certain as it is not part of the Development [ER 6.11.369 – 370] and has therefore given this minor weight in favour of the Development in the planning balance [ER 6.11.369 - 6.11.392].

177. Through the UU with TDC the Applicant has provided for a financial contribution to be paid for the cost of providing of a Controlled Parking Zone ("CPZ") if the monitoring of the Framework Travel Plan identifies a need for such measures [ER 6.11.449]. This contribution is based on a cost per metre. TDC accepts the cost per metre but not the total number of metres. The Secretary of State notes that the Examining Authority was unable to examine the proposals by the Applicant for the CPZ and therefore the Examining Authority did not conclude that the CPZ and the associated financial contribution (of £231,400) is appropriate, the Examining Authority found that this issue weighs against the Development. The Secretary of State also notes that TDC has questioned the extent to which a CPZ contribution is necessary. The Secretary of State considers that, as the contribution is to be based on need following travel plan monitoring and in the absence of an alternative suggested contribution amount, it is necessary and in other respects meets the CIL Regulations requirements. [ER 6.11.448 – 6.11.453 and ER 8.2.209].

178. The Examining Authority acknowledges that the effects of Brexit are still uncertain, but based on the evidence presented to the examination, it is content as far as it can be that Operation Stack/Brock and the provisions of The Town and Country Planning (Manston Airport) Special Development Order 2019 will not have a detrimental impact on the Development [ER 8.2.213]. The Secretary of State agrees.

179. The Secretary of State notes that the Examining Authority concludes and recommends that the proposed closure of a short stretch of Public Rights of Way ("PRoW") (TR9) and re-routing of another stretch (T8) are both necessary and proportionate [ER 8.2.214]. The Examining Authority considers that the mitigation proposed in the form of the upgrading of stretches of TR8 and TR10 is potentially beneficial, although the scale and level of benefit of these improvements means that they are not a determining factor in the Examining Authority's overall conclusion on PRoW [ER 6.11.523]. However, the Examining Authority recommended that the Secretary of State seek clarification from the Applicant and KCC on contradictory financial contribution figures in the draft and final UU for upgrading PRoW [ER 6.11.472]. KCC has confirmed in its further consultation response during the Secretary of State's decision-making stage that the final UU reflects KCC's PRoW response to the Fourth Written Questions during the examination (referenced TR 4.54) and is

therefore in accordance with KCC's PRow requirements. In light of this, the Secretary of State considers that this issue is of neutral weight.

180. The Secretary of State notes there was disagreement between the Applicant and KCC on the proposed junction layout at the Manston Road / B2050 / Spitfire Way junction (junction 12) to mitigate impacts from the Development. The Secretary of State is aware that KCC's concerns with the layout of the junction relate to highways safety associated with uncontrolled right turns and junction intervisibility, and pedestrian safety issues due to the narrowing of the proposed footpath alongside the approach to the junction. The Examining Authority concluded that there were several failings associated with junction 12 [ER 6.11.362] that could result in highway and pedestrian safety impacts, and that these potential impacts would be moderate adverse impacts in terms of pedestrian amenity and delay, fear and intimidation, and major adverse-significant effects in terms of accidents and road safety [ER 6.11.362 - 363].

### The Secretary of State's Conclusions on Traffic and Transport

181. With the exception of junction 12, while the Secretary of State accepts that there is the potential for short term congestion and delays on the local road to occur before appropriate mitigation is delivered, he considers that the residual cumulative impact on the road network would not be severe and gives limited weight to these effects [ER 8.2.199 – 8.2.204].

182. The Secretary of State agrees with the Examining Authority that the potential impacts at junction 12 could result in highways and pedestrian safety impacts. The Secretary of State is aware that the Applicant's original Transport Assessment proposed a fully signalled junction 12 with integrated pedestrian crossing facilities [ER 6.11.339]. The revised Transport Assessment tested two mitigation schemes: 1) an amended signalised junction to the one in the original Transport Assessment; and 2) KCC's preferred option of a roundabout alignment [ER 6.11.342]. The Secretary of State notes that while a roundabout is KCC's preferred junction, KCC stated during the examination that it would be prepared to compromise on the form of the signalised junction if this enables common ground to be reached and a smaller footprint to be utilised as required by the Applicant [ER 6.11.350].

183. Having noted the willingness demonstrated by KCC during the examination to engage with the Applicant to resolve this issue, the Secretary of State has inserted a requirement in the DCO to ensure that the Applicant submits, for the approval by KCC, a junction layout which is considered to be safe and appropriate. The Secretary of State is satisfied that, with the inclusion of the requirement to address the outstanding issues at junction 12, there are no traffic and transport issues that weight against the granting of the Development.

### **SOCIO-ECONOMIC BENEFITS (EMPLOYMENT, TOURISM, AND EDUCATION, TRAINING AND SKILLS)**

184. Examining Authority's consideration of the expected socio-economic benefits from the Development is considered in section 6.10 of its report. The Examining Authority records that DCC, CCC and TDC's Local Impact Reports referred to socio-economic matters. Specifically from a socio-economic perspective, both DCC and

CCC confirmed that they generally concur with the Applicant's assessment and recognised the potential for positive economic impacts to the local and wider economy [ER 6.10.13 and 6.10.15]. The Secretary of State notes that while TDC accepted that the Development has the potential to deliver significant positive socio-economic benefits to the local area, it was of the view that there was significant uncertainty on what the effect on the economy of Thanet would be [ER 6.10.4].

185. The Examining Authority also records that Interested Parties, both in favour and against the Development, submitted representations largely contained in the list at paragraph 6.10.3 of the Examining Authority's report, with many also commenting on the current and changing situation in terms of socio-economic related matters in the Thanet area. The Secretary of State notes that these issues were also raised in representations submitted during the redetermination period.

186. Having carefully considered the Azimuth Report, the York Aviation Report and other representations submitted on socio-economic issues, the Examining Authority concluded that the socio-economic benefits from the Development had been overstated, and that in terms of employment the actual direct jobs from the Development would likely to be 19% lower than the numbers forecasted by the Application [ER 6.10.153]. On indirect job creation, the Examining Authority concluded that while the Applicant's predicted indirect and induced jobs from the Development may be realistic, achievable and robustly assessed, these would be at a national level as opposed to the Thanet, East Kent and wider Thames Estuary area [ER 6.10.154]. However, the Examining Authority considered that the Applicant's education, training and skills commitments would have the potential to have a significant positive benefit Thanet and the wider East Kent area [ER 6.10.163].

187. The Examining Authority considered that the Development would have an adverse effect on tourism in Ramsgate. In its Local Impact Report, TDC stated that tourism is a significant aspect to the local economy in Thanet, all indicative flight paths would travel over Ramsgate, and multiple flights during the day could adversely affect the tourism sector. TDC's Local Impact Report also highlights the importance of ensuring visitors are not deterred from visiting the area during both the construction and operation of the Development [ER 6.10.8]. While the Examining Authority was of the view that the Development might bring tourists to the wider area, it also agreed that impacts from construction and operation would adversely affect tourism in Ramsgate [ER 6.10.140].

188. Overall, the Examining Authority concluded that the Development would still generate a socio-economic benefit to Thanet and East Kent, but such benefits are substantially lower than that forecast by the Applicant. The Examining Authority also concluded that such benefits are also dependent on the need for the Development; without the need and the forecasts based on this need, socio-economic benefits (aside from the education, training and skills commitments) would reduce further [ER 8.2.188].

#### The Secretary of State's Conclusion on Socio-Economic Benefits

189. The Secretary of State agrees with the Examining Authority that socio-economic benefits are dependent on the need for the Development [ER 8.2.188]; without demand for the services the Development would provide the expected benefits would not materialise. As set out in the 'Need' section above, the Secretary of State

disagrees with the Examining Authority's conclusion on need and is satisfied that the Applicant has sufficiently demonstrated that there will be demand for the services the Development will provide.

190. The Secretary of State accepts it is not possible to precisely predict the economic benefits that may arise as a result of any airport development, and recognises that there will therefore always be uncertainty in forecasting economic benefits from aviation. The Secretary of State accepts that there will always be a level of uncertainty in the forecasting of economic benefits, particularly benefits resulting from connectivity that aviation provides. Paragraph 1.3 of the Aviation Policy Framework sets out that the exact value of aviation benefits to the UK economy, both at a national and regional level, differs depending on the assumptions and definitions used. However, the Airports Commission found that the responses submitted to both the scoping document and consultation document demonstrated that there is broad agreement that the economic benefits from aviation are significant.

191. The Secretary of State is aware that a number of Interested Parties have highlighted that Policy SP04 (economic growth) in Thanet District Council's adopted Local Plan, which is aimed at creating 5,000 jobs in the local area on identified employment sites, does not include Manston Airport. The Secretary of State agrees with the Independent Assessor that while Manston may not be mentioned specifically in SP04, SP04 is supportive of all new job creation both within and outside identified employment sites (IAA, page 13).

192. The Secretary of State agrees with the Examining Authority that the education, training and skills financial contribution (a total undertaking of £1.25m) secured in the Applicant's UU made in favour of Thanet District Council has the potential to have a significant positive benefit on Thanet and the wider East Kent area, and that it would ensure that the required education, employment and skills plan is properly enacted and implemented. However, he also concurs with the Examining Authority that a missed opportunity arises from the fact that the initial payment is not required until prior to air transport movements occurring at the airport. While not altering the Secretary of State's conclusions on this matter, he would encourage the Applicant to consider revisiting it to ensure that provisions for local employment and training during construction are not missed [ER 8.2.187].

193. The Secretary of State notes that the Examining Authority is of the view that the jobs created as a result of the Development would not be to the same extent as forecast by the Applicant [ER 8.2.183]. The Secretary of State considers that should job creation levels materialise at the lower levels suggested by the Examining Authority, there would still be socio-economic benefits from the Development that would weigh in favour of the granting of development consent [ER 11.2.12].

194. While the Secretary of State considers that overall, socio-economic benefits carry substantial weight in favour for the granting of the Development, he agrees with the Examining Authority that there is potential for negative impacts on the tourist industry at Ramsgate. While he is sympathetic to any residents and business holders that may be affected, he also agrees with the Examining Authority's overall view that the Development would increase the attraction of tourists to other parts of Thanet and the wider East Kent area [ER 8.2.184 – 8.2.186]. The Secretary of State has considered the impact on tourism in Ramsgate further in the planning balance section below.



195. The Secretary of State agrees with the Examining Authority that socio-economic impacts weigh in favour of the Development but disagrees that this would only carry moderate weight in favour of the Development [ER 8.2.183]. The Secretary of State places substantial weight on the socio-economic benefits that are expected to flow from the Development to Thanet and East Kent, as well as more widely including benefits from employment creation, education, tourism to the wider East Kent area, benefits to General Aviation and regeneration benefits.

## **PLANNING BALANCE**

196. The following are considerations that the Secretary of State has weighed in the planning balance against the case for this Development:

- Noise: as set out in paragraph 162 above, while the Secretary of State considers that the impacts have been mitigated as much as possible, he accepts that there remains a potential that noise mitigation may not be possible for residential caravan owners at Smugglers Leap. He therefore agrees with the Examining Authority's conclusion that impacts on this receptor cannot be ruled out and has afforded moderate weight to this issue.
- Heritage Assets: The Secretary of State accepts that harm would occur from the demolition of the T2 Hangar and WWII Dispersal Bay if these assets are found to be of a level of value required for designation, and that recording does not mitigate against this harm. As set out in paragraph 137 above, the Secretary of State has included a requirement to ensure that in the event that further assessment identifies these assets as being of designatable quality, the Applicant must consult Historic England to identify what additional steps they might take before demolishing these assets. The Secretary of State therefore gives this issue little weight in his decision making. The Secretary of State also accepts that there will be limited visual impact harm on the character of the Conservation Areas in St Nicholas Wade and Ramsgate Heritage Action Zone during the operation of the Development.
- Traffic and Transport: The Secretary of State accepts that there is the potential for short term congestion and delays on the local road system caused by the Development to occur before appropriate mitigation is delivered. However, he considers that the residual cumulative impacts would not be severe and gives little weight to these effects. In the case of impacts at junction 12, as set out in paragraph 183 above the Secretary of State has included a requirement to ensure that the Applicant obtains agreement with KCC on appropriate mitigation measures at this junction before the commencement of the Development. The Secretary of State is therefore satisfied that KCC's concerns in relation to this junction will be addressed and has afforded little weight to this matter.
- Tourism in Ramsgate: The Secretary of State agrees with the Examining Authority that while the Development may bring further tourists to other parts of the East Kent area, the amenity impacts from construction and operation of the Development may lead to adverse effects on the tourism industry in Ramsgate. The Secretary of State has afforded substantial weight to this issue.

197. The Secretary of State is content that the impacts of the Development in terms of air quality [ER 8.2.28 – 8.2.43]; biodiversity [ER 8.2.44 – 8.2.62]; ground conditions [ER 8.2.76 – 8.2.82]; landscape, design and visual impact [ER 8.2.104 – 8.2.120]; and water resources [ER 8.2.219 – 8.2.227] are of neutral weight in the decision as to whether to make the DCO.

198. The Secretary of State does not agree with the Examining Authority that operational matters weigh moderately against the granting of development consent. The Secretary of State considers that with the restrictions included in the DCO set out in the ‘Operational Issues’ section above, operational matters do not weigh against the Development. The Secretary of State is also of the view that Climate Change does not weigh against the Development for the reasons given in the ‘Climate Change’ section above. The Secretary of State agrees with the Examining Authority that socio-economic benefits weigh in favour of the Development.

#### The Secretary of State’s Conclusions on the Planning Balance

199. The Secretary of State agrees with the Examining Authority that socio-economic benefits are dependent on the need for the Development [ER 8.2.188]. For the reasons given in the Need section above, the Secretary of State disagrees with the Examining Authority’s conclusion on need and considers that there is a clear case of need for the Development. The Secretary of State therefore concludes that significant economic and socio-economic benefits would flow from the Development and gives this should be given substantial weight in the planning balance.

200. The Secretary of State is also satisfied that the Development would support Government’s policy objective to make the UK one of the best-connected countries in the world and for the aviation sector to make a significant contribution to economic growth of the UK. The Secretary of State also considers that the Development complies with Government aviation policies that support airports making best use of their existing capacity and runways. Substantial weight is given by the Secretary of State to the conclusion that the Development would be in accordance with such policies and that granting development consent for the Development would serve to implement such policy.

201. Having carefully weighed the expected benefits which include job creation, regeneration, tourism in the East Kent area, training and skills, education, and benefits to General Aviation, against the potential negative impacts such as impact on tourism in Ramsgate, noise impacts for up to 40 residential caravan owners at Smugglers Leap, short term congestion and delays on the local road system and the limited visual impacts that would occur to the St Nicholas at Wade Conservation Area and Ramsgate Heritage Action Zone as a result of the operation of the Development, the Secretary of State is of the view that the potential negative impacts do not outweigh the projected benefits.

## **VI. Findings and Conclusions in Relation to Habitats Regulations Assessment (“HRA”)**

202. The Secretary of State for Transport is the competent authority for the purposes of the Conservation of Habitats and Species Regulations 2017 (“the Habitats

Regulations”) which transpose the Habitats Directive (92/43/EEC) into UK law for transport applications submitted under the Planning Act 2008. The Habitats Regulations require the Secretary of State to consider whether the Development would be likely, either alone or in combination with other plans and projects, to have a significant effect on a European site(s), as defined in the Habitats Regulations<sup>24</sup>.

203. Where likely significant effects on a European site(s) cannot be ruled out the Secretary of State must undertake an appropriate assessment (“AA”) under regulation 63(1) of the Habitats Regulations to address potential adverse effects on site integrity. Such an assessment must be made before any decision is made on undertaking the plan or project or any decision giving consent, permission or other authorisation to that plan or Project. In light of any such assessment, the Secretary of State may grant development consent only if it has been ascertained that the project will not, either on its own or in-combination with other plans and projects, adversely affect the integrity of a European site(s), unless there are no feasible alternatives or imperative reasons of overriding public interest apply.

204. The Secretary of State notes that the Development has been identified by the Applicant as having the potential to give rise to likely significant effects (“LSE”) on a number of designated European sites either alone or in-combination with other plans or projects [ER 7.5.4]. Hence the Applicant prepared a Report to Inform the Appropriate Assessment (“RIAA”) within which they concluded that LSE could not be ruled out for a number of European sites.

205. The Examining Authority lacked comfort that the air quality assessment underpinning the HRA was sufficient to support a conclusion of no adverse effect on integrity for the following sites:

- Swale Special Protection Area (“SPA”);
- Swale Ramsar site;
- Sandwich Bay Special Area of Conservation (“SAC”); and
- Thanet Coast and Sandwich Bay Ramsar site.

206. The Secretary of State also notes that the Examining Authority was not presented with information to inform conclusions regarding alternative solutions or imperative reasons of overriding public interest either as part of the Application or during the examination [ER 7.9.13]. The Secretary of State subsequently consulted on this matter on 17 January 2020 and the Applicant’s response of 31 January 2020 included an updated air quality assessment.

207. Having given consideration to the assessment material submitted during and since the examination, the Secretary of State considers that likely significant effects in relation to construction and/or operations could not be ruled out. The Secretary of State therefore considered an AA should be undertaken to discharge his obligations under the Habitats Regulations. The AA is published alongside this letter.

208. In the Secretary of State’s view, the material provided during and since the examination contained sufficient information to inform consideration under regulation 63 of the Habitats Regulations as to the likely impact on the European Sites. The AA has considered the conclusions and recommendation of the Examining Authority and

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<sup>24</sup> <https://www.legislation.gov.uk/ukxi/2017/1012/regulation/8/made>

in light of the updated air quality assessment provided by the Applicant. The AA has also taken account of the advice of the Statutory Nature Conservation Body, which in this case is Natural England, and the views of other interested parties as submitted during and since the examination.

209. The Secretary of State, having carried out the AA, is content that the construction and operation of the Development, as proposed, with all the avoidance and mitigation measures secured in the DCO, will have no adverse effect, either alone or in-combination with other plans or projects, on any European site.

## **VII. Compulsory Acquisition and Related Matters**

210. The Secretary of State notes that the Applicant is seeking compulsory acquisition powers in order to acquire land and rights considered necessary to construct and operate the Development, and that in examining the request for compulsory acquisition the Examining Authority has had full regard to all the legislative and regulatory requirements relating to the request [ER 9.4.2]. The Examining Authority's consideration of compulsory acquisition and related matters is set out in Chapter 9 with its conclusions at Chapter 9.19 of its report.

### *Compelling Case in the Public Interest*

211. The Secretary of State notes that the Examining Authority concluded that, as the overall need for the proposed Development has not been sufficiently established, there was not a compelling case in the public interest for the land and rights over land to be acquired compulsorily [ER 9.7.16 – ER 9.7.17]. The Secretary of State disagrees, given his conclusion regarding the clear need for the Development above in the 'Need' section above and for the reasons below. The Secretary of State also notes that the Applicant has acquired the freehold for the majority of the proposed operational airport [ER 9.6.19].

### *Funding*

212. The Secretary of State notes the discussion at examination regarding how the authorisation of compulsory acquisition powers is to be funded [ER 9.8]. The Secretary of State notes the Examining Authority's view that there is insufficient evidence that the Applicant itself holds adequate funds to indicate how a DCO that contains the authorisation of compulsory acquisition is proposed to be funded [ER 9.8.69], but that the Joint Venture Agreement and Deed of Variation provide a degree of reassurance that a mechanism exists to provide the Applicant and associated companies funding up to £15m [ER 9.8.76]. Taking into account the document '*Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land*'<sup>25</sup> published by the Ministry for Housing, Communities and Local Government in September 2013 ("the 2013 Guidance") and the evidence provided, the Examining Authority concluded that there is an indication of how any potential shortcomings are intended to be met [ER 9.8.102] and the Secretary of State sees no reason to disagree.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/236454/Planning\\_Act\\_2008\\_-\\_Guidance\\_related\\_to\\_procedures\\_for\\_the\\_compulsory\\_acquisition\\_of\\_land.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/236454/Planning_Act_2008_-_Guidance_related_to_procedures_for_the_compulsory_acquisition_of_land.pdf)

213. The Secretary of State notes also the Examining Authority's consideration of the availability of funds from other funders in respect of capital costs [ER 9.8.78 – 9.8.102]. He notes that the Applicant had been engaged with potential funders for two years and accepts its view that no project will have secured full funding to cover project costs until there is certainty as to the decision on whether to grant the DCO [ER 9.8.96]. The Secretary of State also notes the Examining Authority's view that the letters from potential funders and range of other information provided during the examination, do provide an indication of the degree to which other bodies have agreed to make financial contributions or to underwrite the Development, and on what basis such contributions or underwriting is to be made [ER 9.8.101]. Taking into account the 2013 Guidance and evidence provided, the Secretary of State sees no reason to disagree with the Examining Authority's conclusion that these provide an indication of how any potential shortfalls in funding are intended to be met [ER 9.8.102]. He also agrees with the Examining Authority's other conclusions relating to funding [ER 9.19.5].

#### *Alternatives to compulsory acquisition*

214. The Secretary of State notes that the Examining Authority concluded that the Applicant is able to demonstrate that all reasonable alternatives to compulsory acquisition have been explored [ER 9.10.31 and ER 19.19.6].

#### *The use of the land which it is proposed to acquire*

215. The Secretary of State sees no reason to disagree with the Examining Authority's view that article 19 of the DCO will serve to secure that only land that is required may be acquired compulsorily [ER 9.10.39 and ER 9.19.7].

#### *Risks and Impediments*

216. The Secretary of State notes the Examining Authority's conclusion that any potential risks or impediments to implementation of the Development have been properly managed [ER 9.10.54 and ER 9.19.8].

#### *Human Rights and the Public Sector Equalities Duty*

217. On the provisions of the Human Rights Act 1998, the Secretary of State disagrees with the Examining Authority in that he is satisfied that the purposes for which the DCO authorises the compulsory acquisition of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected. The Secretary of State agrees with the Examining Authority that article 19 of the DCO provides sufficient assurance that those affected by the request for compulsory acquisition will receive compensation. He also agrees with the Examining Authority that in relation to the specific cases of two employers within the proposed DCO lands, Polar Helicopters and Aman Engineering, and also in respect of Helix AV (its objection is considered further below in paragraphs 221 -222 the interference is for a legitimate purpose, that the land is needed for the Development and proportionate and that the Applicant has proposed relocation proposals that the lease holders are content with [ER 9.11.15, ER 9.11.18, ER 9.11.25 and ER 9.19.9].

218. In respect of the Public Sector Equality Duty established through section 149 of the Equality Act 2010,

219. The Secretary of State has had regard to the public-sector equality duty and the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic or persons who do not. The Secretary of State notes that the Examining Authority, in coming to its conclusions in its report, has had close regard to its duties under this legislation in both the managing of the examination [ER 3.5.25] and in respect of those persons that share a relevant protected and who may be impacted by aspects of the Development, particularly in relation to issues of transport and noise [ER 3.5.26]. However, it is also noted that the Examining Authority is not aware of any specific representations from affected persons drawing its attention to persons sharing a particular protected characteristic [ER 9.19.11]. Overall, the Secretary of State does not consider that a decision to grant development consent would have significant differential impacts on any of the protected characteristics referred to in section 149(7) of the Equality Act 2010. On that basis there is no breach of the public sector equality duty.

#### Consideration of individual compulsory acquisition requests

220. The Secretary of State notes that a number of submissions were made by affected parties and the consideration of these submissions are set out at sections 9.11 and 9.13 of the Examining Authority's report.

#### *Helix AV*

221. The Secretary of State notes the Examining Authority's conclusion that the request for compulsory acquisition in respect of Helix AV's category one lessee/occupier interest in plot 15 should not be granted as the Applicant should have taken more deliberative efforts to secure the acquisition of rights by agreement in line with the 2013 Guidance [ER 9.11.32]. The Secretary of State notes that Helix AV's interest was obtained in March 2019, approximately two months into the examination. The Examining Authority wrote to them on 1 July 2019 asking them to confirm whether they wished to be considered as an interested party (PD-021). In a short email submission dated 3 July 2019 (AS-586) Helix AV confirmed that they did wish to be considered as an interested party. They informed the Examining Authority that they had a 5 years lease of a heliport premises and intended that it would be their "permanent home". However, the Secretary of State notes they did not say any more than this and specifically, did not object to the Development or to compulsory acquisition. They also did not make any complaint about a lack of engagement from the Applicant.

222. It is noted that the Applicant's final Compulsory Acquisition Status Report (published 18 July 2019) states that there was also a phone call between the parties in late June 2019 to confirm Helix's interest and a letter was then sent to Helix on 2 July 2019, although no information is given about what the letter said. Whilst there had not been extensive engagement between the Applicant and Helix at the end of the examination, what is clear is that the proposals for compulsory acquisition in respect of plot 15 were already in place at the time the interest was created and Helix AV would no doubt have been aware of the DCO application and the Applicant's plans. They had ample time to engage with the examination if they had concerns about the Applicant's proposals, but did not do so. As such, the Secretary of State considers that there are sound reasons to disagree with the Examining Authority's reasoning and is content

compulsory acquisition powers in respect of Helix AV's interests in plot 15 should be granted.

*Kent County Council*

223. The Secretary of State notes that KCC has Category 1 interest as owner or reputed owner in plots 119, 129, 151, 153, 157, 010, 012, 013, 014, 015b, 016, 016a, 016c, 018, 019, 019a, 019c, 021, 022, 024, 042, 043a, 044, 045, 045a, 045b, 047a, 050a, 050d, 050e, 053, 053b, 054a, 056a, 070a, 072a, 073, 078, 094, 095, 097, 107, 111, 112, 113, 114a, 120, 124, 127, 128, 130, 131, 155, 156, 158, 159, 167, 177a, 184, 185a, 185b, 185c, 185d, 188a [ER 9.13.40]. KCC also has Category 2 and 3 interest in plots 008, 183, 143, 144, 154, 185e, 187, 188 [ER 9.13.41].

224. The Examining Authority's conclusion that the request for compulsory acquisition related to KCC interests in plots 008, 119, 129, 151, 153, 157, 183, 010, 012, 013, 014, 015b, 016, 016a, 016c, 018, 019, 019a, 019c, 021, 022, 024, 042, 043a, 044, 045, 045a, 045b, 047a, 050a, 050d, 050e, 053, 053b, 054a, 056a, 070a, 072a, 073, 078, 094, 095, 097, 107, 111, 112, 113, 114a, 120, 124, 127, 128, 130, 131, 143, 144, 154, 155, 156, 158, 159, 167, 177a, 184, 185a, 185b, 185c, 185d, 185e, 187, 188, and 188a should not be granted [ER 9.13.52] on the basis that the Examining Authority has not been able to establish if the proposed interference with the rights of those with an interest in the land is proportionate [ER 9.13.49].

225. The Secretary of State notes that in recommending refusal of all the plots in which KCC has an interest, the Examining Authority's consideration focuses only on the arguments between the Applicant and KCC in the examination over the pipeline plots [ER 9.13.40 – 9.13.52]. Given that the conditions for compulsory acquisition set out above are considered by the Secretary of State to have been met, he is satisfied that there are sound reasons to disagree with the Examining Authority and grant compulsory acquisition powers over the non-pipeline plots for which KCC have an interest.

226. In respect of pipeline plots in which KCC has an interest, the Secretary of State notes that KCC objects to the compulsory acquisition of these plots on the basis that they might be required for ongoing highway maintenance. In coming to its view, the Examining Authority has had regard to KCC's statement that a failure to reach agreement in respect of KCC freehold or highways land should not result in a grant of compulsory acquisition powers under the DCO, as there appears to be an alternative means of bringing about the delivery and maintenance of the pipeline in question [ER 9.13.50]. KCC's view is that the Applicant's aims could be achieved by obtaining a licence under section 50 licence under the New Roads and Street Works Act 1991 ("a section 50 licence"). However, the Applicant has expressed doubts about the viability of seeking a section 50 licence in a situation where a body that is not in itself a Statutory Undertaker does not own the pipeline in question [ER 9.13.51].

227. The Secretary of State considers that KCC's analysis of section 50 of the New Roads and Street Works Act 1991 does not address the Applicant's point that the pipeline is an existing pipeline that is in unknown ownership. He considers this is therefore a different situation to one where the Applicant is seeking to retain and maintain a pipeline that it already owns, or to place and maintain a new pipeline in the street. Because it is in unknown ownership, the Secretary of State considers the Applicant could not just appropriate the pipeline under the terms of a section 50 licence, because that would not resolve the issue of the pipeline's ownership.



228. The Secretary of State also notes that KCC was unable to confirm to the Examining Authority whether all of the plots in question are within the highway and therefore within a 'street' for the purposes of section 50 of the New Roads and Street Works Act 1991 [ER 9.13.42]. It was also unable to confirm whether the land is required for ongoing highway maintenance. The Secretary of State considers that information could have been provided to the Examining Authority by KCC to demonstrate the validity of its argument that the Applicant could rely on a section 50 licence.

229. In the circumstances, the Secretary of State considers that there are sound reasons to disagree with the Examining Authority's reasoning and grant CA powers on the basis that it would not be legally sufficient for the Applicant to rely solely on section 50 of the New Roads and Street Works Act 1991. Furthermore, he is of the view that the acquisition of the subsoil only would not affect any surface interests held by KCC as the local highway authority.

#### *Thanet District Council*

230. The Secretary of State notes the Examining Authority's conclusion that the request for compulsory acquisition in relation to TDC's interest in plots 113, 119, 120, 184, 185, 185a, 185b, 185c, 185d, 185e, 185f, 186, 187, 188, and 188a should not be granted on the basis that, in line with the 2013 Guidance, the Applicant could have continued negotiations throughout the examination period [ER 9.13.62 - ER 9.13.63]. However, it is noted that TDC has not objected to the compulsory acquisition of its land or interests and this does not appear to have been an issue that was before the examination. TDC confirmed in its Local Impact Report that it has had regard to the Land Plans and Book of Reference [ER 9.13.56] and also played an active role in the examination and has closely reviewed and scrutinised the draft DCO in particular, as evidenced by its numerous detailed representations throughout the examination period. The Applicant's final Compulsory Acquisition Status Report also states that discussions and negotiations between the Applicant and TDC took place between February 2018 and April 2019.

231. The Secretary of State notes that the Examining Authority places full reliance on paragraph 25 of the 2013 Guidance in recommending refusal of compulsory acquisition powers. However, it has only quoted part of paragraph 25 in support of its recommendation. The part omitted by the Examining Authority states: "*Where proposals would entail the compulsory acquisition of many separate plots of land...it may not always be practicable to acquire by agreement each plot of land. Where this is the case it is reasonable to include provision authorising compulsory acquisition covering all the land required at the outset.*" There is nothing in paragraph 25 that says that the Applicant must demonstrate that negotiations to acquire by agreement have continued through the full examination period and indeed the Secretary of State considers this is unlikely to be the case where compulsory acquisition is not disputed.

232. Taking all of the above into account, particularly the evidence of the Applicant's attempts to acquire by agreement in the Compulsory Acquisition Status Report, the Secretary of State considers that there are sound reasons to disagree with the Examining Authority's reasoning and compulsory acquisition powers should be granted on the basis that there is no objection to compulsory acquisition from TDC, the 2013 Guidance has been satisfied and there appears to be no reason why compulsory acquisition should be refused.

*Edward Martin Spanton*

233. The Secretary of State notes the Examining Authority's conclusion that the request for compulsory acquisition in relation to plots 016, 017, 019, 019a, 020, 020a, 022, 023, 079, 080, 081, 082, 096, 016c, 021, 024, and 025 should not be granted on the basis that, in line with the 2013 guidance, the Applicant could have sought to acquire these interests by agreement [ER 9.15.29 - ER 9.15.30].

234. The Secretary of State considers that the Applicant's final Compulsory Acquisition Status Report clearly demonstrates that the Applicant made repeated attempts to engage with Mr Spanton between February 2018 and June 2019 and that the Applicant intends to continue to contact Mr Spanton to seek to advance voluntary negotiations. The Secretary of State does not agree with the Examining Authority's recommendation of refusal of compulsory acquisition powers solely on the basis that a party has only chosen to engage in the final stages of the examination, and particularly when they have not raised any objection to compulsory acquisition. For the same reasons as given for TDC above in paragraph 230 - 232 (in so far as they apply to Mr Spanton), the Secretary of State therefore considers there are sound reasons to disagree with the Examining Authority's reasoning and compulsory acquisition powers should be granted on the basis that there is no objection to compulsory acquisition from Mr Spanton, the 2013 Guidance has been satisfied and there appears to be no reason why compulsory acquisition should be refused.

Crown land

235. The Secretary of State notes that the DCO limits include a number of plots which are Crown land. By virtue of section 135 of the Planning Act 2008 compulsory acquisition powers cannot be granted without the consent of the appropriate Crown authority ("section 135 consent").

236. The appropriate Crown Authority is the government department having the management of the land. In this instance, the Examining Authority indicated that section 135 consent for Crown land plots had not been given by the following Crown Authorities at the close of the examination: the Government Legal Department; the Met Office and the Secretary of State for the Ministry of Housing, Communities and Local Government ("MHCLG"); the Secretary of State for Transport; and the Secretary of State for Defence. Accordingly, in the absence of section 135 consent, the Examining Authority has recommended that the request for compulsory acquisition in respect of the former should be refused and that any provisions relating to these Crown Authorities should not be included in the DCO should it be made [ER 9.19.14]

237. The Secretary of State accordingly sought to gain the section 135 consent from all the above Crown Authorities (except the Secretary of State for Transport), as part of his consultation of 20 January 2020. However, with the exception of the Ministry of Defence ("MOD"), no responses from other Crown Authorities were received.

*The Government Legal Department ("GLD")*

238. In his letter of 17 January 2020, the Secretary of State sought consent from the GLD regarding plots 019c and 050b in respect of bona vacantia land. No reply was received. The Secretary of State considers the request for compulsory acquisition powers in respect of GLD is refused. The DCO has been amended accordingly and

the Secretary of State considers the Applicant will need to secure the necessary Crown interests by negotiation after the grant of the DCO.

*The Met Office and the Secretary of State for the Ministry of Housing, Communities and Local Government (“MHCLG”)*

239. The Secretary of State notes that the Met Office and the Secretary of State for MHCLG have rights in respect of plot 027 and their consent had not been secured by the end of the examination [ER 9.16.37, ER 9.16.43]. It is noted that the Secretary of State for Defence also has an interest in this plot. On the basis that section 135 consent has not been received, the Secretary of State considers that the request for compulsory acquisition powers in respect of the Met Office and the Secretary of State for MHCLG is refused. The DCO has been amended accordingly and the Secretary of State considers the Applicant will need to secure the necessary Crown interests from the Met Office and the Secretary of State for MHCLG by negotiation after the grant of the DCO.

*The Secretary of State for Transport*

240. The Secretary of State for Transport has Category 1 interests as an owner or reputed owner of plots 015, 015a, 026a, 027, 037, 039, 041a, 043, 043a, 046, 050a, 054, 054a, 055, 058, 068 and 069. It is noted that there are also MOD interests in a number of these plots. It is noted that the Examining Authority makes an erroneous reference in its recommendation in respect of the refusal of Plots 019c and 050b and that any provisions relating to the Secretary of State for Transport should not be included in any final DCO [ER 9.16.55].

241. On the basis that section 135 consent has not been received from the Department for Transport's Estates Team, the Secretary of State considers that the request for compulsory acquisition powers in respect of the Crown land plot interests above should be refused. The DCO has been amended accordingly and the Secretary of State considers the Applicant will need to secure the necessary Crown interests by negotiation after the grant of the DCO.

*The Secretary of State for Defence*

242. The Secretary of State notes that the Secretary of State for Defence has Category 1 right as owner or reputed owner in plots 018, 018a, 018b, 025, 026, 038, 041, 042, 042a, 044, 045, 045a, 045b and Category 2 and 3 interests in respect of plots 014, 015, 015a, 016a, 017, 019b, 020, 020a, 023, 024, 026a, 027, 028, 036, 037, 039, 040, 040a, 041a, 043, 043a, 046, 047, 047a, 048, 048a, 048b, 049, 049a, 049b, 050, 050a, 050b, 050c, 050d, 050e, 051b, 053a, 053b, 054, 055, 058, 068, 069, 070, 070a, 102, 103, 114 and 114a [ER 9.16.6].

243. In the absence of section 135 consent, the Examining Authority has recommended that the request for compulsory acquisition in respect of the Secretary of State for Defence's interests in plots 018, 018a, 018b, 025, 026, 038, 042, 042a, 044, 045, 045a, 045b, 014, 015, 015a, 016a, 017, 019b, 020, 020a, 023, 024, 026a, 027, 028, 036, 037, 039, 040, 040a, 041a, 043, 043a, 046, 047, 047a, 048, 048a, 048b, 049, 049a, 049b, 050, 050a, 050b, 050c, 050d, 050e, 051b, 053a, 053b, 054, 055, 058, 068, 069, 070, 070a, 102, 103, 114 and 114a be refused and that any

provisions relating to Secretary of State for Defence should not be included in any final DCO [ER 9.16.16].

244. In its response dated 31 January 2020 to the Secretary of State's consultation, the MOD confirmed that section 135 consent has been granted in respect to plots 014, 018, 018a, 018b, 024, 025, 042, 042a, 044, 045, 045a, 050a, 054, 102, 103, 114, and 114a. The request for compulsory acquisition powers in respect of these Crown land plot interests is therefore granted. However, the MOD has also confirmed that consent has been refused with regards to plots 016a, 017, 019b, 020, 020a, 023, 026, 038, 040, 040a, 041, and 045b. In the absence of section 135 consent, the request for compulsory acquisition powers over these plots is refused. The DCO has been amended accordingly and the Secretary of State considers the Applicant will need to secure the necessary Crown interests from the Secretary of State for Defence by negotiation after the grant of the DCO.

245. In respect of plot 041, which relates to the location of the High Resolution Direction Finder ("HRDF"), the Examining Authority has recommended that the request for compulsory acquisition in respect of the Secretary of State for Defence should be refused and that any provisions relating to the Secretary of State for Defence should not be included in the DCO [ER 9.16.29]. The Secretary of State has given careful consideration to this issue. He notes that the Secretary of State for Defence owns this plot and section 135 consent has been refused by the MOD. However, he does not accept that the HRDF would necessarily be a significant risk to the Development as stated by the Examining Authority and considers that the Applicant and the MoD as landowner and operator of the HRDF and its site should continue discussions to seek a workable solution to resolve outstanding matters. The Secretary of State also considers requirement 24 in the DCO should also ensure that the operation of the existing HRDF cannot be interfered with by the construction of the authorised development until such time as an alternative solution is agreed by the MOD and the existing safeguarding direction is withdrawn.

246. The Secretary of State notes that there are a number of other plots where the MOD has refused consent. However, the Applicant has indicated in its representation of 19 March 2020 that it now owns the freehold in respect of plots 015, 027, 028, 036, 037, 039, 043, 046, 047, 049, 050, 055, 058, 068, 069 and 070, and no longer needs compulsory acquisition powers. In the absence of section 135 consent for the plots, the Secretary of State considers the compulsory acquisition powers in respect of the plots should be refused and that any provisions relating to Secretary of State for Defence for the plots should not be included in the DCO.

247. The MOD has also refused consent for the compulsory acquisition of plots 048 and 048b, but the Applicant withdrew these from the scope of compulsory acquisition powers during the examination and these plots are therefore not included within the DCO.

248. In considering the above, the Secretary of State notes that the Examining Authority has not raised any concerns relating to the overall deliverability of the Development in the absence of Crown consent for the acquisition of the respective land plots. He is satisfied that the Applicant also has the option of voluntary acquisition.

## Statutory Undertakers

### *BT Group plc*

249. The Secretary of State notes that BT Group plc has an interest in a number of land plots. In the absence of confirmation from BT Group plc that the rights can be purchased without serious detriment to its statutory undertaker, the Examining Authority has recommended that the request for compulsory acquisition of rights over land held by BT Group plc in respect of plots 015, 015a, 015b, 016, 016a, 017, 019, 019a, 019b, 020, 020a, 021, 022, 023, 024, 025, 026, 028, 036, 037, 038, 039, 041, 045, 048, 048b, 049, 049a, 050, 050a, 050c, 050e, 051b, 053a, 053b, 055, 056, 056a, 059, 068 and 069 should be not be granted.

250. The Secretary of State notes that BT Group plc made no representations during the examination and although the Examining Authority directed questions to the statutory undertaker it did not respond to these [ER 9.18.7]. The Secretary of State also sought confirmation from BT Group plc of agreement to the compulsory acquisition of their interests in these plots and that such agreement would not result in a serious detriment to its statutory undertaking as part of his 17 January 2020 consultation. No response was received.

251. In considering this matter, the Secretary of State notes the Examining Authority has taken the position that if the statutory undertaker has said that there is serious detriment that is accepted or, in the absence of a statement from the statutory undertaker that it agrees that the rights can be purchased without serious detriment to carrying on the undertaking, compulsory acquisition should not be granted. The Secretary of State disagrees with this approach. In accordance with section 127 of the Planning Act 2008, it is for the Secretary of State to consider the submissions of each party and to examine the specific reasons put forward so he is able to satisfy himself that the land/rights can be taken without serious detriment. If the Secretary of State does not consider the detriment to be serious, he is able to include a provision authorising the statutory undertaker's land or rights over its land be compulsory acquired.

252. In the absence of any representation or statement with reasons being put forward by BT Group plc, the Secretary of State considers he is unable to conclude that the compulsory acquisition of rights over land held by the statutory undertaker would be seriously detrimental to its undertaking. In reaching that view, the Secretary of State also considers it is not for him or the Examining Authority to secure permission from the statutory undertaker to include compulsory acquisition powers in the DCO. It is only to consider whether if in doing so serious detriment will result. For these reasons, the Secretary of State is therefore satisfied that the rights sought by the Applicant can be purchased without any serious detriment to the carrying on of the undertaking and the request for compulsory acquisition of rights over land held by BT Group plc should be granted. Nevertheless, provisions for the protection of operators of electronic communication code networks are also included in the DCO.

### *Southern Gas Networks ("SGN")*

253. SGN has Category 1 or 2 interests in plots 014, 167, 015, 016, 016c, 017, 019, 019a, 019b, 020a, 022, 023, 026, 028, 036, 037, 038, 039, 043, 043a, 044, 045, 045b, 048, 048b, 050, 050d, 050e, 053b, 061, 062, 063, 078, 081, 082, 094, 095, 096, 097, 107, 111, 112, 113, 115, 116, 117, 118, 119, 124, 127, 128, 129, 151, 153, 156, and

167 [ER 9.18.38]. The Secretary of State notes that SGN formally withdrew its compulsory acquisition objections on 12 July 2020 after the close of the examination. The Secretary of State therefore considers that the request for compulsory acquisition of rights over land held by SGN should be granted.

#### *South Eastern Power Networks (“SEPN”)*

254. The Secretary of State notes that SEPN is shown in the final Compulsory Acquisition Status Report [AS-585] as having a Category 1 and / or 2 interest in plots 018a, 018b, 018c, 040, 042, 050d, 050e, 051b, 051c, 053b, 055 and 068. However, the Examining Authority notes that the final Book of Reference [AS-581] shows SEPN as having a Category 1 interest in respect of apparatus additionally in plots 015, 015a, 018, 026, 028, 036, 038, 042a, 043a, 050, 050a, 053, 054, 059, 078, 080, 095, 097, 107, 108, 109, 110, 111, 124, 128, 129, 152, 160, 162, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 181, 182, 183 and 185 and a Category 2 interest in 040b [ER 9.18.30 - ER 9.18.31]. The Examining Authority concluded that in the absence of agreement from SEPN agreeing that the rights can be purchased without any serious detriment to the carrying on of the undertaking, the request for compulsory acquisition of rights over land held by SEPN should be refused [ER 9.18.36].

255. The Secretary of State subsequently sought clarification on the above in his consultation letter dated 17 January 2020, but no response was received from SEPN. In accordance with section 127 of the Planning Act 2008, it is for the Secretary of State to consider the submissions of each party and to examine the specific reasons put forward so he is able to satisfy himself that the land/rights can be taken without serious detriment. If the Secretary of State does not consider the detriment to be serious, he is able to include a provision authorising the statutory undertaker’s land or rights over its land be compulsory acquired.

256. In the absence of any representation or statement with reasons being put forward by SEPN, the Secretary of State considers he is unable to conclude that the compulsory acquisition of rights over land held by the statutory undertaker would be seriously detrimental to its undertaking. In reaching that view, the Secretary of State also considers it is not for him or the Examining Authority to secure permission from the statutory undertaker to include compulsory acquisition powers in the DCO. It is only to consider whether if in doing so serious detriment will result. For these reasons, the Secretary of State is therefore satisfied that the rights sought by the Applicant can be purchased without any serious detriment to the carrying on of the undertaking and the request for compulsory acquisition of rights over land held by SEPN should be granted. The Secretary of State is aware that the Applicant has indicated that agreement had been reached between the parties on 31 January 2020; however, that agreement is a matter between the parties and does not affect the Secretary of State’s conclusions on the question of serious detriment.

#### *Network Rail Infrastructure*

257. Network Rail has a Category 1 interest in plot 123 and Category 2 interest in plots 123, 113, 115, 116, 117, 118 and 119 [ER 9.18.18], which all relate to a section of the pipeline running from Manston Airport and under Network Rail’s existing infrastructure to an outfall at Pegwell Bay.

258. The Secretary of State understands that the Applicant has not been able to identify the legal or beneficial owner of the existing pipeline and seeks powers of

compulsory acquisition through the DCO in order to regularise the ownership of the pipeline, which is necessary for the operation of the Development. Both parties agreed that the authorised works of the Development will not affect the undertaking carried on by Network Rail but that the parties were in discussion regarding the proposed powers which, if made, would authorise access and maintenance rights to land beneath the operational railway. Network Rail consider that, in the absence of proper Protective Provisions, the compulsory acquisition powers sought would create a serious detriment to their undertaking [ER 9.18.21 – 9.18.23].

259. The Examining Authority has concluded that if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that it is satisfied that the use of the corridor of a pipeline leading to an outfall is for a legitimate purpose, and that it is necessary and proportionate [ER 9.13.24]. The Examining Authority, taking into account of the statutory test in relation to the grant of a request for compulsory acquisition, has also concluded in its report that there is a compelling case in the public interest for compulsory acquisition in relation to a pipeline corridor [ER 9.18.27] and that *“if it had come to an alternate overall view that there was a sufficient need for the development, it would have recommended that, in respect of Network Rail Infrastructure, the rights can be purchased without any serious detriment to the carrying on of the undertaking subject to Network Rail Infrastructure informing the SoS that it is content with the Protective Provisions as included in the dDCO”* [ER 9.18.28].

260. The Secretary of State notes that the draft DCO includes provisions which would, if granted, authorise the Applicant to acquire permanent subsoil in land underneath operational railway and permanent acquisition of Network Rail’s rights in land in close proximity to the railway. Network Rail’s position is that the necessary subsoil rights should be acquired through an agreed easement rather than compulsory acquisition to ensure that Network Rail can comply with its statutory duty to maintain the operation of the railway. Network Rail has requested that the Applicant enter into an asset protection agreement including a deed of easement to provide rights to access the subsoil under the railway and negotiations stalled because the Applicant required an indemnity for the benefit of the Applicant, which Network Rail wouldn’t agree to. He notes that the parties were not able to come to an agreement and neither agreed nor draft Protective Provisions were submitted to the Examining Authority before the close of the examination [ER 9.18.22].

261. Following consideration of the Examining Authority’s recommended actions at Appendix E to its report, the Secretary of State sought views from the Applicant and Network Rail on the Examining Authority’s draft Protective Provisions in his letter dated 17 January 2020. In its response, the Secretary of State notes the principle of the Examining Authority’s draft Protective Provisions is welcomed by Network Rail but the draft DCO is still not considered to offer the protection it requires. Network Rail indicated that *“the draft Protective Provisions at Annex C of the letter do not go far enough to adequately protect Network Rail’s infrastructure and would not enable Network Rail to ensure compliance with its statutory duty to maintain the safe, efficient and economic operation of the railway. Accordingly, Network Rail required the full set*



*of well precedented Protective Provisions enclosed with this letter to be incorporated in the Order [DCO], if made.”<sup>26</sup>*

262. In considering this matter, the Secretary of State is not convinced that acquiring the outfall pipeline will result in serious detriment to Network Rail carrying on its undertaking. In relation to the asset protection agreement, the Secretary of State notes that the Examining Authority’s draft DCO did not contain this provision and considers its inclusion would be unusual in a DCO (as Network Rail has indicated there has only been one other DCO granted which contains a similar requirement). Given the various other protections in the DCO, the Secretary of State is also not convinced that this additional protection is necessary. He concludes therefore that the rights can be acquired without any serious detriment to the carrying out of Network Rail’s undertaking and is content with the Protective Provisions recommended by the Examining Authority to be included in the DCO.

### **VIII. Draft Development Consent Order and Related Matters**

263. The Secretary of State has considered the Examining Authority’s examination of the DCO in section 10 of the Examining Authority’s Report. Having concluded above that development consent should be granted, he is satisfied that the form of the Order recommended by the Examining Authority at Appendix D of the Examining Authority’s Report is appropriate, subject to the modifications referred to below. The Secretary of State is satisfied that none of these changes, constitute a material change.

264. The modifications which the Secretary of State has decided to make to the DCO are as follows:

- in article 2(1), the definition of “commence” has been slightly modified including the removal of “commences” which is not used in the Order;
- in article 2(1), the definition of “compulsory acquisition notice” has been removed as it is not a term used in the Order;
- in article 2(1), the term “Manston Airport s.106 agreement” is only used in article 35 (abrogation of agreement), so this term has been spelt out in full in that article;
- in article 2(1), the term “the tribunal” is only used in article 43 (arbitration) and so the term is spelt out in full in that article;
- in article 6(4) (limits of deviation), the text has been reworked to that agreed with Historic England and as set out in the Applicant’s response to consultation dated 31 January 2020;
- in article 11(2) (construction and maintenance of new, altered or diverted streets), the reference to “local street authority” is not a defined term whereas “street authority” is a defined term and so “local” has been omitted;
- in article 13(3) (permanent stopping up of public rights of way), the text suggested by the Examining Authority has been slightly reworked;
- in article 19 (compulsory acquisition of land), the reference to “restrictive covenants” has been removed in accordance with the conclusions made by the

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<sup>26</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR020002/TR020002-005249-Network%20Rail's%20response-%20Manston.pdf>

Examining Authority in relation to article 22 (compulsory acquisition of rights and restrictive covenants) that the power to impose restrictive covenants should not be included in the Order. Corresponding changes have been made in relation to article 23 (subsoil or new rights only to be acquired in certain land); article 24 (private rights over land); article 31 (statutory undertakers) and to the inserted Schedule 2A in Schedule 6;

- in article 29(9) (temporary use of land for carrying out the authorised development), the provision has been amended to remove the acquisition of new rights in relation to land under article 22. The Secretary of State is concerned about the creation of new unidentified rights and is unclear whether affected land owners have been appropriately consulted as there is no cross over of land referred to in Schedule 5 and Schedule 8;
- in article 43 (arbitration), the reference to the “Secretary of State” has been replaced by “President of the Institution of Civil Engineers”, which is the usual position;
- in requirement 9 (noise mitigation) of Schedule 2, the obligation to implement the noise mitigation plan had not been set out. That obligation has now been placed on the Applicant; and
- in requirement 24(1) (High Resolution Direction Finder), the MOD amendment has been inserted.

## **IX. Redetermination Correspondence**

265. In addition to the representations received in response to the Secretary of State’s redetermination consultations, the Secretary of State also received 82 items of correspondence on the Application from a number of Interested Parties during the redetermination process. This correspondence covered a range of issues, including the need for the Development, environmental impacts, emissions and climate change, heritage impacts, socio-economic benefits, funding and financing, noise and health impacts and other developments since the close of the examination. Unless addressed in this letter above, the Secretary of State considers that the redetermination correspondence he received does not raise any new issues that are material to his decision on the Development. As such, he is satisfied that there is not any new evidence or matter of fact that needs to be referred again to Interested Parties under Rule 19(3) of the Infrastructure Planning (Examination Procedure) Rules 2010 before proceeding to a decision on the Application.

## **X. Other Matters**

### Natural Environment and Rural Communities Act 2006

266. The Secretary of State, in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006, must have regard to the purpose of conserving biodiversity and, in particular to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when granting development consent.
267. The Secretary of State is of the view that the Examining Authority’s report, together with the environmental impact analysis, considers biodiversity

sufficiently to inform him in this respect. In reaching the decision to give consent to the Development, the Secretary of State has had due regard to conserving biodiversity.

#### **XI. Secretary of State's overall conclusions and decision**

268. For all the reasons given in this letter, the Secretary of State is satisfied that there is a clear justification for authorising the Development. He has therefore decided to grant the Manston Airport Development Consent Order Application, subject to the changes referred to above. The Secretary of State is satisfied that none of these changes constitute a material change. He is therefore satisfied that it is within the powers of section 114 of the Planning Act 2008 for him to make the DCO as now proposed. This decision has been taken having regard to the UUs completed by the Applicant for the benefit of TDC and KCC dated 17 June 2020<sup>27</sup>.

#### **XII. Challenge to decision**

269. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

#### **XIII. Publicity for decision**

270. The Secretary of State's decision on the Application is being publicised as required by section 116 of the Planning Act 2008 and regulation 23 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Yours faithfully,

Natasha Kopala  
Head of Transport and Works Act Orders Unit

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<sup>27</sup> The UUs for the benefit of TDC and KCC were resubmitted by the Applicant to correct an administrative error in that the UUs dated 31 January 2020 had been signed but not dated and also to correct an error agreed with TDC in respect of the "CPZ Contribution by removal of paragraph 2.2 in the Fifth Schedule of the UU in favour of TDC. They are the same documents in all other respects.

## LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, a DCO granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such a DCO, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the day after the day on which the statement of reasons (decision letter) is published. Please also copy any claim that is made to the High Court to the address at the top of this letter.

The decision documents are being published on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/south-east/manston-airport/>

**These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the DCO referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655).**

## Appendix C: Bristol Decision



The Planning Inspectorate

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## **Appeal Decision**

Inquiry held between 20 July – 8 October 2021

Site visits made on 22 July, 25-26 August, 13 October 2021

**by Phillip Ware BSc DipTP MRTPI, Claire Searson MSc PGDip BSc (Hons)  
MRTPI IHBC and Dominic Young JP BSc (Hons) MPlan MRTPI MIHE**

**Inspectors appointed by the Secretary of State**

**Decision date: 2 February 2022**

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## **TOWN AND COUNTRY PLANNING ACT 1990**

**APPEAL BY**

**BRISTOL AIRPORT LTD**

## TABLE OF CONTENTS

<b>GLOSSARY</b>	<b>5</b>
<b>Decision</b>	<b>7</b>
<b>Procedural Matters</b>	<b>8</b>
<b>Applications for costs</b>	<b>10</b>
<b>Site and Surrounding Area</b>	<b>10</b>
<b>Relevant Background and Planning History</b>	<b>11</b>
<b>The Proposal</b>	<b>12</b>
<b>Planning Law, Policy and Guidance</b>	<b>13</b>
<i>Legislation</i>	13
<i>The Development Plan and other Local Policy</i>	13
<i>Regional Policy</i>	14
<i>The National Planning Policy Framework</i>	14
<i>Build Back Better</i>	17
<i>National Aviation Policy</i>	17
<i>Climate Change Policy</i>	19
<i>Noise Policy</i>	20
<i>Air Quality Legislation and Policy</i>	21
<i>Transport and Travel Policy</i>	22
<i>Other Relevant Policy and Guidance</i>	22
<b>Main Issues</b>	<b>22</b>
<b>Need and Forecasting</b>	<b>23</b>
<i>Need</i>	23
<i>Forecasting</i>	23
<i>Fleet Mix</i>	25
<i>Business Travel Growth</i>	26
<i>Logit Model</i>	27
<i>Conclusions on Forecasting</i>	28
<b>Climate Change</b>	<b>29</b>
<i>The importance of climate change and the broad approach of the parties</i>	29
<i>Development Plan and the NPPF</i>	30
<i>The Climate Change Act 2008 and Carbon Budgets</i>	30
<i>Offsetting Schemes</i>	31
<i>The APF and MBU</i>	32
<i>Decarbonising Transport and Jet Zero</i>	33
<i>COP26</i>	33
<i>The CO<sub>2</sub> Effect of the Proposal</i>	34
<i>Cumulative Impact of Airport Expansion</i>	35
<i>Sustainable Aviation Fuels and Efficiency Gains</i>	36
<i>Failure to Assess non-CO<sub>2</sub> Emissions</i>	37
<i>Carbon and Climate Change Action Plan</i>	37
<i>Conclusions on Climate Change</i>	38
<b>Noise</b>	<b>38</b>
<i>Fleet Mix</i>	39
<i>Noise Indices</i>	40



<i>Noise Values</i>	41
<i>Change Criteria</i>	44
<i>Effects</i>	44
<i>Ground Noise</i>	47
<i>Mitigation</i>	48
<i>Conclusion on Noise</i>	51
<b>Air Quality</b>	<b>52</b>
<b>Surface Access</b>	<b>54</b>
<i>Overview</i>	54
<i>A38 Improvement Works</i>	55
<i>Junction Modelling – Queue Lengths</i>	56
<i>Junction 1</i>	57
<i>Other Junction Modelling Issues</i>	58
<i>Modal Share</i>	58
<i>Parking Demand</i>	60
<i>M5 J22 Edithmead Roundabout</i>	62
<i>Conclusions on Surface Access</i>	65
<b>Green Belt</b>	<b>66</b>
<i>Inappropriateness</i>	66
<i>Openness</i>	66
<i>Purposes</i>	68
<i>Conclusions on Green Belt Harm</i>	68
<i>Other Considerations related to the Green Belt</i>	69
<b>Other Matters</b>	<b>72</b>
<b>Socio-Economics</b>	<b>72</b>
<i>Overview</i>	72
<i>BAL's Assessment</i>	72
<i>Business Travel Growth</i>	73
<i>Displacement</i>	73
<i>Outbound Tourism</i>	74
<i>Cost benefit analysis</i>	75
<i>Conclusions on Socio-Economics</i>	76
<b>Character and Appearance, including the AONB</b>	<b>76</b>
<b>Biodiversity</b>	<b>78</b>
<b>Health Impact Assessment</b>	<b>80</b>
<b>Public Sector Equality Duty</b>	<b>80</b>
<b>Prematurity</b>	<b>81</b>
<b>Expansion at other Airports</b>	<b>82</b>
<b>'Salami Slicing'</b>	<b>82</b>
<b>Conditions</b>	<b>83</b>
<b>Planning Obligation</b>	<b>85</b>
<i>S106 Agreement</i>	85
<i>Schedules 2&amp;3 – Transport and Travel</i>	85
<i>Schedule 4 – Environmental and Social</i>	86
<i>Schedule 5 – Contributions</i>	86
<i>Unilateral Undertaking</i>	87

<i>Schedule 1 – Transport and Travel</i>	87
<i>Schedule 2 – Noise Mitigation Scheme</i>	87
<b>Planning Balance and Very Special Circumstances</b>	<b>89</b>
<b>Conclusion</b>	<b>91</b>
<b>SCHEDULE OF CONDITIONS</b>	<b>92</b>
<b>APPEARANCES</b>	<b>110</b>
<b>INTERESTED PERSONS WHO APPEARED AT THE INQUIRY</b>	<b>112</b>
<b>WRITTEN SUBMISSIONS FROM THOSE WISHING TO APPEAR BUT UNABLE TO DO SO</b>	<b>114</b>
<b>INQUIRY DOCUMENTS</b>	<b>115</b>
<b>DOCUMENTS SUBMITTED AFTER THE CLOSE OF INQUIRY</b>	<b>118</b>
<b>CORE DOCUMENTS</b>	<b>118</b>

## GLOSSARY

ANPS	Airports National Policy Statement: new runway capacity and infrastructure at airports in the South-East of England (June 2018)
AONB	Mendip Hills Area of Outstanding Natural Beauty
APF	Aviation Policy Framework (March 2013)
APU	Auxiliary Power Unit
AQAP	Air Quality Action Plan
AQG	Air Quality Guidelines
AQS	Air Quality Standards
AS	Aviation Strategy 2050: the Future of UK Aviation (December 2018)
ASAS	Air Surface Access Strategy
ATM	Air Traffic Movements
BA	Bristol Airport
BAL	Bristol Airport Limited (the appellant)
BAAN	Bristol Airport Action Network
BALPA	British Airlines Pilots Association
CAA	Civil Aviation Authority
CBA	Cost Benefit Analysis
CCC	Committee on Climate Change
CCCAP	Carbon and Climate Change Action Plan
CD	Core Document
CIL	Community Infrastructure Levy
CS	North Somerset Core Strategy (adopted January 2017)
COP26	United Nations Climate Change UK Conference 2021
CORSIA	Carbon Offsetting and Reduction Scheme for International Aviation
CPO	Compulsory Purchase Order
dB	Decibel
DfT	Department for Transport
DMP	Sites and Policies Plan Part 1: Development Management Policies (adopted July 2017)
DMRB	Design Manual for Roads and Bridges
EIA	Environmental Impact Assessment
EIR	Economic Impact Report
ENG	Environmental Noise Guidelines – World Health Organisation (2018)
eGPU	electronic Ground Power Unit
ES	Environmental Statement
EU	European Union
FR	Forecasting Report
GBA	Green Belt Assessment
GBI	Green Belt Inset
GCN	Guidelines for Community Noise – World Health Organisation (1999)
GHG	Greenhouse Gas
GVA	Gross Value Added
Ha	Hectares
HIA	Health Impact Assessment
INQ	Inquiry Document
ICCAN	Independent Commission on Civil Aviation Noise
ICAO	International Civil Aviation Authority
J	Junction
LOAEL	Lowest Observed Adverse Effect Level
LVIA	Landscape and Visual Impact Assessment
MBU	Beyond the Horizon – the future of UK aviation: making best use of

	existing runways (June 2018)
mppa	Million Passengers per Annum
MSCP	Multi-Storey Car Park
NH	National Highways
NNG	Night Noise Guidance – World Health Organisation (2009)
NO <sub>x</sub>	Oxides of Nitrogen
NPPF	National Planning Policy Framework (as revised July 2021)
NPSE	Noise Policy Statement for England (2010)
NSC	North Somerset Council
PCAA	Parish Council Airport Association
PDS	Parking Demand Study
PDSU	Parking Demand Study Update
PEC	Predicted Total Contributions
PoE	Proof of Evidence
PM <sub>2.5/10</sub>	Particulate Matter
PPG	Planning Practice Guidance
PS	Parking Strategy
PSED	Public Sector Equality Duty
PTI	Public Transport Interchange
PTMS	Public Transport Modal Share
QC	Quota Count
RFC	Ratio to Flow Capacity
RfR	Reason for Refusal
RSA	Road Safety Audit
S106	Section 106 of the Town and Country Planning Act 1990
SAC	Special Area of Conservation
SBL	Southern Bristol Link
SCC	Somerset County Council
SEL	Single Event Level
SOAEL	Significant Observed Adverse Effect Level
SoCG	Statement of Common Ground
SoNA	Survey of Noise Attitudes
SoS	Secretary of State
SPD	Supplementary Planning Documents
SPLS	Sutherland Property & Legal Services
TA	Transport Assessment
TAA	Transport Assessment Addendum
UAEL	Unacceptable Adverse Effect Level
UFPs	Ultra Fine Particles
UK ETS	UK Emissions Trading Scheme
UU	Unilateral Undertaking
WCHAR	Walking, Cycling and Horse-Riding Assessment and Review
WHO	World Health Organisation
XR	Extinction Rebellion
ZTV	Zone of Theoretical Visibility

**Appeal Ref: APP/D0121/W/20/3259234**

**Bristol Airport, North Side Road, Felton, Bristol, BS48 3DY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Bristol Airport Limited against the decision of North Somerset Council.
  - The application Ref 18/P/5118/OUT, dated 5 December 2018, was refused by notice dated 19 March 2020.
  - The development proposed is an outline planning application (with reserved matters details for some elements included and some elements reserved for subsequent approval) for the development of Bristol Airport to enable a throughput of 12 million terminal passengers in any 12 month calendar period, comprising: 2no. extensions to the terminal building and canopies over the forecourt of the main terminal building; erection of new east walkway and pier with vertical circulation cores and pre-board zones; 5m high acoustic timber fence; construction of a new service yard directly north of the western walkway; erection of a multi-storey car park north west of the terminal building with five levels providing approximately 2,150 spaces; enhancement to the internal road system including gyratory road with internal surface car parking and layout changes; enhancements to airside infrastructure including construction of new eastern taxiway link and taxiway widening (and fillets) to the southern edge of Taxiway GOLF; the year-round use of the existing Silver Zone car park extension (Phase 1) with associated permanent (fixed) lighting and CCTV; extension to the Silver Zone car park to provide approximately 2,700 spaces (Phase 2); the provision of on-site renewable energy generation; improvements to the A38; operating within a rolling annualised cap of 4,000 night flights between the hours of 23:30 and 06:00 with no seasonal restrictions; revision to the operation of Stands 38 and 39; and landscaping and associated works.
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**Decision**

1. The appeal is allowed and outline planning permission (with reserved matters details for some elements included and some elements reserved for subsequent approval) is granted for the development of Bristol Airport to enable a throughput of 12 million terminal passengers in any 12 month calendar period, comprising: 2no. extensions to the terminal building and canopies over the forecourt of the main terminal building; erection of new east walkway and pier with vertical circulation cores and pre-board zones; 5m high acoustic timber fence; construction of a new service yard directly north of the western walkway; erection of a multi-storey car park north west of the terminal building with five levels providing approximately 2,150 spaces; enhancement to the internal road system including gyratory road with internal surface car parking and layout changes; enhancements to airside infrastructure including construction of new eastern taxiway link and taxiway widening (and fillets) to the southern edge of Taxiway GOLF; the year-round use of the existing Silver Zone car park extension (Phase 1) with associated permanent (fixed) lighting and CCTV; extension to the Silver Zone car park to provide approximately 2,700 spaces (Phase 2); the provision of on-site renewable energy generation; improvements to the A38; operating within a rolling annualised cap of 4,000 night flights between the hours of 23:30 and 06:00 with no seasonal restrictions; and landscaping and associated works at Bristol Airport, North Side Road, Felton, Bristol, BS48 3DY in accordance with the terms of the application, Ref 18/P/5118/OUT, dated 5 December 2018, subject to the conditions set out in the schedule to this decision.

## Procedural Matters

2. In light of the scale of the Inquiry including the number of Rule 6 parties, the amount of public interest, the number of written representations and the linked Compulsory Purchase Order (CPO) Inquiry, it was decided that the appeal would be considered by a Panel of three Inspectors at two separate, but linked, Inquiries. The Panel would wish to record their thanks to Joanna Vincent, the Programme Officer, for her assistance with the running of the events.
3. The Inquiry sat for 36 days between 20 July and 8 October 2021 at Weston-Super-Mare Town Hall. Due to capacity restrictions at the venue and with the agreement of all parties, the Inquiry comprised both physical and virtual elements. To avoid the repetition of evidence, the CPO and s78 Inquiries were opened at the same time. Although the s78 appeal is transferred for determination by the Panel, the CPO has not been delegated, and therefore the Panel will be reporting separately to the Secretary of State (SoS) in relation to that matter.
4. Rule 6 status was granted to the British Airlines Pilots Association (BALPA), the Parish Council Airport Association (PCAA), Bristol Airport Action Network (BAAN), Sutherland Property & Legal Services (SPLS) and Extinction Rebellion Elders (XR).
5. The Panel undertook unaccompanied site visits on 22 July and 25 August 2021 with the main parties providing an agreed list of viewpoints. A further site visit of the airport itself was carried out on 26 August. An early morning site visit took place on 13 October in order to understand the noise impacts of early morning take-offs between 6-7:30am.
6. Although the application is in outline, full details have been submitted in relation to the proposed extensions to the terminal building and highways improvements on the A38. For the outline elements design and size parameters have been defined which allows an assessment of the environmental effects of the proposed development to be undertaken. Table 1.1 of the Planning Statement<sup>1</sup> clarifies which matters are in outline and which are subject to detailed consideration. A full list of the submitted plans and supporting documentation is contained at paragraph 1.4.2 and 1.4.3 of the Planning Statement.
7. The appeal scheme qualifies as an Environmental Impact Assessment (EIA) development and therefore, an Environmental Statement (ES) was submitted with the planning application to assess the likely significant effects on a number of topic areas scoped into the report.<sup>2</sup>
8. Following requests under Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 (EIA Regs) further information was submitted to North Somerset Council (NSC) in April<sup>3</sup> and October<sup>4</sup> 2019. The additional information provided in response to the Regulation 25 requests did not result in any changes to the findings of the ES in terms of the assessment of likely significant effects. As part of the

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<sup>1</sup> CD: 2.03

<sup>2</sup> CD: 2.05.01-49

<sup>3</sup> CD: 3.04.01-13

<sup>4</sup> CD: 3.06.01-23

- appeal, the Appellant (BAL) submitted an ES Addendum in November 2020<sup>5</sup> in order to reflect changes to the growth scenarios arising from the Covid-19 pandemic.
9. Following review, the ES and the ESA are considered satisfactory in terms of Schedule 4 of the EIA Regs. The Panel have therefore taken account of the ES and ESA accordingly.
  10. A signed and dated S106 agreement (S106) was submitted at the end of the Inquiry together with a Community Infrastructure Levy (CIL) Compliance Statement.<sup>6</sup> Amongst other things, the document contains obligations in respect of transport and travel, the A38 highway works, air quality, noise, a Skills and Employment Plan and financial contributions to NSC. The proposed obligations need to be assessed against the statutory CIL tests; a matter addressed later in this decision.
  11. In addition to the S106, a Unilateral Undertaking (UU) was submitted after the close of the Inquiry.<sup>7</sup> It contains undertakings in respect of an Air Surface Access Strategy (ASAS) and new public transport services, along with a noise mitigation scheme.
  12. Signed Statements of Common Ground (SoCG) relating to overarching and topic-based matters were submitted before the close of the Inquiry.<sup>8</sup> The Panel have had regard to these in reaching its decision.
  13. Pre-Inquiry Case Management Conferences were held on 8 March and 30 June 2021 to discuss the arrangements for the Inquiry and deadlines for the submission of various documents. Summaries of the conferences were subsequently sent to the main parties.
  14. The Government published its revised National Planning Policy Framework (NPPF) on 20 July 2021.<sup>9</sup> The parties were given the opportunity to comment on any relevant implications for the appeal orally and within written representations during the event.
  15. On 14 July the Department for Transport (DfT) published its 'Decarbonising Transport: A Better Greener Britain' strategy<sup>10</sup> alongside the 'Jet Zero Consultation: A consultation on our strategy for net zero aviation'<sup>11</sup>, 'Jet Zero Consultation: Evidence and Analysis'<sup>12</sup> and 'Targeting net zero – next steps for the Renewable Transport Fuels Obligation: Government response'.<sup>13</sup> The parties were invited to submit an addendum to their proofs of evidence on these matters and these were discussed during the event.
  16. Written representations following the Government's publication of 'Valuation of greenhouse gas emissions: for policy appraisal and evaluation' dated 2 September 2021<sup>14</sup> were also submitted and discussed during the Inquiry.

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<sup>5</sup> CD: 2.19-2.23

<sup>6</sup> INQ/117, INQ/119 and INQ/113

<sup>7</sup> INQ/118

<sup>8</sup> INQ/115 and INQ/116

<sup>9</sup> CD: 5.08

<sup>10</sup> CD: 9.134

<sup>11</sup> CD: 9.135

<sup>12</sup> CD: 9.136

<sup>13</sup> CD: 9.137

<sup>14</sup> INQ/054



17. On 22 September 2021, the World Health Organization (WHO) issued new guidelines on the health effects of air quality on humans.<sup>15</sup> Parties were also invited to submit written statements on this document.<sup>16</sup>
18. A separate application for a park and ride scheme for Bristol Airport (BA) at Heathfield Lane, Hewish<sup>17</sup> was refused by NSC during the course of the Inquiry.<sup>18</sup> That decision has apparently been appealed and will be subject to a separate decision in due course.
19. Following the close of the Inquiry, on 19 October 2021 the Government launched a policy paper for their Net Zero Strategy, entitled Build Back Greener.<sup>19</sup> The parties were invited to make written submissions on the implications of this document and the responses<sup>20</sup> received have been taken into account.
20. The Environment Act 2021 received Royal Assent on 9 November 2021. At around the same time the Glasgow Climate Pact<sup>21</sup> was published following the conclusion of the United Nations Climate Change UK Conference 2021 (COP26) and a proposal to increase capacity at Luton airport by 1 million passengers per annum (mppa) was approved by Luton Borough Council. The Panel wrote to the parties inviting comments on all of the abovementioned events and the comments received<sup>22</sup> have been taken into account in this decision.
21. Finally, in January 2022 BAAN submitted a bundle of material relating to a legal challenge against the grant of planning permission by Eastleigh Borough Council related to the proposed expansion of Southampton airport. BAAN's submission as well as the comments of the other parties in relation to it,<sup>23</sup> have all been taken into account.

### **Applications for costs**

22. At the Inquiry applications for costs were made by BAL against NSC and by NSC against BAL. These applications will be the subject of separate decisions.

### **Site and Surrounding Area**

23. BA is located approximately 11km south-west of Bristol city centre, within the local authority administrative area of North Somerset and the parish of Wrington. To the east, the villages of Felton and Winford are located 1.6km and 3.2km from the airport respectively. The settlements of Cleeve, Claverham and Yatton are located to the west. BA occupies an elevated position on a ridge of high ground called Broadfield Down, 165–192 metres above Ordnance Datum.
24. The area surrounding BA is predominately open, undulating countryside. The boundary of the Mendip Hills Area of Outstanding Natural Beauty (AONB) is some 3km south of the airport. The site falls outside, but within the consultation zone for the North Somerset and Mendip Bats Special Area of

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<sup>15</sup> INQ/085

<sup>16</sup> INQ095-098

<sup>17</sup> This is the proposal promoted by Sutherland Property & Legal Services client

<sup>18</sup> INQ/050 Application reference 20/P/1438/FUL

<sup>19</sup> INQ/126

<sup>20</sup> INQ/127-130

<sup>21</sup> INQ/135

<sup>22</sup> INQ/131-134

<sup>23</sup> INQ/136-139

Conservation (SAC) which is designated because of its importance for Greater and Lesser Horseshoe Bats.

25. Most of BA is in the Green Belt, save for 44 hectares (ha) at its north side. This area, known as the Green Belt Inset (GBI), includes the passenger terminal, air traffic control tower, hotel, Multi Storey Car Park (MSCP) 1 and surface car parks. The central part of the airport comprises the runway, aircraft taxiways and the aircraft stands. The south side of the airport includes private aviation buildings, a helicopter unit, fire station, new administration offices for BA staff (known as Lulsgate House) and long stay Silver Zone car park and a taxi waiting area. BA is open 24 hours a day, 365 days a year.
26. Access to BA is from two roundabouts on the A38, a major regional distributor road connecting Bristol to the north with Bridgewater to the south. The northern roundabout serves the GBI which includes the main passenger terminal and adjoining car parks. The south side of the airport is served by the southern roundabout. A third access for emergency and service vehicles is located on Downside Road which connects the A38 to the A370 to the west. The A370 is the main road connecting Bristol to Weston Super Mare and also provides access to Junction (J) 21 of the M5 motorway approximately 11km west of the airport. In addition to these main routes, the wider area is criss-crossed by a network of rural lanes.

### **Relevant Background and Planning History**

27. BA is the main airport for the South-West of England, providing a range of international and domestic flights. It opened in 1957<sup>24</sup> and handled 33,000 passengers in its first year of operation. The airport expanded steadily through the 1960s, 70s and 80s driven partly by the popularity and affordability of foreign holidays. Planning permission was granted in 1995 for a replacement passenger terminal and re-routing part of the A38 next to the airport.<sup>25</sup> At that time BA handled 2.1 mppa. This increased to 3.9 mppa by 2003 and 6.3 mppa by 2008.
28. In 2011, BAL obtained planning permission from NSC for the major expansion of BA to accommodate 10 mppa<sup>26</sup> (the 10 mppa permission). The permission included over 30 separate developments and was subject to a Section 106 agreement. The main obligations in that S106 required BA to: fund new and more frequent public transport services to and from the airport; provide an environmental mitigation fund; develop a skills and employment plan; make financial contributions towards strategic infrastructure projects and undertake air quality monitoring. Parts of the 10 mppa permission, most notably an additional multi-storey car park (MSCP 2) have yet to be implemented.
29. By 2019 BA handled 8.9 million passengers making it the ninth busiest airport in the UK and the third largest regional airport in England.
30. The application subject to this appeal was submitted to NSC in December 2018. It was considered by the Planning Committee and contrary to the

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<sup>24</sup> The airport can be traced as far back as 1930. It was requisitioned by the Air Ministry at the outset of the Second World War.

<sup>25</sup> LPA Ref: 1287/91

<sup>26</sup> CD: 4.01b LPA Ref: 09/P/1020/OT2 Decision Notice

recommendation of professional officers,<sup>27</sup> permission was refused by notice dated 19 March 2020.<sup>28</sup>

## **The Proposal**

31. The application seeks outline planning permission, with some details included, to increase the operational capacity of BA from its current cap of 10 mppa up to 12 mppa. It comprises the following elements:
- Extensions to the terminal building on its west and southern sides and canopies over the forecourt of the main terminal building;
  - Erection of a new east walkway and pier with vertical circulation cores, preboard zones and a 5m high acoustic timber fence;
  - Construction of a new service yard directly north of the western walkway;
  - To meet the increased demand for parking the proposal includes 1) the erection of a further MSCP providing approximately 2,150 spaces (referred to as 'MSCP3'), 2) year-round use of the existing Silver Zone car park extension ("Cogloop 1") and 3) a further extension to the Silver Zone car park to provide approximately 2,700 spaces ("Cogloop 2");
  - Surface access improvements including enhancements to the A38 extending northwards from the main airport access roundabout to circa 130m beyond West Lane (including sections of Downside Road and West Lane) and an improved internal road system with gyratory and internal surface car parking;
  - Enhancements to airside infrastructure including construction of a new eastern taxiway link and taxiway widening (and fillets) to the southern edge of Taxiway GOLF; and
  - Operational changes including a cap of 4,000 night flights between the hours of 23:30 and 06:00 over two consecutive seasons (a 12 month period) (merging the current night movement limit of 3,000 in summer and 1,000 in winter) and revisions to the use of aircraft stand numbers 38 and 39.
32. The application effectively seeks to change the following planning conditions forming part of the 2010 permission:
- Condition 65, which imposes the current passenger cap of 10 mppa, in order to allow a throughput of 12 mppa;
  - Condition 38, which currently limits night-time flights (namely, those between 23:30 and 06:00 hours) to 4000 a year with a maximum of 3000 flights during British Summer Time and 1000 movements in British winter-time. The proposed amendment will remove the seasonal restrictions on the number of night flights but the overall cap of 4000 night flights a year will remain unchanged;

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<sup>27</sup> CD: 4.11-4.14

<sup>28</sup> CD: 4.16

- Condition 34, which allows only 'tow on push back' on aircraft stands 38 and 39 in order to allow the use of Auxiliary Power Units (APUs) on these stands; and
- Condition 9, in order to remove the seasonal restriction on the use of the car park known as Cogloop 1.

## **Planning Law, Policy and Guidance**

### *Legislation*

33. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. Other legislation is referenced where relevant throughout the decision.

### *The Development Plan and other Local Policy*

34. The development plan includes the North Somerset Core Strategy (adopted January 2017) (CS),<sup>29</sup> the Sites and Policies Plan Part 1: Development Management Policies (adopted July 2016) (DMP)<sup>30</sup> and the Sites and Policies Development Plan Part 2: Site Allocations Plan (adopted April 2018).<sup>31</sup> Relevant policies, including those cited in the Reasons for Refusal (RfRs) were agreed by parties and set out in the General Matters SoCG. These documents are also supported by a suite of Supplementary Planning Documents (SPD).<sup>32</sup>
35. At the local level, the CS sets priorities for delivering a prosperous economy and living within environmental limits. One of the primary objectives of the CS<sup>33</sup> is to "support and promote major employers in North Somerset, such as Bristol Airport, to ensure continued employment security and economic prosperity." CS Policy CS23 is a specific policy for BA. It states that "proposals for the development of BA will be required to demonstrate the satisfactory resolution of environmental issues, including the impact of growth on surrounding communities and surface access infrastructure."
36. DMP Policy DM50 is also an airport specific policy and permits development in the GBI provided that (amongst other things) environmental impacts such as emissions are minimised, and there is no unacceptable noise impact; it is suitably sited, designed and landscaped so as not to harm the surrounding landscape; and appropriate provision is made for surface access to the airport, including highway improvements and/or traffic management schemes to mitigate the adverse impact of airport traffic on local communities, together with improvements to public transport services.
37. CS Policies CS1, CS2 and DMP Policy DM2 are concerned with addressing climate change and reducing greenhouse gas (GHG) emissions. NSC's decision notice refers to only one CS policy in relation to climate change. That is policy CS1 which states, amongst other matters, that NSC is committed to reducing carbon emissions and tackling climate change, mitigating further impacts and supporting adaptation. One of the principles which guide development is that it should demonstrate a commitment to reducing carbon emissions, including

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<sup>29</sup> CD: 5.06

<sup>30</sup> CD: 5.04

<sup>31</sup> CD: 5.26

<sup>32</sup> Including CD: 5.21-5.25

<sup>33</sup> Page 20

- reducing energy demand through good design, and utilising renewable energy where possible.
38. CS Policy CS3 relates to environmental impacts. Development which, on its own or cumulatively, would result in air, water or other environmental pollution or harm to amenity, health or safety will only be permitted if the potential adverse effects would be mitigated to an acceptable level by other control regimes, or by measures included in the proposals, by the imposition of planning conditions or through a planning obligation. Policy CS26 relates to health and wellbeing and requires the submission of a Health Impact Assessment (HIA) on all large-scale developments.
39. CS Policy CS6 notes that the Green Belt boundaries remain unchanged and that further amendments to the Green Belt at BA will only be considered once long-term development needs have been identified and exceptional circumstances demonstrated. DMP Policy DM12 states that inappropriate development is, by definition, harmful to the Green Belt and will not be approved except in very special circumstances.
40. CS Policy CS4, and DMP Policy DM8 seek to protect ecology and biodiversity, including SACs. CS5 and DM10 deal with landscape matters, requiring that development does not adversely affect the landscape character of the district and respects the tranquillity of an area. DM11 states that development within or within the setting of the Mendip Hills AONB should not have an unacceptable adverse effect on the landscape, setting and scenic beauty.
41. Broad transport matters are also covered by CS Policies CS10, CS11 which encourage improvement and integrated transport networks and allow for a wide choice of modes of transport, and the provision of adequate parking. DMP Policies DM20, DM24, DM26, and DM27, also deal with transport matters through safeguarding land for major transport schemes, protection of highway safety, requirement of travel plans for major development schemes and bus accessibility. Policies DM30 and DM31 relate to off-airport car parking and air safety.
42. This list is not exhaustive and other policies relating to infrastructure and other wider matters are referenced, as necessary, in this decision.

### *Regional Policy*

43. At the regional level, page 22 of the West of England Local Enterprise Partnership Strategic Economic Plan (2015 – 2030)<sup>34</sup> identifies the connectivity provided by BA as a strength of the region and highlights an opportunity for meeting investment and jobs targets through major development at BA.
44. The foreword to the 2019 West of England Local Industrial Strategy<sup>212</sup>, recognises BA as a strategic economic asset for the region and its role in making the West of England a “*critical gateway to the nation and the world.*”

### *The National Planning Policy Framework*

45. The latest version of the NPPF was issued in July 2021. Under the initial heading ‘Achieving Sustainable development’ it is stated that the purpose of the planning system is to contribute to the achievement of sustainable

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<sup>34</sup> CD: 11.02

- development, and that this can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs. This approach, stemming originally from Bruntland in 2013, underpins the remaining policies and approaches in the NPPF.
46. Like earlier versions the revised NPPF emphasises that the purpose of the planning system is to contribute to the achievement of sustainable development. It makes it plain that planning policies and decisions should play an active role in guiding development towards sustainable solutions, but should take local circumstances into account, to reflect the character, needs and opportunities of each area.
  47. Paragraph 8a) sets out the overarching economic, social and environmental objectives. These are interdependent and need to be pursued in mutually supportive ways. To ensure that sustainable development is pursued in a positive way, there is a presumption in favour of sustainable development at the heart of the NPPF. Paragraph 11c) explains that, for decision-taking, this means approving development proposals that accord with an up-to-date development plan without delay.
  48. Paragraph 81 provides that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Paragraph 92 states that decisions should aim to achieve healthy places which enable and support healthy lifestyles, especially where this would address identified health needs.
  49. Paragraph 104 requires that transport issues should be considered from an early stage so that potential impacts can be addressed and so the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account, including appropriate opportunities for avoiding or mitigating adverse effects and for net environmental gains.
  50. Paragraph 105 states, in part, that *“significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health.”*
  51. At para 106(e) the NPPF states that planning policies should: *“provide for any large-scale transport facilities that need to be located in the area, and the infrastructure and wider development required to support their operation, expansion and contribution to the wider economy.”* At Paragraph 106(f) it goes on to say that planning policies should *“recognise the importance of maintaining a national network of general aviation airfields, and their need to adapt and change over time – taking into account their economic value in serving business, leisure...and the Government’s General Aviation Strategy.”*
  52. Paragraph 110 seeks to ensure that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location, safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network (in terms of highway safety), can be cost effectively mitigated to an acceptable degree.
  53. Paragraph 111 advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway



- safety, or the residual cumulative impacts on the road network would be severe.
54. NPPF Section 13 is entitled "Protecting the Green Belt", with paragraph 137 making it clear that the Government attaches great importance to Green Belts, the fundamental aim of which is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
  55. Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 goes on to explain that, when considering any planning application, substantial weight should be given to any harm to the Green Belt, and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
  56. Paragraph 152 states that the planning system should support the transition to a low carbon future in a changing climate. It should help to: shape places in ways that contribute to radical reductions in GHG emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
  57. Paragraph 174 states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and sites of biodiversity value, recognising the intrinsic character and beauty of the countryside, minimising impacts on and providing net gains for biodiversity and addressing unacceptable levels of pollution.
  58. Paragraph 176 states that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty which have the highest protection in relation to these issues.
  59. Paragraph 180 sets out principles for dealing with habitats sites, and seeks a restrictive approach to development which would have an adverse effect. Paragraph 181 identifies SACs as being given the same protection as habitats sites.
  60. Paragraph 185 requires that development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment as well as the potential sensitivity of the site or the wider area to impacts that could arise from development. Decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impact on health and the quality of life. Proposals should identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.
  61. Paragraph 186 states that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas (AQMAs) and Clean Air Zones, and the cumulative impacts from individual sites



in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. Planning decisions should ensure that any new development in AQMAs and Clean Air Zones is consistent with the local air quality action plan.

62. At paragraph 188, the NPPF states that the focus of decisions should be on whether a proposed development is an acceptable land use, rather than focussing on the control of emissions which are the subject of separate pollution control regimes. It is stated that it should be assumed that such other regimes will operate effectively.
63. Other relevant paragraphs in the NPPF are referenced, as appropriate, later in this decision. The Planning Practice Guidance (PPG) provides further context to the NPPF and is also drawn upon in the decision as necessary.

#### *Build Back Better*

64. Published in March 2021, Build Back Better: our plan for growth<sup>35</sup> seeks to build on three core pillars of growth (infrastructure, skills and innovation), as part of the recovery from the Covid 19 pandemic and following the departure of the UK from the European Union (EU). It seeks to 'level up' the whole of Britain, support the transition to net zero and support a global Britain.

#### *National Aviation Policy*

65. The Aviation Policy Framework<sup>36</sup> (March 2013) (APF), though some eight years old, continues to set out the Government's high-level objectives and policy for aviation. The APF deals with the Government's primary objective related to long-term economic growth, within which the aviation sector is seen as a major contributor. It seeks to ensure that the UK's air links continue to make it one of the best-connected countries in the world. Support is given to growth which maintains a balance between the benefits of aviation and its costs, particularly in relation to negative effects on climate change, noise and air pollution.<sup>37</sup> In relation to environmental impacts the APF sets an objective of ensuring that the aviation sector makes a significant and cost effective contribution towards reducing global emissions."<sup>38</sup>
66. A key priority of the APF is to make better use of existing runway capacity at all UK airports. Beyond 2020, it identifies that there will be a capacity challenge at all of the biggest airports in the South East of England. At paragraph 1.23 the APF recognises the important economic role of regional airports in accommodating wider forecast growth in demand and taking pressure off London's main airports. It expressly acknowledges the vital role of BA in the economic success of the South-West region.
67. At paragraph 1.24 the APF states that the "*Government wants to see the best use of existing airport capacity*" and support the growth of airports outside the South-East. However, it also recognises that the "*development of airports can have negative as well as positive local impacts, including on noise levels*" and therefore proposals for expansion should be "*judged on their individual merits,*

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<sup>35</sup> CD: 11.10

<sup>36</sup> CD: 6.01

<sup>37</sup> Para 5

<sup>38</sup> Paras 12 and 14

*taking careful account of all relevant considerations, particularly economic and environmental impacts."*

68. A suite of documents was published in 2018 in respect of future aviation policy for the UK. Beyond the Horizon - The Future of UK Aviation: Next steps Towards and Aviation Strategy<sup>39</sup> (April 2018) (FA), Beyond the Horizon – the future of UK aviation: Making Best Use of existing runways<sup>40</sup> (June 2018) (MBU), and Aviation Strategy 2050: the Future of UK Aviation<sup>41</sup> (December 2018) (AS). Each of these documents recognises the importance of aviation growth while acknowledging the need to tackle environmental impacts.

69. MBU provides an analysis of the Government's call for evidence on aviation policy. It provides a policy statement dealing with airports beyond Heathrow making best use of their existing runways, taking into account economic and environmental considerations. It considers that growth of regional airports should take careful account of all relevant considerations, particularly economic and environmental impacts and proposed mitigations.<sup>42</sup> It is worth setting out the key section in full:

*"Therefore the government is supportive of airports beyond Heathrow making best use of their existing runways. However, we recognise that the development of airports can have negative as well as positive local impacts, including on noise levels. We therefore consider that any proposals should be judged by the relevant planning authority, taking careful account of all relevant considerations, particularly economic and environmental impacts and proposed mitigations. This policy statement does not prejudice the decision of those authorities who will be required to give proper consideration to such applications. It instead leaves it up to local, rather than national government, to consider each case on its merits."*

70. MBU, under the heading 'Role of national policy', provides that increased carbon emissions be dealt with at the national level.<sup>43</sup>

71. The Government reaffirmed its position on MBU on two occasions during the Inquiry - first as part of the Jet Zero consultation<sup>44</sup> and second in response to NSC's letter to the DfT.<sup>45</sup> In both cases it was confirmed that MBU remains "the most up-to-date policy on planning for airport development" and "continues to have full effect, for example, as a material consideration in decision-taking on applications for planning permission."

72. NSC and others argued that MBU should be afforded limited or no weight as it pre-dates the Government's adoption of the 2050 net-zero target and the Sixth Carbon Budget in June 2021, and was published before the inclusion of international aviation in domestic targets. Certainly, these are material considerations, and are issues which may or may not change the policy approach in the future. But MBU itself recognises there is uncertainty over

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<sup>39</sup> CD: 6.03

<sup>40</sup> CD: 6.04

<sup>41</sup> CD: 6.05

<sup>42</sup> Para 1.29

<sup>43</sup> Para 1.11 – 1.13

<sup>44</sup> CD: 9.135 Footnote 39

<sup>45</sup> INQ/042

climate change policy and over international measures, and notes that therefore matters might change after its publication.

73. The status of MBU was debated in some detail at the Inquiry. The wording used in the Government's responses does not say that it should be given 'full weight' but there is no suggestion that MBU is other than up to date. If the Government's intention had been to suggest that MBU should be given reduced weight, this could have been stated.
74. While there are many who may disagree with the direction of current Government aviation policy and specifically the approach set out in MBU, it is not the role of the Panel to question the merits or otherwise of current Government policy. APF and MBU therefore remain the most recent national policy statements and as such are material considerations. Though matters have to an extent moved on this does not make policy out of date.
75. There was also an argument put forward that MBU would only come into effect once the planning balance had been established. In effect, it would weigh for or against a proposal only once the overall conclusion has been reached. However, this approach to national policy was not supported by evidence of examples of this methodology being adopted elsewhere, and it does not appear logical.
76. The AS is the Government's final consultation document on the policy proposals for aviation strategy. It recognises the role of aviation in helping to build a global Britain and the need to support regional growth and connectivity, including as part of the importance of rebalancing the UK economy through economic growth. It also recognises that aviation must do its fair share to tackle environmental issues, including climate change as well as health impacts arising from noise and air pollution. It also emphasises the need to share the benefits from growth with the local communities.
77. Finally, the Airports National Policy Statement: new runway capacity and infrastructure at airports in the South-East of England<sup>46</sup> (June 2018) (ANPS) is principally concerned with a third runway at Heathrow and is not directly relevant to this case.<sup>47</sup>

#### *Climate Change Policy*

78. In addition to national and development plan policy summarised above, there are a number of legal and policy issues which affect the consideration of climate change.
79. The Paris Agreement<sup>48</sup> is a legally binding (unincorporated) treaty on climate change set within the United Nations Framework Convention on Climate Change (1994). Most importantly it set a long-term temperature goal of limiting global warming to well below 2 degrees above pre-industrial levels. It remains the foundation for much subsequent legislation and guidance.
80. This Agreement was reflected in the UK by way of the Climate Change Act 2008 (CCA) (with targets amended 2019).<sup>49</sup> Two key obligations in the CCA are the

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<sup>46</sup> CD: 6.09

<sup>47</sup> The ANPS was recently the subject of a Court of Appeal Judgement see - *R. (on the application of Plan B Earth) v Secretary of State for Transport* [2020] EWCA Civ 214.

<sup>48</sup> CD: 9.26

<sup>49</sup> CD: 9.002

adoption of the UK's Net Zero Target by 2050 and the requirement to set five yearly carbon budgets, twelve years in advance, so as to meet the target.

81. In July 2021 two documents were published by the Government. These were 'Decarbonising Transport: A Better, Greener Britain and the 'Jet Zero Consultation.' The first of these is a statement of policy, while the second is a consultation document. But the main messages are not dissimilar, and they both emphasise the need for very significant action to be taken.
82. In autumn 2021 COP26 was held in Glasgow, which further heightened the importance of climate change issues in this appeal. After the close of the conference the 'Glasgow Climate Pact' was adopted (November 2021).

### *Noise Policy*

83. National policy on noise is set out in the Noise Policy Statement for England (2010) (NPSE)<sup>50</sup> which aims to avoid, minimise, mitigate and where possible reduce significant adverse impacts on health and quality of life.
84. NPSE also sets out a noise exposure hierarchy, with the PPG setting out further detailed guidance. The Lowest Observed Adverse Effect Level (LOAEL) is the level above which adverse effects on health and quality of life can be detected whereby mitigation and reduction to a minimum is necessary. Significant Observed Adverse Effect Level (SOAEL) is the level above which significant adverse effects on health and quality of life occur and should be avoided. Such effects include material changes in behaviour (e.g. keeping windows closed most of the time), and potential for sleep disturbance including getting to sleep, premature awakening and difficulty going back to sleep. At this level quality of life is diminished. The PPG also introduces the concept of Unacceptable Adverse Effect Level (UAEL).
85. Both LOAEL and SOAEL recognise the need to take account of economic and social benefits of the activity causing or affected by the noise, although at SOAEL it is undesirable for such exposure to be caused.
86. The PPG also recognises that noise is a complex technical issue, and that the subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. Factors include the source and absolute level of noise (including night-time noise), number of noise events and the frequency and pattern of non-continuous sources, frequency, the acoustic environment, and spectral content and general noise character.<sup>51</sup>
87. Noise can override other planning concerns where justified, but the PPG notes that it is important to look at noise in the context of the wider characteristics of a development proposal, its likely users and its surroundings, as these can have an important effect on whether noise is likely to pose a concern.<sup>52</sup> Relevant factors relating to tranquillity are also identified.<sup>53</sup>
88. With specific regard to aviation noise, the PPG notes that where airport expansion is considered through the planning system, it will be important for decisions to consider any additional or new impacts from that expansion, and not to revisit the underlying principle of aviation use where it is established.

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<sup>50</sup> CD: 10.04

<sup>51</sup> Paragraph: 003 Reference ID: 30-003-20190722 & Paragraph: 006 Reference ID: 30-006-20190722

<sup>52</sup> Paragraph: 002 Reference ID: 30-002-20190722

<sup>53</sup> Paragraph: 008 Reference ID: 30-008-20190722

89. Consistent with the NPSE, the overarching objective of the APF is to limit and where possible reduce the number of people in the UK significantly affected by aviation noise. This document outlines a general principle of striking a fair balance between the negative impacts of noise and the positive impact of flights. Future growth in aviation should ensure that benefits are shared between the aviation industry and local communities. The industry must continue to reduce and mitigate noise as airport capacity grows. Mitigation must also be proportionate to the extent of the noise problem and number of people affected.
90. MBU, as previously referenced, recognises that the development of airports can have negative as well as positive local impacts, including on noise levels. It notes that, as airports look to make the best use of their existing runways, it is important that communities surrounding those airports share in the economic benefits, and that adverse impacts such as noise are mitigated where possible.
91. There is also a range of other technical documents which relate specifically to aviation and noise which are drawn upon, as necessary, below.

#### *Air Quality Legislation and Policy*

92. The Ambient Air Quality Directive 2008/50/EC,<sup>54</sup> in combination with the Air Quality Standards Regulations (2010)<sup>55</sup> set limit values for different types of pollutant that affect public health. These standards remain domestic law following the withdrawal of the UK from the EU.
93. The Government's Clean Air Strategy was published in 2019.<sup>56</sup> It recognises that air quality is the largest environmental health risk in the UK and that emissions from transport are a significant source. It recognises that WHO guidelines are the international benchmark for setting air quality standards and sets out a number of actions to reduce exposure to air pollution, including reducing particulate matter levels to those of the WHO 2006 guidelines and review mechanisms to consider whether there should be more challenging milestones towards WHO goals. The WHO recently published (September 2021) updated guidelines and these reduce the levels specified in the previous iterations, based on evidence of air quality effects.
94. The APF sets a policy to seek improved international standards to reduce emissions from aircraft and vehicles. It also notes that there will be additional air quality benefits as the UK progresses to a low carbon economy.
95. MBU recognises air quality impacts upon communities, and requires mitigation of local environmental issues. MBU also notes that surface transport continues to be the main contributor to local air quality emissions around airports. It states that although only 1.4% of total transport Oxides of Nitrogen (NOx) emissions come from aircraft landing and taking off, the Government wants to ensure the aviation sector plays an appropriate role in managing the emissions that it can control.
96. AS sets an expectation that airports will make the most of their regional influence to provide innovative solutions and incentives against ambitious targets which improve air quality. It sets out a number of proposed measures

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<sup>54</sup> CD: 8.23

<sup>55</sup> CD: 8.3

<sup>56</sup> CD: 8.7

for tackling air quality, including improving monitoring of air pollution, including ultrafine particulates (UFP), the development of air quality plans to manage emissions, and development of cleaner fuels.

97. The recent Environment Act 2021 includes governance provisions to establish a framework for setting long term, legally binding environmental targets for at least 15 years for air quality (amongst other things). It also creates a specific duty to set targets on an annual mean concentration of fine particulate matter in ambient air. The Act itself does not set targets, rather it specifies that draft regulations on the process for target setting must be laid before parliament by 31 October 2022. The SoS must also review targets and the first review must be completed by 31 January 2023 with subsequent reviews subject to a 5-year cycle.

#### *Transport and Travel Policy*

98. The 'West of England Joint Local Transport Plan 4' 2020-2036<sup>57</sup> sets out how to achieve a well-connected sustainable transport network. It contains a number of detailed aims regarding BA and recognises the significant positive impact that BA has on the region's economy. It supports the growth of BA, while seeking to improve the environment and quality of life for residents and businesses in the area.
99. APF requires that proposals must be accompanied by clear surface access proposals which demonstrate how the airport will ensure easy and reliable access for passengers, increase the use of public transport by passengers, and minimise congestion and other local impacts.
100. It also states that developers should pay the costs of upgrading or enhancing road, rail or other transport networks or services where there is a need to cope with additional passengers travelling to and from expanded or growing airports.
101. Surface access is also raised as a local environmental issue in MBU and in AS, whereby surface access strategies should set targets for sustainable passenger and staff travel to the airport.

#### *Other Relevant Policy and Guidance*

102. A wide range of other policy documentation was presented before the Inquiry and is summarised here. The above summary is not exhaustive and where relevant, other material was relied upon by the Panel and is cited throughout this decision.

### **Main Issues**

103. Based upon the matters raised by the written and oral evidence of BAL, NSC, Rule 6 parties and interested persons, the main considerations in this case are summarised as follows:
1. The impact of the proposed development on GHG emissions and the ability of the UK to meet its climate change obligations;

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<sup>57</sup> CD: 7.05



2. The effect of noise associated with the proposed development on health and quality of life;
3. The effect of air pollution associated with the proposed development on health and quality of life;
4. The effects of the proposed development upon sustainable transport objectives, the highway network, highway safety and parking provision, and
5. The extent to which the development would harm the openness of the Green Belt and/or conflict with its purposes and the extent to which the harm to the Green Belt by reason of inappropriateness, and any other Green Belt harm, is clearly outweighed by other considerations so as to amount to very special circumstances.

## **Reasons**

104. It is first necessary to establish the baseline against which the main issues will be considered against as per the ES/ESA, given that forecasting and fleet mix was a matter of dispute between the parties.

### ***Need and Forecasting***

#### *Need*

105. Air travel has grown strongly since the 1970s and according to Government forecasts, it will continue to do so over the coming decades. This is reflected in MBU which states:

*"The updated forecasts reflect the accelerated growth experienced in recent years" and "This has put pressure on existing infrastructure, despite significant financial investments by airports over the past decade, and highlights that government has a clear issue to address."*<sup>58</sup>

106. Air traffic forecasting is concerned with the assessment of future demand for air travel. People travel for a variety of reasons, including leisure, business and visiting family. Population and economic growth, disposable income and the cost of travel are amongst the main drivers of demand for air travel. The long-term relationship between these factors was not a matter of dispute at the Inquiry nor was there any suggestion that the demand for air travel will not continue to grow in the long-term in line with the 2017 UK Aviation Forecasts. These project a significant increase in demand for flights from people living in the South-West and South Wales.

107. The expansion of BA is seen in that context. As BAL put it, *"people don't fly because there are airports; rather, there are airports because people want to fly."* The need for the appeal scheme is driven by those people in BA's catchment area who want to go abroad on holiday, to visit relatives or travel on business.

#### *Forecasting*

108. BAL's forecasts include detailed passenger and air traffic movements (ATM) forecasts as well as an assessment of potential displacement.<sup>59</sup> The forecasting

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<sup>58</sup> Para 1.4

<sup>59</sup> See Socio-Economic section



methodology is set out in Section 2 of the Forecasting Report (FR)<sup>60</sup> and involves a hybrid approach combining long-term 'top down' econometric forecasts with 'bottom up' airline specific forecasts for the short-term.

109. The top-down modelling comprises two steps; the first is to determine the level of underlying passenger demand using the future growth rates model. This model is based around the underlying analysis that underpins the DfT's UK wide passenger demand forecasting model. It determines future growth rates by forecasting future trends of economic growth and the cost of travel - the two main drivers of demand. The cost of travel is informed by factors such as fuel prices, fuel consumption, Air Passenger Duty, carbon costs and average aircraft size.
110. The way in which changes in economic growth and air fares translate through into growth in air transport markets is based on demand elasticities. In this case, BAL used the elasticities identified within the DfT's 2017 UK Aviation Forecasts presented in Tables 1-3 of MBU.<sup>61</sup> The same elasticities have been used more recently in the Government's Decarbonising Transport and the Jet Zero consultation. While it is accepted that these documents contain various statements about future uncertainties, there is nothing to suggest the Government intends to move away from its forecasting model and demand elasticities.
111. To enable the future growth rates model to consider uncertainty arising from such things as economic growth, fuel prices or carbon costs, the model includes a Monte Carlo analysis.<sup>62</sup> The forecasting methodology was accepted by NSC officers' and their specialist advisors at the application stage.
112. The second part of the forecasting process uses an econometric passenger allocation (Logit) model to determine how the underlying passenger demand would be apportioned to BA and the other competing airports. The Logit model considers macroeconomic effects, passenger choice, displacement, and long-term trends. It has been calibrated using data from Civil Aviation Authority (CAA) Passenger Surveys.
113. Forecasting is relevant to this appeal because it helps to:
- Establish whether there is likely to be sufficient demand for BA to reach 12 mppa; and
  - Establish when BA is likely to reach 12 mppa; and
  - Establish the operational characteristics of BA at 12 mppa including the fleet mix, catchment area and diurnal profiles, busy day timetables and passenger displacement. These are inputs into the various assessments contained in the ES.
114. Three scenarios were considered in the FR; A Core Case where BA reaches 12 mppa in 2030, a Slower Growth Case where 12 mppa is achieved in 2034 and a Faster Growth Case with 12 mppa reached in 2027. Section 4 of the FR explains how the environmental inputs into the ES have been calculated.

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<sup>60</sup> CD: 2.21

<sup>61</sup> They are also shown in the diagrams in Figure 5 of Mr Brass' PoE

<sup>62</sup> A more detailed explanation of the Monte Carlo' analysis is contained in section 3.2 of Mr Brass' PoE

115. Through sensitivity testing, the FR establishes that the model outputs (inputs in the ES) are relatively insensitive to the point in time at which 12 mppa is reached. For example, if growth is slower as some have suggested, then there would be no significant change to the magnitude of the effects reported in the ES. In that scenario, the environmental effects would simply occur at a later date.
116. Many of those opposing the scheme have pointed to uncertainties created by events such as Brexit and the Covid-19 pandemic. Amongst other documents, NSC pointed to Decarbonising Transport which highlights that these short-term changes could influence travel demand in the longer term. Clearly, there have been a number of recent events that will continue to exert an influence on travel demand and hence passenger numbers in the short term. Nonetheless, it is unlikely they will have any significant effect on the 2030 Core Case.
117. On the long term effects, there is widespread agreement between the main parties. For example, there is no dispute in relation to the central tenet of BAL's forecasting case which is that there is sufficient demand to enable BA to reach 12 mppa with 2030<sup>63</sup> representing the most likely year when that figure will be achieved. Moreover, fleet mix and business travel aside<sup>64</sup>, the general characteristics of BA at 12 mppa are also agreed.

#### *Fleet Mix*

118. In November 2020, after NSC refused planning permission, Jet2 announced that it would commence operations from BA. This development and its potential implications for the fleet mix<sup>65</sup> formed an important part of NSC's criticism of BAL's FR. These criticisms prompted BAL to produce an alternative airline-specific fleet mix<sup>66</sup> which was subject to several amendments during the Inquiry.<sup>67</sup> The result of these revisions was that the only outstanding area of dispute between the main parties concerned the proportion of ATMs by Boeing 737-800 (current generation) aircraft<sup>68</sup> in the 2030 fleet mix. Under NSC's alternative fleet mix there would be approximately eleven additional ATMs a day from current generation aircraft.
119. The exact makeup of the fleet mix in 2030 cannot be known. As NSC's witness stated that 'there is no single correct fleet mix'. Accordingly, it is not for the Panel to adjudicate on which fleet mix is most likely to occur. Rather it is our role to determine whether BAL's approach to fleet mix is reasonable and appropriate bearing in mind the criticisms that have been made. NSC's approach has been to determine an airline specific fleet and as a result, its fleet mix contains a relatively a high proportion of current generation aircraft. On the other hand, BAL's fleet mix provides more of a balance of current and new generation aircraft across all of the airlines.
120. Attempts to determine an airline-specific fleet mix in nine years' time based primarily on an announcement by a single airline is potentially unrealistic. Several of the assumptions made, for example in relation to the likelihood of Ryanair operating next generation aircraft from BA in 2030,<sup>69</sup> are little more

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<sup>63</sup> Pushed back from 2026 as reported in the original ES due to the effects of the Covid-19 Pandemic

<sup>64</sup> Business travel is dealt with under the Socio-economic section of this decision.

<sup>65</sup> See Table 3 of Mr Brass' PoE

<sup>66</sup> Mr Folley PoE - page 19, paragraph 7.8.

<sup>67</sup> INQ/010 and INQ/018

<sup>68</sup> 14,582 (NSC) versus 9,710 (BAL)

<sup>69</sup> INQ/018 para 20

than conjecture. Furthermore, it is clear from BAL's evidence<sup>70</sup> that some of NSC's assumptions surrounding Tui overlooked a number of recent press releases. This simply underlines the difficulties associated with an airline specific fleet mix.

121. The plans of Jet2, Ryanair, Tui and other airlines operating at BA are capable of changing significantly over the coming years as they seek to recover from the Covid-19 Pandemic. Given the dynamic nature of the low-cost aviation sector, the Panel can find nothing inherently unreasonable about BAL's generic approach.
122. Even if NSC's approach were preferred, there is little to suggest the additional eleven movements a day by current generation aircraft would have a material effect on the significance of effects assessed in the ES. All of BAL's witnesses gave evidence that the conclusions in the ES in these areas would not be materially altered by the adoption of NSC's fleet mix.

### *Business Travel Growth*

123. NSC and others suggest that BAL has significantly over-estimated the benefits which are likely to arise in relation to business travel. These concerns are based on the argument that the DfT's business demand elasticities used in BAL's Forecasts are based on the pre-pandemic world and are inappropriate to calculate growth in a post-covid world where amongst other things, attitude and technological changes mean that business travel will be strictly limited.
124. The elasticities used by BAL, including those for business passengers, reflect the general relationship between economic growth, price, and the propensity to fly. They take account of factors that may impact demand, such as individual and corporate attitudinal changes and the rise of video conferencing technologies.
125. Therefore, while the Panel accepts the arguments put forward by XR Elders and others that new technologies will inevitably have a suppressing effect on business travel, these considerations have already been built into the DfT's business demand elasticities. In any event, even if it was accepted that the recovery of business travel would be slower than that assumed in the Core Case, this would simply move the expansion of BA towards the Slower Growth scenario which has already been tested as part of the ES.
126. The DfT itself doubtless with full knowledge of the rise of video conferencing and attitudinal changes to flying, published the Decarbonising Transport strategy in July 2021. This uses modelling underpinned by the same demand elasticities in the 2017 Aviation Forecasts.
127. The Monte Carlo analysis is a component of the process of forecasting future growth rates for air passenger demand. It is a well-documented mathematical technique whose primary purpose is to deal with the issues around uncertainty by defining a 'most likely' path based on a thousand iterations of various scenarios. Accordingly, suppressing factors such as Brexit, Covid-19, increasing carbon costs and new technology are all reflected in the growth scenarios considered in the analysis.

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<sup>70</sup> INQ/028 Figures 1 and 2

128. There was much discussion at the Inquiry regarding the relative growth of business and leisure passengers at BA since 2000. The CAA data<sup>71</sup> can be interpreted in a range of ways depending on the chosen time period. For example, by looking at the period 2000-2019, NSC argued that past trends are not supportive of the 2-3% growth rates assumed in BAL's forecasts.
129. While there is little doubt that leisure travel has grown more strongly over this period, BAL argues that such an approach is too simplistic as it includes the 'low-cost bubble' period between 2000-2008. If one were to exclude this period and to focus on the period between 2008-2019 then the rate of growth in business travel<sup>72</sup> at BA is consistent with BAL's growth rates. There are merits in both arguments.
130. In any case the dispute about past growth rates is not a determinative issue when looking at future growth rates. The Panel is satisfied that the modelling work undertaken by BAL has appropriately considered a range of scenarios and factors. While NSC disagrees with the outputs from the Monte Carlo analysis within the econometric model, there is nothing in the historical CAA data to suggest the forecasts are incorrect.
131. For reasons similar to those set out above in relation to fleet mix, the Panel are not persuaded by NSC's criticisms regarding route development. Rather than trying to determine now what routes might be available from BA in 2030, the approach inherent in BAL's forecasting has been to look at the general nature of demand. That approach seems to be appropriate.
132. For the above reasons and also bearing in mind that no alternative demand elasticities or growth rates have been put before the Panel, we consider the assumptions about business travel recovery to be acceptable.

#### *Logit Model*

133. NSC stated that it had been unable to properly assess the Logit model because it had not been given the 'lambda value'. Conflicting accounts have been provided by the main parties on this issue.<sup>73</sup> However, what is apparent is that the absence or otherwise of the lambda value only became a significant issue at the Inquiry. Up to that point, as evidenced by NSC's own displacement report, no specific concerns had been raised.
134. The first detailed request for information from NSC regarding the Logit model appears to have been sent only to BAL after the Inquiry had opened. While BAL responded to nearly all of NSC's queries about the model's workings, the lambda value was not provided because it was stated to be part of York Aviation's intellectual property. According to BAL, Jacobs were made aware of this at the 16 March 2021 meeting and there was apparently no challenge to it at that time.
135. There are two important points to make. Firstly, the level of disclosure being sought by NSC at the Inquiry in relation to the Logit model apparently goes far beyond what has been required at other airport planning inquiries. According to BAL's witness, it also goes substantially beyond that which is

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<sup>71</sup> INQ/013

<sup>72</sup> 2.6% 2008-2019 and 4.9% 2012-2019

<sup>73</sup> INQ/058 and INQ/083

provided by the DfT in relation to its passenger demand allocation model. It appears it is very unusual for this type of information to be provided.

136. The second point is that it is clear from the correspondence between BAL and NSC's advisors that a significant amount of information was provided in relation to the Logit model, including the input assumptions and detailed outputs, to show how it allocated passengers to other airports. It is also evident that this information was scrutinised during the application period and beyond. In our view, a sufficient level of information has been provided to enable NSC to form a judgement as to whether the model was fit for purpose.
137. If NSC believed that the model outputs were wrong or that the absence of the lambda value was so important that it could not form a view without it, then it was open to them to revisit their 2020 assessment in the run up to the Inquiry. As it was, no further assessment was carried out and as such, the only assessments on displacement before the Panel are those from Jacobs<sup>74</sup> for NSC and that contained in the Economic Impact Report (EIR) Addendum.<sup>75</sup>

### *Conclusions on Forecasting*

138. Government policy is focussed on securing a strong economic recovery, promoting a Global Britain, and levelling up the cities and regions through amongst other things, improving global competitiveness.<sup>76</sup> The support for sustainable aviation growth reflected in national aviation policy is founded on the DfT's long-term assessments of future demand growth.
139. There was widespread agreement between the main parties on the core components of forecasting, namely that there is sufficient need to enable BA to reach 12 mppa with 2030 being the most likely year that figure will be met. Sensitivity testing has shown that the inputs into the ES are generally insensitive to the exact date when 12 mppa is reached. BAL's approach to modelling uncertainties which are an unavoidable part of any long-term forecasting exercise, follows established methods and is acceptable.
140. The scope of disagreement between the expert witnesses is relatively narrow. The Panel have found that BAL's approach to fleet mix is reasonable. In any event, the disagreement between the parties has very limited implications for the assessments in the ES.
141. On business travel growth, the Panel is satisfied that forecasts produced by BAL are fit for purpose. The BAL Forecasts are the only detailed ones before the Panel. The fundamentals drivers of long-term growth are likely to remain strong. Accordingly, the Panel do not consider it unreasonable to conclude that the long-term demand for business travel is likely to return to generally pre-pandemic levels.
142. The Panel is therefore satisfied firstly, that there is a clear and compelling need for the development as evidenced by the UK Aviation Forecasts and reflected in policy support for expansion in MBU. Secondly, that BAL's Forecasting work is sufficiently robust and provides a detailed picture of what BA would look like at 12 mppa.

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<sup>74</sup> INQ/090

<sup>75</sup> CD: 2.22 Paras 3.26-3.34

<sup>76</sup> CD: 11.10

## **Climate Change**

### *The importance of climate change and the broad approach of the parties*

143. There is no dispute between the parties about the importance of climate change – at the local, national and international levels. The recent Intergovernmental Panel on Climate Change 2021<sup>77</sup> was widely reported as being a ‘Code Red for Humanity’, and this report and many other documents stress the need for substantial reductions in CO<sub>2</sub> emissions.
144. It is noteworthy that the Inquiry received a very large number of representations, in writing and verbally, opposing the proposal on this basis. These representations came from not only those living near to the airport, but from the wider area, elsewhere in the UK and abroad.<sup>78</sup> Several of those making representations had impressive academic qualifications and experience in the field, and a number of those writing and speaking made reference to the declarations of a Climate Emergency in their own local areas.
145. The importance of the situation is recognised by the UK Government, most recently at the COP26 conference, and is reflected in a wide range of documents. The need to decarbonise so as to address climate change is common ground between the parties to this appeal.
146. All parties agree that there would be an increase in GHG, especially CO<sub>2</sub>, if the appeal scheme goes ahead when compared with the position if it did not. Under these circumstances the climate change position would be worsened.
147. One initial point to be clarified relates to BAAN’s position in relation to that of BAL. BAAN stated that had BAL argued “...*that the impact of carbon emissions from the appeal proposal are not material, because of the legal obligation on the SoS to achieve Net Zero by 2050 and the availability of future policy mechanisms.*”<sup>79</sup> Leaving aside any conclusion on the impact of increased emissions and the mechanisms available for dealing with them, this is incorrect. It is clear that the contribution of the appeal scheme to climate change related to CO<sub>2</sub> emissions is an important material consideration.
148. BAL, most notably in the ES and the ESA and in evidence to the Inquiry, has provided a considerable amount of material related to the climate change impact of the proposal. That BAL takes a different approach to tackling these emissions does not mean that they are not material to this appeal and BAL has not ruled out carbon emissions as a material consideration.
149. Aside from the BAAN interpretation of BAL’s position, none of the above matters are contentious. And there is no substantial dissent from the formulation of the key question as to whether the emissions from the proposal are so significant that they would materially affect the ability of the UK to meet its carbon budgets and the target of Net Zero GHG emissions by 2050. (The mathematics of the increase in emissions is almost entirely agreed.)
150. It is also common ground that an international response is necessary, with individual nations determining their own contributions. In this country the

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<sup>77</sup> INQ/032 Page 18

<sup>78</sup> This also included objections from some of the Ontario Teachers who would benefit from the pension plan investments from the expansion proposals, but who were also experiencing direct effects from climate change due to wildfires at the time the Inquiry was sitting.

<sup>79</sup> INQ/108 Para 25



response is most apparent in the 'Net Zero' approach<sup>80</sup> - which is a legally binding commitment to reduce the net UK carbon account by 100% against the 1990 baseline by 2050. To get to this target it is apparent that all parts of the economy, including aviation, must take responsibility.

151. With this background, the main difference between BAL and NSC and other parties relates to the way in which the issue of the emissions from this proposal should be addressed. On the one hand BAL relies on national action to address aviation carbon limits, in the context of the national approach which is not to restrict peoples' ability to travel,<sup>81</sup> whereas the other parties look to airport capacity limits, including the restriction of individual airport expansion such as that envisaged in this appeal.

#### *Development Plan and the NPPF*

152. Policy CS1 is the key development plan policy related to this issue and emphasises the reduction of carbon emissions and the need to tackle climate change. BAL's position is that this is of primary relevance to ground based carbon emissions. However, this is largely based on their position that climate change is a matter to be dealt with at the national level. Neither the policy nor the justification makes that distinction but, as will be discussed below, there is every reason to conclude that the policy does not directly address aviation emissions. CS policy CS23 does not provide unqualified support for growth at BA, but it takes one little further than policy CS1.

153. The NPPF sets, as one of its overarching objectives, an environmental objective of mitigating and adapting to climate change, including moving to a low carbon future. The NPPF also provides that the planning system should support the transition to a low carbon future in a changing climate.<sup>82</sup>

154. These policies are essentially uncontentious in the context of this appeal. However, as referenced above, the NPPF also states that the focus of decisions should be on land use matters. It should be assumed that other control regimes will operate effectively.<sup>83</sup>

155. This is the point referenced by BAL in their submission that, although not stated specifically in the NPPF, it is clear that carbon emissions are addressed under other regimes. These include the CCA, carbon budgets and the UK Emissions Trading Scheme (UK ETS) and Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA). These are discussed below.

#### *The Climate Change Act 2008 and Carbon Budgets*

156. The Paris Agreement is the basis of much subsequent legislation and guidance. It was translated in the UK by way of the CCA. The current target is that the net UK carbon account for 2050 should be at least 100% below the 1990 baseline. That is the UK's Net Zero Target but for the avoidance of doubt this is a balanced figure and does not mean absolute zero emissions.

157. One matter arising from the CCA was the establishment of the Committee on Climate Change (CCC), which advises the Government on a range of climate change matters. These include international aviation, the carbon target and

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<sup>80</sup> CD: 9.007

<sup>81</sup> CD: 9.134 p4

<sup>82</sup> CD: 5.08.1 para152

<sup>83</sup> CD: 5.08.1 para 188



carbon budgets (below). The CCC is not a policy making body, although its advice to Government – which may or may not be accepted – needs to be seriously considered.

158. Another element in the CCA is that it requires five yearly carbon budgets to be set 12 years in advance so as to meet the 2050 target. Six carbon budgets have been adopted. The 4<sup>th</sup> and 5<sup>th</sup> (2023-2027 and 2028-2032 respectively) have yet to come into effect, and only the 6<sup>th</sup> (adopted in 2021), covering the period 2033 to 2037, specifically includes emissions from international aviation. But these types of emissions were previously taken into account in earlier budgets in an alternative manner by allowing for headroom – this is the ‘planning assumption’. This change to specific reference to aviation in the 6<sup>th</sup> carbon budget was recommended by the CCC.<sup>84</sup>
159. In the same CCC report five scenarios were explored – one of which (the ‘Balanced Pathway’) recommended no net expansion of airport capacity. However, this recommendation was not accepted.<sup>85</sup> The Balanced Pathway is therefore not Government policy and is only one approach to achieve the outcome of Net Zero.
160. In order to achieve the target of the 6<sup>th</sup> carbon budget, and of previous budgets, any increased emissions in one sector arising from the individual proposals will necessitate reductions elsewhere. In this light there is some difference between BAL and other parties as to the current position in relation to future carbon budgets.
161. The evidence suggests that the Government is not on track to meet the 4<sup>th</sup> and 5<sup>th</sup> carbon budgets – with significant reductions needed in relatively short periods. This largely uncontested position is shown in the CCC report.<sup>86</sup> However, we are not yet in the period of either budget and the suggestion that the Government is off track at this time means little in relation to budget periods which have not yet started. However, no party has suggested that complacency is indicated or that the 4<sup>th</sup> and 5<sup>th</sup> budgets can be ignored.
162. There are three important points to make in relation to the carbon budgets and the way in which they operate. Firstly, although the approach to Net Zero and the carbon budgets is a material consideration, the CCA places an obligation on the SoS, not local decision makers, to prepare policies and proposals with a view to meeting the carbon budgets.<sup>87</sup> Secondly, as advised in the NPPF, there is an assumption that controls which are in place will work. Finally, and consequent on the previous points, NSC’s position that grant of permission in this case would breach the CCA and be unlawful is not accepted. That does not mean that these matters are not material considerations, but the CCA duty rests elsewhere.

### *Offsetting Schemes*

163. There are two trading schemes currently in operation related to aviation emissions –UK ETS and CORSIA.

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<sup>84</sup> CD: 9.066

<sup>85</sup> CD: 9.037 Page 4

<sup>86</sup> CD: 9.017 Figure 1.1

<sup>87</sup> CD: 9.002 Section 13

164. The UK had been in the EU Emissions Trading Scheme (EU ETS) since 2005. This scheme included aviation since 2012. With the UK leaving the EU, this has been replaced by the UK ETS (2021) which runs to 2030. It is not a scheme which deals with aviation alone, but includes energy and a range of other sectors.
165. The UK ETS as currently enacted will not run into the period of the 6<sup>th</sup> carbon budget in 2033. In addition, it does not affect all flights to and from BA, as it only deals with the EEA and Gibraltar.<sup>88</sup>
166. At the international level, CORSIA was adopted by the International Civil Aviation Organisation (ICAO) in 2016. It has three phases, the third of which runs to 2035. There has been consultation on the link between UK ETS and CORSIA, and a further statutory instrument is anticipated in 2022.
167. It has been suggested that the levels of ambition in these offsetting schemes are inadequate to meet the Net Zero/carbon budget targets. In this respect reference has been made to the CCC's 6<sup>th</sup> carbon budget report.<sup>89</sup> However, as before, the progress toward these targets is as yet uncertain and there remains a legal responsibility on the SoS to comply with the legal obligations.
168. As mentioned above, both offsetting schemes are time limited, and will currently stop well short of 2050. Some objectors have stated that it is not for the Inquiry to speculate on the future of UK ETS or CORSIA and that therefore little or no weight should be given to those schemes. In contrast, BAL has stated that further orders will be made in due course so as to reflect the duties in the CCA and that it wrong to suggest that there is a policy gap after 2030/2035.
169. Neither position is entirely correct. As a matter of fact, there is currently an offsetting gap beginning in the next decade, and this cannot be ignored. But equally, given the international and national context it is not unreasonable to assume that something will come forward to fill the space. Whether that is a refreshment of UK ETS/CORSIA or other measures remains to be seen.
170. But the judgement in this case must be taken in the light of the (agreed) scale of emissions, the fact that aviation emissions are within the traded sector, and that in any event UK ETS/CORSIA are only two of the measures available to address aviation carbon emissions in the light of the legal duty to ensure that carbon budgets are not breached.

#### *The APF and MBU*

171. Turning away from the CCA and carbon budgets to airport policy, the APF, though some eight years old, remains part of Government policy related to aviation. It also recognises UK ETS (EU ETS at the time) as being a key component of the overall strategy.
172. The APF deals with the Government's primary objective related to long-term economic growth, within which the aviation sector is seen as a major contributor. However, as summarised above, while acknowledging the benefits of aviation, it recognises the global environmental impacts. MBU was published

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<sup>88</sup> CD: 9.036 Page 37

<sup>89</sup> CD: 9.034

in 2018 and provides general support for airports but also with important environmental caveats.

173. As discussed above, both APF and MBU are the most recent policy statements at the national level and are material considerations. However, their support of airport development is not unconditional.

#### *Decarbonising Transport and Jet Zero*

174. 'Decarbonising Transport: A Better, Greener Britain' and the 'Jet Zero Consultation' both contain similar main messages and both emphasise the need for very significant action to be taken.

175. They set out the Government's pathway and suggest high-level scenarios to meet the UK's legal emissions targets. The approach focusses on policies to support sectors to decarbonise, rather than applying emissions caps and carbon pricing as the only mechanisms. There is no suggestion of capacity limits at airports as part of the way forward. The precise route to Net Zero by 2050 is not set out anywhere and there remain different approaches, while the overall commitment remains.

176. Subsequently Net Zero Strategy: Build Back Greener (2021) was published, setting out policies and proposals for decarbonising all sectors of the UK economy in the light of the requirement to achieve Net Zero by 2050. In relation to aviation, the strategy follows the approach of the Jet Zero consultation.

177. Overall, these documents, to the extent to which they carry weight, do not take consideration of the climate change issue much further, other than to repeat the position that capacity limits are not seen as the way forward.

#### *COP26*

178. In autumn 2021 COP26 was held in Glasgow, which further heightened the importance of climate change issues in this appeal.

179. In November 2021 the 'Glasgow Climate Pact' was adopted and signed by over 200 countries, including the UK, and the comments of the parties on this document have been considered. This is a global agreement seeking to accelerate action on climate change and finalise remaining elements of the Paris Agreement. The language of the Pact, and its content, continue to emphasise the importance of the issue and the need for further action.

180. In relation to the issues raised by this appeal the Pact includes:

- A commitment to phase down fossil fuel use (although no date was given);
- A renewed commitment to Net Zero by 2050 (although China and India have set targets for 2060 and 2070 respectively);
- The signing off of some detailed rules of the Paris Agreement, including matters relating to a global carbon market. One of these provides the framework for international cooperation towards emissions reduction targets and the operation of carbon markets.

- The Pact acknowledges that the ICAO is the appropriate forum in which to address emissions from international aviation. Offsets generated under CORSIA would need to comply with the Paris Rule Book, meaning that concerns raised relating to the measurement and verification of offsets would be resolved in accordance with those rules.
- The need for individual countries to revisit and strengthen their 2030 targets in their nationally determined contributions.

181. However, as referenced in the subsequent CCC report,<sup>90</sup> international aviation was not on the agenda and none of the COP26 outcomes introduce any new mechanism to control or reduce aviation emissions.

182. Overall, a number of matters were resolved at COP26, but there remains continuing uncertainty as to future carbon reduction targets. However, given that aviation emissions were not themselves dealt with by the conference, the key outcome remains a very strong emphasis on tackling the issues raised by climate change.

#### *The CO<sub>2</sub> Effect of the Proposal*

183. There is no disagreement between BAL and NSC related to the methodology and calculation of the CO<sub>2</sub> effects of the proposal. This was not a matter raised in any detail by other parties. For that reason, the numerical position is not a matter which needs to be considered in any depth.

184. The position related to carbon and other GHG emissions was considered in detail in the ES,<sup>91</sup> which also set out the methodology employed. It was supplemented by the ESA,<sup>92</sup> which was updated in the light of revised air traffic forecasts.<sup>93</sup> The ES and the ESA included the evaluation of the significance of carbon emissions from all sources.<sup>94</sup> This was followed through into BAL's Statement of Case and evidence.

185. There remain some very limited areas of disagreement – in particular the assessment (or not) of non-CO<sub>2</sub> effects, which is covered separately below.

186. Five sources of emissions were considered (aviation, surface access, airport buildings, airport operations, and construction). The carbon emissions were set out and three scenarios were compared with the 'planning assumption.' A separate exercise allowed for the off-setting requirements of BA and the results and their significance were assessed separately.

187. In summary, BAL's evidence is that the addition of 2 mppa would represent around 0.22-0.28% of the 37.5 MtCO<sub>2</sub>/annum of the planning assumption related to the 4<sup>th</sup> and 5<sup>th</sup> carbon budgets (below), and between 0.29-0.34% of the CCC's 'balanced pathway' assumption. There is no reason to doubt the accuracy of these figures which are considered robust.

188. BAL's position is that the increase would not amount to a significant effect as described in the ES/ESA. In contrast, the approach of opponents is that the increased emissions would consume the local carbon budget of NSC between

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<sup>90</sup> INQ/135

<sup>91</sup> CD: 2.05.45

<sup>92</sup> CD: 2.20.1

<sup>93</sup> CD: 2.05.44 and CD 2.20.1 Page 143

<sup>94</sup> CD: 2.50.05 and CD: 2.05.45 Appendix 17A

2028 and 2032. However limited detail of this approach was provided, and it was not suggested that local carbon budgets have any basis in law or policy. In addition, it is argued that any increase in emissions would limit the Government's room for manoeuvre in relation to the Net Zero target.

189. Overall, it remains the case that the extent to which this decision, related to a local scheme, would increase the amount of GHG emissions is a material consideration. The issue is how such increases, of whatever magnitude, should be addressed.

#### *Cumulative Impact of Airport Expansion*

190. There are a number of pending airport expansion schemes and others where permission has been granted but the development has not yet been implemented. The position of NSC and some other objectors is that the impact of all airport development should be assessed before permission is granted in this case.

191. In part this argument is based on the CCC Progress Report to Parliament in June 2021 which advised that there should be no net expansion of UK airport capacity unless the sector was on track to outperform its net emissions trajectory, and that the Government needed to assess its airport capacity strategy.<sup>95</sup> In this context it is noted that no evidence has been provided of any airport intending to reduce capacity – in fact the reverse is the case.

192. The purpose of such an approach would be to assist with the consideration of whether a proposal would have a material impact on Government's ability to meet carbon reduction targets in relation to a cumulative position.

193. BAL emphasised the limited contribution of the proposal to the overall increase envisaged in various pathways. While this argument could be repeated too often to the potential detriment of the overall position, there is no policy support for rejecting this appeal on the basis of a lack of cumulative assessment.

194. No such national assessment is before the Inquiry. The ES/ESA dealt with the cumulative effects of the proposal in a local sense, but only the Government could fully consider the cumulative impact of individual proposals across the country. To expect an individual appellant to do so would be unreasonable. If that position were adopted, it would be tantamount to a moratorium on airport expansion, which is clearly not supported by policy.

195. In the absence of any national assessment, the implication of the objectors' approach would be that this appeal should be dismissed. However, having considered the evidence on the cumulative effects, even in the absence of such a national assessment, the objectors' approach is not supported by policy. There is no requirement to conduct a cumulative assessment of GHG emissions on the global climate and, in any event, it would not be feasible to do so.

196. Related to the assessment of cumulative effects, the Panel were advised that campaigners against the expansion of Southampton Airport have been given permission (December 2021) in the High Court to proceed with a judicial review against the recent to allow the airport to expand. BAAN has argued that it is a material consideration in this case and that circumstances of the cases

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<sup>95</sup> CD: 9.130 Page 184

are very similar. However it should be noted that the grant of permission to proceed in the Southampton case indicates that there is an arguable case, and nothing more.

197. One of the grounds of challenge that the Judge has found to be arguable at Southampton ('Ground 3'), was that the environmental statement in support of that airport's application had unlawfully made no assessment of the cumulative effect of GHG.

198. However, based on the papers submitted by BAAN, the position in the case of the current appeal is very different. The background is that the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (Reg 26) deal with the duty to take into account the Environmental Statement, and also "*any other information.*" The question of cumulative emissions was dealt with in a number of documents before the Panel, most notably:

- The BAL letter dated 5 May 2021 to all parties, which included (Appendix 1) the forecast carbon emissions from a number of known airport developments. This included consideration of the 'planning assumption', the UK's carbon budgets, UK ETS and CORSIA.
- BALs climate change witness reproduced the data on these emissions and set them in the context of the 'planning assumption' and the 6<sup>th</sup> Carbon Budget.<sup>96</sup>

199. The Inquiry also had before it a range of documents addressing the UK's current and projected performance against its carbon budgets. In particular:

- BEIS Energy and Emissions Update 2019;<sup>97</sup>
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- The CC's Progress Report to Parliament 2021;<sup>98</sup>
- The Council's rebuttal evidence which that set out the current net carbon account performance against future carbon budgets;<sup>99</sup> and
- BAL's closing submissions also dealt with the issue of cumulative climate change effects.<sup>100</sup>

200. The Panel (and indeed other parties including BAAN) were thus made fully aware of the emissions from other known airport expansion projects, which was submitted as 'other environmental information' pursuant to the EIA Regulations, and the matter of cumulative effects was considered at the Inquiry itself in some detail, as far as was reasonable given the national context.

### *Sustainable Aviation Fuels and Efficiency Gains*

201. In the potential pathways to Net Zero there are varying degrees of reliance on efficiency savings and the impact of new technology. This is one approach which may play a role in the Government working towards the target. The ES

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<sup>96</sup> Mr Osund-Ireland PoE page 47, Tables 3.4 and 4.3 and section 3.4

<sup>97</sup> CD: 9.78

<sup>98</sup> CD: 9.130

<sup>99</sup> Mr Hinnells Rebuttal PoE Page 11 Figure 2

<sup>100</sup> INQ/107 Paragraph 580



makes a number of assumptions about the future of the aviation sector and how these relate to the assessment. One of these assumptions is that achieving Net Zero requires increased use of sustainable fuels.<sup>101</sup>

202. However, the Inquiry heard evidence which suggested that it is unsafe to rely on biofuels and synfuel as mitigation in the short or medium term. This is partly because of the very early stage in the development of synthetic fuel technology, and partly due to the argument that biofuels could themselves have a negative effect on the climate because of changes in land use, and partly as hydrogen flight is unproven. Such changes will undoubtedly take time to evolve to such a position that they would have any significant impact on mass aircraft movements.
203. The detail of this evidence was not substantially questioned by BAL, whose witness was not fully aware of the detailed issues. However, it is not for this Inquiry to make a finding on likely success or failure of advances in such technology. What is clear is that advances in technology, to whatever extent they materialise and at whatever time, are one part of the Government's approach to achieving Net Zero and should not be discounted, albeit it is recognised that there is uncertainty as to when this technology might be adopted commercially by airlines. These are matters that will be determined at the national level.

#### *Failure to Assess non-CO<sub>2</sub> Emissions*

204. Along with CO<sub>2</sub> emissions, non-CO<sub>2</sub> effects have the potential to bring about climate change. These effects, such as contrails and cirrus clouds, appear (as far as is known) to be short term in duration. However, there is considerable uncertainty as to their effect and longevity.
205. As recognised by the CCC there is considerable uncertainty in assessing these emissions, and the ESA recognised this point and did not seek to quantify their effect. It has been suggested that a multiplier might take account of non-CO<sub>2</sub> effects but this has yet to emerge and there is no policy as to how they should be dealt with.
206. The criticism of BAL's position is the allegation that non-CO<sub>2</sub> effects have been ignored and that it is unreasonable to ignore the effects due to measurement issues.
207. However, the draft Carbon and Climate Change Action Plan (CCCAP) (below) provides that such emissions should not be ignored in future selection of GHG reduction measures. Given the extent of scientific uncertainty, and given the intention of the CCCAP to consider the effects further, it would be unreasonable to weigh this matter in the balance against the proposal.

#### *Carbon and Climate Change Action Plan (CCCAP)*

208. The draft CCCAP<sup>102</sup> envisages BA's operations and activities becoming carbon net zero by 2030 and becoming net zero as a whole, including aviation by 2050.
209. The draft was published in May 2021 and sets out a range of targets related to emissions from all sources. The progress of the CCCAP would include a

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<sup>101</sup> CD: 2.20.1 Para 10.2.16

<sup>102</sup> CD: 9.048



package of deliverable measures at agreed intervals. The submission of a CCCAP to NSC would be the subject of a condition. This condition would also require that the CCCAP was independently audited and reviewed, and that it should reflect any changes arising from any updated emissions targets and national policy changes. NSC and other parties are concerned, understandably, about the nature and level of enforceable commitments related to CO<sub>2</sub> emissions reduction in the final document.

210. The CCCAP indicated the direction of travel of BA in this respect. It is necessary that the production of a final version would be the subject of a condition but, at the moment as a draft, it has very limited weight.

#### *Conclusion on Climate Change*

211. There is no doubt that climate change is a very serious issue facing this country and the world. This is recognised in local, national and international documents. Nor is there any doubt that the current proposal would increase CO<sub>2</sub> emissions from aircraft (ground emissions being less significant and being capable of being addressed elsewhere).

212. There is in principle support at the national level for the increased use of runways and other existing facilities, subject addressing environmental issues. The development plan reflects the need to reduce carbon emissions and tackle climate change – but the key point of difference is how this is to be achieved.

213. It is self-evident that any increase in CO<sub>2</sub> emissions in one location will have consequences elsewhere and that this could make the duty of the SoS under the CCA more difficult. But in this case the comparative magnitude of the increase is limited and it has to be assumed that the SoS will comply with the legal duty under the CCA.

214. There are a number of current options and potential future approaches to assist in the achievement of this target. The main current options have been discussed above. It is true that there are problems and uncertainties associated with some approaches but, overall, there are a number of alternatives which may be used at the national level to address climate change. Additionally, the response to the climate change problem needs to be considered across a wide range of activities.

215. On the other hand, there is no policy which seeks to limit airport expansion or impose capacity limits – which would be the effect of dismissing the appeal in this case. This is not supported by national policy.

216. Given current national policy, the approach of APF and MBU, the measures already in place, along with the potential for further measures in the future, the conclusion must be that the aviation emissions are not so significant that they would have a material impact on the Government's ability to meet its climate change target and budgets. Ground based emissions can be addressed by the CCCAP and other measures, and the two development plan policies summarised above are not considered to directly address aviation emissions. Overall, this matter must be regarded as neutral in the planning balance.

#### **Noise**

217. Airport operations produce noise. Aircraft noise varies between types of aircraft and can vary between the same type due to other factors such as

power, weight, flight path and atmospheric conditions. Disturbance from aviation noise can have negative effects on the health and quality of life of people living near airports and under flightpaths.

218. Two of the RfRs relate to noise effects; reason one in broad terms identified that noise effects would generate additional noise and would result in adverse environmental impacts upon local communities. The second reason was more specific and alleged that the effects of increase in aircraft movements and the lifting of seasonal restrictions on night flights would have a significant adverse impact on the health and well-being of local residents.
219. A number of the conditions imposed on the 10 mppa permission seek to address noise impacts at BA. These relate to a noise contour cap, a noise quota count (QC) system at night, a seasonal and overall cap on night-time flights and a restriction on shoulder period flights. The use of auxiliary power units (APUs) at stands 38 and 39 are prohibited. There is also an Environmental Improvement Fund in the 10mppa S106 to provide mitigation measures to local residents who fall within the noise contour.
220. The ES<sup>103</sup> assessed noise effects of the proposed increase to 12 mppa and concluded that impacts would not be significant and that there would be no serious adverse effects on health and well-being. The ESA considered updated forecasts, and this did not alter the conclusions of the ES.
221. Impacts from road traffic noise and construction and vibration noise were not disputed by NSC or other main parties. In contention is air noise from take-off/landing, taxiing and ground noise from airport operations. The debate centres on the noise and disturbance, and associated health effects which would be experienced by local communities from the proposed development and whether any such effects can be appropriately mitigated.
222. Noise is a complex, technical subject. Before addressing such effects, there are a number of methodological matters underpinning the assessments in the ES and ESA which were heavily debated at the Inquiry and require consideration.

#### *Fleet Mix*

223. The update to fleet mix would result in the use of quieter aircraft and a reduction in noise effects over time. These were factored into the original ES and updated in the ESA.
224. As set out earlier in this decision, the Panel recognises the difficulties in accurately predicting a fleet mix in 2030. However it has concluded that the mix put forward by BAL is generally sound, and any differences would be unlikely to have a significant effect on the assessments.
225. In any case, NSC have produced their own fleet mix predictions<sup>104</sup> and BAL have sought to compare this against the ESA results specifically for noise impacts.<sup>105</sup> These findings are drawn upon as relevant, below.

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<sup>103</sup> CD: 2.05.16

<sup>104</sup> INQ/018

<sup>105</sup> INQ/030

## Noise Indices

226. Current convention in the UK is to assess the effects of aircraft noise using an averaged  $L_{Aeq,T}$  metric. This includes daytime  $L_{Aeq,16h}$  noise contours derived from an average summer day of aircraft movement.<sup>106</sup> For night-time noise, a  $L_{Aeq,8h}$  index is used for the period between 23:00-07:00, again using an average summer night. There are other types of averaged indices which are also used and assessed in the ES and ESA; for example,  $L_{night}$  is similar to  $L_{Aeq,8h}$  but it is based on average annual night movements and is not restricted to summer months. The ES and ESA treats these metrics as being broadly equivalent, with the  $L_{Aeq,8h}$  being a slightly more conservative threshold as it reflects a busier period. Combined effects over a 24-hour period were not assessed in the ES/ESA.
227. As an alternative to averaging noise events, there are a range of single event metrics. These include a Single Event Level (SEL) which is a measure of the noise energy produced during a specific event. It accounts for the level and duration of the noise.  $L_{Amax}$  reflects what a person hears as the maximum noise level. It is expressed in either fast or slow time weighting, expressed as  $L_{ASmax}$  or  $L_{AFmax}$ . The ES assessed this against  $L_{ASmax}$  as the industry standard.
228. The N index relates to a number of air traffic movements exceeding a set number of decibels  $L_{Amax}$  during a set period. For example, N60 reflects the number of events which exceed 60 Decibels (dB) and N70 for noise events exceeding 70dB.
229. The conclusions made within the ES and ESA are drawn from the  $L_{Aeq,T}$  metric against the LOAEL/SOAEL and %highly sleep disturbed. The other types of indices were assessed in the ES but they were not updated as part of the ESA. However, BAL did later undertake this exercise for the Inquiry.<sup>107</sup>
230. The primary use of the  $L_{Aeq,T}$  metric was an area of considerable debate between the relevant parties. A significant number of local residents affected by noise from the existing operations also expressed their concern and frustration of its use, citing that aircraft noise is not experienced in an averaged manner. Concerns about this metric failing to take account of tone, intermittency, frequency from air and ground noise were also expressed.
231. The Panel is mindful of the significant body of evidence which has reviewed the use of the  $L_{Aeq,T}$  metric and concluded that it represents the most appropriate metric to use. Specifically, the use of averaged indices is noted in the APF as important for showing trends in total noise around airports and their use is also affirmed in the Government's Consultation Response on UK Airspace Policy.<sup>108</sup> More recently, the 2020 report 'A review of aviation noise metrics and measurements' by the Independent Commission on Civil Aviation Noise (ICCAN) supports their continued use, as does the revised update to 'Survey of Noise Attitudes 2014: Aircraft Noise and Annoyance, Second Edition,' and 'Survey of Noise Attitudes 2014: Aircraft Noise and Sleep Disturbance' both published in July 2021.<sup>109</sup> These latter reports provide further update and

<sup>106</sup> Daytime period equates to between 07:00-23:00 hours and summer months is considered as a 92 day period from 16 June to 15 September (inclusive).

<sup>107</sup> Mr Williams Rebuttal PoE.

<sup>108</sup> CD: 10.33

<sup>109</sup> INQ/022 and INQ/025

assessment of a previous study published in 2017<sup>110</sup> (the Survey of Noise Attitudes 'SoNA' studies).

232. Crucially however, the APF and other abovementioned studies recognise that communities do not perceive or experience noise in an averaged manner and that, conceptually, there are difficulties in understanding this and the use of logarithmic scales in noise measurement and reporting.
233. Conversely, it is recognised that there are weaknesses in the other single event metrics. For example, the N metric only considers events above a  $L_{Amax}$  threshold. By way of illustration, N70 would only reflect events above the 70dB threshold, whereas the  $L_{Aeq,T}$  would take into account the sound energy of every event, be it above the 70dB  $L_{Amax}$  or not. Increases in events above a set threshold could thus be shown as a small change in dB as it does not account for scale. In addition, as set out in the ICCAN report, the correlation of the SEL and the  $L_{Amax}$  metrics with sleep disturbance is unclear or weak.<sup>111</sup>
234. NSC also raised concern regarding a lack of 24-hour assessment of combined day and night effects and lack of additional awakenings assessment. WHO 'Guidelines for Community Noise' (1999)<sup>112</sup> (GCN) identifies the importance of providing the total adverse health load of noise considered over 24 hours. No policy requirement is in place to assess awakenings. In any case, BAL provided the awakenings assessment in their rebuttal and figures for 24 hour assessment.
235. The APF and ICCAN report are clear that average noise contours should not be the only measure used to assess effects. The updated SoNA reports state that there is merit in considering greater use of N metrics to help portray noise exposure.<sup>113</sup> The GCN identify that intermittent noise should also be taken into account and the use of  $L_{Amax}$ .
236. Overall, the Panel considers that none of the indices are perfect. The  $L_{Aeq,T}$  metric is a relevant consideration as advocated in the various guidance documents but there is a need to consider other indices in establishing an accurate picture of noise effects. It is thus considered that the general approach in the ES and ESA, when combined with the further evidence on single event metrics and assessments is sufficient for the purposes of decision making, the results of which are further analysed below.

### Noise Values

237. The purpose of assigning noise values is to define a level of exposure above which adverse effects on health and quality of life can be detected, that is the LOAEL, SOAEL, and UAEL.
238. The NPSE states that "*it is not possible to have a single objective noise-based measure that defines SOAEL that is applicable to all sources of noise in all situations. Consequently, the SOAEL is likely to be different for different noise sources, for different receptors and at different times.*"<sup>114</sup> This is also applicable for LOAEL, again depending on the types and sources of noise and the receptors.

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<sup>110</sup> CD: 10.09

<sup>111</sup> Table 3 pages 37-41

<sup>112</sup> CD: 10.01

<sup>113</sup> INQ/025 Para 8.10 Page 70

<sup>114</sup> Para 2.22

239. There is, however, a considerable body of evidence which has sought to provide guideline values, including studies specifically on aviation noise, which are underpinned by data on health effects. It should also be noted that the evidence recognises that the public is becoming more sensitive to aviation noise, to a greater extent than noise from other transport sources.
240. The ES and ESA assigned values the  $L_{Aeq,T}$  metrics and  $L_{ASmax}$  and the SEL values for night-time. For ease of reference, these are set out below:

Daytime Criteria $L_{Aeq,16h}$	Night-time Criteria		
	$L_{Aeq,8h}$	$L_{ASmax}$	SEL
51dB (LOAEL)	45dB (LOAEL)	60dB	70dB(A)
63dB (SOAEL)	55dB (SOAEL)	80dB	90dB(A)
69dB (UAEL)	63dB (UAEL)	90dB	100dB(A)

241. The daytime criteria were not disputed, but the  $L_{Aeq,8h}$  values set for night-time were not agreed and NSC consider that a 40dB LOAEL and 50dB SOAEL should be applied. No preferred UAEL figure is specified by NSC, although the adopted figure in the ES/ESA is also disputed.
242. Dealing first with the values assigned to the  $L_{Aeq,T}$  metric, the ES and ESA follows the LOAEL for day and night aviation noise set out by the DfT's Air Navigation Guidance (2017).<sup>115</sup> This guidance does not specify SOAEL, as it states that there is no one threshold at which all individuals are considered to be significantly adversely affected by noise, taking a similar approach to the NPSE.
243. In terms of LOAEL, the 2009 WHO 'Night Noise Guidance' (NNG) publication<sup>116</sup> recommended that night noise exposure should be reduced below 40dB  $L_{night}$ .<sup>117</sup> This was reinforced in their 2018 publication 'Environmental Noise Guidelines' (ENG)<sup>118</sup> where they strongly recommended reducing levels to below 40dB  $L_{night}$  as aircraft noise above this level is associated with adverse effects on sleep. The document considered that this guideline should be adopted as policy in most situations. It is also noted that 40dB  $L_{night}$  has been applied in the ES for HS2.<sup>119</sup>
244. The ESA explains that this figure was not used as this would impose significant restrictions on the current permitted operations of most major airports. This is recognised by the updated SoNA studies which states that with present technology, achievement of the 40 dB  $L_{night}$  target would require almost complete closure of all transport systems, including roads, railways and airports. The Government considers this reduced target in AS, and while it agrees with the ambition to reduce noise and minimise adverse health effects, they want policy to be underpinned by the most robust evidence on these effects, including the total cost of action and recent UK specific evidence which the ENG report did not assess.

<sup>115</sup> CD: 10.12

<sup>116</sup> CD: 10.34

<sup>117</sup>  $L_{night}$  being broadly equivalent to  $L_{Aeq,8h}$

<sup>118</sup> CD: 10.28

<sup>119</sup> Mr Fiumicelli PoE Page 108

245. For SOAEL, the 55dB  $L_{Aeq,8h}$  value is applied, and this was derived from the NNG document. This value has also been applied in a number of airport Inquiries<sup>120</sup> and is used as an eligibility criterion for insulation schemes at several UK airports.
246. NSC were critical of its use given that BA is in a rural location where background noise is lower. In specifying this threshold, the NNG document recognises that this does not take background noise levels into account. The 'Aviation Noise and Public Health Rapid Evidence Assessment' by ICCAN (2020)<sup>121</sup> also notes that studies have shown that the percentages of highly sleep disturbed vary due to background noise levels. The report states levels of 50dB  $L_{night}$  with higher background noise cause significantly lower levels of being highly sleep disturbed. The recent SoNA report relating to sleep disturbance also identifies greater levels of sleep deprivation than previous studies, including around the 50dB  $L_{Aeq,8hr}$  level.
247. BA is in a rural location and, having undertaken several site visits during the day and night-time, the Panel has sympathy with NSC's and local communities' position that this should be factored into the ES/ESA through the noise values assigned to LOAEL and SOAEL. That said, in AS the Government has made its position clear in terms of the use of the NNG threshold for night-time SOAEL. Moreover, as no technical evidence regarding background noise levels in the area is before the Panel, it is not possible for us to come to an informed view on this.
248. In terms of other metrics, while BAL presented results on the Nx metrics, the accuracy in their application was queried by BAL.
249. For N70, BAL considers that this threshold has no particular significance in the UK, as it is derived from Australian noise studies. The ICCAN report does state that further work is needed to determine what noise levels the Nx metric should be set at as part of future best practice guidance and that work has yet to be undertaken.
250. However, the same thresholds have been applied in the UK when using this metric, including in the SoNA reports (original and updated). The coefficients were also examined in the updated reports which shows how well the models fit the observed data. For daytime, they show an adequate correlation, although the  $r^2$  value of 0.874 demonstrates that the  $L_{Aeq,16h}$  is better than N70 with a lower  $r^2$  value of 0.694. While the N60 threshold was not a matter in dispute, it is also noted that for night-time, the indicators are highly correlated with the  $L_{Aeq,8h}$   $r^2$  value at 0.883 and N60 at 0.882.
251. In setting noise values for assessment purposes, some are set out in policy and technical guidance, but a degree of reasoned judgement must be applied. Overall, there may be a clear direction of travel and reduction in the noise thresholds going forward. However, in examining the values in respect of all of the metrics, including  $L_{Aeq,T}$  and Nx as assessed in the ES/ESA, the Panel consider that these are acceptable for the purposes of this decision as a mechanism of identifying the LOAEL and SOAEL and accurately establishing the noise effects of the development on health and quality of life.

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<sup>120</sup> Mr Williams PoE Table 5, P43, excluding Stansted which was 54dB (a 1dB reduction).

<sup>121</sup> Mr Fiumicelli PoE Para 6.73



### *Change Criteria*

252. As explained in the ICAAN report, the dB scale is logarithmic and thus small numerical increases in dB values can represent large increases in noise energy. The relationship between hearing and dB is also not exact due to the way in which the brain processes sound.
253. An increase of 3dB is equivalent to a doubling of sound energy, however the human ear can barely detect a change in sound level of 3dB if all factors are the same. Conversely, a change of 10 dB in either direction is generally regarded as a doubling (or halving) of subjective loudness.
254. 3dB has been applied in the ES/ESA assessment of the magnitude of noise impacts between LOAEL and SOAEL and 2dB above SOAEL. This threshold is based on IMEA guidelines for Environmental Noise Impact Assessment (2014)<sup>122</sup> which describes the effect of a change in sound level of less than 3dB as not significant. It is also commonly used as a measure of when acoustic insulation is required, as set out in the APF and AS, and has been applied at other airport Inquires.
255. The PPG recognises that *"in cases where existing noise sensitive locations already experience high noise levels, a development that is expected to cause even a small increase in the overall noise level may result in a significant adverse effect occurring even though little to no change in behaviour would be likely to occur."*<sup>123</sup> The SoNA studies, both the 2014 versions and the updated version also recognise that annoyance increases at a faster rate at higher noise levels.
256. This matter relates back to the issue of the use of  $L_{Aeq,T}$  metrics and the averaging of the effects over 16/8 hours. At the Inquiry the Panel heard from a number of residents who explained that the noise levels in the peak periods (early morning and late evening) are extremely perceptible and intrusive. Therefore, while the variations in the relevant  $L_{Aeq}$  period could be less than 3dB when averaged out over 16 or 8 hours, in reality there would be increased noise events which would be perceptible and higher than 3dB.
257. The Panel have considerable sympathy with that position and have undertaken site visits at busy periods to understand the regularity of air traffic in those times, albeit this was only a sample and flights were still limited due to Covid-19 travel restrictions.
258. However, no alternative appropriate measure for the change criteria was put forward, and the 3dB is current best practice for assessment within an ES. In light of this, the Panel consider it an appropriate threshold as part of the EIA process.

### *Effects*

259. Daytime and night-time noise impacts based on the  $L_{Aeq,T}$  metrics are set out in the ES and updated in the ESA. Results are set out with the 2017 baseline, 10 mppa (without development) in 2024<sup>124</sup> and 2030, and 12 mppa in 2030

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<sup>122</sup> CD: 10.49

<sup>123</sup> Paragraph: 006 Reference ID: 30-006-20190722

<sup>124</sup> When 10mppa is currently forecast to be reached (revised from 2021 in the ES).



(with development). These are summarised in terms of the number of dwellings affected in the table below.<sup>125</sup>

	<b>2017 Baseline</b>	<b>10mppa 2024</b>	<b>10mppa 2030 (without development)</b>	<b>12mppa 2030 (with development)</b>
	<b># dwellings</b>	<b># dwellings</b>	<b># dwellings</b>	<b># dwellings</b>
<b>Daytime LOAEL 51 dB LAeq16h</b>	3250	3200	2600	3100
<b>Daytime SOAEL 63 dB LAeq16h</b>	20	20	10	10
<b>Night-time LOAEL 45dB LAeq8h</b>	3750	3800	3400	4000
<b>Night-time SOAEL 55dB LAeq8h</b>	150	200	100	250

260. In the 2030 'with development' scenario, there would be a reduction in dwellings affected above the LOAEL and SOAEL in the daytime. This is due to the use of a more modern and quieter fleet by 2030. Night-time noise effects would see an increase in the number of properties affected above the LOAEL and SOAEL, albeit any changes would be below the ES/ESA significance threshold of 3dB, with properties experiencing a 0-1dB or 1-2dB increase.
261. The  $L_{Aeq,T}$  metric data has also been used to calculate the number of people forecast to be highly annoyed from daytime noise and the number of people expected to be highly sleep disturbed, using established methodologies. In respect of the former, annoyance was calculated as reducing from the 2017 baseline from 750 people to 700 people in 2030 in the 'with development' scenario. For sleep disturbance, the 2017 baseline is 450 and the 12 mppa 2030 'with development' scenario is 500. The 'highly sleep disturbed' appraisal was used as an input into the HIA in the ES/ESA which concludes that the night noise impacts do not result in significant health population impacts.
262. In terms of supplementary single event metrics, the number of dwellings above the threshold of 90dB SEL or 80dB  $L_{ASmax}$  increases from the 2017 baseline. These would be the same for the 2030 with and without development scenarios, at 350 dwellings for 90dB SEL and 500 dwellings for 80dB  $L_{ASmax}$ . The N metric results are set out below:<sup>126</sup>

	<b>Dwellings Exposed to No. Events Above 70dB LA<sub>Smax</sub> per Day</b>				
	<b>10-19</b>	<b>20-49</b>	<b>50-99</b>	<b>100-199</b>	<b>200+</b>
<b>2017 Baseline</b>	3100	1450	650	3100	0
<b>10mppa 2030</b>	1950	1200	700	20	0
<b>12mppa 2030</b>	2200	1350	750	500	0
	<b>Dwellings Exposed to No. Events Above 60dB LA<sub>Smax</sub> per Night</b>				
	<b>10-19</b>	<b>20-49</b>	<b>50-99</b>	<b>100-199</b>	<b>200+</b>
<b>2017 Baseline</b>	3800	90	0	0	0
<b>10mppa 2030</b>	4500	100	0	0	0
<b>12mppa 2030</b>	5400	3150	0	0	0

<sup>125</sup> As taken from Table 6 and Table 9 of Mr Williams PoE.

<sup>126</sup> Amalgamated from Mr Williams PoE table 13 and table 14.

263. These results show a worse position than the  $L_{Aeq,T}$  metric, although similarly there would be a general decrease in daytime effects, albeit this is less of a reduction for the 'with development' scenario, than the 'without development' scenario. At night-time, these would again be increased above the baseline for each scenario albeit those changes would be 0-2dB change, which in ES/ESA terms is negligible.
264. The 90dB SEL metric, the 80dB  $L_{ASmax}$  and N60 metrics relate to outside noise levels which must be adjusted accordingly to understand the internal night-time effects. Outdoor to indoor transmission loss figures as set out in the ENG were agreed between parties as 60dB with windows fully open, 55dB with windows half open and 45dB with windows closed. Insulation can also reduce this further, although there is no specific data for this.
265. Related to this, there was a technical concern raised by NSC in respect of the difference between the  $L_{Amax}$  fast time ratings and slow time ratings, with the ES/ESA using slow time rating, but against the WHO values which relate to the fast time rating without any correction of the differences. It was, however, agreed by BAL in cross-examination that a 3dB correction is required to address this matter. Updated data was not provided in light of this concession, but it is clear that more dwellings would be exposed than is reflected in the above table.
266. As previously referenced, an assessment of the combined effects of noise throughout a 24-hour period was not provided in the ES/ESA. Figures were given during cross-examination by BAL, albeit these made reference to number of affected people rather than dwellings which makes it difficult to assess on a like-for-like basis with the published data. What is clear however is that there would be a number of dwellings affected by both daytime and night-time noise effects above the threshold.
267. The awakenings assessment shows that one location would pass the threshold of one additional awakening per night. This is in contrast to NSC's evidence, however this was a theoretical exercise and was not based on actual locations or levels from aircraft. The Panel does however share the concerns that BAL's assessment, based on the  $L_{night}$  metric, does not present a worse case. This assessment also assumed that windows are open at night for 25% of flights and it is unclear as to how this figure was calculated, given that peak demand is in the summer when night ventilation is likely to be required.
268. The above results relate to residential receptors. Non-residential receptors were also assessed, including Winford Primary School, places of worship and amenity areas. The results in the ES/ESA found no change or worsening in noise between the baseline and the scenarios.
269. In analysing the above, and in spite of deficiencies in some of the data, for daytime, the  $L_{Aeq,T}$  metrics show an overall reduction when compared to the baseline and a reduction in annoyance, whereas the N index was mixed, with a general decrease, other than an increase of 100 dwellings exposed to 50-99 events above 70dB  $L_{ASmax}$  per day.
270. These findings, in part, relate to improvements in aviation noise from an updated fleet which would reduce the noise impacts of the additional growth. Related to this is the matter of shared benefits from technological advancement

and 'less noisy' next generation aircraft. As calculated by NSC,<sup>127</sup> some 77% of the reduction in the daytime LOAEL would be consumed by the expansion plans, 71% of the reduction in contour area would be taken compared with a without development scenario for daytime SOAEL and 66% of the reduction in highly annoyed population would be taken.

271. The concept of sharing the benefits is set down by the APF, but it gives no guidance on how it should be calculated or assessed. The figures cited above demonstrate, along with the raw data from the 'with' and 'without development' scenarios against the baseline, that all benefits are not fully taken up by the proposed expansion and thus there would be some sharing. However, the benefits are weighted more in favour towards expansion, rather than towards the community.
272. It should also be noted that the results account for indoor noise, and do not reflect noise exposure in gardens experienced by local residents, particularly in the daytime summer months.
273. At night-time the picture is clearer as the evidence demonstrates that there would be increases in the number of properties experiencing noise above LOAEL and SOAEL. All of the metrics demonstrate this, albeit to different degree, with the Nx metric showing more properties affected. This would, however, all be between 0-2dB which the ES/ESA recognises as negligible.

#### *Ground Noise*

274. The above has dealt largely with matters relating to air noise. However, ground noise effects were also in dispute. As set out in the ESA, 100 dwellings would be exposed to daytime noise levels above the LOAEL of 50 dB LA<sub>eq,16h</sub>, which represents an increase from the 2017 baseline of 70 properties and the without development 2030 scenario of 90 properties. In all scenarios, Core Hill on Cooks Bridle Path is exposed to levels above the SOAEL. This property is located near to the western stands and it is understood that it has previously benefitted from BAL's noise insulation grant scheme.
275. In terms of night-time effects, 70 dwellings were exposed to a night-time ground noise level at or above the LOAEL of 45 dB LA<sub>eq,8h</sub> in the 2017 baseline as a result of aircraft operations at BA. This is expected to increase to around 100 in the 10 mppa scenario and around 90 in the 12 mppa scenario. Again, Core Hill is exposed to levels above the SOAEL in all scenarios, but an additional property, The Lodge, also on Cooks Bridle Path, would be exposed to levels above SOAEL. In all cases, those affected properties would experience increases of less than 2dB.
276. Currently there is a condition in place which restricts the use of APUs on stands 38 and 39. The overnight use of APU's at stands 33-36 is also restricted, for the period 23:00-07:00. This is in order to protect the residents of nearby properties, including those along Cooks Bridle Path. BAL proposes the removal of the restriction at stands 38 and 39 and instead proposes to restrict their use at night-time between 23:00-06:00 to allow for greater flexibility. The above results have assessed noise effects in respect of this change.

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<sup>127</sup>INQ/106-0 Pages 44-45

277. From the demonstration the Panel were given of the use of an APU on the site visit, it is clear that this equipment is particularly noisy and properties closest to these stands are currently protected from the most adverse effects through the existing condition.
278. We were also made aware of the current 6-month trial for the use of electric Ground Power Units (eGPU) as part of ascertaining the scope for implementing wider application of zero-emission ground-based operations.<sup>128[1]</sup> The use of eGPU's would also reduce noise effects from the diesel powered APU's.
279. The ES/ESA results demonstrate a worsening picture for ground noise, albeit below a 2dB change. The Panel are however, concerned in respect of this element of the development, particularly as only the  $L_{Aeq,T}$  metrics were assessed by the ES/ESA for ground noise and thus there is no data on Nx events which would be experienced by those properties near to these stands. The case for the removal of this condition is also weakened considering BA's long-term move towards the use of quieter eGPUs and there is also a potential mismatch of the existing condition for stands 33-36 which restricts their use for the full night-time period until 07:00, which is not fully justified.

### *Mitigation*

280. By way of mitigation, the UU proposes funding for dwellings exposed to noise levels above the SOAEL. As set out in AS, the Government are proposing new measures to improve the noise insulation scheme, recognising that it is important in giving affected communities a fair deal. This includes extending the noise insulation policy threshold to 63dB  $L_{Aeq,16hr}$  contour to 60dB  $L_{Aeq,16hr}$ , a review of effectiveness of existing schemes including levels of contributions and new guidance on best practice for insulation schemes to improve consistency. At the current time, guidance on these has not been published or updated.
281. The funding would be for noise insulation, as well as ventilation and cooling devices. Any noise mitigation scheme would be designed to achieve day and night internal  $L_{Aeq,T}$  from BS 8223:2014 without a 5 dB uplift and on no more than 10 occasions per annum noise levels should reach no more than 45 dBA  $L_{Amax}$  due to aircraft noise intrusion in bedrooms between 23:00 and 06:59 hours.
282. All properties above the SOAEL would be eligible for the scheme. The sums would amount to £8,000 for properties in the contour of 60dB  $L_{Aeq,16h}$  or above, £5,000 for 57dB  $L_{Aeq,16h}$  or above and £5,500 for 55dB  $L_{Aeq,8h}$  or above. The funding levels were increased during the Inquiry from the original offer in the draft obligation and the previous funding cap removed.
283. This would not provide mitigation for those properties within the 54dB  $L_{Aeq,16h}$  contour and those experiencing greater than 45dB  $L_{Amax}$  at night for more than 15 times per night, as requested by NSC. The scheme would also fail to capture properties identified as being above SOAEL in the Nx assessment. There is also limited evidence in respect of whether the specified funding levels would be sufficient to achieve the requisite levels.
284. However, it is noted that the scheme is an improvement over the current scheme which amounts to £5,000 to properties exposed to 63dB  $L_{Aeq,16hr}$  and

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<sup>128</sup> INQ/061

- others are eligible for a grant of £2,500 with the condition that they must contribute the same amount (match-funding).
285. A number of planning conditions are also proposed which serve to control the noise effects. The noise conclusions contained within the ES/ESA rely, in part, on the conditions being in place. The S106 also sets out a number of requirements to produce schemes and strategies for monitoring, implementation and maintenance/verification reports to ensure that the conditions are enforceable.
286. An updated QC condition is proposed. This is in place as part of the 10 mppa consent but would include additional bands to increase the control of noisier aircraft at certain times and would limit older aircraft with a higher QC rating.
287. Day and night-time contours would also be conditioned. The condition put forward by NSC relates to the 51  $L_{Aeq,16h}$  and 45  $L_{Aeq,8h}$  contour<sup>129</sup> which would align with the LOAEL. BAL's suggested condition is set at the 57db  $L_{Aeq,16h}$  and the 55  $L_{Aeq,8h}$  contour<sup>130</sup> which is in accordance with community annoyance guidelines. BAL have, however, amended the specified distances so that they follow the contours assessed by the ESA, rather than the more generous areas previously put forward. The condition would also include a mechanism to reduce the contour size when passenger numbers fall between 10 mppa and 12 mppa.
288. BAL's noise contour condition would not fully address NSC's concerns and would not reflect properties affected by noise levels above the LOAEL but below the SOAEL (and it also only uses the  $L_{Aeq,T}$  metric). However, in light of the same noise thresholds being applied in the noise mitigation scheme in the UU, for consistency, BAL's condition would be the most appropriate. It should also be noted that even if the NSC's fleet mix were to be realised, this would be limited by the proposed contour limits.
289. A condition limiting ATMs for any 12-month period was put forward by NSC. This was disputed by BAL who considers that the proposed passenger cap, along with the contour and QC conditions, would effectively limit the number of aircraft flying out of BA, in spite of any technical advancements with noise. It was also suggested that a cap would disincentivise airlines to introduce quieter aircraft.
290. 'CAP1731 Aviation Strategy: Noise Forecast and Analyses' (2019)<sup>131</sup> provides a detailed analysis of noise limits scheme options for an airport and cites advantages and disadvantages of the different approaches. This document also notes which airports operate under which restrictions. Stansted, London City, Belfast and Heathrow airports operate with ATM limits in place.
291. The Panel consider that such a condition is reasonable and necessary. This is because it would limit a greater number of quieter planes being flown from BA which would be permissible under the QC condition and would help to address the number issue identified in the Nx assessments, as the contour cap relates solely to the  $L_{Aeq,T}$  metric at higher dB levels. While the passenger cap would assist in part with restricting this, and it is accepted that there is no

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<sup>129</sup> INQ/112

<sup>130</sup> INQ/114

<sup>131</sup> CD: 10.13

commercial incentive to fly empty planes, it would not fully address matters of greater numbers of planes flown which were not at full capacity. In addition, while an ATM cap alone would disincentivise airlines using quieter aircraft, the combination of the three conditions would not. It is also noted that conditions restricting ATMs, passenger throughput and noise contours were imposed at Stansted in the recent appeal decision.

292. NSC also suggested a Grampian condition requiring BA to achieve full co-ordinated status prior to implementing the proposed development. Without this, it was argued that the noise controls would not be enforceable. BAL disputed the need for such a condition, suggesting instead a condition which requires an application for co-ordinated status to be made prior to the passenger throughput exceeding 11 mppa.
293. Slot-coordination is a process by which congestion is managed to avoid delays.<sup>132</sup> BA is currently partially co-ordinated for night-time flights and is the only UK airport to currently have this arrangement. BAL applied for co-ordinated status in 2019 as it approached 10 mppa, but withdrew that application because the Covid-19 pandemic reduced demand.
294. It is clear that an increase to 12 mppa would mean that full slot co-ordination is necessary and that this would assist in the enforceability of above mentioned conditions for noise. However, it is covered by separate regulatory requirements<sup>133</sup> granted by the SoS for Transport, and BA has operated within its existing contour cap without being fully co-ordinated thus far.
295. Having carefully considered this matter, the Panel consider that a Grampian condition requiring slot coordination before any development takes place would not be reasonable. A more reasonable approach would be to impose BAL's suggested condition, but in an amended form with a requirement to have made an application before exceedance of a passenger throughput of 10 mppa, rather than 11 mppa. This would give greater certainty and better align with the original intention of BA to apply as the 10 mppa threshold was approached while taking on board NSC's concerns.
296. Finally, in light of our findings in respect of ground noise, the retention of the existing APU condition for stands 38 and 39 would be necessary to mitigate adverse effects on nearby properties.
297. Taking the above together, mitigation would assist in addressing some of the identified effects, particularly those properties above the SOAEL via the insulation scheme. Conditions would assist in limiting noise effects through restrictions in ATMs, passenger numbers, quota counts and noise contour caps. Effects experienced from ground noise would also be limited by retaining the existing APU condition.
298. While any mitigation must be proportionate, there are concerns that the focus is for those properties above the SOAEL, and even this is only based on the  $L_{Aeq,T}$  metric. Mitigation and minimisation of effects that arise above LOAEL are limited and, there may be other properties also affected above the LOAEL that would not be addressed. Air-noise experienced in gardens would also not be addressed.

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<sup>132</sup> INQ/044 provides a briefing note on this.

<sup>133</sup> Airport Slot Allocation Regulations 2006 which transpose EEC Regulation No 95/93 into domestic law.



### *Conclusion on Noise*

299. As previously outlined, several CS and DMP policies require that there should be no unacceptable effects on, or a satisfactory resolution of, noise effects. This is also recognised by the specific policies relating to BA. The NPPF and NPSE also contains similar aims.
300. The noise advice in the PPG is that where noise is between the LOAEL and SOAEL, the advice is to take all reasonable steps to mitigate and minimise adverse effects on health and quality of life. Noise above the SOAEL should be avoided using appropriate mitigation. In all cases, the guiding principles of sustainable development must be taken into account.
301. BAL considers that the scale of the impact would be low, at between a 0-2dB and that an average increase from 175 to 207 daily ATM's, and an additional three arrivals and four departures per night is also of a small scale.<sup>134</sup>
302. However, based on the above analysis, and even with mitigation, the noise impacts would be such that the grant of planning permission would result in a greater noise impact than from the baseline and from the 2030 'without development' position and an increase in dwellings above the established LOAEL and SOAEL thresholds. This is demonstrable through the application of the  $L_{Aeq,T}$  metric. The application of complementary metrics such as the  $N_x$  metric reveal this further.
303. In analysing the effects of the proposed development, it is important to recognise that there is a difference in terms of significance thresholds in assessing LOAEL and SOAEL which relates to the absolute noise level and significance in ES/ESA terms which relates to the significance of the proposed change (i.e. from 10 mppa to 12 mppa). This difference goes to the heart of the respective parties' positions in terms of the effects.
304. The change in the air noise effects is important in understanding significance. It is clear that the findings of the ES/ESA, even with the increases in the number of properties above LOAEL and SOAEL, are negligible and thus are 'not significant' in those terms.
305. The Panel does not seek to go beneath such conclusions in EIA terms, but we recognise that noise effects, even at a lower scale and with some sharing of benefits from a modernised fleet, would be experienced by those communities in and around BA, particularly from aircraft noise. Levels would increase above the LOAEL and SOAEL thresholds for a number of properties, and the effects would be as such that there would be adverse impacts on amenity and upon health and quality of life. This would conflict with paragraph 185 of the NPPF and development plan Policies CS23, CS3 and DM50. There would also be some conflict with the APF and MBU, insofar as they seek to limit noise effects from aviation.
306. Consideration of the wider principles of sustainable development as required by the PPG, as well as CS23, and APF and MBU will be considered as part of the planning balance.

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<sup>134</sup> Mr Pyper Rebuttal p12, para 2.1.42



## **Air Quality**

307. It has long been recognised that air quality poses a significant environmental health risk in the UK.<sup>135</sup> In terms of aviation, air quality issues arise from aircraft, airside operations (including taxiing and airside equipment) and from surface access transport.
308. NO<sub>x</sub> and particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>) are the most important pollutants arising from aviation and were assessed by the ES<sup>136</sup> and ESA<sup>137</sup> for both construction and operational effects. These pollutants are widely acknowledged to lead to health effects including respiratory conditions.
309. The Air Quality Standards (AQS)<sup>138</sup> set an annual mean of NO<sub>2</sub> at 40 µg/m<sup>3</sup> which aligned with the 2006 WHO guidelines. The 2021 WHO Air Quality Guidelines (AQG) has reduced that to 10 µg/m<sup>3</sup>. For particulate matter, the AQS for PM<sub>10</sub> is set at 40 µg/m<sup>3</sup> and for PM<sub>2.5</sub> it is 25 µg/m<sup>3</sup>. The updated AQG now recommend 15 µg/m<sup>3</sup> for PM<sub>10</sub> (reduced from 20 µg/m<sup>3</sup> from the 2006 AQG) and 5 µg/m<sup>3</sup> for PM<sub>2.5</sub> (reduced from 10 µg/m<sup>3</sup> from the 2006 AQG).
310. For air quality there are predicted to be no significant effects. Focusing on the updated predicted total contributions<sup>139</sup> results in the ESA, by 2030 the NO<sub>2</sub> PEC would range from 5.1-29.03 µg/m<sup>3</sup>. Overall, there would be a slight deterioration at 14 receptors, but these would all be well within the relevant AQS.
311. For particulate matter it is a similar picture. For PM<sub>10</sub> the PEC would range from 10.6-17.38 µg/m<sup>3</sup> and for PM<sub>2.5</sub> from 6.7-10.15 µg/m<sup>3</sup>. Again, in both cases PM levels are predicted to be well below the AQS levels despite some worsening of effects at some receptors.
312. These results were then fed into the HIA contained within the ES and ESA which found negligible effects on the general population and minor adverse effects on vulnerable groups. This was deemed not to be significant overall.
313. Based on the updated AQG, it is clear that there would be an exceedance of these limits, however nowhere in England currently meets these targets, other than highly remote areas.<sup>140</sup> Indeed, this document recognises that while the AQG should be the ultimate goal, this might be a difficult task, and accordingly interim targets are recommended.
314. NSC consider that there is insufficient evidence to conclude that there would be no health impacts from the proposed development even though it is accepted that current standards are met. Policy (as previously summarised) seeks to avoid or prevent emissions and only where they cannot be prevented, to mitigate and reduce levels as far as possible. Various policy and guidance documents also make clear of a direction of travel towards lower targets and indeed improvements to air quality. There can also be no doubt that there is a significant body of evidence in respect of air quality matters and health effects since the adoption of the AQS. It is also acknowledged that the HIA was

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<sup>135</sup> Such effects are identified and summarised in INQ85 and CD: 8.07, as well as a wealth of other documentation.

<sup>136</sup> CD: 2.05.19 and appendices 8A-8E in CD: 2.05.20

<sup>137</sup> CD: 2.20.1 and appendices 7A-7B in CD: 2.20.5

<sup>138</sup> CD: 8.03

<sup>139</sup> These are the total ground level concentration from all sources, including the proposed development.

<sup>140</sup> As depicted from Defra maps in INQ/091, figures 3.1 and 3.2.

- written prior to the publication of the AQG and thus these are not factored into that assessment.
315. However, at this stage the Environment Act 2021 does not alter the current AQS limit values and reduction targets and, crucially, the Panel are mindful that predicted levels at 2030 are well within current AQS levels.
316. Any secondary legislation arising from the Environment Act 2021 may introduce tighter limits, similar to those set out in the 2019 Air Quality Strategy or the 2021 WHO Guidelines. It is noted that the Act includes review mechanisms for any adopted targets on a 5-yearly cycle. However, there are no timescales for the introduction of secondary legislation, nor is it clear at this stage how the WHO Guidelines will influence any revised targets. Accordingly, the weight that can be attached to the AQG at the current time is limited.
317. The ESA demonstrates that the development would not achieve improvements in air quality. However, it is clearly a national and international issue which will start with the adoption of revised target emissions from the current AQS. A condition is proposed which requires the submission of an Air Quality Action Plan (AQAP) which would include targets for the delivery of measures to reduce the impact of BA operations on local air quality. This would provide mitigation. In addition, the condition requires the AQAP to be updated should new national and local policies emerge and also to take account of new scientific or technological developments. This would thus incorporate the future targets set as part of the Environment Act as well as any future aviation policy and in the longer term, should secure improvements. Provision is also made as part of the S106 in respect of a monitoring programme.
318. The Panel are also mindful of the conditions and obligations relating to surface access, electric vehicle provision and off-site highways improvements would also be likely to have a beneficial effect on air quality. Similarly, any future use of eGPUs which are currently being trialled<sup>141</sup> would also likely have a benefit on air quality, although it is recognised that this is only at a very early stage.
319. Neither the ES nor the ESA assessed UFPs. These are particles with a diameter of less than 0.1 microns and while they are a component of PM<sub>2.5</sub> they can have independent effects and be harmful to health through penetrating deep into the respiratory system and which may have a greater health impact at smaller exposure levels.<sup>142</sup>
320. Currently, there are no air quality standards in UK regulations or policy for UFPs. Indeed, the 2021 WHO guidelines notes that the available information is insufficient to derive AQG levels for these. However, it is noted that further research on risks to health and mitigation are warranted and for the assessment of these including integrating UFP monitoring into existing air quality monitoring is recommended as part of a good practice statement.
321. The Panel is satisfied that the proposed condition as worded could also reasonably include future measures to monitor UFPs as methodologies become established and would thus provide comfort in respect of concerns over these particulates.

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<sup>141</sup> INQ/061

<sup>142</sup> As set out in CD: 8.12

322. Taking the above together, the Panel recognise the effects of poor air quality on health and wellbeing and that it has serious and long-term effects. There is also a significant body of evidence in respect of health effects which is not currently reflected by the AQS levels set out by the regulations. Moreover, it is likely that new control levels will be reduced from current AQS levels in the not too distant future.
323. However, future targets are not yet known, and if the Government were to adopt WHO targets, it seems highly likely that there would be interim measures. Critically, anticipated levels arising from the proposed development would be well within current control levels and there is long term scope for improvements, alongside meeting any new targets which will be set, which could be secured by condition. There is thus no evidence to suggest that the predicted levels would compromise future objectives and targets.
324. In this regard, the Panel are satisfied that there would be no unacceptable effects on air quality from the proposed development on health and wellbeing. The proposals would accord with development plan policies CS3, CS23, and DM50, AQS thresholds, paragraphs 174 e), 185 and 185 of the NPPF, as well as national policy on aviation (insofar as air quality is concerned). Accordingly, the issue of air quality is a neutral consideration in the planning balance.

## **Surface Access**

### *Overview*

325. BAL's consideration of the highway effects of the proposed development is contained in a Transport Assessment (TA)<sup>143</sup>, draft Workplace Travel Plan<sup>144</sup>, Parking Demand Study<sup>145</sup> (PDS) and a Parking Strategy (PS).<sup>146</sup> These reports were supplemented at the application stage by a suite of Technical Notes<sup>147</sup> in response to the various Regulation 25 requests. The TA and PDS were both updated prior to the Inquiry.
326. Extensive pre-application discussions took place between BAL, NSC and National Highways (NH) to agree the scope and methodology for the TA<sup>148</sup>. At the application stage, NH and NSC officers judged the development to be acceptable in terms of its highways impact, subject to various conditions.
327. RfRs 1 and 5 raise various highway issues. RfR1 states that '*traffic and off airport car parking resulting in adverse environmental impacts on communities surrounding Bristol Airport and which would have an adverse impact on an inadequate surface access infrastructure.*' RfR5 is concerned with sustainable transport and states that the proposed public transport provision would be inadequate and would not sufficiently reduce the reliance on car borne trips to/from the airport. (RfR4 and matters relating to the extension of the Silver Zone Car Park are dealt with in the Green Belt section of this decision.)
328. At paragraph 111, the NPPF it advises that "*Development should only be prevented or refused on highways grounds if there would be an unacceptable*

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<sup>143</sup> CD: 2.09.01-2.09.16

<sup>144</sup> CD: 2.10

<sup>145</sup> CD: 2.11 & 2.23

<sup>146</sup> CD: 2.12

<sup>147</sup> CD: 3.4.02, 3.06.09-3.06.23, 3.09.1-3.09.3

<sup>148</sup> Section 5.1 Mr Witchalls PoE

*impact on highway safety, or the residual cumulative impacts on the road network would be severe."*

329. 'Severe' is the highest test in the NPPF and matters of driver inconvenience caused by increases in queuing and delay are unlikely to constitute severe impacts. The Panel can only consider the specific impact of the proposed development, so while BAL can reasonably be expected to mitigate the impact of the appeal scheme, it is not BAL's responsibility to resolve existing problems on the local road network. That is particularly relevant to many of the highway concerns raised by local people particularly in relation to existing congestion and rat running through local villages.

330. The Panel therefore considers that the following main highway issues emerge:

- Whether the development, including the proposed off-site highway improvements, would give rise to an unacceptable effect on highway safety and/or capacity, and
- Whether appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location, and
- Whether the proposed increase in parking is necessary and proportionate to serve the development.

#### *A38 Improvement Works*

331. To mitigate the impact of the development, the proposal would deliver an improvement scheme to the A38 between the main airport access roundabout and West Lane to accommodate the additional traffic.<sup>149</sup> This scheme has undergone various iterations since the application was first submitted and has been subject to a Stage 1 Road Safety Audit (RSA), RSA Designer's Response and a Walking, Cycling and Horse-Riding Assessment and Review (WCHAR).

332. NSC highlighted various technical concerns about the scheme. Before exploring these, two points should be noted. First, the improvement scheme<sup>150</sup> evolved in consultation with the NSC's previous highway advisors and no deficiencies were identified in the RfRs. Second, and perhaps more significantly, the scheme is "*fundamentally*"<sup>151</sup> the same scheme as that being promoted by NSC as part of its A38 Major Road Network Investment Programme.<sup>152</sup>

333. One of NSC's principal objections is that BAL failed to update the RSA and WCHAR as the scheme evolved between revisions 8 to 11. However, these amendments were relatively minor with the only noticeable change being the removal of the left turn filter lane for traffic exiting the airport. Accordingly, the Panel is satisfied that the RSA and WCHAR assessments remain fit for purpose.

334. As set out in paragraph 4.3.3 of the TA, the Panel considers that the A38 improvement scheme would result in significant betterment to pedestrians and

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<sup>149</sup> See section 4.3 of the TA CD: 2.09.01 for further details

<sup>150</sup> See Drawing C1124-SK-A38-010 Rev 11 CD: 1.37

<sup>151</sup> Accepted by Mr Colles in cross examination

<sup>152</sup> INQ/049

cyclists. The improvements include the introduction of a new footway provided north of the West Lane junction, an improved footway/cycleway on the western side of the A38 between the airport and Downside Road, a new footway provided for the section north of the Downside Road tying in with the existing facility north of West Lane. NSC's suggestion that the scheme would undermine the safety of pedestrian or cyclists is not supported by evidence.

335. In relation to highway standards, the Panel notes that the A38 is not a trunk road. Manual for Streets 2<sup>153</sup> published by the Chartered Institution of Highways and Transportation in 2010 and endorsed by the DfT is relevant for all non-Trunk Road situations. In the vicinity of BA, the A38 performs a number of important functions beyond the movement of vehicular traffic and can therefore legitimately be seen as a street. The mere fact that the A38 is an A-class road does not in itself justify the use of the Design Manual for Roads and Bridges<sup>154</sup> (DMRB). Any departures from DMRB standards<sup>155</sup>, need to be seen in that light. Moreover, the Panel is satisfied that there would be scope to address NSC's concerns at the detailed design/s278 stage. Accordingly the minor departures from standards are not in themselves considerations of significant weight.

336. The proposed development would not have a material impact on the numbers of articulated vehicles turning into or out of West Lane or Downside Road (J4b) and therefore concerns about splitter islands and swept paths are not supported. Even if there was a material increase, the Panel is satisfied that there is scope within the red-line boundary to resolve such issues along with geometry concerns at the detailed design stage.

#### *Junction Modelling – Queue Lengths*

337. At the appeal stage, NSC introduced a number of minor technical concerns related to the junction assessments in the TA. These concerns are dealt with in turn below.

338. The first concern relates to queue length data. According to NSC, BAL's failure to provide the queue length data for the surveyed junctions means that the conclusions of the TA/TAA cannot be relied upon. However NSC undertook a thorough review of the junction modelling at the pre-application stage in June 2018.<sup>156</sup> That review was aided by a series of technical notes<sup>157</sup> which included a Model Validation Report demonstrating that the junction models met the relevant validation criteria.

339. In addition, Transport for London's Traffic Modelling Guidelines<sup>158</sup> are clear that the queue length data is "*not a validation criterion.*" Nonetheless, section 11 of the TA is clear that the junctions "*have been validated against the recorded traffic and queue length surveys.*" Accordingly, the Panel is satisfied that the junction models have been appropriately validated and are fit for purpose.

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<sup>153</sup> CD: 7.14

<sup>154</sup> CD: 7.03.01-011

<sup>155</sup> Footway/cycleway widths, merge lengths

<sup>156</sup> WSP Technical Note 7 June 2018

<sup>157</sup> CD: 3.04.02, CD: 3.06.09 and CD: 3.06.12

<sup>158</sup> CD: 7.21 Paragraph 5.4.2.5

### *Junction 1*

340. NSC allege a severe impact at the A38/BA roundabout (J1) on the basis that the modelling results<sup>159</sup> indicate that the A38 approaches are forecast to operate with a Ratio to Flow Capacity (RFC) of 0.94/0.89 in the 2030 Test Case (PM peak) scenario. Reference was made to the Junction 9 User Guide<sup>160</sup> which states that the “RFC provides a basis for judging the acceptability of junction designs and typically an RFC of less than 0.85 is considered to indicate satisfactory performance.”
341. While it is acknowledged that the A38 approaches to J1 would operate close to capacity in the 2030 test case scenario, there was no meaningful explanation from NSC how this would offend the severity test which is a very high bar. NSC also failed to reconcile its concerns about the A38 improvement works with its support for a scheme that would have a very similar, if not the same, outcome. It is also important to note that the 0.85 threshold is not a hard and fast rule, it is simply an indication of performance. There is nothing in the Junction 9 User Guide which suggests that an RFC of 0.85 or more would result in unacceptable levels of queuing and delay.
342. In this specific case, it is relevant that the assessment for J1 used a worst-case scenario<sup>161</sup> which assumed that all development traffic uses J1.<sup>162</sup> Moreover, and as with all the junction assessments in the TA/TAA, the traffic flows make no discount for the proposed modal share increase or the double counting arising from the use of TEMPro<sup>163</sup> growth rates. Even with all these safeguards, the levels of queuing and delay shown in Tables 5.1 and 5.2 do not come close to indicating a severe impact with a maximum queue of 14 vehicles on one arm of the junction in part of the PM peak hour. More realistic assessments of J1 are to be found in the TAA.<sup>164</sup> In all cases J1 is shown to operate with an RFC of less than 0.85 on all arms in all the assessed peak periods.
343. NSC was also critical of BAL’s failure to re-model J1 to reflect some of the minor design changes which have occurred since the application was submitted.<sup>165</sup> However, given the minor nature of the changes, further modelling would be unlikely to produce a different result. While NSC has criticised various aspects of BAL’s modelling work, it has not carried out any assessments of its own to demonstrate that the development “*would have an adverse impact on an inadequate surface access infrastructure.*” Based on the foregoing the Panel finds that there would be no unacceptable impact at J1.
344. Staying with J1, NSC suggested that the existing uncontrolled pedestrian crossing on the A38 arm of the airport roundabout would need to be signalised and that this might have a detrimental impact on the operation of the wider improvement scheme. However, no detailed analysis has been carried out by NSC to demonstrate why it would need to be signalised nor what the impact would be on the operation of the junction. It is noted that the roundabout is not currently signalised and there is no evidence that it does not operate

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<sup>159</sup> CD 2.20.3 Table 5.1

<sup>160</sup> CD: 7.22 Page 93

<sup>161</sup> See paragraphs 2.2.46-2.2.50 of Mr Witchalls Rebuttal PoE

<sup>162</sup> In reality the traffic accessing the silver zone car parks would do so from Junction 2.

<sup>163</sup> National Trip End Model Presentation Program (TEMPro)

<sup>164</sup> Table 5.3 of the TAA and Table 2.1 of Mr Witchalls PoE

<sup>165</sup> These were primarily as a result of issues raised as part of the Stage 1 Road Safety Audit



satisfactorily. It is further noted that the RSA does not recommend signalisation. As such, the Panel is satisfied that the retention of the pedestrian crossing facilities would not have a significant impact on highway safety or capacity.

#### *Other Junction Modelling Issues*

345. NSC were concerned that the modelling for the A38/Downside Road junction (J4a) failed to take proper account of the pedestrian phase. However, the omission of the pedestrian stage in the initial modelling was agreed with NSC at the scoping stage on account of its infrequent usage.<sup>166</sup> To address NSC's subsequent concerns, BAL has since undertaken a sensitivity test<sup>167</sup> of the junction where the pedestrian phase is engaged 5-6 times an hour - double the observed peak prior to the Covid-19 pandemic.
346. As NSC accepted, the sensitivity test demonstrates that the junction would still operate within capacity in the 2030 test case. It was then suggested that there could be some additional growth in pedestrian trips beyond the doubling already accounted for in the sensitivity test. However, that assertion was not supported by any evidence and is very unlikely to occur.
347. NSC allege a 'severe' impact at the A38/Barrow Lane junction (J6) to the north of BA. As acknowledged in the Committee Report, this junction already operates over capacity with large queues in the peak periods on the Barrow Lane arm. However, the development would not materially add to queuing and delay on the minor road arm and Table 5.9 of the TAA shows that the junction would continue to operate over capacity in the 2030 baseline, reference case, and test case scenarios. Development traffic on the A38 would have some adverse effect on the operational performance of J6 but as Table 5.9 shows, the largest increase in traffic would be between the 2030 baseline and reference case, not the test case.
348. There is no alternative modelling of the junction to show a severe impact and there is no proposal to mitigate it as part of the A38 Major Road Network Improvement scheme. Accordingly, the Panel finds that the development would not have a severe impact on the operation of this junction.

#### *Modal Share*

349. Amongst other things CS Policy CS1 sets out that opportunities for walking, cycling and the use of public transport should be maximised through new development, emphasising the aim to encourage and facilitate modal shift towards more sustainable transport modes. RfR5 states: "*the proposed public transport provision is inadequate and will not sufficiently reduce the reliance on the car to access the airport resulting in an unsustainable development.*"
350. The essence of the disagreement between BAL and NSC relates to the public transport modal share (PTMS) target contained in the ASAS, to be secured through Schedule 1 to the UU. While a 2.5% target<sup>168</sup> was originally considered acceptable on the basis of the information provided with the application<sup>169</sup>, NSC sought an uplift to 5% at the appeal stage.

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<sup>166</sup> CD: 3.4.2 Page 20

<sup>167</sup> Appendix G to Mr Witchalls Rebuttal PoE

<sup>168</sup> It is agreed that the 2.5% mode share target would be measured from a rebased to a new CAA baseline

<sup>169</sup> From 15% at 10 mppa to 17.5% at 12 mppa



351. The baseline position at BA compares favourably to other regional airports<sup>170</sup> with a higher PTMS than Cardiff, Birmingham, Manchester airports<sup>171</sup> despite those airports being much closer to their respective urban areas. Manchester and Birmingham airports also benefit from rail links.
352. The PTMS at BA grew strongly over the period 2003-2012 with an increase of approximately 10%. However, over the last decade the rate of PTMS increase slowed and in recent years has stagnated. This suggests that it is not possible to continually increase the PTMS and one must balance the need to maximise sustainable transport modes against what can be realistically achieved in any given case.
353. NSC and others rightly point out that BA has a higher proportion of car passengers than Birmingham and Manchester. However, the proportion of taxis using BA is also significantly less than those airports. That is an important consideration because taxis tend to make two round trips per airport visit whereas those arriving by car (and parking at the airport) only make one.
354. Section 9 of the TA contains a detailed account of the public transport enhancements that are likely to form part of the ASAS.<sup>172</sup> The ASAS would build upon those improvements already implemented as part of the 10 mppa consent.<sup>173</sup> It would contain a 'Transport Mode Hierarchy'<sup>174</sup>, the aim of which would be to recognise the environmental impact of the different modes of transport. Accordingly, those modes at the top of the hierarchy such as public transport would be encouraged whereas car drop-offs, which have the highest impact, would be discouraged.
355. The enhancements contained in the ASAS would include amongst other things, bus service improvements, a public transport improvement fund, publicity, interchange improvements, integration of services, parking management and pricing controls. These enhancements would target those geographic areas with the greatest potential to achieve an increase in patronage. The exact scope of the measures contained in the ASAS would be determined in consultation with a Surface Access Steering Group.
356. BAL has carried out an assessment of the likely effects of the public transport enhancements<sup>175</sup>. Table 6.6 summarises the overall impact of the measures and indicates that a 2.9% PTMS increase<sup>176</sup> is achievable provided all the measures were as effective as assumed. However, given the slower rate of growth in recent years, it is not unreasonable to assume that not all of the service improvements will deliver the desired level of modal shift. Consequently, the Panel consider that a PTMS increase of 2.5% is an ambitious but realistic target.
357. By contrast the 5% increase or 26.8% PTMS target advocated by NSC while no doubt ambitious, is considered unrealistic. It is a figure unsupported by analysis to show how it might be achieved. It is important to recognise that a target of 2.5% is not a ceiling, and it might well be the case that measures that

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<sup>170</sup> Table 6.3 of Mr Witchalls PoE

<sup>171</sup> 21.8% versus 11.3%, 20.7% and 19.8% respectively

<sup>172</sup> To be approved within 6 months of as grant of planning permission

<sup>173</sup> This includes the already approved public transport interchange which would be delivered in phase 1 of the proposed development

<sup>174</sup> Figure 4.6 Mr Witchalls PoE

<sup>175</sup> Section 6.5 Mr Witchalls PoE

<sup>176</sup> 2.9% equates to 357,000 additional passengers travelling by public transport

sit outside the ASAS (such as the delivery of the public transport interchange (PTI)), might result in some additional uplift. However, that possibility does not justify NSC's 5% target.

358. In addition to the ASAS, a Workplace Travel Plan is proposed which will seek to achieve a 30%<sup>177</sup> share of staff travel by non-single occupant vehicle modes such as car share, public transport, motorcycle, walking and cycling.
359. Various parties have argued for a rail link to be provided as part of the development. While desirable, the provision of a rail link would be unrealistic and unreasonable in the context of the current scheme.
360. Overall, the Panel is satisfied that the proposed PTMS target to be secured through the ASAS is justified. The development thus complies with CS Policies CS1 and CS10, DM Policies DM24, DM26 and DM27, as well as national policy set out in NPPF paragraphs 104 and 110.

### *Parking Demand*

361. RfR1 states that the expansion of BA would generate additional "*off airport car parking resulting in adverse environmental impacts on communities surrounding Bristol Airport.*" The Inquiry heard from local residents about the problem of unauthorised or short-term parking in and around the surrounding villages. In light of these concerns, it is important that suitable and sufficient parking for the development is provided on-site.
362. At the Inquiry, NSC's case moved from the potential environmental effects of under-provision towards an argument which centred on the argument that too much parking was being proposed.
363. BAL's assessment of the number of parking spaces needed to serve the development is contained in the PDS and the PDS update (PDSU) November 2020.<sup>178</sup> The latter identified that, in line with passenger growth, parking at BA has increased steadily since 2011.<sup>179</sup> The PDSU concluded that 22,200 spaces would be needed to serve BA during the peak summer months in 2030. To put this in context, there were some 17,700 spaces in 2019.<sup>180</sup> This equates to an increase of 23% or 4,200<sup>181</sup> parking spaces at BA to accommodate the additional 2 mppa.
364. The methodology used in the PDS, which was the subject of much discussion at the Inquiry, is set out at Section 3. The parking model produced a monthly forecast demand for parking. As explained by BAL the model outputs were validated against observed levels of occupancy<sup>182</sup> to ensure there was a close match with actual monthly demand at BA. The forecasts produced by the model are dependent on a number of factors including the growth in underlying passenger demand, the increase in the proportion of inbound passengers, the increase in the overall likelihood to park at BA and changes to the airport's UK catchment area.

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<sup>177</sup> The existing Travel Plan has a target of 25%

<sup>178</sup> CD: 2.23

<sup>179</sup> Annual growth rate of 7.8%

<sup>180</sup> This is expected to reach 18,700 at 10 mppa

<sup>181</sup> 2,700 to be accommodated within Cogloop 2 and 1,500 within MSCP3

<sup>182</sup> Validation Report Appendix J to Mr Witchalls Rebuttal PoE

365. While the PDSU took account of the most up-to-date passenger forecasts, car park and CAA passenger survey data, the overall methodology was essentially the same as the PDS methodology which was agreed with NSC at the application stage. This was reflected in the Committee Report which concluded that the proposed level of on-site car parking would be “*the minimum required to meet the needs arising from the proposed increase in passenger numbers.*”<sup>183</sup>
366. In contrast to the approach taken for the junction assessments, it is important to recognise that the PDS/PDSU adopt a conservative approach to car park demand which assumes amongst other things, a PTMS of 21.8% plus the 2.5% uplift.<sup>184</sup> The methodology also acknowledges the role played by off-site providers in meeting demand.<sup>185</sup> In other words, despite the proposed investment in public transport, the PDS/PDSU assumes that the same proportion of the additional 2 mppa will travel by car.
367. NSC and others have criticised various aspects of the PDS/PDSU which fall into the following five broad areas:
- (a) operational utilisation;
  - (b) demand to capacity ratios;
  - (c) the growth in parking provision relative to passenger numbers;
  - (d) PTMS target used in the PDS/PDSU; and
  - (e) inconsistencies between the TAA and PDSU.
368. In terms of operational utilisation (a), NSC argue that the 95% figure used in the PDS is unjustified on the basis that much of the parking could be managed very efficiently due to the high incidence of pre-booked spaces and valet block parking. According to NSC the operational utilisation figure should be much higher at, or around, 100%. In response BAL confirmed that the PDS has not relied upon a 95% operational utilisation figure and this is shown by PDSU Table 6.4 which shows that the car parking at 2030 would operate with less than 0.5% reserve capacity.<sup>186</sup>
369. With regards to the demand to capacity ratio (b), NSC argued that the PDS/PDSU calculated future parking capacity by applying an historic demand to occupancy ratio and applying it to the forecast passenger numbers. NSC provided an alternative parking demand figure which was calculated by projecting forward the 2017 demand to capacity ratio figure of 89%.<sup>187</sup> Based on that calculation, NSC contended that there would be an over-provision of some 1,332 parking spaces.
370. However, the PDS does not calculate future parking demand by reference to historical demand to capacity ratios at BA. Instead, as explained in paragraphs 3.16-3.20 of the PDS, only the peak forecast demand is based on the ratio of peak occupancy to total monthly parking demand. This is referred to as the ‘Occupancy to Demand’ ratio in the PDS and it is this which is taken from

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<sup>183</sup> Page 104

<sup>184</sup> The TA/TAA methodology produces 8,821 additional spaces whereas the corresponding figure produced by the PDS/PDSU methodology is 7,350 spaces

<sup>185</sup> See Figure 14

<sup>186</sup> Total capacity of 22,300 v total demand 22,200

<sup>187</sup> Paras 5.3.6-5.3.8 and Appendix A to Mr Colles PoE

historically observed data. The monthly forecast demand for parking is taken from the model.

371. In terms of (c), NSC alleged that the proposed number of parking spaces would increase by 15% more than forecast passenger numbers despite the commitment to promote sustainable transport and increase the PTMS. However, that figure is derived from a somewhat contrived reading of the numbers and ultimately, the only meaningful comparison is to look at the 'with' and 'without development' scenarios.
372. Under the 10 mppa consent BA has planning permission for 18,700 spaces which equates to 1,870 spaces per 1 million passengers. In the 2030 12 mppa scenario the equivalent figures would be 22,200 spaces which equates to 1,850 spaces per 1 million passengers. There would therefore be a small proportional reduction in the number of parking spaces in the 'with development' scenario.
373. NSC's concerns about the PTMS target (d) is essentially that the PDSU uses a figure of 12.5% rather than the more up-to-date 2019 CAA figure of 21.8%. If the latter is used, then the parking requirement would drop from 4,600 spaces to 1,996 spaces. However, the PDS was updated include the 2019 CAA data – this is made clear in paragraph 1.2 of the PDSU. As explained in paragraph 1.3 an uplift of 2.5% PTMS was applied to ensure consistency with the TA. NSC also argued that a PTMS of 29%<sup>188</sup> would obviate the need for any additional parking in the Green Belt. However, a PTMS increase of over 7% is not considered to be realistic.
374. The final criticism relates to alleged inconsistencies between the PDS/PDSU and the TA/TAA (e) and the argument that the former artificially inflates the amount of parking required. As set out elsewhere, the contrasting approach adopted in the PDS and TA in relation to PTMS was reasonable to ensure a robust (worst-case) assessment of the highway impacts and a conservative assessment of parking demand.
375. Based on the foregoing, the Panel is satisfied that the PDS/PDSU provide a robust basis for calculating parking demand at BA. In any event, the criticisms made by NSC and others in relation to the level of parking do not address the proposed monitor and manage approach to the delivery of car parking. This would ensure that the provision of additional capacity aligns with, and does not adversely affect, targets to increase public transport use.

#### *M5 J22 Edithmead Roundabout*

376. NH requested a condition which would secure the signalisation of the M5 J22 Edithmead roundabout (J22), a commitment of the adopted Sedgemoor Local Plan.<sup>189</sup> While no detailed assessment of the junction has been carried out, Table 2.1 to BAL's Technical Note 23<sup>190</sup> sets out the number of forecast development trips at J22 in a worst-case scenario. The Note explains that the flows have been agreed with NH.
377. Following an initial review of the suggested conditions, the Panel raised a number of concerns regarding the evidence submitted by both NH and BAL to

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<sup>188</sup> A sensitivity test in the PDSU

<sup>189</sup> Sedgemoor is the neighbouring planning authority

<sup>190</sup> INQ/046

- support the condition and to demonstrate compliance with the relevant tests.<sup>191</sup> Although there are existing capacity issues at the junction, it is a long-established principle that developers should only be expected to mitigate the specific impact of their own development rather than to resolve pre-existing capacity/safety issues.
378. During the Inquiry a SoCG between BAL and NH was submitted.<sup>192</sup> This contains agreement that improvements to J22 are necessary beyond a passenger throughput of 11 mppa to make the proposed development acceptable in highways and transport terms. It goes on to identify that an improvement scheme for the junction has already been identified as part of a bid from NSC/Somerset County Council (SCC) to the A38 Major Road Network investment programme<sup>193</sup>.
379. In response to the SoCG, the Panel requested further information from NH on 31 August 2021 regarding the specific impact of the appeal proposal on the performance of the junction. In response, some additional high-level information was provided by NH.<sup>194</sup> However, this largely repeated the information contained in the SoCG and Technical Note and did not provide any level of detail. The Panel provided further comments on 9 September when again concerns were raised with the level of supporting evidence provided by NH. A second response was received<sup>195</sup>, in addition to a separate response from SCC Highways.<sup>196</sup>
380. In these various documents, NH's position is essentially that there is existing congestion at J22 particularly in the PM peak hour when queuing can extend back along the northbound off-slip. As a result, NH argues that any development which has an impact of more than 30 vehicles on this approach to the roundabout must deliver a comprehensive improvement to the roundabout<sup>197</sup> or an alternative scheme that delivers an 'equivalent level of mitigation'. The Panel remains concerned about the need for improvements for the following reasons.
381. First, no evidence has been produced to support the 30-trip threshold which, using by NH's wording, is based on little more than pragmatism. It is possible that the figure has been derived from the DfT's Guidance on Transport Assessment, paragraph 2.11 of which makes clear that 30 two-way peak hour vehicle trips, is not indicative of any adverse impact, rather it is merely suggested as a useful point of reference from which to commence discussions.
382. Second, as set out in Technical Note 23, there would be relatively few trips arising from the development using J22 (25/36 movements in the AM/PM peak respectively on the northbound off-slip). NH accept that there would be 'no perceptible impact' below the 30-trip threshold. Accordingly, it is difficult to understand how the impact of development traffic goes from '*imperceptible*' to '*severe*' in the space of six trips, or one every 10 minutes. This matter was raised with NH at the inquiry but the responses were equivocal.

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<sup>191</sup> See NPPF paragraph 56

<sup>192</sup> INQ/045

<sup>193</sup> SCC Drawing Number MJ004051-ED-HW-GA-0001, June 2021. See Page 16 of SoCG

<sup>194</sup> INQ/053

<sup>195</sup> INQ/084

<sup>196</sup> INQ/082

<sup>197</sup> Costed roughly as between £6-7m



383. Third, while it is possible that the agreed movements would result in an adverse impact at J22, without any detailed analysis or basic modelling of the with/without development scenarios, it is simply not possible to determine what the level of that impact would be. At present the only information is the total number of development trips going through the junction. That is a crude measure which reveals nothing about the effect of development traffic would have on queuing and delay at J22.
384. Fourth, from the additional information provided by NH, it is known that there are already significant flows on the M5 arm of Edithmead roundabout. The 2018 Traffic Survey Report<sup>198</sup> records 1,355 vehicles on the M5 arm of the roundabout. The Sedgemoor TA<sup>199</sup> contains a figure of 2,144 vehicles in the 2017 base scenario. Against these figures, the agreed number of development trips would represent 2.6% or 1.7% of existing PM peak-hour flows. As agreed by NH at the Inquiry, that is likely to fall within daily traffic variations at J22. Such a small level of impact cannot reasonably be described as material let alone severe.
385. Fifth, in safety terms, NH state that queuing traffic can extend back along the northbound off-slip with the Traffic Survey Report identifying that rolling queues extend as far back as 300m from the roundabout.<sup>200</sup> However, there is no evidence that queues extend back onto the mainline carriageway. While not ideal, slip-road queuing especially in peak hours, is a fairly common feature of the motorway network which does not necessarily lead to a safety problem in practice especially when there are existing mitigation measures available such as warning signage. There is no evidence to demonstrate that slip-road queuing on the Strategic Road Network causes a safety problem at this specific location.
386. Sixth, in terms of the identified improvement, no modelling of the scheme has been carried out despite the Panel's requests for substantial evidence to support the condition. Nonetheless, it seems likely that full signalisation of the roundabout would reduce queuing on the M5 approach which is unsurprising given that the scheme was designed to accommodate all development plan growth in Sedgemoor which equates to an increase in traffic on the Strategic Road Network of some 15% up to 2032.<sup>201</sup>
387. NH accept that a smaller scheme comprising a free-flow left turn lane at the roundabout would also remove or reduce queuing on the northbound off-slip. Despite that, there was no convincing explanation why NH pursued the full signalisation scheme in preference to a more proportionate left-turn lane option.
388. The problem with either the scheme sought by NH or a hypothetical left turn lane scheme is that they would be designed to deal with existing congestion and planned growth in Sedgemoor up to 2032. Accordingly, it would be unreasonable to expect BAL to fund or deliver these improvements in their

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<sup>198</sup> Highways England Spatial Planning Framework (South-West) Traffic Survey Report – M5 J22 J23 Transport Model, Appendix A to INQ/084

<sup>199</sup> Table 5 Sedgemoor District Council Local Plan – Strategic Road Network Traffic Assessment, Appendix C to INQ/084

<sup>200</sup> The slip road is over 500m long

<sup>201</sup> According to SCC's response the junction is expected to accommodate an increase of 20-25%, or around 900 additional vehicles in 2036.

entirety, bearing in mind the limited number of forecast development trips. Such an approach would not meet the tests for conditions.

389. The correct approach would be to first establish the specific impact of the development on the junction. If following that exercise an unacceptable impact can be demonstrated, a proportional contribution or improvement scheme that mitigates that impact should be sought. Such an approach would be more akin with that set out by NH in its Isleport Lane consultation response<sup>202</sup> which stated that where mainline queuing can be demonstrated "*proportionate developer contributions/CIL should be sought towards the [improvement] scheme from developments which impact at the junction.*"
390. Seventh, NH has referred to its position in relation to the Isleport Lane application where it took a similar stance in relation to improvements to the Edithmead roundabout. However, it is important to note that Officers at Sedgemoor rejected NH's approach. Their concerns were set out on pages 16-17 of the Committee Report, and covered the unreasonable approach of one development being expected to remedy existing problems, the lack of detailed costing, and the possibility of external funding.
391. The Panel shares these concerns in relation to the appeal scheme. Even if NH had demonstrated either a severe impact on congestion and queuing or an unacceptable impact on highway safety, the requirement on this proposal to signalise the junction, or an equivalent scheme, is disproportionate. (It was suggested by NH that Sedgemoor Council received a legal opinion which supported NH's approach, but this has not been submitted and our assessment has been made on the basis of the information available to us).
392. Overall NH has failed to demonstrate that the condition is necessary to make the development acceptable, relevant or proportional to the proposed development. The condition does not therefore meet the tests for conditions contained in the NPPF.

#### *Conclusions on Surface Access*

393. The Panel conclude that the development would not give rise to an unacceptable effect on highway safety nor any severe residual cumulative impacts on the road network.
394. While there would be some small adverse effects in terms of increased traffic in some locations, there would also be a number of benefits including an improvement to public transport in the area as well as pedestrian and cycle improvements along the A38. The Panel is satisfied that the PTMS mode share target to be secured through the ASAS strikes the right balance between ambition and realism.
395. Finally, the Panel is satisfied that the assessment of parking demand in the PDS and PDSU is sufficiently robust and justifies the proposed increase in car parking.
396. There is therefore no conflict with CS Policies CS1, CS10 and CS23, DM Policies DM20, DM24, DM26, DM27, DM30, and DM50 the Joint Local Transport Plan 4 2020-2036 or the NPPF. There would also be no conflict with the APF,

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<sup>202</sup> Sedgemoor Council ref: 11/19/00003



MBU and the AS, insofar as they relate to surface access matters. Overall highway issues are neutral considerations in the planning balance.

### **Green Belt**

397. The Government attaches great importance to Green Belts. The fundamental aim is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness has both a visual and spatial element.

### *Inappropriateness*

398. RfR4 states that the proposed all year-round use of Cogloop 1 and the creation of Cogloop 2 would constitute inappropriate development for which no very special circumstances have been demonstrated. It was common ground between the parties that these elements of the scheme would be inappropriate in a Green Belt location, giving rise to harm by definition, which carries substantial weight as a matter of established national and adopted local planning policy. However, the level of effect on openness and purposes is in dispute.

399. There was some discussion at the Inquiry in relating to taxiway widening and fillets and the A38 highway improvements. However, NSC did not pursue these points and thus it has not been considered further by the Panel as these works are deemed to be not inappropriate.

### *Openness*

400. The PPG<sup>203</sup> outlines several factors which might be relevant when considering the potential impact of development on the openness of the Green Belt. These include spatial and visual aspects, the duration of the development and its remediability and the degree of activity likely to be generated.

401. There can be no doubt that the car parking proposals with a total parking provision of around 6,350 cars, would cause harm to the visual and spatial dimensions of openness. Section 4 of the Green Belt Assessment (GBA)<sup>204</sup> sets out BAL's position on openness. It assessed the impact of proposed all year-round use of Cogloop 1 and the creation of Cogloop 2 separately. In relation to Cogloop 1 it notes that it is already enclosed to the east and part of the northern boundary by existing planting and a planted earth bund approximately 2m high along the western and southern boundary.

402. As the Panel saw on various site visits, the existing boundary landscaping and bunding provides an effective visual screen restricting views of the car park from the wider Green Belt and the AONB. As part of the proposal the temporary lighting columns would be removed and replaced with permanent columns of a similar design to those in the permanent Silver Zone parking area to the east.

403. The Cogloop 1 site is 7.8ha and is currently used as a car park for six months of the year, which would be increased to year round usage. As a result, there would inevitably be an increased spatial effect during the winter months from the parked cars and lighting columns. In visual terms, Cogloop 1

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<sup>203</sup> Paragraph: 001 Reference ID: 64-001- 20190722

<sup>204</sup> Appendix A to Mr Melling's PoE

- benefits from extensive landscape mitigation which effectively screens it from public views. Accordingly, the Panel considers that there would be limited harm to openness from the Cogloop 1 proposals.
404. The Cogloop 2 site is an open field of around 5.1ha, located to the south of Cogloop 1. It is enclosed on its northern boundary by the landscaped bund referred to above. The other boundaries are delineated by established hedgerows and trees. Part of the eastern boundary abuts the permanent Silver Zone car park. The site does not contain any notable landscape features, but it forms part of the wider rural environs and can be described as ordinary but attractive countryside. It contributes to the open, rural setting to the south of BA.
405. The use of the Cogloop 2 site as a car park would inevitably erode its currently open character. Accordingly, there would be a material impact on the spatial dimension of openness as a result of the car park surfacing, associated lighting, fencing, other security infrastructure, and vehicular parking and movements to/from the car park. Year round use of this area is also proposed.
406. The GBA contains a plan showing the Zone of Theoretical Visibility<sup>205</sup> (ZTV) which assists when assessing the impact on visual openness. In addition, a number of visual receptor points were identified including Highfield, Springfields and Goblin Coombe Farm, Winters Lane, public rights of way west and north of Redhill, the properties around Hailstones Farm and the A38 and users of open access land and public rights of way within the AONB.
407. The GBA demonstrates that the effects on the identified visual receptors at local and more distant locations would be minimal and it is recognised that the site has a very high degree of containment. The Panel are satisfied that only glimpsed views of Cogloop 2 would be experienced from the right-angle bend on Winters Lane.
408. The mitigation proposals<sup>206</sup> would see the existing boundary landscaping strengthened through the creation of perimeter bunding to the southern and western boundary similar to that currently in place along the southern boundary of Cogloop 1. Once established, the bunds could be expected to screen Cogloop 2 from public view.
409. The landscape mitigation, in addition to a lighting strategy, would ensure that any night-time effects would be minor. Even in those long-distance views where the lights might be visible, they would be seen against the general backdrop of the airport, and its associated lighting, to the north.
410. NSC argued that the bunds themselves would harm the openness of the Green Belt. The bunds would undoubtedly have an adverse spatial effect. There would also be a visual effect from Winters Lane post-construction, however this would soften over time as the landscaping matures. After a few years, the bunds would become reasonably assimilated into the landscape and would reduce in their visual effect.
411. In summary, the proposals would have an effect upon spatial openness. The low-rise nature of the development and the proximity to the airport and

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<sup>205</sup> Appendix 4

<sup>206</sup> CD: 1.31

existing areas of car parking means there would be an initial moderate effect on visual openness following the creation of Cogloop 2 which would reduce over time. The overall effect on openness would therefore be moderate.

### *Purposes*

412. The NPPF sets out five purposes served by the designation of Green Belt land:

- 1) To check the unrestricted sprawl of large built-up areas;
- 2) To prevent neighbouring towns merging into one another;
- 3) To assist in safeguarding the countryside from encroachment;
- 4) To preserve the setting and special character of historic towns; and
- 5) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.<sup>207</sup>

413. As the proposed car parks are not adjacent to a large built-up area or town, the development would not harm Green Belt purposes 1), 2) or 4). It is also agreed that purpose 5) is not relevant in this case. Given its existing use, the all-year round use of Cogloop 1 would not offend purpose 3) to any significant extent.

414. As the GBA notes that parcel S2, within which Cogloop 2 would be situated, is *"part of the wider Green Belt in this location, helps to maintain openness through preventing incremental development which can erode that quality."* Consequently, the Panel is satisfied that the land makes a positive contribution to purpose 3.

415. It is recognised that the site is visually contained, would include landscaping mitigation and would be bounded to the north by existing airport car parks. However, the creation of Cogloop 2 would encroach into an area that is predominantly open and in doing so there would inevitably be harm caused to this purpose as a result of the scale of development proposed. Accordingly, the proposal, even with mitigation, would encroach into the countryside contrary to purpose 3.

### *Conclusions on Green Belt Harm*

416. The Panel finds that Cogloop 2 would cause moderate harm to the openness of the Green Belt and harm to Green Belt purpose 3). The year round use of Cogloop 1 would cause limited harm to openness and Green Belt purpose 3). Collectively, these Green Belt harms must carry substantial weight in the overall Green Belt balance in accordance with NPPF paragraph 148.

417. DMP Policy DM12 and the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and will not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, is clearly outweighed by other considerations. That balancing exercise is undertaken later in this Report.

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<sup>207</sup> Para 138

*Other Considerations related to the Green Belt*

418. BAL put forward three 'other considerations' which, it is argued, amount to the very special circumstances necessary to allow inappropriate development in the Green Belt.
419. The first is the need for additional car parking in the Green Belt. This matter has been dealt with under the Surface Access section of this decision. It is not necessary to set out the Panel's findings again here, save for the conclusion that BAL's assessment of parking demand contained in the PDS/PDSU is sufficiently robust and justifies the proposed increase in car parking. Thus, the Panel accepts that there is a need for the additional parking proposed.
420. The second and perhaps the most contentious 'other consideration' advanced by BAL is that there are no alternative sites for car parking outside the Green Belt. Although the Officer's Report concluded that there are no suitable and available sites outside the Green Belt, various parties at the Inquiry put forward what they saw as alternatives to the Silver Zone car park extension.
421. Before dealing with these, it is worth setting out the general approach in the PS which examined the various options for providing the additional parking identified in the PDS/PDSU. When assessing the alternative options for providing the additional 4,200 spaces, Section 5 of the Strategy adopts the following sequential approach:
- Sites within the GBI;
  - Strategic park and ride locations remote from the airport including land outside the Green Belt;
  - Sites within the airport site but outside the GBI;
  - Sites in Green Belt locations contiguous to the airport site.
422. Various schemes were assessed under each of the four options. Many were discounted because they would be unable to provide the quantum of parking required. Section 6 of the PS sets out the preferred approach based on the analysis in Section 5. This is as follows:
- Further MSCP provision to the northside of the airport, in the Green Belt inset providing circa 2,150 spaces;
  - The year-round use of the existing seasonal Silver Zone car park extension which has an existing capacity of 3,650 spaces;
  - A further extension to the Silver Zone car park located to the south of the existing seasonal Silver Zone car park extension, providing circa 2,700 spaces.
423. According to the PS, the above "*maximises development in the GBI and makes the best use of existing facilities whilst ensuring that passenger demand is met as part of a holistic approach to sustainable travel.*" Although the preferred strategy provides more than 4,200 spaces, it is argued that the additional capacity is necessary to provide flexibility during the construction phase. The over-provision would also have the benefit of drawing parking away from unauthorised locations which, as the Inquiry heard, is a significant

- concern for local residents. While a number of the alternative options were advanced at the Inquiry by several of the Rule 6 parties, no alternative assessment has been carried out to indicate that BAL's assessment is not robust.
424. SPLS represented the promoter of a park and ride site known as Heathfield Park. That application was refused by NSC during the course of the Inquiry and is not therefore an available alternative site. No available off-site locations have been cited by SPLS which could, either individually or collectively, accommodate the quantum of additional parking demonstrated through the PDS/PDSU.
425. SPLS' core argument was that BAL's assessment of viable alternatives has failed to take account of the role that off-site providers could play in addressing the demand. However, BAL did look at strategic park and ride locations as part of its PS.<sup>208</sup> As part of that exercise 12 sites were shortlisted but none were deemed to be realistically achievable at 12 mppa and hence were not taken forward in the PS. There is nothing to disprove that conclusion.
426. While there was no detailed assessment of off-site parking operators, it would have been nearly impossible for BAL to undertake such an assessment, given the transient and oftentimes unofficial nature of off-site providers.
427. Ultimately, if suitable off-site park and ride or parking facilities were to come forward at a future date, there is no reason why these could not be assimilated with the PS provided they were able to align with the ASAS.
428. BALPA also raised concerns, focussed on the location of staff parking at BA. However, the staff parking was relocated to the south side of the airport under a previous permission and the appeal proposal does not propose to change the current arrangement.
429. An alternative strategy was put forward by BALPA which would involve relocating the staff parking back to the north side of the airport thus releasing land in the Silver Zone car park that could be used more intensively for low-cost block parking. This scheme would transfer parking from one location to another and would generate in the region of 400 additional spaces. It would not require planning permission to implement it. However, it is acknowledged that this would make only a small contribution to the amount of additional parking required.
430. The final 'alternative', introduced primarily by XR Elders, was the potential use of decked parking within the GBI. An initial point is that the GBI is already a highly built-up area and that planning permission has already been granted for the PTI and MSCP 2<sup>209</sup> which would further add to the density of built development. As part of the current appeal a third MSCP would be constructed as well as the former compound area close to the emergency access from Downside Road.<sup>210</sup> As such BAL has made a clear effort to maximise parking in the GBI.
431. The PS considered that any additional decked or multi-storey car parking would likely result in significant visual impacts on residential receptors along

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<sup>208</sup> CD: 2.12 section 5.4

<sup>209</sup> To be delivered in Phase 1

<sup>210</sup> This may well be the area of 'open land' Mr Gurtler observed from his hotel window

Downside Road and the overdevelopment of the northside of the airport.<sup>211</sup> Dealing specifically with the issue of decked parking on the north side of the airport, comparative ZTVs were produced demonstrating the difference between decked parking and the Silver Zone car park extension on the south side of the airport.

432. However, the Panel shares the concerns raised by XR Elders regarding the appropriateness of these comparisons given that the ZTV assumed a height of 8.8m, which is well above the typical height of an additional deck. The Panel undertook a site visit to look specifically at the issue of visibility. On the basis of those observations, we are satisfied that decked parking of the kind advocated by XR Elders would have very a limited visual effect on those receptors along Downside Road.
433. In terms of overdevelopment, no party has produced a drawing of what the decked parking option might look like or the number of additional spaces it might yield. It is therefore difficult for the Panel to come to an informed view on this matter. Clearly the introduction of a second deck is going to add to the already built-up nature of the north-side. The evidence is unclear whether that would be unacceptable in design terms.
434. Those advocating decked parking as an alternative to the extension of the Silver Zone car park have not carried out an assessment to demonstrate that it would be a viable alternative. Equally BAL has put forward the argument that there are no alternative sites for parking outside the Green Belt and the decked parking option was only considered by them to a limited extent. The only analysis is that contained within section 5.3 of the PS which found that further additional multi-storey and/or decked car parking would only provide an additional 950 spaces.<sup>212</sup>
435. It is noted that the 950 figure is based on an additional MSCP and/or decked parking. On that basis it seems that 950 would be the maximum number of spaces that could be provided and a decked parking scheme on its own would yield fewer spaces given the need for additional circulatory space.
436. Clearly that number must be seen in the context of the 2,700 spaces that would be provided in the Silver Zone car park extension, and it seems doubtful that decked parking could provide the numbers of additional spaces that would remove the need for additional Green Belt parking. However, the Panel consider that it might be possible to provide some decked parking which could curtail the size of the Silver Zone car park extension, and this matter was not explored in detail by BAL.
437. Irrespective of the contribution that decked parking could play, BAL stated that this would not meet the need for low-cost parking. Although no costings or viability evidence is before the Panel, it is accepted that the cost of providing a MSCP or decked parking would be considerably more than the proposed surfaced level car parking. That then raises doubts as to whether the additional spaces created by any potential decked scheme would be offered as low-cost parking. There was discussion about possible subsidy from the airport's other operations, but it is not clear why a private body such as BAL would wish to do that. In any case, there has been no significant challenge to

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<sup>211</sup> See Appendix A to Mr Mellings Rebuttal PoE

<sup>212</sup> Option B



the conclusions of the PDS/PDSU that there is, and will continue to be, significant demand for low-cost parking.

438. Overall, the Panel has concerns with elements of BAL's reasoning for rejecting decked parking in the GBI. There is also the possibility that the BALPA's proposal could also contribute to a limited degree. This diminishes the arguments put by BAL for this as an 'other consideration' to some extent. However, it is clear that these options, even if taken together, would not meet the full need for low-cost parking in the Silver Zone car park and no realistic offsite alternatives have been put forward.

439. The third and final 'other consideration' is the need for, and benefits of, the growth of BA. The need has been largely dealt with under the forecasting section of this decision and the Panel are satisfied that there is a demonstrable need and demand for the proposed development. The socio-economic benefits are considered below.

## **Other Matters**

### ***Socio-Economics***

#### *Overview*

440. In light of national, regional and local policy there is a planning policy imperative to support airport growth in economic terms.

#### *BAL's Assessment*

441. BAL's assessment of the socio-economic benefits is contained within Chapter 7 of the ES which includes an EIR<sup>213</sup> and EIR Addendum.<sup>214</sup> These forecasts assess the quantitative and qualitative economic effects of the proposal against a 2018 baseline and set out the direct, indirect, induced and catalytic economic operational effects on jobs and Gross Value Added (GVA) and the transitory effects during construction.

442. The EIR Addendum concludes that the appeal proposal would bring significant additional economic benefits including:

- North Somerset – the economic footprint of the airport will be around £50 million larger in GVA terms and support around 530 additional jobs (430 FTEs). When wider benefits are also included this would increase to £70 million larger in GVA terms and support around 710 additional jobs (570 FTEs);
- West of England - the economic footprint of the airport will be around £100 million larger in GVA terms and support around 1,220 additional jobs (1,040 FTEs). When wider benefits are also included this would increase to £220 million larger in GVA terms and support around 2,460 additional jobs (2040 FTEs);
- South West & South Wales - the economic footprint of the airport will be around £150 million larger in GVA terms and support around 2,120 additional jobs (1,750 FTEs). When wider benefits are also included this

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<sup>213</sup> CD: 2.08

<sup>214</sup> CD: 2.22



would increase to £430 million larger in GVA terms and support around 5,560 additional jobs (4,470 FTEs).<sup>215</sup>

443. Based on the above, the impact of the proposed development in terms of employment and GVA is assessed as 'major' and 'beneficial' in EIA terms. Sensitivity testing has shown that the reported economic benefits would be delivered irrespective of the exact year the airport reaches 12 mppa.
444. At both the planning and appeal stages, one of the main challenges to the EIR/EIR Addendum has been the suggestion that BAL has overstated the scale of benefits associated with the scheme.
445. A central theme of NSC's case at the Inquiry was that the economic benefits of the development have been significantly over-stated and there would not be "significant" economic benefits as claimed. To support that argument, it raised four main concerns which are dealt with below.

#### *Business Travel Growth*

446. NSC allege that BAL has significantly over-estimated the benefits which are likely to arise in relation to business travel. The case being put by NSC and others is essentially that business travel is unlikely to grow at 3% per annum as indicated in the FR<sup>216</sup> due to attitudinal and technological changes. In response BAL pointed out that productivity benefits reflected in the forecasts do not assume an overall growth in the percentage of business passengers but rather assume that the current proportion of business traffic would be maintained.
447. The robustness of BAL's forecasts and the DfT elasticities on which the econometric modelling is predicated has been addressed earlier in this decision and it is not necessary to repeat those comments again here. The Panel is satisfied that the BAL's forecasts are fit for purpose.
448. While it is possible that business passenger growth might be less than BAL's forecasts, that does not make BAL's position unreasonable. Even if BAL has overstated the likely growth in business travel, that simply means the socio-economic benefits would be slightly less than those reported in the ES.

#### *Displacement*

449. Displacement is a concept that assumes that economic activity in one place takes it away from another location. For example, if economic activity or expansion does not happen at BA, it will happen elsewhere such as Cardiff Airport. According to BAL, considerations of displacement are primarily related to public sector spending decisions.
450. BAL's assessment of displacement is based upon outputs from the Logit Model which determines the likelihood of an individual using one airport over another, or not flying at all, based on a range of factors including generalised cost (cost plus time taken to access each airport), airfare, frequency and destinations served. NSC's concerns about the Logit model have been addressed elsewhere in this report and it is not necessary to repeat this. The Panel is satisfied that the Logit model provides a robust basis for understanding the displacement effects of the proposed development.

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<sup>215</sup> Table 3.4

<sup>216</sup> CD: 2.21

451. The EIR Addendum<sup>217</sup> contains an assessment of the displacement effects which vary depending on the area assessed. NSC produced their own report titled 'Bristol Airport Traffic Displacement Estimation in January 2020'.<sup>218</sup> While there are some small differences between BAL's forecast of displacement to other airports in the South West and South Wales<sup>219</sup> both assessments generally support the qualitative view expressed in the original EIR that the impact of displacement would be limited.
452. At the Inquiry NSC accepted that there is not a standardised approach to assessing the effects of displacement and there are inherent uncertainties associated with any assessment. It went on to raise concerns about the Logit model used in BAL's forecasts which have already been addressed under the Need and Forecasting section of this decision.
453. On a wider note, the Panel has some concerns with NSC's approach to displacement. At times during the Inquiry, NSC seemed to be almost advancing a case that economic development, including jobs for the residents of North Somerset, should be provided in other parts of the country, most notably at Cardiff Airport. That is an unusual position for a local authority to take because one of the primary objectives of the CS is to support and promote major employers such as BA.
454. Regarding the objection by the Welsh Government, there is no evidence to suggest that the development would have a significant adverse impact on Cardiff Airport or on Wales. The airports have different offers with BA already having a broader range of routes than Cardiff. There is no policy support in Build Back Better or anywhere else which favours the expansion of Cardiff Airport over Bristol. In any event, BA and Cardiff Airport are both located in the same 'level 2' priority areas for the purposes of 'levelling up' which does not support the argument that Cardiff is in an area of greater need.
455. NSC's submissions are also undermined by their acceptance that the economic benefits of any scheme could be reduced to the argument if it did not occur here then it would happen somewhere else. Moreover, there is no adequate explanation why NSC's approach to displacement in this case contrast with that taken in relation to other schemes in its area such as the J21 Enterprise Area. If NSC's approach were to be adopted more widely then very little economic development could ever take place outside the most deprived parts of the country. That is clearly not what is provided for in Build Back Better and the Government's levelling up agenda.

#### *Outbound Tourism*

456. NSC allege that BAL has failed to take account of the negative economic effect of outbound tourism.<sup>220</sup> However, paragraphs 3.45-3.63 of the EIR Addendum specifically deal with the matter and explain that the offsetting effect of outbound tourism in the original EIR "*recognised that the use of Bristol Airport by UK resident outbound travellers for leisure flying was likely to have some negative impact on economic activity in the study areas considered but that for a number of reasons this was unlikely to be material.*"

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<sup>217</sup> See paragraphs 3.26-3.34

<sup>218</sup> INQ/090

<sup>219</sup> According to BAL 28% of passengers in 2030 would be displaced to Cardiff, Exeter, Newquay and Bournemouth airports if capacity was capped at 10mppa. NSC estimate it would be 36%.

<sup>220</sup> Calculated as £123m per annum

457. BAL point out that outbound tourism has well established social and welfare benefits which are recognised by national aviation policy. At paragraph 1.16 the APF states *"the evidence available to us does not show that a decrease in the number of UK residents flying abroad for their holidays would have an overall benefit for the UK economy."* It goes on to say *"The Government believes that the chance to fly abroad also offers quality of life benefits including educational and skills development. Overall, the Government believes continuing to make UK tourism more attractive is a better approach both for residents and attracting new visitors."*
458. There have been no subsequent national policy statements and the above still represents the Government's position on outbound tourism. Accordingly, while there may well be some negative economic effects arising from an increase in outbound tourism, the Panel considers that this should be weighed against the social benefits of foreign travel.
459. Moreover, given that there is a demonstrable demand, then restricting BA to 10 mppa could simply result in passengers relocating to the next nearest airport meaning that the loss of consumer expenditure in the domestic economy from these outbound travellers would occur with or without expansion at BA.
460. For these reasons, the Panel is satisfied that when considered in the round, the effects of outbound tourism are unlikely to be significant.

#### *Cost Benefit Analysis*

461. NSC and others raised a number of concerns related to the Cost Benefit Analysis (CBA) contained in the EIR. However, it is important to recognise that the CBA was not used to inform the assessment of significance in the ES or ES Addendum.
462. Section 4 of the EIR Addendum included an updated CBA which, unlike the original assessment, included carbon costs. It concluded that the scheme would deliver net benefits of between £820 million and £863 million over the next 60 years, depending on whether offsetting of carbon emissions is included or not.
463. That assessment was not intended to be a WebTAG appraisal, and it remains BAL's case that it is not appropriate to include carbon values in the socio-economic CBA for the reasons set out in paragraphs 4.7-4.11 of the EIR Addendum. Having considered these submissions the Panel considers that the inclusion of carbon values in the CBA would result in an element of double counting. Moreover, as concluded elsewhere in this decision, the issue of carbon emissions is a matter to be dealt with at the national level.
464. It is notable that, following publication of the latest carbon values by the Department for Business, Energy and Industrial Affairs, BAL revisited the earlier assessments.<sup>221</sup> These concluded that there was still a strong net-positive benefit from the proposed development of between £502 million without offsetting and £600 million with offsetting.<sup>222</sup>

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<sup>221</sup> INQ/054

<sup>222</sup> INQ/074 Section 3

465. At the Inquiry a number of parties argued that BAL should have carried out a Greenbook or WebTAG assessment. However, as the relevant guidance<sup>223</sup> makes clear, the role of WebTAG is to appraise “*government interventions in the aviation industry*” with “*the main user of this guidance...expected to be DfT itself.*” The proposed development is a private sector investment and not a government policy intervention. The Panel is not aware that any of the other recent airport expansion schemes undertook a WebTAG assessment. Accordingly, the absence of a WebTAG assessment does not weigh significantly against the development.
466. In the Panel’s judgement, the CBA carried out by BAL is sufficiently robust to enable the broader socio-economic effects of the development to be understood.

#### *Conclusions on Socio-Economics*

467. The development would deliver substantial social and economic benefits, supporting national, regional and sub-regional economic growth and would conform with the Government’s levelling-up agenda. It would also assist in the recovery from the Covid-19 pandemic and would help to meet the UK’s global ambitions for increased international connectivity and trade following the UK’s departure from the EU.
468. The proposal would contribute substantially to the national policy approach, expressed in section 6 of the NPPF, the APF, the West of England Local Industrial Strategy/Local Enterprise Partnership Strategic Economic Plan, and the CS to promote and support a strong competitive economy and major employers in North Somerset. The Skills and Employment Plan would also ensure that the most deprived communities in the region benefit from development.
469. While some criticisms have been levelled at the EIR, the Panel is satisfied that it is fit for purpose and demonstrates, even taking into account the updated carbon values, that the development would deliver a substantial net-economic benefit for the region.
470. Given the importance attached to these matters in national and local planning policy, the Panel finds that the socio-economic benefits carry substantial weight in the planning balance.

#### ***Character and Appearance, including the AONB***

471. Chapter 9 of the ES<sup>224</sup> considers the effects of the development on landscape and visual amenity based on the findings of a Landscape and Visual Impact Assessment (LVIA) undertaken in accordance with a methodology agreed with NSC at the scoping stage. The LVIA concluded that the appeal scheme would only result in negligible impacts on the AONB on the basis that there is very little intervisibility between the AONB and BA, and that only a small proportion of flight paths are or would be routed over the AONB.<sup>225</sup>
472. While the landscape impact of the proposed development did not form part of the RfRs, it was an issue raised by NSC, Natural England and the AONB

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<sup>223</sup> CD: 11.5 Paras 1.1.1-1.1.3

<sup>224</sup> CD: 2.05.21

<sup>225</sup> See table 1 to Mr Furber PoE

Partnership at the application stage. The matters raised at that time were dealt with through BAL's Regulation 25 responses.<sup>226</sup> The Committee Report<sup>227</sup> considered the impacts of the scheme upon tranquillity, lighting, landscape character and setting, concluding that there would be no significant effects on the AONB.

473. As part of the appeal, XR Elders raised a number of concerns related to the visual impact of the scheme on the AONB which was described as significantly adverse.<sup>228</sup> XR Elders also alleged deficiencies with the LVIA namely that it did not follow relevant guidance, was not objective and that it underestimated the adverse effects on the AONB and its setting.
474. In response, BAL submitted further landscape evidence at the appeal stage.<sup>229</sup> That evidence highlights that the LVIA approach was not only agreed with NSC but also the AONB Planning Liaison Officer. Having reviewed the LVIA, the Panel are satisfied that it is compliant with established guidance<sup>230</sup> supplemented by references to the AONB Management Plan and provides an understanding of the special qualities of the AONB within the study area.
475. The evidence of XR Elders does not identify those aspects of the proposed development which would give rise to a significant adverse impact. Evidence in relation to levels of aircraft noise in the AONB, the number of additional vehicles on roads in or close to AONB, the lighting effects associated with the car parking, and their effects on the AONB was very limited. In light of these limitations, the Panel consider that BAL's detailed landscape evidence is to be preferred.
476. As part of our site visit of the wider area, the Panel visited a number of viewpoints on the northern edge of the AONB,<sup>231</sup> the nearest part of which is around 3km from BA. Based on our observations we consider that the physical changes proposed to BA as part of the appeal scheme would be imperceptible from the AONB. Accordingly, we find no reason to depart from Natural England's view that the degree of change is unlikely to result in significant impacts on views from the AONB.
477. Existing effects of BA upon the tranquillity of the AONB were also cited and concerns raised that such effects would be increased. The ES and ESA did not present an assessment of noise effects on tranquillity but this was considered in the Regulation 25 responses.<sup>232</sup> This found that the development would have only a marginal effect on noise levels over the AONB<sup>233</sup> due to the future use of quieter aircraft offsetting in part the increase in ATMs.
478. In light of the distance of the AONB from BA, increases in the amount of vehicular traffic routing through the AONB would be very small<sup>234</sup> and would not be distinguishable from existing traffic. The specific flight paths taken are limited to the northern extent of the AONB. While the Panel has found harm in terms of noise effects in general, in considering the above, we are satisfied that

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<sup>226</sup> See CDs: 3.04.06-3.04.08

<sup>227</sup> See pages 112-115

<sup>228</sup> See Ms Beth and Ms Tudor PoE

<sup>229</sup> See Mr Furber Rebuttal PoE and section 5.2 to Mr Melling Rebuttal PoE

<sup>230</sup> CD: 22.4 Guidelines for Landscape and Visual Impact Assessment 3

<sup>231</sup> INQ/026-0 points 53-55 on the site visit map

<sup>232</sup> Repeated in paragraph 2.5.6 of Mr Furber PoE

<sup>233</sup> 1dB LAeq,16h in the context of an absolute noise level in the region of 35 dB LAeq,16h;

<sup>234</sup> Typically, less than 5%

the increase in aircraft and traffic movements would not have a significant effect on the tranquillity of the AONB.

479. Additional lighting would be limited to that associated with the Cogloop parking proposals. When viewed from the south, the area of new lighting would be relatively small and would be seen against the backdrop of the substantial area of lighting at BA. An outline lighting strategy<sup>235</sup> was submitted with the application demonstrating how the scheme could comply with the AONB Position Statement covering Dark Night Skies and Light Pollution.<sup>236</sup> A condition is recommended that would capture the recommendations of that strategy.
480. Based on the foregoing, the Panel is satisfied that the appeal scheme would not result in any significant landscape or visual effects. Consequently, there would be no breach of the duty contained in section 85 of the Countryside and Rights of Way Act 2000 which requires decision makers to have “*regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.*” Insofar as they relate to the AONB and landscape, the Panel finds no conflict with CS Policies CS1, CS3, CS5, CS6, CS10, CS23 and CS26 or DMP Policies DM10, DM11, DM12, DM24 and DM50.

### **Biodiversity**

481. The proposed development would result in a loss of 3.7 ha of agricultural land to allow the expansion of the Silver Zone car park (Cogloop 2) and a small area (0.16 ha) of woodland edge in order for the A38 improvement works to be delivered.
482. These two areas are outside of, but relatively close to, the North Somerset and Mendip Bats SAC. SAC’s are designated for a number of reasons, including the fact that they contain habitats or species that warrant protection. In this case the SAC was designated because of the presence of Lesser and Greater Horseshoe Bats.
483. There is no dispute, based in part on evidence gained from surveys, that the two areas provide foraging land for bats. They are therefore functionally linked to the SAC.
484. The conservation objectives for the SAC include the need for the integrity of the site to be maintained or restored as appropriate, in relation to the habitats of qualifying species. The conservation objectives therefore seek to ensure that habitats for horseshoe bats are maintained, and this applies to habitat used by foraging bats outside the SAC. In particular, the Cogloop 2 site is considered to provide foraging habitat needed to maintain the favourable conservation status of the SAC.
485. In January 2018, NSC adopted the North Somerset and Mendip Bats Special Area of Conservation Guidance on Development: SPD.<sup>237</sup> Amongst other matters, this set up a Bat Consultation Zone.
486. Both areas of land are situated outside the boundary of the SAC, but within the ‘consultation zone’ (bands B and C). These are defined largely in relation

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<sup>235</sup> CD: 2.15.1

<sup>236</sup> CD: 22.1

<sup>237</sup> CD: 5.17



to distance from maternity roosts in the SAC and are indicative of the likely density of the horseshoe species. They reflect the likely importance of the habitat. The Cogloop 2 site is located within band B and the A38 land is within band C. The SPD requires that development proposals within bands B and C meet certain survey requirements and, as greater and lesser horseshoe bats are likely to be affected, there is a requirement that mitigation is secured to avoid adverse effects on the integrity of the SAC. Where existing habitats or features of value to bats cannot be retained as part of the development proposals, the SPD requires the provision of replacement habitat.

487. The effect of the proposal has been assessed in a number of places. Particularly in the ES<sup>238</sup> and in further notes by BAL to NSC.<sup>239</sup> NSC officers carried out an appropriate assessment informed by the information provided by BAL. This matter did not form a reason for refusal. No party opposed to the overall proposal has presented contrary evidence and the only evidence in proofs to the Inquiry was the undisputed Technical Note presented by BAL.<sup>240</sup>
488. The proposal is to provide land as replacement habitat in exchange for the functionally linked land in bands B and C, thereby avoiding any impact on the SAC itself. This would be a protective mitigation measure which is part of the proposal, intended to avoid or reduce any adverse effects so as to ensure that the project does not adversely affect the integrity of the SAC. This replacement land, which would be controlled by conditions, would be provided in advance of any works being carried out that would affect existing foraging land.
489. The evidence is that there are options for the provision of a larger area of replacement habitat which would fulfil the SPD replacement criteria.<sup>241</sup> On the basis of the evidence, it is sufficiently certain that the replacement land would make an effective contribution to avoiding harm, guaranteeing beyond reasonable doubt that the project would not adversely affect the integrity of the SAC.
490. Before concluding on this matter, the legal status of the proposed replacement land was raised, most particularly by PCAA (notwithstanding the fact that they did not put forward any evidence on biodiversity). The issue is whether the proposed replacement foraging habitat is 'mitigation' or 'compensation'. The only expert ecological evidence, that presented by BAL, is that the proposed replacement foraging land meets the test for 'mitigation'. This was also the position agreed by NSC officers and Natural England. There is no contrary expert evidence.
491. The argument put by PCAA is that the replacement foraging land is not 'mitigation', but 'compensation'. This is on the basis that it is not intended to avoid or limit harm to an acceptable level, but is intended to replace 'significant' bat habitat, which would be destroyed by the proposal. If that were the case it was argued that planning permission could not be granted. However, the case law cited by PCAA<sup>242</sup> related to proposals within European sites – which were therefore directly affected by development. The measures proposed in those cases would replace directly lost habitat and were

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<sup>238</sup> CD: 2.0.01 and CD 2.05.27

<sup>239</sup> CD: 3.06.04-06

<sup>240</sup> Mr Melling PoE Appendix B

<sup>241</sup> Mr Melling PoE Appendix B, 1.1.26 onwards

<sup>242</sup> Briels and Others (C-521/12, EU:C:2014:330); Grace and Sweetman v An Bord Pleanala (C-164/17)



'compensation'. This is in contrast with the measures currently proposed which are 'mitigation' aimed at reducing or eliminating the effect of the proposal.

492. Overall, the impact on the functionally linked habitat is small in comparison to the overall availability of the functional habitat (as shown in the SPD) and the proposed mitigation would at least counter the impact. The Panel has considered the potential for likely significant effects on the qualifying features of the SAC. Taking account of the potential for adverse effects on integrity and the mitigation proposed, it can be concluded that there would be no adverse effect on the integrity of the SAC.

### ***Health Impact Assessment***

493. The ES/ESA provided a HIA which relates to health impacts in the round on the population, including on vulnerable communities. As previously stated, noise effects were factored into this assessment, as were the mitigation proposals. The ES/ESA concluded that, in respect of noise, the effects would not be significant. This was similar for air quality effects. Socio-economic factors were also considered with the HIA, concluding that there would be an overall beneficial impact on population health due to those factors.

494. In specific regard to the HIA, the expert witnesses for NSC raised concern regarding cardiovascular impacts from noise effects and non-threshold effects from air pollutants, as well as general concerns regarding the interrelated/in-combination health effects.

495. The HIA presents a high-level assessment of effects which fed into the Panel's reasoning on health and wellbeing whereby harm has been found in respect of noise, but not in respect of air quality. In both instances, the broad nature of the assessment has not impeded the Panel's ability to form reasoned judgements on affected communities. The HIA did not look at the AGQ as this was published afterwards, but the separate written representations from parties<sup>243</sup> have all been considered in reaching our conclusions on this topic.

496. It should also be noted that the socio-economic benefits have also been fully examined by the Panel and given substantial weight in favour. The conclusions found on all these issues will be factored into the planning balance.

497. The Panel are thus content that the HIA is robust in its general approach. This is in accordance with CS Policy CS26 which requires the submission of a HIA.

### ***Public Sector Equality Duty***

498. Section 149 of The Equalities Act 2010 established the Public Sector Equality Duty (PSED) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not.

499. Submissions were made by interested parties that the climate change effects of the proposed development would result in disproportionate effects on groups with protected characteristics, including disabled people, and would result in the creation of new disabled people due to the health impacts relating to the

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<sup>243</sup> INQ/086, INQ/093, INQ/095-097

growth of respiratory diseases. It was also stated that disabled people would be proportionally less likely to benefit from the airport expansion as statistics were cited to show that they are not frequent flyers.

500. The Panel notes the concerns raised in respect of this matter and accepts that protected groups are likely to be proportionally more disadvantaged by the adverse effects of airport growth than non-protected groups. This would be due to interrelated effects such as access in emergencies, or food and fuel poverty. It is also acknowledged that those with protected characteristics are less likely to benefit from the increased opportunities that airport expansion would offer, including foreign travel.
501. However, Government policy supports the growth of, and making best use of existing airports. As previously discussed, climate change is a serious issue but the aviation emissions arising from this development are not so significant as to have a material impact on the Government's ability to meet its targets and budgets. As an issue which is subject to national targets, the effects of climate change upon protected groups would be subject to equalities impact assessments at the national level when future policy changes or targets are introduced.
502. In addition, the HIA is considered to be robust in presenting a high-level assessment of potential health impacts of the development. The Panel have found no harm in respect of air quality matters.
503. There are also likely to be future measures (through legislation, targets, policy changes and technological advances) which would reduce climate and air emissions in the longer term. The conditions included in this permission also address these matters to the extent that they can in the context of this appeal.
504. Accordingly, and taking a proportionate approach, the Panel consider that equality implications are addressed, insofar as health and air quality are concerned. In respect of climate change, the disproportionate effects would be experienced at a national level and in light of the Panel's findings on this topic, any such implications would be considered broadly as a national matter.

### ***Prematurity***

505. NSC state that granting permission would prejudice the formulation of national aviation policy by predetermining issues that are central to it, particularly relating to climate change.
506. As discussed above, national climate change policy is being consulted upon, and future changes have been considered in terms of emissions as well as for other environmental targets. However, the conclusions reached by the Panel are set against current relevant policy.
507. In terms of aviation policy, the Government is clear that this is to be given full weight and that decisions should be made taking account of all relevant considerations (including economic and environmental impacts). Accordingly, there is no justification to withhold consent based on prematurity or adopting a precautionary position and dismissing the appeal on this basis.
508. In addition, much local concern was raised regarding a lack of a specific Development Plan Document for BA. The publication, consultation and adoption of any such future document would represent a positive step,

particularly as part of a plan-led system, and would assist in community relations. However, the absence of such a document at this stage does not preclude expansion plans which have been considered against the relevant existing development plan policies.

### ***Expansion at other Airports***

509. A number of other airports have recently secured approval or been the subject of a resolution to grant planning permission for expansion. This includes an appeal allowed at Stansted<sup>244</sup> and more recently, the Council resolving to approve the expansion of Luton Airport,<sup>245</sup> subject to conditions and a legal agreement. The Panel understands that the decision to expand Southampton Airport is subject to judicial review and that the Secretary of State has called-in an application at Leeds Bradford airport.
510. The Panel are aware of such schemes, and indeed have made reference to the Stansted decision and the legal challenge at Southampton. This addresses specific issues raised by parties, as well as dealing with cumulative impacts of airport expansion in the climate change section. However, it is important to note that each decision is taken on its own merits. These decisions/resolutions have not been relied upon in any significant way, nor have they influenced the overall outcome. We have reached our own conclusions based upon the detailed and extensive evidence before us.

### ***'Salami Slicing'***

511. A recurring objection to the appeal scheme has been the belief by some that BAL has deliberately chosen to submit multiple planning applications for incremental growth at BA rather than a single application for an increase to 20 mppa which is said to be the long-term aspiration. This tactic was referred to several times as 'salami-slicing' and has the alleged benefit of downplaying the environmental impact of growth at BA.
512. However, the EIA Regulations require applicants to carry out cumulative and in-combination assessments as part of the ES. There has been no suggestion that BAL's assessments in this regard were flawed. BAL's aspiration to grow beyond 12 mppa is not currently subject to published plans, local plan allocations or any other details that could reasonably be considered at this stage.
513. The planning system does not prevent applicants from applying for phased growth and planning applications must be decided on their merits. Furthermore, a decision on one planning application does not pre-determine the outcome of future planning applications.
514. Finally, as evidenced by the approach to other airport expansion schemes,<sup>246</sup> there is a commercial reality to the argument that airports will tend to grow incrementally as opposed to taking the risk associated with a larger expansion scheme.

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<sup>244</sup> CD: 6.13 and INQ/094

<sup>245</sup> Consultation responses on this are contained at INQ/131-134.

<sup>246</sup> Stanstead, Luton and Leeds/Bradford

## Conditions

515. The NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Paragraph 56 states that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
516. Discussions between the main parties took place throughout the Inquiry with the aim of agreeing a list of conditions. The Panel sought to aid those discussions by setting out its provisional thoughts in relation to some of the areas of disagreement. Rule 6 parties also provided comments at various points. While the majority of conditions were agreed between the main parties, disagreement remained in some areas at the close of the Inquiry and it was disappointing that the Panel were presented with two sets of conditions, one from NSC<sup>247</sup> and another from BAL<sup>248</sup> particularly given the technical, complex and lengthy nature of these matters.
517. Most of the disagreements have already been dealt with in the main body of this decision and there is no reason to repeat those findings again here. In some instances, the Panel have amended the conditions in the interests of brevity and to ensure compliance with the PPG. Due to the technical nature of the conditions, a list of definitions is provided at the end of the schedule, for clarity.
518. Conditions 1-4 are standard conditions for hybrid planning permissions and are necessary in the interests of certainty, to specify the plans approved and the time limits with which the development must accord. Condition 5 is necessary to clarify the terms of the planning permission and to ensure that the development and associated effects do not exceed those assessed in the ES.
519. Condition 6 is necessary to ensure the additional parking is brought forward in line with demand and does not undermine the agreed PTMS target. The UU<sup>249</sup> sets out phasing of the parking and would require BAL to deliver MSCP 2 and the year round use of Cogloop 1 ahead of any extension to the Silver Zone car park. NSC proposed an alternative condition to bring forward MSCP 3 ahead of the Silver Zone extension, but the Panel prefer the flexibility afforded by the 'Monitor and Manage' approach, which would require the Council's approval in stages and which would be evidence based.
520. A Construction Environmental Management Plan (condition 7) is necessary to mitigate the impact of construction activity on local residents and ecology. Condition 8 relates to the AQAP, the need for which has been already discussed. The condition suggested by NSC seeks improvements, however based on our findings, this is not reasonable and as such the Panel have adopted BAL's suggested wording. For similar reasons, we have imposed BAL's

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<sup>247</sup> INQ/112

<sup>248</sup> INQ/114

<sup>249</sup> Schedule 1, Part 2, Para 4.

suggested condition requiring the submission and approval of a CCCAP (condition 9).

521. Conditions 10 and 11 are necessary to encourage the decarbonisation of road transport and to assist the move to a low carbon future. Conditions 12-18 covering, amongst other things, slot coordination, ATM limits, noise contours and night-time flying are discussed in more detail in the Noise section of this decision but are considered necessary to protect the living conditions of local residents. In respect of the ATM cap, for reasons discussed, this has been imposed, however the condition has been simplified to remove the daily cap. The daily cap would go beyond what is reasonably necessary when imposing an ATM limit and the figures included also appear to conflict with condition 17 restricting overnight ATMs to 4,000.
522. As previously discussed, the continued restriction of the use of APU's at stands 37 and 38 is necessary due to noise effects. This restriction is secured by the existing extant consent. The suggested conditions limiting their use only at nighttime is thus not included and the restriction remains in place. Condition 19 is necessary in the interests of highway safety and capacity. The Panel has however amended the wording to ensure there is sufficient flexibility at the detailed design stage to resolve any outstanding minor design issues.
523. Conditions 20 and 21 are necessary to ensure the satisfactory appearance of the proposed areas of landscaping. Condition 22 is necessary to ensure that any tree loss is minimised. Conditions 23-26 are necessary to mitigate the impact of development on local ecology including protected species. Conditions 27-29 are concerned with contaminated land and are necessary to ensure the land is suitable for its intended use. Conditions 30-34 are necessary in the interests of flood prevention and to ensure the site is drained satisfactorily and sustainably. Conditions 35 and 36 are necessary to ensure the development is constructed to high environmental standards. As condition 36 requires details of the measures to be agreed, the Panel do not consider that a separate condition is necessary (condition 38 on NSC's list).
524. An Annual Monitoring Report under condition 37 is necessary to enable NSC to monitor BA's operational activities. The time period for reporting was disputed between parties with BAL wanting a 5-month period in order to align with their operational reporting requirements. However, a 5-month period is excessive given that the purpose of the monitoring is to inform the delivery of specific obligations and measures and for enforceability. BAL also offered no justification as to why their consultative committee dates cannot be amended to better align with the reporting requirements.
525. Condition 38 is necessary to safeguard the openness of the Green Belt. Condition 39 is necessary to ensure the satisfactory appearance of the terminal extensions. NSC have suggested a condition (No. 43 on their list) which would prohibit BAL from exceeding 10 mppa and bringing any additional car parking into use until the A38 improvements works are completed. However, there is nothing in the wording of condition 19 that would preclude the highway works being delivered at this time provided this was agreed between the parties. The evidence supporting the condition is scant and in particular there is nothing from NSC to challenge the various assessments undertaken by BAL and presented in the TA, WCHAR and RSA. The Panel also consider the requirement to deliver the scheme at anything over 10 mppa to be

unreasonable and disproportionate. It is also unclear why the highway works need to be linked to car parking. For these reasons, the Panel have not imposed the suggested condition. The suggested condition regarding M5 J22 has been omitted for the reasons set out in the Surface Access section of this decision.

526. Conditions 7, 20, 23, 27, 30 and 34 are pre-commencement conditions and require certain actions before the commencement of development. In all cases the conditions were agreed by BAL and address matters that need to be resolved before construction begins.

### **Planning Obligations**

527. A number of planning obligations are contained within the S106 and UU which have to be assessed in light of the CIL Regulations 2010 and NPPF paragraph 57 which state that planning obligations must only be sought where they meet the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

528. During the course of the Inquiry, it became apparent that NSC and BAL would be unable to reach agreement on all aspects of the S106. NSC proposed that a S106 could be drafted with a 'blue pencil' clause. However, BAL expressed concerns that this would make the agreement extremely difficult to follow and monitor post-consent. As a result, the Panel confirmed that it was content for a UU containing the unagreed obligations, to sit alongside the S106.

529. CIL Compliance Statements were submitted by NSC to support the obligations contained in the S106<sup>250</sup> and by BAL in respect of the UU.<sup>251</sup> Paragraph 4.5 of the S106 and paragraph 4.2 of the UU contain a 'blue-pencil' clause which provides that if this decision letter concludes that any provision of the agreement is incompatible with any one of the statutory tests then the relevant obligation shall cease to have effect.

### *S106 Agreement*

530. The S106 contains five schedules. The first deals with the 10mppa permission, the second with transport and travel, the third with the A38 highway works, the fourth with environmental matters such as air quality, noise and the Skills and Employment Plan and the fifth with contributions to NSC.

#### *Schedules 2& 3 - Transport and Travel*

531. Schedule 2 contains obligations in respect of the establishment of a Surface Access Steering Group and Public Transport Improvement Fund, the BA Travel Forum, PTMS rebasing methodology and new public transport services, the Metrobus, a Workplace Travel Plan, a review of drop off zone charges, parking controls, traffic monitoring, a contribution to the Highways Improvement Fund,

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<sup>250</sup> INQ/113

<sup>251</sup> INQ/119



a feasibility study for the A370/Southern Bristol Link (SBL) junction and the PTI.

532. Other than where stated below, the Panel is satisfied that these obligations are necessary to ensure the promotion of sustainable forms of transport consistent with the PTMS target contained in the ASAS.

533. The obligations contained in Schedule 3 relating to the A38 highway improvement works are considered necessary to ensure the efficient and timely delivery of the works to mitigate the impact of the development.

*Schedule 4 – Environmental and Social*

534. The environmental obligations contained in Schedule 4, which include air quality monitoring and reporting, a revised Noise Control Scheme and a Ground Noise Management Strategy. These have been discussed elsewhere in this report and are considered to meet the relevant statutory tests.

535. A Skills and Employment Plan, aimed at achieving the delivery of employment opportunities for residents of North Somerset and adjoining areas, is necessary to maximise the socio-economic benefits of the development. This obligation is therefore considered to meet the relevant statutory tests.

*Schedule 5 - Contributions*

536. Schedule 5 contains the following contributions that are to be paid to NSC:

- A Public Transport Fund of £875,000 to be made available to the Surface Access Steering Group for public transport improvements;
- A Metrobus Contribution of £500,000 to provide a fund for measures identified in the Metrobus Service Integration and Network Improvements feasibility study;
- A West of England Combined Authority Mobility as a Service Platform contribution of £50,000 would be spent on Demand Responsive Transport Services in the local area;
- An Airport Environmental and Amenity Improvement Fund contribution of £100,000 would be used for the purposes of mitigation to address unforeseen adverse environmental impacts or adverse impacts on the amenity of the local community arising from the development.

537. The Panel are satisfied that the above contributions are necessary for the promotion of public transport and/or the resolution of environmental impacts and meet the relevant tests. The Panel is, however, not satisfied with the following contributions:

- The traffic monitoring obligation would require BAL to carry out periodic traffic surveys at various locations around the airport<sup>252</sup>. These surveys would be used by the Surface Access Steering Group to inform decisions on potential road improvements which would be funded by a highway improvement fund of £200,000. The problem with these obligations is that they seem to undercut the significant body of transport work that was submitted and agreed with NSC at the application stage. BAL has

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<sup>252</sup> See part 6 of Schedule 2.



already identified the traffic impact of the development and the Panel has found no credible evidence to suggest that this work was anything other than robust. Accordingly, a requirement for further monitoring and mitigation would be unnecessary to make the development acceptable. The traffic monitoring and highway improvement fund obligation does not therefore meet the statutory tests.

- Part 5 contains an obligation requiring BAL to pay a sum of £50,000 to NSC to enable it to carry out a feasibility study for the A370/SBL junction. However, the need for this is unclear since the TA specifically examined the impact of the development at this junction (J8) and concluded that the traffic impact of the development did not warrant any further analysis of the junction<sup>253</sup>. No evidence has been adduced to the Inquiry which would lead the Panel to conclude differently. Accordingly, it is not clear on what basis the contribution is sought bearing in mind our previous comments about the robustness of BAL's transport work. The Panel therefore conclude that this obligation does not meet the statutory tests.
- According to NSC, a parking control contribution of £225,000 would be spent on additional monitoring and other work streams related to the expansion of BA and would include targeted parking restrictions where harmful impacts are identified including the creation of a 5-year parking and enforcement officer post at NSC. However, there was no suggestion from NSC that insufficient parking is being proposed as part of the proposed development. Indeed, at the Inquiry it was NSC's general position that too much parking was being proposed. That being the case, the Panel can see little justification for concluding that the development will give rise to additional work on the part of its parking enforcement team. Accordingly, the Panel find the contribution would not meet the relevant tests.

### *Unilateral Undertaking*

#### *Schedule 1 – Transport and Travel*

538. Schedule 1 of the UU contains various obligations related to transport and travel which are intended to achieve the 2.5% PTMS. Schedule 1 also contains obligations in respect of parking and the A38 highway works.

539. While there is general agreement on the need for a replacement/updated ASAS<sup>254</sup>, the exact requirements and wording of the obligation were a matter of some discussion at the Inquiry. Although BAL stated that "*the approach and methodology associated with the Replacement ASAS is agreed*", NSC raised several concerns in its closing Statement.<sup>255</sup> The first is that the wording of paragraph 2.2 does not require approval of the ASAS by NSC. However, it is important to note that the wording of the obligation is consistent with the S106 attached to the 10 mppa permission<sup>256</sup> which similarly required BAL to provide the ASAS to NSC. On that basis and given that no compelling reasons have been given to explain why NSC would now need to approve the ASAS, the Panel is satisfied with the wording in paragraph 2.2.

<sup>253</sup> See TA paragraph 10.3.5

<sup>254</sup> Schedule 1, Part 2 paras 2.1-2.3.3

<sup>255</sup> See Annex B

<sup>256</sup> CD: 4.02.2 Part 1 Obligations

540. The Panel is not persuaded that the wording of paragraph 2.3.3(b) is open to abuse as has been suggested. Read in a fair-minded way, the obligation is clear when the 2.5% PTMS target is to be achieved. While reference to the calendar year might have served to put the matter beyond doubt, it is not unreasonable to assume that this is what the obligation intends.
541. It is not necessary to rehearse the arguments in relation to the PTMS or the Key Performance Indicators as the Panel have already addressed these matters and are content with the approach.
542. NSC also criticised the 18-month period for the delivery of improvements to the Weston Flyer bus service. However, the wording in paragraph 2.3.5(c) does not preclude an earlier delivery date. In light of current uncertainties about the scope of works necessary to deliver the improvements, the Panel is satisfied with the obligation.
543. The final area of dispute relates to those obligations which deal with the Metrobus Service Integration scheme.<sup>257</sup> Like the Weston Flyer improvements, the obligations involve the production of a feasibility study into the integration of the A1 Bristol Flyer service with the Metrobus network and then the implementation of improvements. The issue at hand is how the service improvements are funded. Paragraph 2.3.5(g) sets a funding cap of £200,000 on the improvements which would be derived from the Public Transport Fund/Public Transport Improvement Fund.
544. According to NSC that amount is not sufficient<sup>258</sup> and more funding would be required to fund the Flyer Shuttle improvements in the longer-term. Because of this, the funding available to other public transport improvement measures would be restricted. BAL have criticised NSC's costings which it points out have not been validated and incorrectly contains gross vehicle purchase costs.
545. Irrespective of the costings, BAL through the S106, is undeniably committing a considerable sum of money to the improvement of public transport services.<sup>259</sup> The Panel consider that decisions about how and when that money is best spent would be a matter for the Surface Access Steering Group at the appropriate time informed by amongst other things, the feasibility studies and periodic reviews of the measures. Importantly, the wording in the UU does not preclude the continuation of the improved Flyer Shuttle service beyond the initial 24-month trial period.<sup>260</sup> This would be a decision for the Surface Access Steering Group once it had reviewed the scheme at the end of the trial period. If at that time further financial support was required, this would come from the Public Transport Fund/Public Transport Improvement Fund.
546. Despite that, the principle of a cap seems a sensible one. It would not be reasonable or proportionate to expect BAL to enter into an uncapped or unconditional funding arrangement. Nor would it be prudent to keep pumping money into a scheme that could be failing to stand on its own feet in a commercial sense or failing to deliver the desired results. £200,000 represents an appropriate sum of money to fund the 24-month trial after which there must

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<sup>257</sup> UU paragraph 2.3.5(e)

<sup>258</sup> Costings were presented in NSC's Closing Submissions suggesting that circa £2.4m would be required to fund the scheme for an 11-year period.

<sup>259</sup> £1.375m

<sup>260</sup> See UU paragraph 3.1

be a legitimate expectation that the service improvements would become self-funding.

547. The term “subject to a positive outcome from the feasibility study” is not in our view vague or unenforceable as has been suggested. Interpreted in a straightforward way, ‘positive outcome’ means that the improvements can be demonstrated to be ‘feasible’ i.e. done easily or conveniently and are likely to contribute to the aims of the ASAS. Overall, the ASAS, and associated obligations accord with CS Policies CS1, CS10 and CS23, Policies DMP DM50 and DM54 as well as the NPPF and APF in that as they promote sustainable travel and surface access improvements.

548. Obligations related to the phased approach to additional parking delivery<sup>261</sup> are necessary to ensure that additional parking is brought forward in a flexible manner that responds to demand. For the avoidance of doubt, the obligation would require BA to deliver MSCP 2 and the year round use of Cogloop 1 ahead of any extension to the Silver Zone Car Park (Cogloop 2) and MSCP 3.

#### *Schedule 2 – Noise Mitigation Scheme*

549. The noise mitigation scheme has been discussed in depth. Shortcomings in the scheme have been identified, in terms of the funding and scheme parameters, and a planning judgement made on that basis. However, in so far as the obligations seek to provide funding for properties above SOAEL in the L<sub>Aeq</sub> contours, the obligations contained here would meet the relevant tests.

550. Overall, the Panel is satisfied that the obligations contained in the UU meet the statutory tests.

### **Planning Balance and Very Special Circumstances**

551. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF advises that, under the presumption of sustainable development, decisions which accord with up-to-date policies should be approved without delay.

552. The Panel has found that there is a demonstrable need for the proposed development and that, flowing from this, the socio-economic benefits of the scheme would weigh substantially in its favour. National aviation policy contained within APF and MBU also provides high level and strong policy support for airport expansion in general. Development plan policies CS23 and DM50 provide positive support for the growth and development of BA. Airport expansion is also supported at a regional level.

553. However, all of these provide support conditionally in relation to environmental effects. For the reasons explained above, the Panel have found conflict with the development plan in respect of noise effects and the Panel recognise the harmful effect this would have on the amenity and health of some local residents.

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<sup>261</sup> Schedule 1, Part 2, Para 4

554. Other environmental effects have been assessed, including climate change, highways matters,<sup>262</sup> air quality, as well as character and appearance (and the AONB), and biodiversity. These are considered to be neutral in the balance as no material harm was found, nor conflict with relevant development plan policies or other broader national policy objectives.
555. Accordingly, while there is some conflict with CS23, DM50 and the regional and national policy in specific respect of noise, taking a broad view, the proposed development is largely in compliance with these development plan policies and documents. This is in terms of positive growth benefits and against the range of potential environmental effects.
556. Part of the development proposed is also in the Green Belt and the Panel have found that the development would harm the Green Belt due to inappropriateness, loss of openness and conflict with the Green Belt purposes. There would also be conflict with the development plan in this regard. The NPPF requires substantial weight to be given to any harm to the Green Belt.
557. The determination of whether very special circumstances exist is a matter of planning judgement based on a consideration of all relevant matters. However, very special circumstances cannot exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
558. In addition to the need and socio-economic benefits, other considerations relating to the need for additional parking and a lack of alternative sites outside of the Green Belt have been assessed. While the case may be somewhat moderated given the Panel's findings in respect of the assessment of decked parking and staff car parking, there remains a demonstrable need to provide car parking which cannot fully be accommodated outside of the Green Belt.
559. The Panel have also considered matters relating to prematurity, other airport expansion, 'salami slicing', general health and the PSED which are matters which do not fundamentally alter our conclusions on the main issues.
560. There was, and remains, a significant level of opposition to the proposed scheme. Objections were made at a local, regional, national and international level. We realise that our decision will come as a major disappointment to those people who spoke passionately in opposition to the proposal. In coming to our decision, the protests of individuals, communities, Members of Parliament, action groups, technical experts and others were fully heard and carefully considered by the Panel.
561. Taking the above together, the Panel consider that the benefits arising from the proposed development are as such that they would clearly outweigh the harm to Green Belt and the harm to noise, so as to amount to very special circumstances. The Green Belt tests in the NPPF and CS Policy CS6 and DMP Policy DM12 are thus met.

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<sup>262</sup> Including surface access, sustainable transport objectives, the highway network, highway safety and parking provision

**Conclusion**

562. Despite the harms identified and taking account of all other considerations, the Panel concludes that the balance falls in favour of the grant of planning permission.

563. For the reasons given above, and having regard to all matters raised, the Panel conclude that the appeal should be allowed.

*P. J. G. Ware*  
Lead Inspector

*C. Searson*  
Inspector

*D. M. Young*  
Inspector

## **SCHEDULE OF CONDITIONS**

- 1) Any application for the approval of reserved matters made pursuant to this planning permission shall be made to the Local Planning Authority before the expiration of 5 years from the date of this permission.
- 2) The development hereby permitted shall be begun, either before the expiration of 5 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last reserved matter to be approved for that element or phase of the development, whichever is the later
- 3) The development is approved in accordance with the documents submitted with the application and the plans set out below. Those reserved matters approved to date shall be carried out in accordance with the approved plans.

### Drawings

- 17090-00-100-400 Location Plan
- 17090-00-100-401 Composite Site Plan
- 17090-00-100-402 Site Reference Plan
- 17090-00-100-407 Proposed Site Plan
- 17090-00-100-408 Proposed Site Plan - North
- 17090-00-100-409 Proposed Site Plan - Central
- 17090-00-100-410 Proposed Site Plan - South
- 17090-00-100-411\_02 Permitted Development Rights Reference Site Plan
- 17090-00-200-401\_0 Ground Floor Plan – Proposed
- 17090-10-200-401\_00 First Floor Plan- Proposed
- 17090--10-200-401\_00 Basement Floor Plan-Proposed
- 17090-20-200-401\_00 Mezzanine Floor Plan-Proposed
- 17090-ZZ-125-401\_00 Roof Plan – Proposed
- 17090-ZZ-300-401\_00 South Terminal Extension & B1, B2 and B3 – Proposed Elevations (Sheet 1 of 2)
- 17090-ZZ-300-403\_00 South Terminal Extension & B1, B2 and B3 – Proposed Elevations (Sheet 2 of 2)
- 17090-ZZ-300-405\_00 West Terminal Extension – Proposed Elevations
- 17090-ZZ-300-407\_00 Terminal Canopies – Proposed Elevations
- 40506-Bri075c Integrated/embedded Landscape, Visual and Ecology Mitigation Masterplan
- C1124-SK-A38-010 Rev 11 (A38 Junction Improvements – Option 10)
- C1124-SK-A38-011 Rev 1.0 (A38 Junction Improvements – Vehicle Track Analysis Sheet 1 of 3)
- C1124-SK-A38-012 Rev 1.0 (A38 Junction Improvements – Vehicle Track Analysis Sheet 2 of 3)
- C1124-SK-A38-013 Rev 1.0 (A38 Junction Improvements – Vehicle Track Analysis Sheet 3 of 3)

### Other Documents

- ES Addendum Volume 1: Main Report November 2020
  - ES Addendum Volume 2: Technical Appendices (including appendices 1A, 1B, 1C, 5A, 6A, 6B, 7A, 7B, 10A, 10B and 10C) November 2020
  - ES Addendum Volume 3: Non-Technical Summary November 2020
  - Economic Impact Assessment Addendum November 2020
  - Environmental Statement Volume 1 (including Flood Risk Assessment) – December 2018
  - Environmental Statement Volume 2 December 2018
  - Environmental Statement Non-Technical Summary December 2018
  - Design and Access Statement – December 2018
  - Economic Impact Assessment – November 2018
  - Transport Assessment – December 2018
  - Foul and Surface Water Drainage Strategy – December 2018
  - Lighting Impact Assessment – December 2018
  - BREEAM Pre-Assessment – November 2018
  - Response to Request for Further Information Pursuant to Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 - April 2019
  - Response to Request for Further Information Pursuant to Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 - October 2019
  - Response to North Somerset Council Highways and Transport Comments – December 2019
  - Response to Further Environment Agency Comments – December 2019.
- 4) Details of the outstanding Reserved Matters for those components set out in Table 1.1 of the 'Planning Statement' dated December 2018, shall be submitted to and agreed in writing by the Local Planning Authority before that component is constructed. Each component shall be carried out in accordance with the approved details for that component.
- 5) The total passenger throughput at Bristol Airport shall not exceed 12 million passengers per annum to be taken from 1 January to 31 December in any calendar year. Total passengers shall include all passengers resulting from arrival and departure flights. The airport operator shall, within 12 months of the date of the planning permission, provide details to the Local Planning Authority for its approval which sets out how it will establish total passenger number and the steps it will take to ensure that no more than 12 mppa throughput will occur and steps that it will take to remedy any such breach. Once approved, those details shall be implemented and retained until superseded by any subsequently approved details.
- 6) Within 12 months of commencement of development and annually thereafter a 'Parking Demand and Capacity Report' shall be submitted to and agreed in writing by the Local Planning Authority. The report will include:
- a) A review of parking demand in the previous 12 months both overall and by product type (including drop-off), including identifying the



peak periods of demand, the length of stay and when demand is at or exceeds 95% of existing capacity for more than 4 weeks

- b) A review of parking capacity on-site, including a projection for the next 12 months;
- c) A review of passenger throughput in the previous 12 months and average percentage growth;
- d) Engaging with NSC to provide a review of parking capacity off-site, including an aerial survey in the month of September;
- e) Identification of any other proposals for airport car parking through monitoring of planning applications to North Somerset Council, Bristol City Council and Bath and North East Somerset Council;
- f) A review of the occupancy of the Staff Car Park;
- g) A review of infrastructure options to accommodate forecast demand over the subsequent 12 months;
- h) Identification of the preferred option to deliver parking capacity.

This report shall be submitted to and agreed in writing by the Local Planning Authority.

- 7) No phase or component of development shall be commenced, including demolition, ground works or vegetation clearance, until a Construction Environmental Management Plan (CEMP) for that phase of development / element has been submitted to and approved in writing by the Local Planning Authority. The CEMPs shall include:
  - a) A construction traffic management plan including details of the routes and vehicle entrance routes into the airport to be used by contractors' vehicles moving to and from the site (and the appropriate signage thereof) and HGV delivery times;
  - b) Details of measures to minimise noise, dirt, dust (and other air borne particles) and vibration during construction;
  - c) A waste management plan;
  - d) A construction air quality management plan;
  - e) Proposed working hours, including any night-time working hours;
  - f) A cumulative assessment of the impact of the individual phase/element, when taken together with any other phases/elements that will be ongoing or are projected to be commenced while this phase/element is constructed.

Items (a) to (f) shall be the subject of auditing and reporting by the applicant and/or site contractors and these records shall be kept up to date and supplied to the Local Planning Authority upon request. The development shall be carried out in accordance with the approved CEMP.

- 8) Within six months of the of grant of this permission, an Air Quality Action Plan (AQAP) shall be submitted to the Local Planning Authority for approval. The AQAP will set out measures to reduce the impact of airport operations on local air quality.

The AQAP shall include targets, with dates and quantified where appropriate, for the delivery of measures to reduce the impact of the airport on local air quality.

An annual update to the AQAP shall be submitted to and approved by the Local Planning Authority as part of the Airport Operations Monitoring Report that sets out progress made against agreed targets, including an

independent third-party review and recommendation for reviewing targets where deemed necessary, taking account of the following:

- a) Updates in the light of new national and local policies;
- b) New scientific or technical developments;
- c) Performance of the airport against the targets specified above.

Alternative action measures shall be agreed with the Local Planning Authority within 3 months, if the review shows that the AQAP is not meeting previously agreed targets.

All approved measures shall be implemented and complied with.

- 9) Within six months of the date of this permission, a Carbon and Climate Change Action Plan (CCCAP) shall be submitted to the Local Planning Authority for approval. The CCCAP and its outcomes will be subject to the following reviews:

- a) Annually: independent verification by the Airports Carbon Accreditation Scheme with the results being made available to the Local Planning Authority;
- b) Annually: publication as part of the Airport Operations Monitoring Report, available for review by all stakeholders including the Local Planning Authority;
- c) Every three years: independent audit and inspection by the Airports Carbon Accreditation Scheme with the results being made available to the Local Planning Authority;
- d) Every five years: Bristol Airport Limited review and update, including consultation with the Local Planning Authority and other stakeholders.

The CCCAP shall be updated to reflect any new national policies or targets. The methodology may be amended by agreement with the Local Planning Authority to include updates to best practice methodologies and new scientific or technical developments.

All approved measures within the CCCAP, as amended and updated, shall be complied with.

- 10) Within six months of the date of this planning permission a scheme for the installation of rapid electric vehicle charging points at the airport shall be submitted to the Local Planning Authority. The scheme shall indicate the number and locations of the charging points and timetable for their installation. Once approved by the Local Planning Authority, the approved scheme shall be fully implemented in accordance with the approved timetable and retained thereafter.
- 11) Within six months of the date of this permission, a strategy for the phased introduction of Electric Vehicles into the airport's contracted taxi fleet and to encourage the use of lower emission vehicle amongst other taxi operators shall be submitted the Local Planning Authority. The strategy shall include an initial target within the contracted taxi fleet of 75% of vehicles to be fully electric or hybrid (or other agreed alternative vehicles which are zero emissions) within a timetable to be agreed in

writing by the Local Planning Authority, transitioning to 100% by the attainment of 12mppa. Once approved by the Local Planning Authority the approved strategy shall be fully implemented in accordance with the approved timetable and retained thereafter.

- 12) The passenger throughput at Bristol Airport shall not exceed 10 million passengers in any 12-month period (to be taken from 1st January to 31st December unless a different 12 month start and end date is agreed) unless an application to the Secretary of State to designate Bristol Airport as a fully coordinated airport (as defined in regulation 2 of the Airports Slot Allocation Regulations 2006 or any regulations revoking and re-enacting those regulations with or without modification) is submitted.

- 13) There shall be no more than 85,990 Air Transport Movements (ATM's) at Bristol Airport per annum which includes take-off and landing movements, from 1 January to 31 December each year. This shall include commercial and non-commercial flights.

The airport operator shall provide quarterly reports in writing to the Local Planning Authority, within 28 days of the last day of each quarterly period, to show that the quarterly and cumulative figures for each category comply with these limits and set out the steps it proposes to implement in order to prevent any exceedances of these limits in the next quarter. Once approved, those details shall be implemented and retained until superseded by any subsequently approved details.

For the purposes of this condition, the limit to ATMs shall not apply to aircraft taking off or landing in the airport because of an emergency, instruction from Air Traffic Control or any other circumstance beyond control of the airport operator.

- 14) Upon commencement of development, up to the passenger throughput at Bristol Airport exceeding 10 million passengers in any 12-month period (to be taken from 1 January to 31 December unless a different 12-month start and end date is agreed), the area enclosed by the 57dB daytime noise contour shall not exceed 12.42 km<sup>2</sup>.

Upon the passenger throughput at Bristol Airport exceeding 11 million passengers in any 12-month period (to be taken from 1 January to 31 December unless a different 12-month start and end date is agreed), the area enclosed by the 57dB daytime noise contour shall not exceed 11.56 km<sup>2</sup>.

The area enclosed by the 57dB daytime noise contour shall not exceed 10.70 km<sup>2</sup> from when passenger throughput at Bristol Airport reaches 12 mppa in any 12-month period. The area enclosed by the 55dB night-time noise contour shall not exceed 6.8km<sup>2</sup> from when passenger throughput at Bristol Airport reaches 12 mppa in any 12-month period.

Forecast aircraft movements and consequential forecast and actual noise contours for the forthcoming year shall be reported to the Local Planning Authority annually within the Annual Operations Monitoring Report.

- 15) The area enclosed by the 63, 60, 57, 54 and 51 dB(A) Leq 16hr (07:00 hours to 23:00 hours) noise contours and the 55 and 40 dB LAeq,8hr summer night-time noise contour (23:00 hours to 07:00 hours) for the forthcoming year (from 1 January to 31 December each year) shall be reported to the Local Planning Authority annually within the Annual

Operations Monitoring Report. The same report shall include comparison of the predicted noise levels at the Noise Monitoring Terminals based on the forecast noise contours for the previous year with the 92-day averaged summer measured noise levels at the NMTs.

- 16) The noise classification of any aircraft shall be that set out as per those defined for designated aerodromes:
- a) The quota count of an aircraft on take-off or landing shall be calculated based on the noise classification for that aircraft on take-off or landing, as follows:

<b>Noise Level Band EPN dB</b>	<b>Quota Count (QC) Classification</b>
>102	16
101-101.9	8
100-100.9	6.7
99-99.9	5.4
98-98.9	4
97-97.9	3.4
96-96.9	2.8
95-95.9	2
94-94.9	1.7
93-93.9	1.4
92-92.9	1
91-91.9	0.83
90-90.9	0.69
89-89.9	0.5
88-88.9	0.42
87-87.9	0.34
86-86.9	0.25
85-85.9	0.21
84-84.9	0.17
83-83.9	0.125
82-82.9	0.085
81-81.9	0.045
80-80.9	0.025
<80	0.0125

Exempt aircraft are those jet aircraft with a maximum certificated weight not exceeding 11,600 kg.

- b) For the purposes of this condition, an aircraft shall be deemed to have taken off or landed at the time recorded by the Air Traffic Control Unit of Bristol Airport.
- c) This condition shall take immediate effect at the start of the first full season (being the winter season or the summer season) following the commencement of development. Subject to the following provisions of this condition, the quota for the summer season shall be 1260, and the quota for the winter season shall be 900.
- d) An aircraft with a quota-count of 2 or above shall not:

- i) be scheduled to take off or land during the period 23.00 hours to 06.00 hours; or
  - ii) be permitted to take off during the period 23.00 hours to 06.00 hours except in circumstances where: it was scheduled to take off prior to 23.00 hours; and take-off was delayed for reasons beyond the control of the air traffic operator.
- e) An aircraft shall not be permitted to take off or be scheduled to land during the period 23:30 hours to 06:00 hours where:
- i) the operator of the aircraft has not provided (prior to its take-off or prior to its scheduled landing time as appropriate) enough information (such as aircraft type or registration) to enable the airport manager to verify its noise classification and thereby its quota count; or
  - ii) the operator claims that the aircraft is an exempt aircraft, but the aircraft does not, on the evidence available to the airport manager, appear to be an exempt aircraft.
- f) If any part of that quota remains unused in any one season, the amount of the shortfall up to a maximum of 10% shall be added to the quota for the subsequent season.
- g) The 10% value expressed in f) shall be reduced on a progressive basis in accordance with the following schedule:

Timeline	% Quota Maximum carry-over allowance from unused quota points from the preceding season only
In the first 2 seasons which begin 12 months after the commencement of development	8%
In the 2 seasons which begin 2 years after the commencement of development	6%
In the 2 full seasons which begin 3 years after the commencement of development	4%
In the 2 full seasons which begin 4 years after the commencement of development	2%
In the 2 full seasons which begin 5 years after the commencement of development	0% This is then retained in perpetuity

- h) An aircraft shall not be permitted to take off or be scheduled to land during the period 23.00 hours to 07.00 hours where:
  - i) the operator of the aircraft has not provided (prior to its take-off or prior to its scheduled landing time as appropriate) sufficient information (such as aircraft type or registration) to enable the airport manager to verify its noise classification and thereby its quota count; or
  - ii) the operator claims that the aircraft is an exempt aircraft, but the aircraft does not, on the evidence available to the airport manager, appear to be an exempt aircraft.

- I) This condition shall not apply to any take-off or landing, which is made:
  - i) where the airport manager decides, on reasonable grounds, to disregard for the purposes of this condition a take-off or landing by a flight carrying or arriving to collect cargoes, such as medical supplies, required urgently for the relief of suffering, but not cargoes intended for humanitarian purposes where there is no special urgency;
  - ii) where the airport manager decides to disregard for the purposes of this condition a take-off or landing in any of the following circumstances:
    - delays to aircraft, which are likely to lead to serious congestion at the aerodrome or serious hardship or suffering to passengers or animals;
    - delays to aircraft resulting from widespread and prolonged disruption of air traffic;
    - where an aircraft, other than an aircraft with a quota count of 4 or above, is scheduled to land after 06:30 hours but lands before 06:00 hours;

Provided that, for the avoidance of doubt, where an aircraft is scheduled to land between 06.00 hours and 06.30 hours but lands before 06.00 hours, that landing shall count towards the quota.

It shall be the duty of the airport manager to notify the Local Planning Authority in writing, within one month from it occurring, of any occasion (whether a single occasion or one of a series of occasions) to which this paragraph applies.

- j) This condition shall not apply to any take-off or landing which is made in an emergency consisting of an immediate danger to life or health, whether human or animal.
- 17) The total number of aircraft movements at the airport including take-offs and landings between the hours of 23:30 hours and 06:00 hours for 12 months (for the avoidance of doubt this will be two adjoining seasons of Summer and Winter) shall not exceed 4000. For the purposes of this condition flights falling within the categories listed in condition 16) sub-clause I) and j) shall not be included. For clarity, a take-off or a landing shall comprise 1 movement.

- 18) The total number of take-offs and landings between 06:00 hours and 07:00 hours and between 23:00 hours and 23:30 hours (the 'shoulder periods') shall not exceed 9,500 in any calendar year. For the purposes of this condition, flights falling within the categories listed in condition 16) sub-clause I) and j) shall not be included.
- 19) The highway improvements to the A38 and Downside Road and associated works to the West Lane junction shown in drawing number C112-SK-A3800101 Rev 11.0 shall not begin until the following details have been submitted to and approved in writing by the Local Planning Authority:
  - a) The existing and proposed finished surface levels of the carriageway and adjoining foot and cycle paths; and
  - b) Clarification of all existing boundary walls, fences and other enclosures to be removed to make way for the highway works, together with details of their replacement in terms of the position, appearance, height and materials;
  - c) A timetable for the works; and
  - d) Any other minor amendments deemed necessary to ensure compliance with the relevant standards.

The highway works shall be carried out in accordance with the approved details and timetable.

- 20) No development shall begin until the landscape planting and landscape improvement areas that are shown in the 'Integrated / embedded landscape, visual and ecology mitigation masterplan' (Drawing Number 40506-Bri075c) have been developed into detailed landscape designs for each area. These shall be submitted to and approved by the Local Planning Authority before the landscape works are carried out and they shall include the following details:
  - a) Existing and proposed finished ground levels;
  - b) Existing trees, shrubs, hedges or other soft features to be removed and retained;
  - c) Details of the location and type of tree protection measures;
  - d) Planting plans, including specifications of species, sizes, planting centres, number and percentage mix of all new planting;
  - e) Details of how the soft landscaping will enhance biodiversity value
  - f) A timetable for implementing the approved landscaping works for each area;
  - g) A management plan of the landscaping scheme; including maintenance details and a timescale for implementation of the planting.

The details shall be implemented as approved.

- 21) Any trees, shrubs or hedges (or part thereof) which comprise part of the scheme of landscaping and which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with the same species, size and number unless otherwise agreed.



- 22) No development shall commence in respect of the off-site highway works (Site 'O' on Site Reference Plan – Drawing Number 17090-00-100-402) until a detailed Arboricultural Method Statement Report with Tree Survey and Tree Protection Plan, following the recommendations contained within BS 5837:2012, has been submitted to and approved in writing by the Local Planning Authority.

The Arboricultural Method Statement Report shall include the control of potentially harmful operations such as site preparation (including demolition, clearance and level changes); the storage, handling and mixing of materials on site, location of site offices, service run locations including soakaway locations and movement of people and machinery.

The report shall incorporate a provisional programme of works. Supervision and monitoring details by an Arboricultural Consultant and site visit records and certificates shall be provided to the Local Planning Authority. The Tree Protection Plan must be superimposed on a layout plan, based on a topographical survey, and exhibit root protection areas which reflect the most likely current root distribution, and reflect the guidance in the Arboricultural Method Statement Report. The Arboricultural Method Statement shall be implemented as approved.

- 23) Prior to the commencement of development hereby permitted (including demolition, ground works or vegetation clearance), a Biodiversity Construction Management Plan (BCMP) shall be submitted to and approved in writing by the Local Planning Authority. The BCMP shall include the following:
- a) A risk assessment of potentially damaging construction activities including enabling works and construction requirements (e.g. construction lighting, vehicle movements, etc);
  - b) Identification of "biodiversity protection zones";
  - c) Practical measures to avoid, reduce or mitigate impacts on designated sites, habitats and protected and notable species during construction. This shall include a detailed updated survey and mitigation strategy for any badger setts within the footprint of the proposed works;
  - d) The location and timings of sensitive works to avoid harm to biodiversity features, including details of timing and phasing to avoid impacts on horseshoe bats. This shall include details of the timing and phasing of vegetation removal to ensure that flight lines suitable for use by horseshoe bats are retained and details of construction lighting;
  - e) The times during construction when specialist ecologists need to be present on site to oversee works;
  - f) Responsible persons and lines of communication;
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
  - h) Use of protective fences, exclusion barriers and warning signs, including protection of boundary features suitable for use by horseshoe bats.

The approved BCMP shall be adhered to at all times.

- 24) No development within the airfield grassland or the extension to the 'Silver Zone' car park (Site 'M' on the 'Site Reference Plan' – Drawing Number 17090-00-100-402 Rev 00) shall be commenced until full details of a Scheme of Grassland Mitigation and Translocation has been submitted to and approved in writing by the Local Planning Authority. These measures shall include:
- a) The aims and objectives of the mitigation measures and translocation scheme;
  - b) The location and details of a suitable receptor site(s) including details of ecological, hydrological, and geological conditions at the existing areas of species-rich grassland and proposed receptor site;
  - c) A method statement for the grassland removal and translocation;
  - d) Full details of long-term management of the receptor site;
  - e) Details of management and restoration of retained species-rich grassland elsewhere within the landholding;
  - f) Details of the persons responsible for the implementation of the scheme;
  - g) A programme (timetable) to ensure that the approved Grassland Mitigation and Translocation scheme is completed before works to the airfield grassland or the extension to the 'Silver Zone' car park begins;
  - h) Measures for the monitoring of the scheme for a minimum period of ten years. The means of reporting the findings to the Local Planning Authority shall also be specified, with remedial measures to be submitted as part of the reporting process, if required; and implemented in accordance with the approved monitoring reports.
  - i) The scheme shall also set out contingencies and/or triggers and options for remedial action in the eventuality of failure of the translocation as indicated by reduction in grassland condition or status as species-rich habitat as indicated by monitoring survey findings.

The agreed mitigation and translocation scheme and ongoing grassland management and monitoring shall be carried out as approved.

- 25) Prior to the commencement of any part of the extension to the 'Silver Zone' car park (Site 'M' on the 'Site Reference Plan' – Drawing Number 17090-00-100-402 Rev 00) or the approved highway works at the A38 / Downside Road / West Lane (Site 'O' on Site Reference Plan – Drawing Number 17090-00-100-402), a Biodiversity Mitigation and Management Plan (BMMP) that accords with the document titled: 'Integrated / embedded Landscape, Visual and Ecology Mitigation Masterplan' Wood Consultants (August 2019) and Chapter 11 of the 'Environmental Statement', shall be submitted to, and approved in writing by, the Local Planning Authority. The BMMP shall include the following:
- a) Description and evaluation of on-site features to be managed;
  - b) Description of the off-site features to be managed including replacement habitat for horseshoe bats as detailed in Outline SAC/SPD Ecological Management Plan for North Somerset and Mendip Bat SAC SPD (Johns Associates, 2018);

- c) Details of the extent and location of habitat retention, creation and enhancement measures;
- d) Ecological trends and constraints that might influence management;
- e) Aims and objectives of management;
- f) Appropriate management options for achieving aims and objectives.
- g) Prescriptions for management actions;
- h) The timescales for implementation of the BMMP, demonstrating that replacement horseshoe bat habitat will be available before suitable on-site habitat is removed, disturbed or otherwise negatively impacted in accordance with the North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: Supplementary Planning Document (Adopted January 2018);
- i) A work schedule (including an annual work plan capable of being rolled forward over a ten-year period and recommendation for ongoing review);
- j) Details of the body or organisation responsible for managing the day-to-day implementation of the plan;
- k) Ongoing monitoring and remedial measures including a monitoring schedule for the off-site replacement habitat for horseshoe bats as detailed in Outline SAC/SPD Ecological Management Plan for North Somerset and Mendip Bat SAC SPD (Johns Associates, 2018). This shall include a compliance report submitted to and agreed in writing before suitable on-site habitat for horseshoe bats is removed, disturbed, or otherwise negatively impacted, to demonstrate that suitable off-site compensatory habitat has been provided. The means of reporting the findings to the Local Planning Authority and Natural England shall also be specified.

The BMMP shall also include details of the mechanism(s) by which the long-term implementation of the plan will be secured by the developer, detailing responsibility for its delivery. The plan shall also set out contingencies and/or triggers and options for remedial action to ensure that it delivers the fully functioning biodiversity objectives of the approved scheme. The approved BMMP will be implemented in accordance with the approved details.

- 26) No phase or element of development hereby permitted at Sites 'A', 'K', 'L' or 'M' as shown in the Site Reference Plan (Drawing Number 17090-00-100- 402-00) shall be commenced until a detailed external lighting design strategy for that phase or element of development, has been submitted to and approved in writing by the Local Planning Authority. The lighting strategy shall be consistent with the framework provided in the: 'Lighting Impact Assessment' (Hydrock, December 2018) and 'Lighting Impact Assessment - Additional Study' Document C-09194\_P01 (Hydrock 2019), including measures to ensure light spill onto habitats suitable for horseshoe bats is below 0.5 lux. The detailed strategy for each phase/element shall include:
- a) Identification of areas/features on site that are sensitive for bats;
  - b) Details of the type, number, location and height of the proposed lighting, including lighting columns;
  - c) Existing lux levels affecting the site;
  - d) The predicted lux levels; and
  - e) Lighting contour plans.

All external lighting shall be installed in accordance with the approved lighting strategy/details. No other external lighting shall be installed without prior consent from the Local Planning Authority.

- 27) No phase or component of development shall take place until an assessment of the nature and extent of contamination on that site has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a competent person, and shall assess any contamination on the site, whether or not, it originates on the site. Moreover, the survey must include the extent, scale and nature of contamination and an assessment of the potential risks to;
- a) human health;
  - b) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
  - c) adjoining land;
  - d) groundwaters and surface waters;
  - e) ecological systems; and
  - f) archaeological sites and ancient monuments.
- 28) Unless the Local Planning Authority confirms in writing that a remediation scheme is not required, no phase or element of development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, and proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The development shall take place in accordance with the approved remediation scheme.
- 29) Within 3 months of the completion of measures identified in the approved remediation scheme as set out in condition 28, a validation report (that demonstrates the effectiveness of the remediation carried out) shall be submitted to the Local Planning Authority.
- 30) No development hereby permitted shall be commenced until full details identifying the monitoring, mitigation and reporting of groundwater levels and groundwater quality during the construction of the development have been submitted to and approved in writing by the Local Planning Authority. These details shall identify the groundwater monitoring to be implemented to measure any impacts on groundwater that might result from the development approved. Monitoring protocols shall be agreed with the Local Planning Authority, as well as reporting frequencies and triggers that will be implemented should contaminants be observed. The development shall be carried out in accordance with the approved details.
- 31) Prior to the commencement of the drainage system the developer shall demonstrate that there is no flooding for a 1 in 30 year event and no

internal property flooding for a 1 in 100 year event + 40% allowance for climate change. Details of infiltration testing for that component shall be carried out to confirm or discount the suitability of the site for the use of infiltration as a drainage element, with the submitted Foul and Surface Water Drainage Strategy December 2018 updated accordingly. The results should conform to BRE Digest 365 where trial pits are allowed to drain three times and the calculation of soil infiltration rates is taken from the time taken for the water level to fall from 75% to 25% effective storage depth. Details should also be submitted demonstrating that sufficient surface water storage can be provided on-site. Should infiltration prove not to be feasible during the detailed design stage, details of an alternative drainage strategy to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

- 32) Prior to the commencement of the sustainable surface water drainage system a programme of implementation of the works and a maintenance and operation manual for the lifetime of the components of the drainage system shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved details.
- 33) In all new areas of development proposed as part of this permission, no refuelling shall take place in areas without Class 1 interceptors. These shall be of sufficient size to intercept and contain the maximum hydrocarbon/chemical loss that could occur as a result of a release from a fuel supply lorry or release from an aircraft plus 10- 20%. Details shall be submitted to and approved in writing with the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 34) Prior to the commencement of each phase or component of the approved development, details of a foul water drainage scheme for that component including a timetable for its implementation, shall be submitted to and approved in writing by the Local Planning Authority. Development of each individual component shall be carried out in accordance with the approved foul drainage details.
- 35) Development of the west and south passenger terminal extensions shall not commence until a design stage certificate (with interim rating if available) has been submitted to the Local Planning Authority indicating that the west and south terminal extensions can achieve the stipulated final BREEAM level. A final certificate certifying that a BREEAM (or any such equivalent national measure of sustainable building which replaces that scheme) rating of 'Very Good' has been achieved shall be submitted to the Local Planning Authority within 3 months of the occupation of the terminal extensions, unless the Local Planning Authority agrees in writing to an extension of the period by which a certificate is issued.
- 36) The extensions to the passenger terminal hereby approved shall not be commenced until details of a scheme that generates 15% of the on-going energy requirements for the use of each extension to the passenger terminal through micro renewable or low-carbon technologies have been submitted to and approved by the Local Planning Authority.

The approved details shall be implemented during the construction phase and they shall be fully operational before the extensions are brought into use. Thereafter, the approved technologies shall be retained in full working order.

- 37) An annual Operations Monitoring Report from 1 January to 31 December shall be submitted annually to the Local Planning Authority within 3 months of the end of year period each year. The Report should provide statistical information on the operational activities which occur at Bristol Airport and associated monitoring of environmental performance covering all matters set out in conditions 6-9, 14-16, 23, 25 and 30 and the following points:
- a) the number of passengers per annum;
  - b) the number of Air Traffic Movements per annum;
  - c) the number of nighttime flights per annum;
  - d) the number of flights in the shoulder period per annum;
  - e) the quota count score for the preceding British Summer Time and British Winter Time respectively.
- 38) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any order amending or revoking and re-enacting that Order, no development, other than that authorised by this planning permission, shall take place within (1) the southern-most plot adjoining plot adjoining the Silver Zone parking area shown in the Proposed Site Plan (Drawing Number 17090-00-100-407-00) and (2) the land to the east side of the A38 as shown on the Red Line Plan (Drawing Number 17090-00-100-400 Rev 00) without the permission, in writing, of the Local Planning Authority.
- 39) Details of the exterior walling and roofing materials to be used in respect of the extensions to the passenger terminal (Sites 'C' and 'E' on the 'Site Reference Plan' – Drawing Number 17090-00-100-402 Rev 00), the new walkway /piers (Sites 'G' and 'H' on the 'Site Reference Plan' – Drawing Number 17090-00-100- 402 Rev 00) and MSCP3 (Site 'A' on the 'Site Reference Plan' – Drawing Number 17090-00-100-402 Rev 00) hereby granted, shall be submitted to and approved in writing by the Local Planning Authority before work on these elements commences. The development shall be carried in accordance with the approved materials.

### *Definitions*

Definitions in these conditions the term 'component' refers to the following physical elements of the development hereby permitted:

- Multi-storey car park 3 (MSCP3) (Site 'A' on Site Reference Plan – Drawing Number 17090-00-100-402)
- West terminal extension (Site 'C' on Site Reference Plan – Drawing Number 17090-00-100-402)
- Service yard (Site 'D' on Site Reference Plan – Drawing Number 17090-00-100-402)
- South terminal extension (Site 'E' on Site Reference Plan – Drawing Number 17090-00-100-402)



- East pier and walkway (Site 'G' on Site Reference Plan – Drawing Number 17090-00-100-402)
- East pier (Site 'H' on Site Reference Plan – Drawing Number 17090-00-100-402)
- Taxiway Golf - taxiway widening and fillets (Site 'J' on Site Reference Plan – Drawing Number 17090-00-100-402)
- East taxiway link (Site 'K' on Site Reference Plan – Drawing Number 17090-00-100-402)
- Extension to the Silver Zone car park (Site 'M' on Site Reference Plan – Drawing Number 17090-00-100-402)
- Internal roads including gyratory (Site 'N' on Site Reference Plan – Drawing Number 17090-00-100-402)
- Acoustic barrier (Site 'P' on Site Reference Plan – Drawing Number 17090-00-100-402).

#### Definitions for Air Quality Condition

'AQAP' means a plan of deliverable measures together with a timetable and programme to implement these measures with the purpose to reduce the impact of airport operations on local air quality.

'*Airport operations*' means, for the purpose of the AQAP, the activities controlled and influenced by Bristol Airport Limited or its successors giving rise to emissions of local air pollutants, including surface access.

#### Definitions for Climate Change Condition

'CCCAP' means a plan of deliverable measures together with a timetable and programme to implement these measures with the purpose of reducing and offsetting greenhouse gas emissions from airport activities. The CCCAP will set out the following aims:

- By 2021 all of Bristol Airport Limited's operations and activities will be carbon neutral. This means all of Bristol Airport Limited's Scope 1 and 2 emissions will be offset by the end of 2021.
- By 2030 and with a throughput of 12 mppa, all of Bristol Airport Limited's operations and activities will be carbon net zero. This means all of Bristol Airport Limited's Scope 1 and 2 emissions will be minimised as far as practicable with any residual emissions being removed.
- By 2050 Bristol Airport as a whole will be carbon net zero. This includes Scope 1, 2 and 3 emissions, and means all of the companies that operate from or provide services to the airport, including Bristol Airport Limited and the airlines, will be contributing to the UK's carbon net zero economy.

In these aims:

'*Carbon neutral*' means that any carbon dioxide released into the atmosphere from a company's activities is balanced by an equivalent amount being removed.

'*Carbon net zero*' means prioritising reducing greenhouse gas emissions with the goal of balancing the emissions produced and emissions removed from the earth's atmosphere.



'Carbon offset' means a reduction in emissions of carbon dioxide or other greenhouse gases made in order to compensate for emissions made elsewhere certified by an appropriate body or process.

'Carbon removal' means carbon dioxide removal, also known as greenhouse gas removal, a process in which carbon dioxide gas is removed from the atmosphere and sequestered for long periods of time, e.g. via Direct Air Capture.

'Airport activities' means, for the purpose of the CCCAP, the activities controlled or influenced by Bristol Airport Limited or its successors, giving rise to Scope 1, Scope 2, and Scope 3 carbon dioxide emissions, as defined in guidance on how to measure and report greenhouse gas emissions published by the Department for Environment Food and Rural Affairs in September 2009 or such amended guidance as may apply from time to time in future years.

'ES Addendum' means the Environmental Statement Addendum for the proposed development dated November 2020.

The 'Carbon Emissions methodology' refers to the methodology for Scope 1, Scope 2 and Scope 3 emissions being:

- Scope 1 Carbon emissions from combustion on site;
- Scope 2 Carbon emissions from power used on site but generated offsite;
- Scope 3 Carbon emissions from surface access to and from the airport for passengers, employees and employees of partner organisations, and carbon emissions from aircraft including the Landing and Take Off cycle and the Climb Cruise Descent cycle.

The methodology is as set out in Appendix 10A to Chapter 10 (the Carbon & Other GHGs (Climate Change)) of the ES Addendum, or any update to this methodology agreed between the airport operator and the Local Planning Authority. In addition:

1. Emissions from domestic aviation, intra-European Economic Area and international aviation should be reported separately since different carbon 'planning assumptions' may be applicable to each.
2. The modelled data should be reconciled on an annual basis against actual fuel use including gas, diesel, petrol and aviation fuel, adjusted for fuel brought in on incoming aircraft, certified content of Sustainable Aviation Fuels and certified carbon offsets.

#### Definition for ATM condition

"Non-commercial movements" means positioning flights and general aviation and are to be included in the total annual movement limits.

#### Definitions for Noise conditions

"Daytime noise contour" means the LAeq,16hr (07:00 to 22:59) noise contour calculated by the Aviation Environmental Design Tool (AEDT) Version 3.0d (or as may be amended) based on the actual flights during the 92-day period between

16th June and 15th September inclusive using the standardised average mode from the date of this permission.

“*Night-time noise contour*” means the LAeq,8hr (23:00 to 06:59) noise contour calculated by the Aviation Environmental Design Tool (AEDT) Version 3.0d (or as may be amended) based on the actual flights during the 92-day period between 16th June and 15th September inclusive using the standardised average mode from the date of this permission.

“*Airport manager*” means the person (or persons) for the time being having the management of Bristol Airport or persons authorised by such person or persons.

“*Maximum certificated weight*” means the maximum landing weight or the maximum take-off weight, as the context may require, authorised in the certificate of airworthiness of an aircraft.

“*Designated aerodromes*” means by virtue of the Civil Aviation (Designation of Aerodromes) Order 1981(a) Heathrow Airport - London, Gatwick Airport London and Stansted Airport - London (‘the London Airports’) are designated aerodromes for the purposes of Section 78 of the Civil Aviation Act 1982 (‘the Act’).

“*Quota*” means the maximum permitted total of the quota counts of all aircraft taking off from or landing at Bristol Airport in question during any one season between 23.30 hours and 06.00 hours.

“*Quota count*” means the amount of the quota assigned to one take-off or to one landing by any such aircraft, this amount being related to its noise classification as specified in the table.

“*The summer season*” means the period of British Summer Time in each year as fixed by or under the Summer Time Act 1972.

“*The winter season*” means the period between the end of British Summer Time in one year and the start of British Summer Time in the year next following.

**APPEARANCES****NORTH SOMERSET COUNCIL**

Ruben Taylor QC and Matthew Henderson of Counsel, instructed by the Solicitor to NSC	
They called:	
Patrick Folley BA(Hons) MA	Operations Director and Strategic Consulting Aviation Lead, Jacobs
Dani Fiumicelli BSc(Hons) MSc MCIEH MIOA	Technical Director, Vanguardia
Dr Mark Broomfield BA DPhil MIAQM	Associate Director, Ricardo Energy and Environment
Tim Colles BEng (Hons)	Senior Managing Consultant, Atkins
John Siraut BSc MSc DipTran	Director of Economics and Global Technical Lead for Transport Economics, Jacobs
Dr Mark Hinnells PhD MSc MA BA	Senior Consultant, Ricardo Energy and Environment
David Gurtler BA(Hons) BPI DipSurv MRTPI	Director, Alpha Planning

**BRISTOL AIRPORT LIMITED**

Michael Humphries QC and Daisy Noble of Counsel, instructed by Womble Bond Dickinson	
They called:	
James Brass BSc	Partner, York Aviation
Nicholas Williams BSc(Hons) MSc(Hons) MIA	Associate, Bickerdike Allen Partners
Martin Peirce BSc(Hons) MSc MIES IAQM	Principal Consultant, Wood Group
Scott Witchalls MSc MILT MIHT MTPS	Director, Stantec
Matt Osund-Ireland BSc(Hons) PhD IAQM MIES	Technical Director, Wood Group
Alex Melling BA(Hons) MSc MRTPI	Associate Director, Wood Group
Neil Furber BSc PGDip MLI	Associate Director, Wood Group
Ryngan Pyper MA BA(Hons) PGDip PGDip	Director, BCA Insight

**PARISH COUNCILS AIRPORT ASSOCIATION**

Brendon Moorhouse of Counsel, instructed by Parish Councils Airport Association	
He called:	
Lawrence Vaughn BEng(Hons) PhD BEng(Hons)FIME MIMMM CENM	Director, Quiet Places (and Parish Councillor, Wrington)
Ryan Densham	Local resident
David Vaughan	Local resident

Tim Johnson	Director, Aviation Environment Federation
Dr Alex Chapman BSc PhD	Senior researcher, New Economics Foundation.
Nick Tyrell	Barrow Gurney Parish Council
Ronnie Morley	Cleeve Parish Council
Robin Jeacocke	Churchill Parish Council
Peter Longden	Winford Parish Council
Cllr Sarah Warren	Bathavon North Ward
Cllr Karen Warrington	Chew Valley Ward
Cllr Hilary Burn	Local resident and Councillor Cleeve Parish Council
Kathy Curling	Local resident
Tracy Harding	Local resident
Phil Houghton	Local resident
Becky and Jenny Heath	Local residents
Jocelyn Ryder-Smith	Local resident
Marney Shears	Local resident
Dr Tricia Woodhead BM MBA MD	Local resident and retired consultant radiologist and medical director
Kay and Colin Wooler	Local residents
Cllr Justin Milward	Local resident and Parish Councillor
Dafydd Williams	Local resident
Abi Williams	Local resident
Scarlett Vester	Local resident
Rachel Middleton	Local resident

### **BRISTOL AIRPORT ACTION NETWORK**

Estelle Dehon QC, instructed by Bristol Airport Action Network, assisted by Steven Clarke

They called:	
Professor Kevin Anderson PhD CEng FIMechE	Chair of Energy and Climate Change, School of Mechanical, Aerospace and Civil Engineering, University of Manchester
Finlay Asher MEng	Founder Green Sky Thinking
Sam Hunter Jones BA(Hons) MPhil GDL LLM	Solicitor, ClientEarth

### **Extinction Rebellion Elders**

Liz Beth and Johnny Devas

They called:	
Liz Beth BA(Hons) MA MRTPI DipDesign	Planning consultant
Johnny Devas AA Dip.MSt(Cantab)	Retired architect
Dr Stuart Capstick BSc MRes PhD	Deputy Director, Centre for Climate Change and Social Transformation

Professor Sally Lawson BSc PhD	Emeritus Professor of Physiology and Neuroscience
Christine Tudor BA(Hons) DipLP MPhil CMLI FRGS	Landscape architect

**BRITISH AIRLINE PILOTS ASSOCIATION**

Andrew Renshaw MRTPI	Planning consultant
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**MICHAEL PEARCE**

Amanda Sutherland	Solicitor, Sutherland Property & Legal Services
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**NATIONAL HIGHWAYS** (s106/conditions session)

Lisa McCaffrey BSc MSc	Planning Manager (Highways Development Management)
Marcus Anning HNC MIHE	Asset Needs Manager (SW)

**INTERESTED PERSONS WHO APPEARED AT THE INQUIRY**

Jo Chase	Terminal Operations Manager BAL
Kate Tilling	Local resident
Phil Heath	Chair of Governors, Chew Valley School
Jon Mayer	Federation of Small Businesses
David Searby	Local resident
Bill Roberts	Greenwash
Jenny Denny	Local resident
Dr Alison Leaf	Local resident and retired consultant paediatrician
Alastair Tudor	Somerset Chamber of Commerce
Clr Tessa Fitzjohn	Councillor, Bedminster
Ben Rhodes	CBI
Mavis Zutshi	Local resident
John Sweeny	UNITE
Caroline New	Local resident
Brenda Kingston	Local resident
Barbara Harland	Backwell Residents Association
Jackie Walkden	Local resident and Bristol FOE
Sue Poole	Local resident
Dave Mitchell	Christian Climate Action
Ollie Lax	Local resident
Roger Sirett	Local resident and member of Stop Bristol Airport Expansion
James Durie	Business West
David Worskett	CPRE

Sarah Poppy Jackson	Local resident and Chew Valley XR
Richard Bonner	Arcadis
Cllr Carla Denyer	Bristol City Councillor on behalf of Green Party and Independent Councillors
Teri Burgess	Ontario Teachers
Pete Tiley	Local resident
Professor John Adams	Stop Bristol Airport Campaign
Jerome Thomas	Local resident
Dr Steve Melia	Local resident and lecturer in transport and planning
Janet Grimes	Local resident
Tony Jones	Local resident
Sam Moppett	Local resident and former cabin crew
Tom Leimdorfer	Local resident
Peter Knapp	Air quality researcher
Ian Coatman	Part of group opposing Leeds/Bradford proposal
Caroline Lucas MP	Green Party
Elanor Hesinger	Climate scientist
John Savage	Visit West
Jonathan Hoey	Local resident
Joanna Poulton	Local resident
Valentina Cavallini	Local resident
Ben Moss	Director, agricultural cooperative
Joss Croft	Chief Executive UK Inbound
Richard Osborne	Local Resident/ Farmer
Professor Phillip Goodwin	University College London and University of the West of England
Cllr Paula O'Rourke	Leader Green Party, Bristol City Council
Carl Dainter	Head of Aviation, Mace Group
John Sleigh	Local resident
Ros Pears	Local resident
Marcus Grant	Environmental Stewardship for Health
Oscar Christopherson and Neve Roche	Chew Valley School Climate Change Group
Annie Beardsley	Local resident
Viv Talbot	Local charity worker
Susan Sidey	Retired Civil Servant
Alistair Sawday	Local resident and founder of Sawday Publishing
Sophie Feboul	Local resident
Professor Colin Davis	University of Bristol
Adrian Tait	Somerset Climate Action Group
Professor Paul Hoggett	University of the West of England (retired)
Professor Dan Lunt	University of Bristol
Asif Rehmanwala	Chief Executive, Ecotricity on behalf of Dale Vince
Dr Patrick Hart	Bristol GP
Pete Brownlee	Local resident

Tina Kilroy	Local resident
Lucienne Green	Local resident
Rory Peliza	Interested person
Poppy Brett	Local resident
Dr Kathy Fawcett	University of the West of England
Polly Denny	Local resident speaking on behalf of Dr Maya Rose Craig
Chloe Naldrett	Local resident
Richard Prior	Local resident
Tanguy Tomes	Local resident
James Ryle	Local resident
Raphaella Rasch	Interested person
Jo Hook	Local resident
George Ferguson	Ex-Mayor for Bristol (2012-2016)
Charlotte Buxton	Local resident
Jeremy Doyle	Local resident
Astrid Vaught	Local resident
Suzanne Hetherington	Local resident
Grant Mercer	Local resident/Bristol business owner
Britt Taylor	Local resident
George Oakenfold	Local resident
Alison Allan	Parson St Primary School Bedminster
Dr Emma Geen	Bristol Disability Community

### **WRITTEN SUBMISSIONS FROM THOSE WISHING TO APPEAR BUT UNABLE TO DO SO**

Alexandra Geddis	Interested person
Alysun Jones and Timothy Blanc	Interested persons
Alan Leeson	Local resident
Anne Ley-Morgan	Interested person
Cllr Bridget Petty	Green Party, Backwell
Cherry Bretten	Local resident
Chris Millman	Interested person
Claire Wheeler	Interested person
Emma Copham	Climate Consultant
Frankie Jones	Interested person
Jane Clayton	Local resident
Jill Coleman	Local resident
Jeremy L Hinton	Interested Person
John Penrose MP	MP for Weston-super-Mare
Jacqueline Walkden	Local resident
Jo Wring	Local resident
K Haverson	Local resident
Leiza Alpass	Local resident
Liam Fox MP	MP for North Somerset
Lucy Mackilligin	Local resident
Liz Reilly	Local resident



Margaret Boushel	Local resident
M Grant	Public Health Expert
Nicky Biggs	Interested person
Public Health England	Statutory Consultee
Richard Lancaster	Local resident
Renee Slater	Interested person
R Williams	Local resident
S Barnett	Local resident
Val Key	Local resident
Additional Passer-by Comments	Combined hand-written submissions from passers-by of WSM Town Hall
Roary the Dinosaur	On behalf of extinct dinosaurs

## INQUIRY DOCUMENTS

Inquiry Documents available at:

<https://gateleyhamer-pi.com/en-gb/bristol-airport/library-documents/inq-docs/>

INQ/001	Opening Statement Bristol Airport Ltd (BAL)
INQ/002	Opening Statement North Somerset District Council (NSC)
INQ/003	Opening Statement Bristol Airport Action Network (BAAN)
INQ/004	Opening Statement British Airline Pilots Association (BALPA)
INQ/005	Opening Statement Extinction Rebellion Elders (XR Elders)
INQ/006	Opening Statement Sutherland Property and Legal Services
INQ/007	Opening Statement Parish Councils Airport Association (PCAA)
INQ/008-0	Additional Proof of Evidence SPLS
INQ/008-1	Appendices to SPLS Additional Proof of Evidence
INQ/009	NSC Letter to Department for Transport
INQ/010	NSC's Fleet Mix Revision 1
INQ/011	Errata to Mr Siraut's Proof of Evidence
INQ/012	Ontario Teachers' Pension Plan Statement March 2021
INQ/013	NSC's Business Leisure Growth Inquiry Note
INQ/014	BMI Regional capacity table
INQ/015	NSC's Three Post-Pandemic Technology Trends
INQ/016	CAST Wave 1 Survey Briefing Note March 2021
INQ/017	Errata to Mr Brass' Proof of Evidence
INQ/018	NSC's Fleet Mix Revision 2
INQ/019	Mr Brass' Data Extracts from Logit Model
INQ/020	NSC's Update to Mr Siraut's Proof of Evidence
INQ/021	Errata to Mr Williams Proof of Evidence
INQ/022	CAA's Survey of Noise Attitudes 2014: Aircraft Noise and Sleep Disturbance
INQ/023	Written Submission from Richard Osborne including Noise Report dated 19 July 2021
INQ/024	PCAA Map showing Parish boundaries
INQ/025	CAA's Survey of Noise Attitudes 2014: Aircraft Noise and Annoyance, Second Edition
INQ/026	Site Visit Pack
INQ/027	BAL's Note regarding Levelling Up Fund: Prospectus and location of Cardiff Airport

INQ/028	BAL's Response to INQ018
INQ/029	Committee on the Medical Effects of Air Pollutants Advice on health evidence relevant to setting PM <sub>2.5</sub> targets
INQ/030	Comparison of ESA and Jacobs Noise Forecasts
INQ/031	BAL's Technical note: Comparison of the effects on air quality of ESA and Jacobs aircraft forecasts
INQ/032	IPCC's Climate Change 2021 – Summary for Policymakers
INQ/033	Car Park Occupancy Data 2017
INQ/034-0 INQ/034-1	Calculations to support parking demand identified in Updated PDS Definition of BRS Catchment Areas
INQ/035	Assessment of mode share
INQ/036	Womble Bond Dickinson letter dated 16 March 2020 regarding outline planning application
INQ/037	BAL's Clarification of Number of Dwellings with no Change in Noise
INQ/038	BAL's Note Clarifying Number of Aircraft Movements
INQ/039	Inspectors' Note to BALPA regarding scope of evidence
INQ/040	DfT's Sustainable aviation fuels mandate - A consultation on reducing the greenhouse gas emissions of aviation fuels in the UK
INQ/041	Jet Zero Consultation Dataset updated August 2021
INQ/042	DfT's Response to INQ/009
INQ/043	UK's Hydrogen Strategy August 2021
INQ/044	BAL's Note on Slot Coordination
INQ/045	Statement of Common Ground between BAL and National Highways in relation to M5 Junction 22
INQ/046	BAL's Technical Note regarding M5 J22
INQ/047	XR Elders Note on Transport Data and Costs
INQ/048	NSC's A38 Major Road Network – Outline Business Case
INQ/049	NSC's A38/Downside Road Improvement Drawing
INQ/050	Heathfield Park Decision Notice 20/P/1438/FUL
INQ/051	Bristol Airport Parking Charges 2021
INQ/052	BALPA's Table on Parking Summary by Type
INQ/053	National Highways response dated 2 September 2021 to Inspectors' queries regarding M5 J22
INQ/054	Department for Business, Energy and Industrial Strategy - Valuation of greenhouse gas emissions: for policy appraisal and evaluation
INQ/055	BAL's letter to DfT dated 22 September 2020
INQ/056	NSC's Parking Capacity Table
INQ/057	Carbon Values Graph
INQ/058	NSC Passenger Allocation Logit Model
INQ/059	Rolls Royce Report – Leading the Transition to Net Zero Carbon
INQ/060	2021 Parking Costs at Bristol Airport
INQ/061	BAL Note on EasyJet Electric Turnaround Trial
INQ/062	DfT Letter dated 6 September 2021 regarding Decision on Requests to Review the Airports National Policy Statement under the Planning Act 2008
INQ/063	CCC's Sixth Carbon Budget Methodology Report December 2020

INQ/064	Gatwick Northern Runway: Statement of Community Consultation August 2021
INQ/065	Plan showing Car Parking levels at Bristol Airport
INQ/066	Plan showing cross sections of Bristol Airport
INQ/067	Approved elevations for MSCP2 - Drawing no. P3-201
INQ/068	XR Elders Note on BA Transport Data and Costs
INQ/069	Natural England Consultation Response 25 January 2019
INQ/070	Natural England Consultation Response 28 November 2019
INQ/071	XR Elders Note on Carbon Policies
INQ/072	PCAA Update Note on Carbon Costs
INQ/073	BAAN Note on Updated BEIS Valuation of Greenhouse Gas
INQ/074	BAL Note on Greenhouse Gas Emissions
INQ/075	NSC Valuation of Greenhouse Gas Emissions
INQ/076	Updated Socio-Economic Cost Benefit Analysis Chart 2021
INQ/077	CPRE – Saving Tranquil Places
INQ/078	Bristol Airport (UK) No. 3 Limited Annual Report
INQ/079	NSC Position on Slots and Grampian Conditions
INQ/080	West of England Joint Committee Approved Motion on Bristol Airport Expansion
INQ/081	NSC Note regarding Outstanding Transport Information
INQ/082	Somerset County Council response to Inspectors Questions
INQ/083	BAL Response on Logit Passenger Allocation Model
INQ/084	National Highways response to Inspectors' questions
INQ/085	WHO Global Air Quality Guidelines
INQ/086	PCAA Comments on INQ/085
INQ/087	Draft s106 Agreement 29 September
INQ/088	Draft s106 Unilateral Undertaking 29 September
INQ/089	Draft CIL Compliance Statement
INQ/090	Bristol Airport Traffic Displacement Estimation January 2020
INQ/091	CAA Passenger Survey 2019 excerpt
INQ/092	CCC Advice on reducing UK Emissions
INQ/093	XRE Comments on INQ/085
INQ/094	High Court Decision on the Application for Statutory Review by Uttlesford District Council regarding the Stansted Decision
INQ/095	BAAN Comments of INQ/085
INQ/096	NSC Comments of INQ/085
INQ/097	BAL Comments of INQ/085
INQ/098	NSC Note on Outstanding Transport Information
INQ/099	BAL Response to INQ/098
INQ/100	NSC Summary of Impacts Table
INQ/101	BAL Planning Balance Summary
INQ/102	SL&PS Closing Statement
INQ/103	BALPA Closing Statement
INQ/104	XRE Closing Statement
INQ/105	PCAA Closing Statement
INQ/106	NSC Closing Statement in full
INQ/106-1	NSC Closing as read
INQ/107	BAL Closing Statement
INQ/108	BAAN Closing Statement

**DOCUMENTS SUBMITTED AFTER THE CLOSE OF INQUIRY**

INQ/109	List of Authorities
INQ/110	Legal submissions by BAAN
INQ/111	Legal submissions by PCCA
INQ/112	North Somerset final schedule of Conditions
INQ/113	North Somerset Final Statement of CIL Compliance
INQ/114	BAL final set of proposed Planning Conditions
INQ/115	Signed Agreed SoCG Part one
INQ/116	Signed Agreed SoCG Part one
INQ/117	Section 106 Agreement
INQ/118	Unilateral Undertaking
INQ/119	BAL CIL Compliance Statement
INQ/120	Case law bundle
INQ/121-0	BAL Costs Application
INQ/121-1	BAL Costs Application Appendices
INQ/122	NSC Costs Application
INQ/123	BAL Response to NSC Costs Application
INQ/124	NSC Response to BAL Costs Application
INQ/125	NSC Reply to BAL Costs Application Response
INQ/126	Net Zero Strategy: Build Back Greener 2021
INQ/127	NSC response to Build Back Greener
INQ/128	BAAN response to Build Back Greener
INQ/129	PCAA response to Build Back Greener
INQ/130	BAL response to Build Back Greener
INQ/131	NSC note regarding COP26, Environment Act 2021 and Luton Airport expansion
INQ/132	BAAN note on COP26 key outcomes and Luton Airport decision
INQ/133	PCAA note on COP26 and Luton Airport expansion decision
INQ/134	BAL notes regarding COP26 and Luton Airport expansion decision
INQ/135	Climate Change Committee. COP26 Key outcomes and next steps for the UK
INQ/136	Submission from BAAN in relation to Southampton Airport
INQ/137	PCAA response to INQ/136
INQ/138	NSC response to INQ/136
INQ/139	BAL response to INQ/136

**CORE DOCUMENTS**

Core Documents available at:

<https://gateleyhamer-pi.com/en-gb/bristol-airport/library-documents/appeal-core-documents/>