



Horsham  
District  
Council



# **GATWICK AIRPORT NORTHERN RUNWAY PROJECT**

Planning Inspectorate's Reference: TR020005

## **Legal Partnership Authorities**

### **Comments on The Applicant's Response To The ExA's Written Questions (ExQ1)**

#### **Response to [\[REP3-088\]](#) | Cumulative Effects**

**DEADLINE 4: 15 May 2024**

Crawley Borough Council (GATW-AFP107)

Horsham District Council (20044739)

Mid Sussex District Council (20044737)

West Sussex County Council (20044715)

Reigate and Banstead Borough Council (20044474)

Surrey County Council (20044665)

East Sussex County Council (20044514)

Tandridge District Council (GATW-S57419)

## Legal Partnership Authorities' Comments on the Applicant's Responses To The ExA's Written Questions (ExQ1)

### Response to [\[REP3-088\]](#) | Cumulative Effects

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

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

In these submissions, the Legal Partnership Authorities may be referred to as the “*Legal Partnership Authorities*”, the “*Authorities*”, the “*Joint Local Authorities (“JLAs”)*” or the “*Councils*”. Please note that Mole Valley District Council are also part of the Legal Partnership Authorities for some parts of the Examination (namely, those aspects relating to legal agreements entered into between the Applicant and any of the Legal Partnership Authorities).

#### Introduction

1. The Legal Partnership Authorities have now had the opportunity to review the Applicant's responses to ExQ1 in conjunction with their specialist consultants and legal advisors.
2. The Applicant provided their response to ExQ1 in the form of 19 separate written submissions to the examination together with annexes. For the ExA's ease of review, the Legal Partnership Authorities set out their comments on the Applicants responses in the final column of the table below.
3. Where the Legal Partnership Authorities have decided not to comment on one of the Applicant's responses, this question has been deleted from the table below.
4. For the avoidance of doubt, where the Legal Partnership Authorities have decided not to comment on one of the Applicant's responses this should not be taken to indicate that the Legal Partnership Authorities agree with the response.
5. At deadline 4, the Legal Partnership Authorities have submitted a paper authored by their specialist aviation consultants at York Aviation LLP entitled “Response to Additional Documents Submitted at Deadline 3 – Case for the Scheme and Related Matters” (the “**York Aviation Deadline 4 Paper**”).
6. **The York Aviation Deadline 4 Paper addresses issues relating to the case for the scheme thematically and includes further commentary on the Applicant's responses to the ExQ1 questions relating to this topic.**

ExQ1	Question to:	Question and Applicant’s Response	Legal Partnership Authorities Response
<b>CUMULATIVE EFFECTS</b>			
CE.1.1	The Applicant RPAs RHAs Heathrow Airport Limited	<p><b>ES Chapter 20 Cumulative Effects</b></p> <p>Does the ES Chapter 20 Cumulative Effects [APP-045] fully account for the cumulative effects of the Proposed Development and the delivery of a third runway at Heathrow Airport?</p> <p><b>ES Chapter 20:</b> Cumulative Effects and Inter-Relationships [APP-045] does not “fully account” for the cumulative effects of the Project and the delivery of a third runway at Heathrow Airport, if this term is being used to refer to a fully detailed cumulative impact assessment of a third runway project. However, the Applicant does not consider that this is required or practical in the circumstances of this case.</p> <p>To comply with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations), an ES should contain a description of the likely significant cumulative impacts arising from the proposed development as well any existing and/or approved projects, as far as that may reasonably be required, having regard to current knowledge and methods of assessment. However a decision-maker is entitled to defer the assessment of cumulative impacts arising from the subsequent development of another project in question, in particular where that development is inchoate, no</p>	<p>The Authorities do not wish to repeat their position in relation to the Cumulative Effects Assessment ("CEA") carried out by the Applicant [APP-045]. This has not changed from that stated in earlier submissions [REP1-068, REP3-135]. (See, in particular Chapter 19 of REP1-068 and the answer to CE1.1 of REP3-135). There are, however, a number of comments to bring to the ExA’s attention in response to the Applicant’s responses to the first Written Questions.</p> <p>While the Applicant’s position is clear; that it is “not required or practical” [REP3-088] to carry out a full cumulative impact assessment of the Project and Heathrow’s Third Runway (R3), in the Authorities’ view it is necessary for the Applicant to robustly demonstrate the absence of any impacts that will require mitigation. Notwithstanding the guidance given in Advice Note 17, the Authorities do not view the CEA as an exercise in weighing up whether R3 will come forward, but in providing an assessment of the impacts of multiple projects which are likely to come forward. Whether or not the Applicant themselves are certain R3 will come forward is not relevant. It is government policy and should be assessed fully in order to</p>

		<p>proposals have been formulated and there is, or is not any, or any adequate, information available on which a cumulative assessment could have been based.<sup>1</sup></p> <p>In <b>ES Chapter 20: Cumulative Effects and Inter-Relationships</b> [APP-045], the Applicant explained at paragraphs 20.7.2-6 that, in relation to the Heathrow third runway project, the assessment of cumulative effects fell into this latter category, due to uncertainty relating to the status of the project and its potential environmental effects. The Applicant concluded however that even if it were considered that an assessment of cumulative impacts was to be conducted in the determination of the current application, it had presented as much information about the effects of that project as could reasonably be expected. The Applicant's position is explained further below.</p> <p>Planning Inspectorate Advice Note 17 assumes that the term “existing and/or approved development” which is required to be considered cumulatively under the EIA Regulations can include projects as “existing” even before they are at application stage, (including projects on the PINS Programme of Projects where a scoping report has not been submitted, or identified in plans and programmes where such development is reasonably likely to come forward: see paragraph 3.1.5). It advises more generally that for the purposes of the Advice</p>	<p>demonstrate there are no significant impacts which require mitigation.</p> <p>The Applicant’s decision not to carry out a full CEA is, in part, borne out of the lack of adequate information available [REP3-088], however, it continues to state that the sensitivity work carried out indicates there will be no significant cumulative effects. The Authorities have sought, at various stages, further details around how the Applicant has reached this conclusion and looks forward to a review of the Applicant’s Deadline 4 submissions relating to the assessment of the interaction between the two expansion proposals.</p> <p>Expansion at Heathrow, specifically Heathrow’s Northwest Runway Scheme, has national policy support in the form of the Airports National Policy Statement. In the Applicant’s response to CE 1.1 it is suggested that the burden of assessing any cumulative impact of LHR R3 and the Applicant’s Project should sit with Heathrow Airport. This appears to be on the grounds that the Applicant has sought permission for expansion before Heathrow Airport and Heathrow is, therefore, the agent of change. Notwithstanding the support in national policy for airports other than Heathrow to make best use of existing runways, the Authorities are concerned that, in taking</p>
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<sup>1</sup> See R (on the application of Together against Sizewell C Ltd) v. SSESZ [2023] EWCA Civ 1517 at [60]-[61].

	<p>Note, “other existing development and/or approved development” is taken to include existing developments and existing plans and projects that are “reasonably foreseeable” (paragraph 1.4).</p> <p>It is debatable whether the term “existing project” in the EIA Regulations should be interpreted to include projects which are not even the subject of an application for consent. In so far as the Advice Note indicates that cumulative assessment should take into account reasonably foreseeable projects, the project was announced as the government’s preferred scheme to deliver additional airport capacity in October 2016 and when the NPS was published in June 2018 it was expected that Heathrow R3 would be operational by 2030. Whilst work commenced on the Heathrow R3 DCO application, as a result of the COVID-19 pandemic, work was suspended in 2020 and there is no indication that work to deliver the project will be recommencing. Given the project pause in 2020 and the ongoing uncertainty as to any restart to the consenting work, it is reasonable to judge that the third runway does not require consideration as part of any cumulative assessment for the purposes of Advice Note 17 or the EIA Regulations more generally.</p> <p>The Applicant also notes that the Advice Note presents a four-stage approach to the assessment of cumulative effects that applicants may wish to adopt, which anticipates that at the</p>	<p>this approach and excluding LHR R3 from the main CEA, the Applicant may be circumventing or undermining the ANPS.</p>
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		<p>assessment stage (Stage 4), information captured (Stage 3) should include the “<i>proposed design and location information; the proposed programme of construction and operation; and environmental assessments that set out baseline data and effects arising from the ‘other existing development and/or approved development’</i>”. The Applicant does not consider that this information, or other adequate information is available in order to allow for a cumulative assessment as envisaged by the Advice Note.</p> <p>However, notwithstanding this position, and recognising that the third runway is supported in principle by government policy, the Applicant has considered that project as a sensitivity within its cumulative effects assessment. If cumulative effects with that project are considered, Table 20.7.2 in Chapter 20 includes, as far as possible, information on whether and how such effects may occur. The entries under each topic explain why fuller information cannot be provided at this stage.</p> <p>The table indicates that, for several environmental topics, it is not anticipated that any likely significant cumulative effects would occur. In respect of other topics, a qualitative assessment is provided to the extent that this can reasonably be provided. Where relevant, the entries in the table have assumed that in general terms, if the third runway at Heathrow were to become operational by the mid-2030s, air traffic levels</p>	
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		<p>at Gatwick would likely decline in the immediately following period, by comparison to the scenario where the third runway did not come into operation. In the longer-term, even with the third runway, it is forecast that Gatwick's traffic would subsequently return to the levels forecast without it.</p> <p>It should be emphasised that the details of any future proposals for a Heathrow third runway will come forward as part of any DCO application in the event that an application is made. Such an application would be subject to its own environmental impact assessment, including a cumulative assessment which took into account as appropriate any consent which had been granted for the Gatwick Northern Runway Project.</p>	
<p>CE.1.2</p>	<p>The Applicant</p>	<p><b>ES Chapter 20 Cumulative Effects</b></p> <p>In Table 19.1 of the Joint West Sussex LIR [REP1-068] the Councils list sites that they consider will interact with the Project. Have these been considered in the assessment in the ES?</p> <hr/> <p>The long and short list of other developments for the purposes of the cumulative effects assessment is provided in <b>ES Appendix 20.4.1 Cumulative Effects Assessment Long and Short List [APP-216]</b>. This has been subject to consultation with statutory and non-statutory consultees during the EIA process as described in section 20.5 of <b>ES Chapter 20 Cumulative Effects and Inter-Relationships [APP-045]</b>. For the purposes of the cumulative effects assessment reported in the ES Chapters 7 to</p>	<p><b>The Authorities comments on the table (Table 1 Developments considered in the ES for the Cumulative effects) provided by the Applicant in response to CE1.2 are set out below in the final column highlighted in pink.</b></p> <p>The Authorities were provided with a proposed long-list of Other Development by the Applicant on 3 occasions (6 September 2022, 25 January 2023 and 28 April 2023) and asked to provide suggested amendments to these lists.</p> <p>Feedback was not sought on these occasions on the overall approach, including how the Zones of Influence were set.</p>

		<p>19 and summarised in Table 20.7.1 of <b>ES Chapter 20 Cumulative Effects and Inter-Relationships</b> [APP-045], each topic has considered the developments on the short list which could result in cumulative effects for that topic (the methodology is described in Section 20.4 of ES Chapter 20).</p> <p>Table 19.1 of the <b>Joint West Sussex Local Impact Report</b> [REP-068] is reproduced below (<b>Table 1</b>) with one additional column confirming whether each of the developments listed is considered in the ES cumulative effects assessment, and if not – the reason why. For presentational ease, each of the developments on the list that have been included within the short list are shaded green.</p>	<p>Comments made in response to the long- and short-lists shared in January 2023 were not reflected in the list shared in May 2023. In this sense, the Authorities consider that engagement with local authorities to inform the CEA was limited.</p>
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**Table 1 Developments considered in the ES for the Cumulative Effects Assessment**

Site	Status	Scale	CEA Status	Considered in ES for Cumulative Assessment	D4 LA Comments
<b>West Sussex County Council</b>					
Recycling, Recovery and Renewable Energy Facility and Ancillary Infrastructure	Allowed at appeal		Tier 1 development	Included in the short list (reference 19) in ES Appendix 20.4.1 Cumulative Effects Assessment Long and Short List [APP-216].	WSCC No comments
<b>Crawley Borough Council</b>					



<p>Crawley Borough Local Plan 2023-2040 Modifications Consultation Draft February 2024</p>		<p>TOTAL 5330 homes 17.93ha employment land</p>		<p>The Crawley Borough Local Plan 2023- 2040 Main Modifications Consultation Draft February 2024 increases the provision of new dwellings from 5030 to 5330 (net additional) and employment land increases from 13.73ha to 17.93 ha between 2023 and 2040 across a number of sites. No new sites have been added and this change is to reflect the amended plan period (starting in 2023 not 2024) and to correct a factual error in relation to the employment land trajectory. The consultation closed on 25 March 2024 and this is not yet an adopted plan. A number of allocations in the adopted Crawley Local Plan are identified as tier 3 developments due to the level of uncertainty and included on the short list given their scale and location. Also a number of allocations in the Crawley Local Plan 2021-2037 (Regulation 19) are short listed given their scale and location.</p>	<p>Allocations in the Crawley Borough Local Plan 2023-2040 have been included within the short list, and should be given greater weight as the Plan moves closer to adoption. This Total figure (5,330 dwellings and 17.93 ha of employment land) includes the Gatwick Green, Forge Wood and Town Centre sites listed below which have been identified separately due to their proximity and/or scale to the Project.</p>
<p>Gatwick Green Strategic Employment Site</p>	<p>Allocated in mCBLP 2024</p>	<p>17.93ha minimum</p>	<p>Tier 3 Identified as Reasonably Foreseeable and therefore do not form part of future baseline. Added to the “with Project” scenarios.</p>	<p>Included in the short list (ref 383) as a tier 3 in ES Appendix 20.4.1 Cumulative Effects Assessment Long and Short List [APP-216].</p>	

Forge Wood	Under Construction	784 dwellings remaining	Included due to proximity to the Airport and scale	Included in the short list (refs 403 and 404) in ES Appendix 20.4.1 Cumulative Effects Assessment Long and Short List [APP-216].	
Town Centre Sites	Identified in SHLEA/mCBL PLocal Plan	Various sites totalling 2,987	Included due to scale	Included in the short list (refs 390 and 392) in ES Appendix 20.4.1 Cumulative Effects Assessment Long and Short List [APP-216].	
<b>Horsham District Council</b>					
Kilnwood Vale	Under construction	Up to 2,500	Tier 1. Included due to falling within Ecology and Landscape Zols, and scale of development.	Included in the short list (ref 288) in ES Appendix 20.4.1 Cumulative Effects Assessment Long and Short List [APP-216].	
Mowbray / Land North of Horsham	Under construction	2,750 homes, 46,650m2 business park, all through school.	Tier 1. Included due to falling within Ecology Zol and due to scale and temporal scope. 362 Also included as Tier 3 development as a Strategic site allocation in the current Local Plan.	Included in the short list (refs 294 and 296 to 298 and 355) in ES Appendix 20.4.1 Cumulative Effects Assessment Long and Short List [APP-216].	
Land North of Horsham densification	Reg 19 Horsham District Local Plan draft allocation	Proposal for an additional 500 homes is included in the emerging Horsham	Not included	Included in the short list (ref 355) in ES Appendix 20.4.1 Cumulative Effects Assessment Long and Short List [APP-216] for the adopted plan comprising 2,500 homes. Regulation 19 consultation closed on 1 <sup>st</sup> March	

		District Local Plan		2024. It is therefore considered that this development is captured on the short list.	
Land West of Ifield	Regulation 19 Horsham District Local Plan draft allocation	Up to 3,000 homes	Tier 2. Included due to pre-application EIA scoping opinion having been sought, nature and scale. Also within Traffic, Landscape, Ecology, Air Quality and Heritage Zols.	Included in the short list (ref 353) in ES Appendix 20.4.1 Cumulative Effects Assessment Long and Short List [APP-216].	While this was included in the short list, the site was excluded from Transport Assessment. The Authorities consider the cumulative effects on the transport network should be assessed by the Applicant.
Former Novartis Site, North Horsham	Site allocation with outline permission	Up to 300 homes, flexible commercial space	Tier 1. Included due to falling with Ecology Zol, scale and nature of development.	Included in the short list (ref 299) in ES Appendix 20.4.1 Cumulative Effects Assessment Long and Short List [APP-216].	
Land West of Southwater	Under construction	540 homes	Not included	This is located outside the search area (described in Section 20.4 of ES Chapter 20 Cumulative Effects and Inter-relationships [APP-045]) and has therefore not been included on the long list as it is not considered to have potential for cumulative effects together with the Project.	The Authorities consider there is the potential for cumulative impacts to occur as a result of the development and the Project and that the Transport Assessment should consider the cumulative impacts on the highway network.
Land Northwest of Southwater	Reg 19 Horsham District Local Plan allocation	1000 homes	Not included	This is located outside the search area (described out in Section 20.4 of ES Chapter 20 Cumulative Effects and Inter-relationships [APP-045]) and has therefore not been included on the long list as it	The Authorities consider there is the potential for cumulative impacts to occur as a result of the development and the Project and that the Transport Assessment should consider the cumulative impacts on the highway network.

				is not considered to have potential for cumulative effects together with the Project.	
Land East of Billingshurst	Reg 19 Horsham District Local Plan allocation	Up to 650 homes	Not included	This is located outside the search area (described out in Section 20.4 of ES Chapter 20 Cumulative Effects and Inter-relationships [APP-045]) and has therefore not been included on the long list as it is not considered to have potential for cumulative effects together with the Project.	The Authorities consider there is the potential for cumulative impacts to occur as a result of the development and the Project and that the Transport Assessment should consider the cumulative impacts on the highway network.
<b>Mid Sussex District Council</b>					
Brookleigh, Burgess Hill	Under construction	3,500 homes		This is located outside the search area (described out in Section 20.4 of ES Chapter 20 Cumulative Effects and Inter-relationships [APP-045]) and has therefore not been included on the long list as it is not considered to have potential for cumulative effects together with the Project.	The Authorities consider there is the potential for cumulative impacts to occur as a result of the development and the Project and that the Transport Assessment should consider the cumulative impacts on the highway network. This is due to the scale of the development and proximity of the site to the Strategic Road Network, which links it to Gatwick Airport (A23/M23). In addition, in its response to ExQ1 GEN 1.30 [REP3-091] the Applicant states 'the model highlights potential impacts of future base growth at junctions in the Burgess Hill area alongside increases in the number of links at or over capacity in this area'.
Woodgate, Pease Pottage	Under construction	600 homes		Included in the short list due to location and scale (ref 447) in ES Appendix 20.4.1 Cumulative Effects Assessment Long and Short List [APP-216].	
Heathy Wood, Copthorne	Under construction	503 homes		Included in the short list as tier 3 for 303 units for DM/18/4321 (ref 334) and also as DM/21/0644 (ref 307) for reserved matters for 197 dwellings as tier 1 in ES Appendix 20.4.1 Cumulative Effects	

				Assessment Long and Short List [APP-216].	
Science and Technology Park, Burgess Hill	Development Plan allocation	23 hectare employment land allocation		This is located outside the search area (described out in Section 20.4 of ES Chapter 20 Cumulative Effects and Inter-relationships [APP-045]) and has therefore not been included on the long list as it is not considered to have potential for cumulative effects together with the Project.	The Authorities consider there is the potential for cumulative impacts to occur as a result of the development and the Project and that the Transport Assessment should consider the cumulative impacts on the highway network. This is due to the scale of the development and proximity of the site to the Strategic Road Network, which links it to Gatwick Airport (A23/M23). In addition, in its response to ExQ1 GEN 1.30 [REP3-091] the Applicant states 'model highlights potential impacts of future base growth at junctions in the Burgess Hill area alongside increases in the number of links at or over capacity in this area'.
The Hub, Burgess Hill	Under construction	15ha Employment land allocation		This is located outside the search area (described out in Section 20.4 of ES Chapter 20 Cumulative Effects and Inter-relationships [APP-045]) and has therefore not been included on the long list as it is not considered to have potential for cumulative effects together with the Project.	The Authorities consider there is the potential for cumulative impacts to occur as a result of the development and the Project and that the Transport Assessment should consider the cumulative impacts on the highway network. This is due to the scale of the development and proximity of the site to the Strategic Road Network, which links it to Gatwick Airport (A23/M23). In addition, in its response to ExQ1 GEN 1.30 [REP3-091] the Applicant states 'model highlights potential impacts of future base growth at junctions in the Burgess Hill area alongside increases in the number of links at or over capacity in this area.'
Brookleigh, Burgess Hill	Adopted District Plan allocation	10 ha Employment land		This is located outside the search area (described out in Section 20.4 of ES Chapter 20 Cumulative Effects and Inter-relationships [APP-045]) and has therefore not been included on the long list as it is not considered to have potential for cumulative effects together with the Project.	This is a duplication of 'The Hub, Burgess Hill' site referenced in the row above.

Crabbet Park, Copthorne	Submission Draft District Plan allocation	2,000 homes		Allocation is not in an adopted plan although has been included in the short list due to location and scale (ref 448) in ES Appendix 20.4.1 Cumulative Effects Assessment Long and Short List [APP-216].	
West of Burgess Hill	Submission Draft District Plan allocation	1,250 homes		This is located outside the search area (described out in Section 20.4 of ES Chapter 20 Cumulative Effects and Inter-relationships [APP-045]) and has therefore not been included on the long list as it is not considered to have potential for cumulative effects together with the Project.	The Authorities consider there is the potential for cumulative impacts to occur as a result of the development and the Project and that the Transport Assessment should consider the cumulative impacts on the highway network. This is due to the scale of the development and proximity of the site to the Strategic Road Network, which links it to Gatwick Airport (A23/M23). In addition, in its response to ExQ1 GEN 1.30 [REP3-091] the Applicant states 'model highlights potential impacts of future base growth at junctions in the Burgess Hill area alongside increases in the number of links at or over capacity in this area.'
Sustainable Community at Sayers Common	Submission Draft District Plan allocation	2,360 homes		This is located outside the search area (described out in Section 20.4 of ES Chapter 20 Cumulative Effects and Inter-relationships [APP-045]) and has therefore not been included on the long list as it is not considered to have potential for cumulative effects together with the Project.	The Authorities consider there is the potential for cumulative impacts to occur as a result of the development and the Project and that the Transport Assessment should consider the cumulative impacts on the highway network. This is due to the scale of the development and proximity of the site to the Strategic Road Network, which links it to Gatwick Airport (A23/M23). In addition, in its response to ExQ1 GEN 1.30 [REP3-091] the Applicant states 'model highlights potential impacts of future base growth at junctions in the Burgess Hill area alongside increases in the number of links at or over capacity in this area.'

