



**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 [\[REP3-089\]](#) | Development Consent Order and Control Documents

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 [\[REP3-089\]](#) | Development Consent Order and Control Documents

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 Answer		Legal Partnership Authorities' Response
DEVELOPMENT CONSENT ORDER AND CONTROL DOCUMENTS			
DCO.1.2	The Applicant	<p>Extent of Proposed Works</p> <p>At paragraph 5.2.14 of ES Chapter 5: Project Description [REP1-016] reference is made to the maximum extent and area of each Work Number (Work No.) being shown on the Work Plans and Parameter Plans with the approximate level of the finished works, the height of the structure (m) and/ or maximum parameter height within which this Work would be undertaken described within ES Chapter 5. The maximum extents for each Work No. are also described as being in Schedule 2 of the dDCO.</p> <p>Where in the dDCO are the maximum extents set out? Should these be provided in a separate schedule? If not, why not?</p> <p>Action Point 6.1 in The Applicant's Response to Actions from Issue Specific Hearing 2: Control Documents / DCO [REP1-063] sets out the approach in the dDCO to securing the lateral extent and area of the works, as well as to the use of the Parameter Plans to secure the maximum parameters for height for works involving the construction of new structures whose detailed design will be subject to refinement during implementation.</p>	<p>The Authorities note the Applicant's response; however, they consider it would be helpful to the better understanding of the Order if a Schedule (in addition to the Plans mentioned by the Applicant) were provided which sets out the maximum extents.</p>

		<p>The Applicant considers that the use of article 6 of the dDCO and the plans referenced therein is a clearer and preferable approach to specifying maximum extents in tabular form in a schedule to the DCO. Plans can be more easily scrutinised during the examination than numerical limits or limits by reference to coordinates and are more easily referenced by contractors post-consent. The Works Plans and the Parameter Plans are documents to be certified by the Secretary of State under article 52 of the DCO and thus have no lesser status or controlling effect when referenced by article 6 than a Schedule to the DCO.</p> <p>The reference in paragraph 5.2.14 of ES Chapter 5: Project Description [REP1-016] to the maximum extents also being described in Schedule 2 of the dDCO is to requirements 4 and 5, which referred to the limits by express reference to the Works Plans in version 5.0 of the dDCO [REP1-004] and, as of version 6.0 of the dDCO submitted at Deadline 3 (Doc Ref. 2.1 v6), refer to the limits by way of cross-reference to Article 6.</p>	
DCO.1.3	The Applicant	<p>Securing the Operational Lighting Framework</p> <p>At paragraph 5.2.205 of the ES [REP1-016] reference is made to an Operational Lighting Framework [APP- 077].</p> <p>How would this be secured through the DCO?</p>	<p>The Authorities consider it is not clear from the Design Principles [REP3-057] which lighting principles from the Operational Lighting Framework (“the Framework”) have been incorporated into the former document (not least since the Framework does not refer to "lighting principles"). The Authorities consider the Framework, and the Design Principles should more clearly explain the relationship between the two documents and, in particular, set out which lighting principles have been included in the Design</p>

		<p>The Operational Lighting Framework [APP-077] collates the high-level criteria and guidance relating to the provision of exterior lighting for the Project and provides visualisations of how lighting could be used in the passenger-facing areas of development. This level of detail has been provided for illustrative purposes as the exact lighting specifications will be confirmed through the detailed design.</p> <p>The lighting principles from the Operational Lighting Framework which will apply to the detailed design of the development have been incorporated into the Design Principles (Appendix 1 to the Design and Access Statement (Doc Ref. 7.3 v3) which are secured by DCO Requirement 4. As such, detailed designs referred to in DCO Requirement 4 must be in accordance with these lighting principles. The relationship between the Operational Lighting Framework and the Design Principles is described at paragraph 5.2.209 of ES Chapter 5: Project Description [REP1-016]</p>	<p>Principles. Once these amendments have been made, the Authorities will be able to properly consider how the contents of the Framework are secured through the DCO.</p>
DCO.1.5	The Applicant	<p>Heads of Terms for s106 Agreement</p> <p>Table 5.2 of the Planning Statement [APP-245] outlines the proposed Heads of Terms for the new s106 Agreement.</p> <p>Why do Surface Access Commitments need to be addressed through the agreement and not the DCO? How</p>	<p>a) The Legal Partnership Authorities' position is that the Surface Access Commitments must be secured under the DCO. Initial versions of the draft s.106 agreement included securing (among other obligations) a Sustainable Transport Fund and funding towards bus and coach services. The purpose of such funds was to give the Legal Partnership Authorities confidence that the Surface Access Commitments would be properly funded; these obligations</p>

	<p>does this relate to Requirement (R) 20 of the dDCO?</p> <p>Why does general engagement need to be addressed through a s106 agreement and not through the DCO?</p> <p>Is 'promoting health inequality' a typo?</p> <p>To what extent are s106 matters mitigation as opposed to wider community benefits?</p>	<p>represented one of various ways in which they Surface Access Commitments would be delivered. Following discussions on the draft s.106 agreement, the current proposal is to remove reference to the Sustainable Transport Fund and bus and coach investment from the agreement and for this to be included in an updated Surface Access Commitments document where the Legal Partnership Authorities consider the funding information more properly sits. Contributions paid to a relevant authority which will be used to meet Surface Access Commitments will remain in the s.106 agreement. It is also worth noting that the Transport Mitigation Fund, referred to in table 5.2 of the Planning Statement as required "<i>to deliver the relevant Surface Access Commitments</i>" is in the draft s.106 agreement as a fund available to mitigate against unforeseen impacts of the DCO.</p>
	<p>a) Table 5.2 of the Planning Statement lists the heads of terms for the DCO s106 Agreement in the centre column and the summary terms for the proposed DCO requirements in the right-hand column. The Surface Access Commitments have been secured by DCO Requirement 20. In any event, Table 5.2 has been superseded by the latest versions of the draft DCO s106 Agreement and the draft DCO.</p> <p>b) As above.</p> <p>c) "General engagement" is a heading in Table 5.2 which then lists the relevant mechanisms proposed to be secured through the DCO s106 Agreement and the draft DCO. The existing engagement which is currently secured through the 2022 s106 Agreement and is proposed to continue in the draft DCO s106 Agreement (as shown in the table in Appendix A to the Applicant's</p>	<p>b) No comments.</p> <p>c) No comments.</p> <p>d) The Legal Partnership Authorities reserve their position to comment on the ESBS provisions contained within the draft s.106 agreement, including the ESBS itself and the draft Implementation Plan until further work has been carried out by the Applicant.</p>

		<p>response to Actions ISH 2-5 [REP2-005]). The dDCO also includes a number of obligations for the parties to engage but these are specific to discharge of requirements or entering into specific agreements etc. As above, Table 5.2 has been superseded by the latest versions of the draft DCO s106 Agreement and the draft DCO</p> <p>d) Yes – it should read "promoting health equality". The details of this principle are set out in the ESBS which is Appendix 4 to the draft DCO s106 Agreement. This Table 5.2 has been superseded by the latest versions of the draft DCO s106 Agreement and the draft DCO</p> <p>The Applicant's approach towards the use of DCO Requirements and s106 obligations is set out in The Applicant's Response to Actions ISH 2-5 [REP2-005]. The obligations secured through the draft DCO s106 Agreement include measures which are both mitigation and wider community benefits. The Environmental Statement identifies those measures that are mitigation and enhancements in the context of the full narrative of the assessments. There are also a number of obligations within the draft DCO s106 Agreement which have been continued from the 2022 Agreement because they have proved beneficial to the JLAs, the Applicant or both in the operation of the Airport in the context of the local area. These are shown in the table in Appendix A to The Applicant's</p>	
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		<p>response to Actions ISH 2-5 [REP2-005].</p>	
<p>DCO.1.6</p>	<p>The Applicant</p>	<p>Mitigation Route Map</p> <p>Paragraph 5.5.10 of the Planning Statement [APP-245] states that the Mitigation Route Map is submitted for information only.</p> <p>Why is it proposed for information only and how can this be the case when it is an Appendix of the ES which is proposed to be a certified document?</p> <hr/> <p>The Mitigation Route Map (MRM) [REP2-011] sets out how mitigation has been, or will be, translated into clear and enforceable controls, either via requirements in the Development Consent Order, planning obligations under the s106 Agreement or through other existing legislative/regulatory regimes. It is for information purposes to provide a clear audit trail of the mitigation measures and their respective controls, and does not function as a control document or, by consequence, a document that requires certification. The control documents described in the MRM are to be certified under Schedule 12 of the dDCO (Doc Ref. 2.1 v6), thereby securing the necessary mitigation. It has been described as "for information only" so that it is not confused with a control document itself and to indicate that it is, in fact, a sign-posting document. It will be certified as</p>	<p>The Authorities maintain the position set out in the Legal Partnership Authorities' Responses to ExQ1 [REP3-135]: while acknowledging the submission of the Mitigation Route Map [APP078], they disagree with the level of detail provided, especially with regards the securing mechanism column. The Authorities would like to see the development of the Route Map from its current form, into a Register of Environmental Actions and Commitments (REAC) document. This would be an effective way to track progress against commitments made, which could then be secured through the DCO, rather than just for information, as currently proposed by the Applicant.</p>

		part of the Environmental Statement and in this context.	
DCO.1.7	The Applicant RPAs RHAs Natural England (NE) EA	<p>Role of Discharging Authorities</p> <p>Paragraph 5.5.13 of the Planning Statement [APP-245] recognises that there will be different discharging authorities for DCO requirements depending on the works and the nature of the requirement.</p> <p>Do the discharging authorities and relevant consultees have sufficient resources to discharge requirements and will the Applicant be providing support for this work?</p>	<p>The current fee for discharge of planning conditions based on Regulation 16 of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 is £145 per request. This will not adequately resource Crawley Borough Council as a main discharging authority (or indeed any other authority identified as a discharging authority) to cover its costs for the volume and complexity of work required to address these requirements. The Authorities set out a suggested approach to resourcing this Project as a response to this question [REP3-0135]. Based on the fees being offered there is no prospect whatsoever that the Authorities can secure adequate resources to undertake these obligations.</p> <p>To add insult to injury, paragraph 3(2) of Schedule 11 provides for the repayment of any fee paid to the discharging authority within 35 days of (a) the application is rejected as invalidly made or (b) the authority not determining the application within the determination period.</p> <p>Paragraph 3(2) is unreasonable and must be deleted: if an application is rejected, it will have been rejected because the material provided by the Applicant was unsatisfactory. The discharging authority should not be punished financially for this. Officers will have had to deal with the application even if the application is eventually rejected and the Applicant should cover that cost. Similarly, it might not be possible for a discharging authority to determine an application within the determination period if, say, information or material it has requested is not provided until late in that period. Again, the discharging authority should not be punished financially for this.</p> <p>Finally, as mentioned in row 61 of Appendix M to the West Sussex authorities' LIR [REP1-069], the Authorities consider the provision should go beyond the payment (per paragraph 3(1) of Schedule 11) of a fee in respect of "any for agreement, endorsement or approval in respect of a requirement" and should also apply to the payment of a fee in respect of the granting of any consent in respect of the Order. It will be remembered that several articles require the consent of the street authority (e.g. articles 12(3) and 14(4)), the traffic authority (e.g. article 18(5)(c)) and the highway authority (article 24(4)).</p>
		<p>Drafting has been included in version 6.0 of the dDCO submitted at Deadline 3 (Doc Ref. 2.1 v6) to provide for the payment of fees by the undertaker to discharging authorities providing their agreement, endorsement or approval in respect of requirements to which Part 1 of Schedule 11 to the DCO applies. The specified fee is by reference to the fee payable to local planning authorities in respect of the discharge of planning conditions for non-householder development in regulation 16 of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012.</p>	

		<p>This approach will resource discharging authorities for the purpose of the Project and is well precedented, including in paragraph 4 of Schedule 11 to the Drax Power Station Bioenergy with Carbon Capture and Storage Extension Order 2024, paragraph 2 of Schedule 4 to the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024 and paragraph 26 of Schedule 2 to the Manston Airport Development Consent Order 2022.</p>	<p>and the cost associated with administering this work should also be covered by the Applicant.</p>
<p>DCO.1.8</p>	<p>The Applicant</p>	<p>Securing Surface Access Commitments</p> <p>Paragraph 8.4.24 of the Planning Statement [APP-245] states that within the Surface Access Commitments GAL commits to achieving various modes shares within three years of the opening of the new northern runway.</p> <p>What sanction is there if these commitments are not met?</p> <hr/> <p>An updated version of the Surface Access Commitments (SAC) (Doc Ref. 5.3 v2) is submitted at Deadline 3 with amendments to section 6 which clarifies the process that must be followed where there is a breach or an anticipated breach of the mode share commitments. This includes a requirement to prepare a SAC Mitigation Action Plan if two successive Annual Monitoring Reports continue to show</p>	<p>While the Authorities welcome the amended version of the SAC submitted at Deadline 3, they retain residual concerns with the SAC. The Authorities are finalising a framework for environmentally managed growth, which concerns the SAC (amongst other documents) and which will be shared with the Applicant and ExA as soon as possible.</p>

	<p>that the mode share commitments have not been met or, in the Applicant's or the TFSG's reasonable opinion, suggests they may not be met (having regard to any circumstances beyond the Applicant's control which may be responsible).</p> <p>The TFSG can consider, comment on and approve or reject the SAC Mitigation Action Plan and the TFSG may propose additional or alternative interventions it believes to be necessary to achieve the mode share commitments. The Applicant must incorporate these interventions into the SAC Mitigation Action Plan or provide valid reasons why it does not consider they are necessary to achieve the mode share commitments; or offer suggestions for alternative actions where there is evidence they will achieve or exceed the same goal. The Applicant will implement the measures in the SAC Mitigation Action Plan once approved with the TFSG.</p> <p>Where the TFSG does not agree with any reasons put forward for the non-inclusion of the proposed measures, it must give the Applicant its reasons in writing. Within 90 days of receiving the TFSG's written reasons, the Applicant must submit the SAC Mitigation Action Plan and the proposed measures must be submitted to the Secretary of State who may approve the action plan with or without the measures or such additional or alternative interventions it considers reasonably necessary to achieve the mode share commitments having had regard to the materials in the</p>	
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		<p>submission. All representations submitted by the TFSG must be included in the submission to the Secretary of State. The Applicant will implement the measures in the SAC Mitigation Action Plan approved by the Secretary of State unless otherwise agreed with the TFSG.</p> <p>In addition, the Applicant must make available on its website a copy of the materials submitted to the Secretary of State and any materials received from the Secretary of State, subject to any confidential or commercially sensitive materials being appropriately redacted.</p>	
DCO.1.17	<p>The Applicant IPs</p>	<p>Art. 3 (Development consent etc. granted by Order)</p> <p>Explain/ justify the inclusion of ‘or adjacent’ in (2).</p> <p>Paragraph 4.1 of the EM explains why ‘within the Order Limits’ has not been included – are IPs content with this?</p> <hr/> <p>Article 3(2) is included to ensure that no acts of a local or other nature hinder the construction or operation of the authorised development in accordance with the DCO and to ensure consistency with other legislation more generally. This article must capture enactments applying to land adjacent to the Order limits as such enactments could otherwise potentially hinder the construction or operation of the authorised development – e.g. by restricting access to</p>	<p>It is not clear from the Applicant’s answer or (say) from the Explanatory Memorandum what “adjacent to” means in practice i.e. the extent of that land adjacent to the Order limits will be affected. Can this be explained? For instance, for illustrative purposes, shown on a plan?</p>

		<p>the site.</p> <p>It is noted that the drafting in article 3(2) of the dDCO (including "or adjacent") is well precedented in made DCOs, including article 3(9) of the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024, article 4(2) of the A66 Northern Trans-Pennine Development Consent Order 2024 and article 3(2) of the Boston Alternative Energy Facility Order 2023.</p>	
DCO.1.21	The Applicant	<p>Art 9. (Planning permission)</p> <p>The EM (paragraph 4.24) refers to the Supreme Court’s Hillside Parks decision.</p> <p>Have there been any Secretary of State (SoS) decisions on DCOs of relevance since the Hillside Park’s judgment or is there any other precedent for this provision?</p> <hr/> <p>Article 9(1), which provides that the development consent granted by the DCO is to be treated as specific planning permission for the purpose of section 264(3) of the Town and Country Planning Act 1990, is well precedented, including in article 9(2) of the National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024, article 46 of the A66 Northern Trans-Pennine</p>	<p>The Authorities are mainly concerned with paragraphs (4) and (5), neither of which is included in the corresponding provisions of the Lower Thames Crossing or Luton draft DCOs. (See article 56 of the former [REP10-005] and article 45 of the latter [REP11-092]).</p> <p>Article 9(4): regarding paragraph (4), the Applicant has confirmed in its answer to ExQ1 GEN1.2 [REP3-091]-</p> <p>"The operation of the repositioned northern runway, once implemented, would be incompatible with the restrictions on its use under the 1979 planning permission. As such, Article 9(4) would be engaged and that use restriction under the 1979 planning permission would cease to have effect".</p> <p>In its Deadline 4 response to this answer, the Authorities state the power under paragraph (4) should be limited to the identified mischief i.e. the relevant conditions of the planning permission. <u>The Authorities consider there is no justification for this power, which extraordinary for a private company, to be cast any wider.</u></p>

	<p>Development Consent Order 2024 and article 49 of the A12 Chelmsford to A120 Widening Development Consent Order 2024.</p> <p>The remaining paragraphs of article 9 are bespoke to the dDCO and have been drafted to address potential uncertainty arising from the Supreme Court's decision in <i>Hillside Parks Ltd v Snowdonia National Park Authority</i> [2022] UKSC 30, as further explained in the EM.</p> <p>The Applicant has not identified extensive precedent drafting in made DCOs that addresses this uncertainty, though it does note that article 8(2) of the Slough Multifuel Extension Order 2023 provides that <i>"Anything done by the undertaker in accordance with this Order does not constitute a breach of any planning permission issued pursuant to the 1990 Act"</i>, though this appears targeted at potential <i>breaches</i> of an existing permission rather than incompatibility and resulting inability to continue building out a permission.</p> <p>The Applicant has, however, identified emerging drafting which seeks to tackle the uncertainty and has drawn on this when drafting article 9.</p> <p>The draft DCO for the Lower Thames Crossing project¹, the examination for which has now concluded, includes</p>	<p>Article 9(5): the Authorities maintain their position, which has been articulated in previous submissions, that the exceptions concerning permitted development rights within article 9(5) (and requirements 4 and 10) should be removed drafting included which provides the permitted development rights do not apply. (Please see, for example, column 6 of Appendix M to the West Sussex LIR [REP1-069], action point 10 of Legal Partnership Authorities Responses to Applicants Written Summary of Oral Submissions and Responses to Actions (from Issue Specific Hearings 1-5) [REP2-081], and paragraph 4.2 of Issue Specific Hearing 2: Control Documents and the DCO Post Hearing Submission [REP2-212].</p>
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¹ Available on the PINS website here: <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010032/TR010032-006305-3.1%20Draft%20Development%20Consent%20Order%20v13.0%20clean.pdf>

	<p>bespoke drafting in article 56 to address <i>Hillside</i> uncertainty:</p> <ul style="list-style-type: none"> • Article 56(3) seeks to ensure that planning permission under the 1990 Act can continue to be implemented notwithstanding inconsistency between the permission and/or its conditions and the powers, rights and obligations in the DCO or the authorised development, and that no enforcement action can be taken under the 1990 Act arising from that inconsistency. This paragraph (3) is similar in effect to article 9(3) and (4) of the dDCO. • Article 56(4) seeks to ensure that development constructed or used pursuant to a planning permission granted under the 1990 Act is not a breach of, inconsistent with or able to prevent the authorised development being carried out under the DCO or the exercise of powers or rights thereunder. This paragraph (4) is similar in effect to article 9(2) of the dDCO. <p>The draft DCO for the London Luton Airport Expansion project², the examination for which has also concluded, includes similar drafting targeted at <i>Hillside</i> uncertainty in article 45. Article 45(3) clarifies that development under the 1990 Act may be carried out or used notwithstanding inconsistency with the DCO and article 45(4) provides that</p>	
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² Available on the PINS website here: <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR020001/TR020001-003274-2.01%20Draft%20Development%20Consent%20Order.pdf>

	<p>any such inconsistency with a permission granted under the 1990 Act will not constitute a breach of the DCO or prevent the authorised development being carried out pursuant to the DCO.</p> <p>It is noted that the applicant for the Lower Thames Crossing project stated in its explanatory memorandum³ that its bespoke <i>Hillside</i> drafting is <i>"vital to address matters which relate to the long-term interaction between planning permissions, and the Order..."</i> (para. 5.254) and that the host authorities supported the drafting, stating that it <i>"makes the position clearer for the Council"</i> and <i>"is highly desirable"</i>.</p> <p>The Applicant similarly considers that its bespoke drafting, which pursues generally the same aims as that in the Lower Thames Crossing and London Luton Airport draft DCOs, is important to remove uncertainty and risk regarding the interaction between the DCO and other planning permissions (either existing or in the future).</p> <p>There is a degree of precedent for article 9(5) of the dDCO, which confirms that the DCO does not restrict any person from seeking or implementing planning permission for development within the Order limits (including pursuant to permitted development rights). Article 6(2) of the A66 Northern Trans-Pennine Development Consent Order 2024</p>	
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³ Available on the PINS website here: <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR020001/TR020001-003140-2.02%20Explanatory%20Memorandum.pdf>

		<p>provides that "Subject to article 8 (application of the 1991 Act), nothing in this Order is to prejudice the operation of, and the powers and duties of the undertaker under, the 1980 Act, the 1991 Act and the Town and Country Planning (General Permitted Development) (England) Order 2015", thereby expressly clarifying that the undertaker's permitted development rights were unaffected by the DCO. The M20 Junction 10a Development Consent Order 2017 includes a near-identical provision at article 37.</p>	
<p>DCO.1.22</p>	<p>The Applicant RHAs</p>	<p>Art. 11 (Street works)</p> <p>Should (1) be modified to include the following after 'as are': 'specified in column (2) of Schedule X (Streets subject to street works) as is within the OL for the relevant site specified in column (1) of Schedule X and may' to be more specific.</p> <p>Similarly:</p> <p>(b) Add 'drill,' before 'tunnel'.</p> <p>(c) Add 'and keep' after 'place'.</p> <p>Add (after (1)): (2) Without limiting the scope of the powers conferred by paragraph (1) but subject to the consent of the street authority, which consent must not be unreasonably withheld, the undertaker may, for the purposes of the</p>	<p>The Authorities note the inclusion of the new wording at article 11(1)(b) and (c) and consider these are fine.</p> <p>The Authorities maintain their concern that the article departs from most precedents by authorising interference with any streets within the Order limits, rather than those specified in a schedule. The Authorities position is set out in the West Sussex LIR (Appendix M, column 8) [REP1-069], the SCC PADSS (column 87), and the Legal Partnership Authorities' response to ExQ1 DCO1.22 [REP3-135].</p>

		<p>authorised development, enter on so much of any other street whether or not within the Order Limits, for the purposes of carrying out the works set out at paragraph (1) above.</p> <p>EM paragraph 5.9 states that Art. 11 is based on Model Provisions but departs from it in that it authorises interference with any street within the OL, rather than just those specified in a schedule. While paragraph</p> <p>5.18 provides some explanation, please explain why it is necessary to interfere with any street within the OL.</p>	
		<p>a) The Applicant does not consider it necessary for article 11 to reference a schedule setting out a list of streets. There are a small number of streets within the Order limits and, due to the nature of this Project's site, the vast majority are either airport roads or are the subject of the surface access works comprised in the authorised development. Through the examination and by reference to plans including the Land Plans [AS-015], stakeholders are able to examine the extent of the Order limits and therefore the extent of streets over which the article 11 power may be exercised. The Applicant is not aware of concerns regarding the exercise of article 11 over specific streets. In that context, preparing and referencing a schedule of all streets within the Order limits would mean that article 11</p>	

		<p>has the same effect as presently.</p> <p>It is noted that the form of wording adopted in article 11 is precedented in several recent roads DCOs but also in article 11 of the Thurrock Flexible Generation Plant Development Consent Order 2022. Such wording is also present in the final draft for the London Luton Airport Expansion Development Consent Order, the examination of which has concluded.</p> <p>a. This wording has been added in version 6.0 of the dDCO submitted at Deadline 3.</p> <p>b. This wording has been added in version 6.0 of the dDCO submitted at Deadline 3.</p> <p>c. In light of (a) above, the Applicant does not consider this wording necessary.</p> <p>d. The Applicant refers to the explanation provided in (a).</p>	
DCO.1.23	The Applicant RHAs	<p>Art. 15 (Public Rights of Way-creation, diversion and stopping up)</p> <p>EM paragraph 5.36 states: “<i>Schedule 4 Part 2 identifies the single existing public right of way which will be permanently stopped up for which no substitute is to be provided.</i>” Why</p>	<p>Notwithstanding the fact that the alternative provision is located on the Gatwick estate, the Authorities assume (and would be grateful if the Applicant could confirm) that the crossing points between the various parts of the alternative provision (as shown on Sheet 1 of the Rights of Way and Access Plans) should be suitable for non-motorised access priority; for instance, by including (say) a dropped kerb with tactile or a raised</p>

	<p>is no substitute provided?</p> <p>The relevant section of Footpath 346_2sy is labelled as Reference B2 on Sheet 1 of the Rights of Way and Access Plans [REP1-014]. Whilst no substitute public right of way is to be provided, alternative substitute footway and shared-use cycle track provision is proposed that reflects a rationalised version of the current footpath route as stated in Table 4.1.1 of ES Appendix 19.8.1: Public Rights of Way Management Strategy [REP2-009]. The relevant labelled sections of the replacement route on Sheet 1 of the Rights of Way and Access Plans are as follows: c11 (southwestern section), c8 (eastern section), c40, c6, c5, c4, c3 and c2. These new tracks are listed separately in Part 3 (footways and cycle tracks) of Schedule 4 to the dDCO (Doc Ref. 2.1 v6).</p> <p>This approach has been adopted for this section of footpath as it is currently coincident with various rights of way with a highway designation (including Longbridge Way, North Terminal Roundabout, Gatwick Way and Perimeter Road North and the associated footways which form part of the highway). To address this existing issue of overlapping rights of way the footpath is to be stopped up where it is coincident with highways (as is the case elsewhere along the footpaths associated with Sussex Border Path) and substituted by the alternative footway and shared-use cycle</p>	<p>side road entry which offers priority to pedestrians and cyclists.</p>
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		<p>track provision.</p>	
<p>DCO.1.29</p>	<p>The Applicant</p>	<p>Art. 31 (Time limit for exercise of authority to acquire land compulsorily)</p> <p>The EM explains that the 10-year period is required with reference to the complex nature and scale of the Proposed Development and cites Thames Tideway Tunnel (TTT) as a precedent. Is this appropriate given that the TTT DCO was based on 10 years beginning with the day on which the Order is made?</p> <p>Please comment on whether the SoS's decision in respect of the Drax Bioenergy with Carbon Capture DCO might have precedence in respect of this matter.</p> <p>The former Model Provisions included the following:</p> <p>'(2) The authority conferred by article 28 (temporary use of land for carrying out the authorised project) shall cease at the end of the period referred to in paragraph (1), save that nothing in this paragraph shall prevent the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.'</p>	<p>The Authorities maintain the position, as set out in column 33 of Appendix M to the West Sussex authorities' LIR [REP1-069], that the ten-year period is excessive. Similarly, the Authorities maintain the position set out in column 43 of Appendix M [REP1-069] regarding the definition of "start date".</p>

		<p>Is that provision appropriate here?</p> <p>a) The Applicant considers that the nature and constituent works of the Project justify a 10-year period. ES Appendix 5.3.3: Indicative Construction Sequencing [REP2-016] sets out that the highway works are anticipated to be completed in 2032, with other works not completed until 2035. Allowing a 10-year period within which to exercise compulsory acquisition powers ensures that the Applicant is able to exercise powers proportionately as and when parcels of land are needed for particular works or the operation of the authorised development, rather than having to acquire land earlier on a conservative basis in anticipation of said land being necessary for works later in the construction sequencing or for future operation.</p> <p>Where feasible, the Applicant intends to carry out construction pursuant to temporary possession powers, only vesting permanent interests or rights where necessary for construction and otherwise upon works completion, allowing for a more precise scope of land or rights to be permanently acquired. This approach is only feasible if the undertaker retains its compulsory acquisition powers at the time of completion of works, otherwise it will need to pre-emptively acquire rights and land.</p>	
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		<p>It is appropriate and necessary for the time period to commence on the "start date" (as defined in the dDCO) due to the increasing prevalence of judicial review challenges by objector groups to high-profile DCOs. The government's policy paper '<i>Getting Great Britain building again: Speeding up infrastructure delivery</i>' (2023) notes that "<i>over half of all legal challenges to NSIP decisions have been brought since 2020</i>" and that even unsuccessful legal challenges can "<i>set a project back years in delays</i>"⁴. It is inappropriate for the period within which the undertaker can exercise compulsory acquisition powers to be reduced (potentially substantially) while legal challenges are finally determined. The rationale for the ten-year period detailed immediately above means that such a reduction in the feasible time period within which to exercise such powers may result in a necessarily more conservative approach to land take.</p> <p>b) The Secretary of State's decision on the Drax Bioenergy with Carbon Capture DCO is noted. There, the applicant sought to extend various time periods (including those in respect of exercising compulsory acquisition powers) from five to seven years to accommodate an anticipated delay to commencement due to a future change to the promoter and operator of a carbon pipeline linked to the project. The ExA accepted the extended time period but</p>	
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⁴ <https://www.gov.uk/government/publications/getting-great-britain-building-again-speeding-up-infrastructure-delivery/getting-great-britain-building-again-speeding-up-infrastructure-delivery>

		<p>the Secretary of State reverted it to five years.</p> <p>It should be noted that the Secretary of State's Decision Letter states that the Secretary of State did "<i>not consider that the Applicant has advanced a sufficient reason to justify an increase to [the] time period</i>", indicating that an extended time period is acceptable where a sufficient reason is provided. As above, the Applicant considers that there is sufficient reason for an extended time period for the Project.</p> <p>c) The wording cited is already included at article 38(2) of the dDCO. This location is considered more appropriate than article 31 given that the wording relates only to exercise of the power in article 37 to use land temporarily for the authorised development.</p>	
DCO.1.31	The Applicant	<p>Art. 33 (Modification of the 1965 Act)</p> <p>Sub-paragraph (1) (a) (ii) refers to 'the period of ten years set out in article 31'. Please comment in respect of your answer to DCO.1.29.</p> <hr/> <p>For the reasons set out in (a) and (b) of the Applicant's response to DCO.1.29 above, the Applicant considers that this time period is necessary and appropriate.</p>	Please see the Authorities' response to DCO.1.29.

<p>DCO.1.32</p>	<p>The Applicant</p>	<p>Art. 34 (Application of the 1981 Act and modification of the 2017 Regulations) Further justification is required for sub-paragraphs (5), (6), (11) and (16) to (19) in the EM. In respect of sub-paragraph (8) (b) please reference your answer to DCO.1.29.</p> <p>EM paragraph 7.30 states that the modifications are based in large part on previous development consent orders, including Art. 26 of The Manston Airport Development Consent Order 2022 and Art. 34 of The Sizewell C (Nuclear Generating Station) Order 2022.</p> <p>Art. 34 differs significantly from these cited precedents notably sub-paragraph (5). Please explain the need for the differences.</p>	<p>First, a point of clarification: the Applicant states paragraph (6) is well-precedented; however, the precedents are Transport and Works Act Orders and not development consent orders. (The Rother Valley Order (SI 2023/815) provides for the construction of a new railway, the maintenance of an existing railway, and includes provision for level crossings. The Network Rail Order (SI 2022/1406) concerns the construction of a new railway station in South Cambridgeshire and improvements to the West Anglia main line).</p> <p>Second, the Authorities note the Applicant is reviewing these provisions and will respond to the proposed update in respect of these provisions in due course.</p>
		<p>Paragraph (6) amends section 5 of the Compulsory Purchase (Vesting Declarations) Act 1981 (the "1981 Act") to omit language that is not applicable where the 'compulsory purchase order' is a DCO, which is necessary given that article 34(1) applies the 1981 Act as if the DCO were a compulsory purchase order. Paragraph (6) is well precedented, including in article 20(3) of the Rother Valley Railway (Bodiam to Robertsbridge Junction) Order 2023 and article 21(3) of the Network Rail (Cambridge South Infrastructure Enhancements) Order 2022.</p> <p>The Applicant's intention in including paragraphs (5) and</p>	

	<p>(16) – (19) is to amend the Compulsory Purchase of Land (Vesting Declarations) (England) Regulations 2017 to facilitate the compulsory acquisition of land and rights in favour of a third-party statutory undertaker ("SU"). This would allow for acquired land/rights to vest directly in the SU, without the need for the undertaker to acquire the land/rights in its own name and then separately transfer such land/rights to the relevant SU.</p> <p>The need for this approach arises from the fact that the Project encompasses a significant component of surface access works, which will be carried out to a large extent by the relevant highway authorities, including National Highways. Those SUs will need to hold the interests or rights in land required to carry out those elements of the Project. Additionally, utility diversions will be required to facilitate works both on- and off-airport, with a need for utility SUs to hold the necessary land and rights for the utility works and the resulting diverted apparatus.</p> <p>Without provisions that allow for direct vesting of compulsorily acquired land or rights in the SUs, the undertaker (i.e. the Applicant or a successor) would need to acquire the land/rights, register them at HM Land Registry in its own name and then arrange a subsequent transfer to the SUs and a further registration at HM Land Registry in their name. The present significant backlogs at HM Land Registry and the additional procedure involved in the above</p>	
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		<p>two-stage process could lead to unintended and undesirable consequences for the construction timetable.</p> <p>The Applicant stresses that these provisions do not provide any additional powers of acquisition that could not otherwise be exercised by the undertaker. They simply streamline the administrative process of land ownership or rights holding and registration in a case where land/rights are required to be acquired for works being carried out by third-party SUs.</p> <p>In light of comments from the ExA and local authorities on these provisions, as well as emerging precedent in pending DCO applications, the Applicant is undertaking a review of these provisions to consider any amendments to ensure that the drafting clearly reflects its intention and to address concerns raised. The Applicant will provide an update at a future deadline.</p>	
DCO.1.34	The Applicant	<p>Art.38 (Time limit for exercise of authority to temporarily use land for carrying out the authorised development)</p> <p>In respect of sub-paragraph (1) please reference your answer to DCO.1.29.</p> <hr/> <p>For the reasons set out in (a) and (b) of the Applicant's response to DCO.1.29 above, the Applicant considers that</p>	Please see the Authorities' response to DCO.1.29.

		<p>this time period is necessary and appropriate.</p>	
<p>DCO.1.37</p>	<p>The Applicant</p>	<p>Art. 49 (Defence to proceedings in respect of statutory nuisance)</p> <p>Justify the inclusion of nuisances within sub-paragraphs (c), (d), (e), (fb), (g), (ga) and (h) of s79.</p> <p>Paragraph 8.10 of the EM states that sub-paragraph (2) of Art. 48 provides that compliance with the controls and measures described in the CoCP will be sufficient, but not necessary, to show that an alleged nuisance could not reasonably have been avoided. This sub-paragraph does not occur in the cited Sizewell C (Nuclear Generating Station) Order 2022. Explain why it is necessary here.</p> <p>a) This article must be viewed in the context that section 158 of the Planning Act 2008 provides a general statutory authority for carrying out development or anything else authorised by a DCO, which serves as a defence in civil or criminal proceedings for nuisance. This general defence is expressly subject to any contrary provision made in a particular DCO (section 158(3) of the 2008 Act) and article 49 therefore caveats and details how the general defence applies in respect of the cited types of nuisance. Section 152 of the Planning Act 2008 provides for compensation to persons whose land is injuriously affected by the</p>	<p>The Authorities have provided a comprehensive explanation why this article should be amended and has set out its suggested amendments. Having considered the Applicant's answer to this question, it maintains its position, as set out in row 39 of Appendix M to the West Sussex LIR [REP1-069].</p>

		<p>carrying out of works, where a defence of statutory authority in civil or criminal proceedings for nuisance is available by virtue of section 158 and article 49.</p> <p>Article 49 makes clear that an order cannot be made on the basis of one of the cited types of statutory nuisance where the alleged nuisance is (i) attributable to the carrying out of the authorised development in accordance with the construction noise controls in the Control of Pollution Act 1974 ("CoPA") or (ii) is a consequence of the authorised development that cannot be reasonably avoided. It is appropriate that an undertaker should not face a finding of statutory nuisance for carrying out development scrutinised through the examination process and consented by order of the Secretary of State in the above circumstances. Article 49 imposes a high standard on the undertaker – notably higher than section 158 of the 2008 Act itself – by referring to the CoPA processes and specifying that the nuisance must not have been reasonably avoidable. This strikes a fair balance.</p> <p>The Applicant's approach in including an article regarding proceedings for statutory nuisance is well precedented and the precise selection of types of nuisance is precedented in article 38 of the M4 Motorway (Junctions 3 to 12) (Smart Motorway)</p>	
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		<p>Development Consent Order 2016.</p> <p>In any event, the Applicant notes that many of the cited types of nuisance in the Environmental Protection Act 1990 (the "EPA") are likely to be of limited utility against the Applicant:</p> <ul style="list-style-type: none"> • subsection (c) (fumes or gases emitted from premises so as to be prejudicial to health or a nuisance) does not apply to premises other than private dwellings (section 79(4) of the EPA); • subsection (fb) (artificial light emitted from premises so as to be prejudicial to health or a nuisance) does not apply to artificial light emitted from an airport (section 79(5B)(a) of the EPA); • subsection (g) (noise emitted from premises so as to be prejudicial to health or a nuisance) does not apply to noise caused by aircraft (section 79(6) of the EPA); and • subsection (ga) (noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street) does not apply to noise made by traffic (section 79(6A)(a) of the EPA). 	
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		<p>Further, to the extent that categories of nuisance would be applicable, these were considered in the Applicant's Statement of Statutory Nuisance [APP-265], which concluded that, taking into account the mitigation measures and controls set out in the Applicant's ES, <i>"none of the matters of statutory nuisance addressed by the Act are predicted to arise"</i>. The Applicant is therefore unlikely to need to rely upon article 49, but it is appropriate and necessary (for the reasons immediately above) that it is available if required.</p> <p>b) Paragraph (2) confirms that compliance with the controls and measures described in the Code of Construction Practice (and therefore its subsidiary management plans) will be sufficient, but not necessary, to show that an alleged nuisance could not reasonably be avoided. This provision is necessary to clarify the scope of the defence of statutory authority arising from the grant of the DCO. The Code of Construction Practice will reflect the set of appropriate measures and controls endorsed by the Secretary of State (if consent is granted). It is not reasonable or appropriate for a claim of statutory nuisance to succeed in respect of activity by the undertaker in compliance with such measures.</p> <p>Paragraph (2) is preceded in article 43 of the National Grid (Yorkshire Green Energy Enablement</p>	
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		Project) Development Consent Order 2024 and article 44(2) of the Boston Alternative Energy Facility Order 2023.	
DCO.1.39	The Applicant CBC	<p>Schedule 1 (authorised development)</p> <p>While the questions about Schedule 1 are primarily directed at the Applicant, the ExA would welcome the views of CBC as the RPA for the majority of the works.</p> <p>Work No. 1</p> <p>Does ‘reposition ... 12 metres (m) to the north’ adequately describe the new location? Do the Works Plans [AS-129] provide adequate detail to show the new position?</p> <p>Should ‘northern runway’ be defined?</p> <p>Work No. 2</p> <p>Should ‘main runway’ be defined? Note that R1(1) “<i>commencement of dual runway operations</i>” uses the term ‘southern runway’.</p> <p>Work No. 3</p> <p>Which three existing stands does this refer to?</p> <p>Work No. 4</p> <p>Do the taxiways need defining/ certifying on a plan?</p> <p>Similarly, should clarification be provided in respect of the location of substation BJ, pumping station 7a, which stand</p>	<p>The Authorities response to this question is provided within [REP3-0135]. A few additional points based on the information provided by the Applicant are set out below:</p> <p><u>Specification of number of Car Parking spaces.</u> - Please see comments in response to DCO 1.39 under headings Works No 22 /23 and 32 in respect of car parks [REP3-135]. The Authorities remain concerned that without certainty over the number of parking spaces there is no control in the dDCO to prevent an oversupply of parking spaces for these carparks in the future, undermining sustainable travel to the airport (see (i) paragraph 2.29 for further detail [REP2-042] and (ii) Table 7 Action Point 6 [REP2-081]) which seeks the removal of permitted development rights.</p> <p><u>Works No 41 Pentagon Field</u> – The Authorities consider that the Applicant has not fully addressed this question as it still fails to acknowledge the extensive soil deposition and change to the land form which is proposed at this site which should form part of the Works for this Project. Please see detailed comments at response DCO 1.39 [REP3-0135].</p> <p><u>Works No. 42</u> - No response has been provided.</p> <p><u>Ancillary or Related Development</u> - The Authorities consider that the temporary construction compounds should be listed as Works and therefore subject to detailed design control due to their visual impact on the area which may impact communities for up to 14 years (see comments in Chapters 8, 21 and 24 of the West Sussex LIR [REP1-068]). To date, the Applicant has provided limited information on their appearance and design, with only illustrative material in the Design and Access Statement Vol 5 Part 8 [REP2-036] and little control over detail or appearance in the Code of Construction Practice Annex 3 [APP-085] which is proposed to serve as the control document.</p> <p><u>How would (p) work in conjunction with Art. 25 to ensure that felling as only undertaken where necessary?</u></p>

	<p>is (c) (iii), Hangar 7 etc?</p> <p>Alternatively/ additionally, why are letters not used on Works Plans as for Work No. 22?</p> <p>Work No. 4 occurs in multiple places on the Works Plans resulting in a lack of clarity. Please review the numbering on the Works Plans.</p> <p>Work No. 5</p> <p>‘Including’ is not exclusive. Should this be tightened eg comprising? (‘Including’ is used in many Work Nos.)</p> <p>The descriptions at (a) to (g) are very broad and not specified in terms of locations on Works Plans. Should the descriptions be more specific and/ or highlighted individually on the Works Plans.</p> <p>Work No. 6</p> <p>As for Work No. 5.</p> <p>Work No. 7</p> <p>As for Work No. 5.</p> <p>Work No. 8</p> <p>As for Work No. 5.</p> <p>The Works Plans show Work Nos. 7 and 8 combined. Why? Why can the proposals not be more locationally specific?</p> <p>Work No. 9</p> <p>As for Work No. 5.</p>	<p><u>The Applicant has answered this question as follows -</u></p> <p>However, the carrying out of the authorised development must be undertaken in accordance with the articles and requirements of the DCO, including article 25. Therefore, article 25 governs any felling, lopping or removal of trees, shrubs or hedgerows [under paragraph (p) of ancillary development]”.</p> <p>If this is the case, to avoid duplication and uncertainty, shouldn’t paragraph (p) of ancillary development be deleted and article 25 relied on instead? The Authorities would welcome a reply from the Applicant on this point.</p> <p>Overall, the Authorities consider that the Applicant has not provided an adequate response to this question.</p>
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	<p>Work No. 10 As for Work No. 5.</p> <p>Work No. 11 As for Work No. 5.</p> <p>Work No. 12 As for Work No. 5. The Works Plans show Work Nos. 11 and 12 combined. Why? Why can the proposals not be more locationally specific?</p> <p>Work No. 14 As for Work No. 5.</p> <p>Work No. 18 'Reconfigure' is vague. Within what parameters?</p> <p>Work No. 20 'Relocate' is vague. What happens to the original?</p> <p>Work No. 22 Highlight (a) to (g) individually on the Works Plans.</p> <p>Work No. 23 Highlight (a) to (d) individually on the Works Plans</p> <p>Work No. 26 Within what parameters?</p> <p>Work No. 27</p>	
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	<p>Within what parameters?</p> <p>Work No. 28</p> <p>Within what parameters?</p> <p>Highlight (a) to (e) individually on the Works Plans.</p> <p>There are a range of developments within this work. How would the site be configured in terms of heights for individual developments and what proportion of the work would be taken up by each individual building type?</p> <p>Work No. 31</p> <p>Within what parameters?</p> <p>Highlight (a) to (f) individually on the Works Plans.</p> <p>Work No. 32</p> <p>Within what parameters?</p> <p>Work No. 33</p> <p>Should the number of parking spaces be specified?</p> <p>Work No. 38</p> <p>Should more detail for individual elements be provided at this stage?</p> <p>Work No. 39</p> <p>Should more detail for individual elements be provided at this stage? Specify the locations of Ponds A and M.</p> <p>Work No. 40</p>	
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		<p>Should more detail for individual elements be provided at this stage? Should (b) specify ‘no less than’?</p> <p>Work No. 41</p> <p>Should more detail for individual elements be provided at this stage?</p> <p>Work No. 42</p> <p>Should more detail for individual elements be provided at this stage?</p> <p>Work No. 43</p> <p>Should more detail for individual elements be provided at this stage?</p> <p>Ancillary or Related Development</p> <p>How would (p) work in conjunction with Art. 25 to ensure that felling is only undertaken where necessary? Is there duplication between elements within (e) and within (q)?</p> <p>Order Limits</p> <p>Why are the OL, particularly on Sheets 4 and 7, drawn so broadly when the work areas on these sheets are so small by comparison?</p>	
		<p>The response to this question should be read alongside the response to DCO.1.57 and the accompanying updates made to the Design Principles (Doc Ref. 7.3 v3) submitted at Deadline 3.</p>	

		<p>The response to DCO.1.39 is set out below, taking each matter in turn.</p> <p>Work No. 1 –</p> <ul style="list-style-type: none"> ○ The description to “reposition” the northern runway is considered appropriate and accurate. As shown in Appendix B (Indicative Cross-Sections of the Northern Runway) in The Applicant’s Response to ISH1 Actions [REP1-062], the extent of additional ‘runway’ width to be built (including the removal of the existing northern shoulder) is 12m wide, with the existing runway centreline then moved 12m north. Taking account of the existing northern shoulder, a total width of 12m of new hardstanding is to be built to the north of the existing northern runway. ○ The level of detail shown for Work No. 1 on the Works Plans (Doc Ref. 4.5 v4) has been prepared in compliance with Regulation 5(2)(j) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 by showing the proposed location of Work No. 1 (part j(i)) and the limits 	
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		<p>within which the works may be carried out (part j(ii)).</p> <ul style="list-style-type: none"> ○ The dDCO (Doc Ref. 2.1 v6) submitted at Deadline 3 has been amended to include a definition of the "existing northern runway" and "repositioned northern runway". <p>Work No. 2 – The dDCO (Doc Ref 2.1 v6) has been amended to include a definition of the main runway. The use of the term ‘southern runway’ in the dDCO has also been replaced with ‘main runway’ for consistency.</p> <p>Work No. 3 – The location of the three existing aircraft stands to be converted under Work No. 3 are shown on Figure 4.2.1a of the ES Existing Site Figures [REP1-019], located to the west of Pier 3 and east of Pier 6. These stands are within the area for Work No. 3 shown on Works Plans – Sheet 3 (Doc Ref. 4.5 v4).</p> <p>Work No. 4 –</p> <ul style="list-style-type: none"> ○ The location of the taxiways is defined on the Works Plans (Doc Ref. 4.5 v4), made clear by the ‘Work No. 4’ labels. Notwithstanding this, the Works Plans (Doc Ref. 4.5 v4) have 	
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		<p>been updated at Deadline 3 to distinguish between the location of each individual element under Work No. 4, e.g. (a), (b), (c), etc. Additional detail on the terms used to describe each taxiway is shown on the ES Existing Site Figures – Figure 4.2.1a [REP1-019] and the ES Project Description Figures – Figure 5.2.1a [AS-135].</p> <ul style="list-style-type: none"> ○ The location of substation BJ, pumping station 7a, stand under part (iii) and the new stand north-east of Hangar 7 are encompassed within the ‘Work No. 4’ labels on the Works Plans (Doc Ref. 4.5 v4). The locations are also labelled on the ES Project Description Figures [AS-135], namely Figure 5.2.1a, Figure 5.2.1e and Figure 5.2.1h. As above, the Works Plans (Doc Ref. 4.5 v4) have also been updated to distinguish between the location of each individual element under Work No. 4 for clarity, including these items under (i) to (iv). <p>Work No. 5 – The use of the word “including” is common across DCOs in describing the authorised development. By way of example, the term is used in the respective Schedule 1 of The Sizewell C (Nuclear Generating Station) Order 2022, The HyNet Carbon</p>	
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		<p>Dioxide Pipeline Order 2024 and the A12 Chelmsford to A210 Widening DCO 2024. The word “including” enables any works that would be required to facilitate the delivery of the Work No. to come forward, where necessary, in line with the detailed design to be approved or consulted upon under Requirement 4 of the dDCO (Doc Ref. 2.1 v6).</p> <p>Work Nos. 5 to 7, 9 to 11, 14, 22, 23, 31 – The Works Plans (Doc Ref. 4.5 v4) have been updated to distinguish the location of each individual element of the Work No., e.g. (a), (b), (c), etc., where the individual elements relate to different works areas. In the majority of cases, the relevant Work No. relates to only one work area and therefore are not required to be distinguished further by sub-letters.</p> <p>Work No. 8 – Work Nos. 7 and 8 are combined on the Works Plans – Sheets 1 and 5 (Doc Ref. 4.5 v4) as relating to the same location, i.e. are locationally specific. Work No. 8 relates to the removal of the airside support facilities currently located in this area, as shown on ES Figure 4.2.1a [REP1-019], to enable to the construction of the Oscar Area under Work No. 7 and as shown on ES Figure 5.2.1a [AS-135].</p> <p>Work No. 12 – The location of Works Nos. 11 and 12 are shown combined on the Works Plans – Sheet 6</p>	
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		<p>(Doc Ref. 4.5 v4) as these facilities may be located together, to be informed by the detailed design process. For example, the facilities are located together on ES Figure 5.2.1a [AS-135].</p> <p>Work No. 18 – The dDCO was updated at Procedural Deadline A [PDLA-004] and [PDLA-005] to replace the term ‘reconfigure’ with ‘remove and replace’.</p> <p>Work No. 20 – The dDCO was updated at Procedural Deadline A [PDLA-004] and [PDLA-005] to replace the term ‘relocate’ with ‘realign’. Further detail on the proposed alignment of Larkins Road is provided in the Project Description Signposting Document [AS-137] and paragraphs 5.2.96 to 5.2.97 of ES Chapter 5: Project Description [REP1-016], and shown on ES Figure 5.2.1d [AS-135].</p> <p>Work No. 26 – The parameters for Work No. 26 are shown on the Parameters Plan – Work No. 26 [AS-131], which is secured under Article 6(3) of the dDCO (Doc Ref. 2.1 v6).</p> <p>Work No. 27 – The parameters for Work No. 27 are shown on the Parameters Plan – Work No. 27 [AS-131], which is secured under Article 6(3) of the dDCO (Doc Ref. 2.1 v6).</p>	
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		<p>Work No. 28 –</p> <ul style="list-style-type: none"> ○ The parameters for Work No. 28 are shown on the Parameters Plan – Work No. 28 [AS-131], which is secured under Article 6(3) of the dDCO (Doc Ref. 2.1 v6). ○ The Design Principles (Doc Ref. 7.3 v3) have been updated in response to DCO.1.57 and include a new site-specific design principle under DBF36 to inform the design and layout of the Car Park H site. <p>Work No. 31 – The parameters for Work No. 31 are shown on the Parameters Plan – Work No. 31 [AS-131], which is secured under Article 6(3) of the dDCO (Doc Ref. 2.1 v6).</p> <p>Work No. 32 – The parameters for Work No. 32 are shown on the Parameters Plan – Work No. 32 [AS-131]. The dDCO (Doc Ref. 2.1 v6) has been amended at Deadline to ensure the vertical parameters for Work No. 32 are secured under Article 6(3) of the dDCO.</p> <p>Work No. 33 – A response on the quantum of car parking and its delivery is provided against TT.1.40 (Doc Ref. 10.16). In short, it is not considered</p>	
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		<p>appropriate to specify the number of parking spaces at an individual car park (either minimum, maximum or a specific number) given that GAL only undertakes to provide as much on-airport parking capacity as is required, with due reference to mode shares and demand.</p> <p>Work No. 38 – Further design details on the Museum Field environmental mitigation area is contained in the site-specific design principles in the Design Principles (Doc Ref. 7.3 v3), namely DLP8 to DLP11, and secured under Requirement 4 of the dDCO (Doc Ref. 2.1 v6). In addition, site-specific landscape principles for the Museum Field environmental mitigation area are contained in para 4.4.3 of the Outline LEMP [REP2-021] alongside a sketch landscape concept plan in Figure 1.2.1, to be detailed in future LEMP(s) in accordance with Requirement 8 of the dDCO.</p> <p>Work No. 39 –</p> <ul style="list-style-type: none"> ○ Further design details on the River Mole diversion area are contained in the Design Principles (Doc Ref. 7.3 v3), namely DLP15, DLP16, DDP10, DDP15 and DDP17, and secured under Requirement 4 of the dDCO (Doc Ref. 2.1 v6). Site-specific landscape 	
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		<p>principles for works in or around the River Mole in Landscape Zone 3, covering Work No. 39, are included in para 4.4.2 of the Outline LEMP [REP2-021], to be detailed in future LEMP(s) in accordance with Requirement 8 of the dDCO.</p> <ul style="list-style-type: none"> ○ The locations of Ponds A and M are shown on ES Figures 5.2.1e and 5.2.1h [AS-135]. <p>Work No. 40 –</p> <ul style="list-style-type: none"> ○ Further design details on the Longbridge Roundabout (Church Meadows) replacement open space area are contained in the Design Principles (Doc Ref. 7.3 v3), namely DLP1, DLP2, DLP3, DLP4 and DLP6, and secured under Requirement 4 of the dDCO (Doc Ref. 2.1 v6). In addition, site-specific landscape principles for the Longbridge Roundabout replacement open space are included in para 4.7.4 of the Outline LEMP [REP2-021] alongside a sketch landscape concept plan in Figure 1.2.3, to be detailed in future LEMP(s) in accordance with Requirement 8 of the dDCO. 	
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		<ul style="list-style-type: none"> ○ Work No. 40(b) in the dDCO (Doc Ref. 2.1 v6) has been amended to specify that “<i>no less than</i>” 0.52ha of planting shall be provided. <p>Work No. 41 – The description of Work No. 41 has been updated in the dDCO (Doc Ref. 2.1 v6) to provide further design details, in line with the Project Description Signposting Document [AS-137] and ES Chapter 5: Project Description [REP1-016]. In addition, the design principles have been updated in response to DCO.1.57 and include a new site-specific principle for Work No. 41 under DLP17. Furthermore, site-specific landscape principles for the Pentagon Field ecological area are included in para 4.9.2 of the Outline LEMP [REP2-021] alongside a sketch landscape concept plan in Figure 1.2.18, to be detailed in future LEMP(s) in accordance with Requirement 8.</p> <p>Work No. 43 – Further design details on the water treatment works is contained in the site-specific design principle DDP14 in the Design Principles (Doc Ref.7.3) and secured under Requirement 4 of the dDCO (Doc Ref. 2.1 v6). In addition, site-specific landscape principles for the water treatment works are contained in para 4.9.1 of the Outline LEMP [REP2-021] alongside a sketch landscape concept plans in Figures 1.2.19 and 1.2.20, to be detailed in</p>	
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		<p>future LEMP(s) in accordance with Requirement 8 of the dDCO.</p> <p>The authority provided by the DCO for the felling of trees and hedgerows as a form of development is by the inclusion of this activity in Schedule 1 and therefore as part of the "<i>authorised development</i>" as defined in the DCO. However, the carrying out of the authorised development must be undertaken in accordance with the articles and requirements of the DCO, including article 25. Therefore, article 25 governs any felling, lopping or removal of trees, shrubs or hedgerows.</p> <p>While the items in paragraphs (e) and (q) of 'Ancillary or Related Development' appear similar, they are in the different contexts of "site construction compounds" (q) and the broader "permanent and temporary hard-standing areas" (c). It is therefore appropriate to retain both.</p> <p>Order Limits – The Applicant considers that Sheets 4 and 7 of the Works Plans (Doc Ref. 4.5 v4) have been drawn to an appropriate scale, with the works area spanning the width of Sheet 4. The area of Work No. 43 on Sheet 7 has also increase in size owing to the accepted Project Change 3.</p>	
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<p>DCO.1.40 (R3)</p>	<p>The Applicant RPAs RHAs</p>	<p>R3 – Time limit and notifications</p> <p>Why should the serving of notice occur once the dual runway operation has commenced and not before?</p> <p>The requirements drafted by reference to the commencement of dual runway operations (Requirements 6(3), 15(1), 16(4), 17, 18(4), 18(6), 19(1) and 20) all have effect "from" or "following" (or equivalent) that date or require actions to have been taken by a certain anniversary of the commencement of dual runway operations. It is therefore considered most useful for the purposes of monitoring compliance with these requirements for the undertaker to notify CBC of the actual date on which commencement of dual runway operations occurred.</p> <p>This notwithstanding, in light of the ExA's comment, Requirement 3(2) in version 6.0 of the dDCO submitted at Deadline 3 (Doc Ref. 2.1 V6) has been amended to also require notification of CBC at least 30 working days prior to the anticipated date of commencement of dual runway operations.</p>	<p>The Authorities welcome the inclusion of new paragraph (2)(d); however, they maintain their position (as set out in the response to ExQ1 DCO.1.40 (R3) [REP3-135]) in respect of the amendments that should be made to this requirement: in summary –</p> <ul style="list-style-type: none"> • a more generous notice period for the • commencement of each part of the authorised development should be provided, • the other local authorities should also be notified of commencement (the administrative burden of doing so will be negligible), • before Requirement 3, there should be a requirement which provided that no part of the authorised development can commence until a masterplan for each part of the development has been submitted to and approved in writing by the relevant planning authority. (Example drafting is set out in the Authorities' answer to DCO.1.40 (R3).
<p>DCO.1.40 (R8)</p>	<p>The Applicant RPAs</p>	<p>R8 – Landscape and ecology management plan</p> <p>How would this requirement operate where potentially the Landscape and Ecology Management Plan (LEMP) did not</p>	<p>a) The Authorities are seeking to agree a common position in respect of the discharging arrangements and will revert to the ExA and Applicant once they have done so. (By way of example, Mole Valley DC wish to be responsible for</p>

	<p>RHAs</p>	<p>included land where CBC was the RPA?</p> <p>R8 provides for a LEMP to be submitted for ‘any part of the authorised development’. It is not clear how many LEMPs are likely to be produced.</p> <p>Explain what is meant by ‘part of the development’?</p> <p>Does it relate to the zones 1-8 of the development or does it relate to sequence in which the construction will take place?</p> <p>If the latter, will construction impacts be covered by a LEMP in addition to the CoCP?</p>	<p>any LEMP which concerns Work No. 40 (Longbridge Roundabout).</p> <p>b) No comments.</p> <p>c) While the Authorities understand what “part of the authorised development” is defined as in Schedule 2, a key concern is not knowing which part will come forward when. This concern is elaborated on in the Authorities Deadline3 response to ExQ1 1.40(R3) REP3-135]),</p> <p>d) No comments.</p>
		<p>a) The Applicant does not anticipate that any LEMP will be submitted that relates solely to land outside of CBC's administrative boundary given the minimal amount of Order land where this is the case. In any event, Requirement 8(1) provides that CBC must consult the other borough/district councils to the extent that they are the relevant planning authority for any land to which the LEMP relates, which would afford any affected councils adequate opportunity to provide input on the submitted LEMP.</p> <p>b) The number of LEMPs that are to be submitted during the construction timetable is not known at this stage of design of the Project. However, the scope of works to</p>	

		<p>which a submitted LEMP applies will be made clear by the undertaker at the time of submission to CBC pursuant to Requirement 8.</p> <p>c) The meaning of a <i>"part of the authorised development"</i> is set out in paragraph 1(2) of Schedule 2 and means <i>"stages, phases or elements of the authorised development in respect of which an application is made by the undertaker"</i>. It relates to the sequence in which construction will take place (and not the Outline LEMP's landscape zones), in that the undertaker will make submissions pursuant to the relevant requirements in respect of a package of works prior to these being commenced. The scale of a <i>"part of the authorised development"</i> will vary depending on the grouping of related works – both geographically and temporally – but, as above, the undertaker will make clear the scope of works to which any submissions relate at the time of submission. The LEMPs will be prepared in substantial accordance with the Outline LEMP [REP2-021] and its landscape principles, which in some instances, may mean that more than one Landscape Zone is applicable to an individual LEMP.</p> <p>d) The Outline LEMP [REP2-021], and therefore the LEMPs, relate to the design and delivery of the detailed landscape and ecology proposals, together with the long-term maintenance principles and management</p>	
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		<p>responsibilities. The production of the LEMPs will be informed by further survey work and management plans secured through the Code of Construction Practice (CoCP) [REP1-021]. For instance, the additional ecological surveys to be undertaken to support any protected species licenses and the detailed arboricultural measures (including the Tree Removal and Protection Plans) described in the CoCP.</p>	
<p>DCO.1.40 (R15)</p>	<p>The Applicant RPAs RHAs</p>	<p>R15 – Air noise envelope</p> <p>How would this requirement work alongside existing controls?</p> <p>Has the concept of an air noise envelope been used to control noise in other airport developments? What are the different circumstances which might be envisaged under sub-paragraphs (3) and (5)(a)? Why has the timescale of 45 days be identified in paragraph (4)?</p> <p>What does ‘declare any further capacity’ mean in paragraph (5)?</p> <p>In sub-paragraph (5)(a) is approval required or can the undertaker declare further capacity ‘when submitted’?</p> <hr/> <p>The requirement would operate independently of existing controls, taking them into account in forecasting the levels</p>	<p>The Authorities retain residual concerns with Requirements 15 and 16. The Authorities are finalising a framework for environmentally managed growth, which concerns air noise (amongst other topics) and which will be shared with the Applicant and ExA as soon as possible.</p>

	<p>of noise which will be emitted from aircraft using the Airport and which relate to how the Airport functions. The existing controls would also be relevant to the monitored levels, with aircraft complying with those controls leading to a particular noise environment being experienced.</p> <p>The concept of a noise envelope has been used at other airports, and this includes Stansted Airport and Bristol Airport. A noise envelope is also proposed for Luton Airport in its application for a DCO, considered last year and earlier this year.</p> <p>The different circumstances referred to in (3) and (5)(a) are relevant to who is approving the noise action plan. That will either be the independent air noise reviewer, or in the event of an appeal the Secretary of State.</p> <p>45 days was chosen as the time period because if there is any appeal this will need to be made within 42 days, and if an appeal is lodged a noise action plan will not be approved and will not need to be published until that appeal has been resolved. This ensures that stakeholders and the public see clear approved information, which avoids confusion with information being published which is subject to appeal processes.</p> <p>In paragraph (5) "declare any further capacity" means the undertaker will not be able to make any new slots available</p>	
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		<p>to operators, and that would be the case until an annual monitoring and forecasting report has been approved by the independent air noise reviewer or by the Secretary of State (as is relevant in the circumstances) which confirms compliance with the noise envelope limit identified to have not been complied with during the previous 24 months of the operation of the airport or forecast to not be complied with (as is relevant in the circumstances).</p> <p>The provision applies in either of the circumstances, so the earliest points at which it is confirmed that the same noise envelope limit has been exceeded during the previous 24 months of the operation of the airport. So where a submitted monitoring and forecasting report identifies the exceedance, the restriction on declaring further capacity would bite.</p>	
<p>DCO.1.40 (R16)</p>	<p>The Applicant RPAs RHAs</p>	<p>R16 – Air noise envelope reviews</p> <p>In sub-paragraph (2) why has the timeframe of 42 days been chosen? R15 (4) includes 45 days as does R16 (6) and R17.</p> <hr/> <p>A period of six weeks is provided for the submission of a draft of the noise envelope review document, which mirrors the period for approval contained at Part 2 of Schedule 11 to the DCO. The 45 day period at (6) allows for any appeal to be lodged before the need to publish, such that if there is</p>	<p>The Authorities retain residual concerns with Requirements 15 and 16. The Authorities are finalising a framework for environmentally managed growth, which concerns air noise (amongst other topics) and which will be shared with the Applicant and ExA as soon as possible.</p>

		<p>an appeal that is progressed and no publication occurs until that is resolved. This is the same rationale as explained for Requirement 15. For Requirement 17, 45 days is provided because it provides the independent air noise reviewer with 42 days to provide comments. The noise model verification report is not proposed to go through an approval process however, as that is not considered to be necessary,</p>	
<p>DCO.1.40 (R19)</p>	<p>The Applicant RPAs RHAs</p>	<p>R19 – Airport operations</p> <ul style="list-style-type: none"> • Would it be appropriate to be more precise in sub-paragraph (2) with the removal of ‘routinely’ and clarification of the reasons why the southern/ main runway is not available? • The comments made in ISH2, and the written summary contained within [REP1-057] regarding a potential passenger limit are noted. However, given justification for the need case provided through the introduction of larger planes and increasing load factors, could there be a case where 386,000 commercial air transport movements equates to more than 80.2 million passengers per annum, potentially to a level not mitigated for through the Surface Access Commitments [APP-090], and if so should the passenger levels not be controlled through R19 as well? 	<p>The Authorities are content with the deletion of "routinely" in paragraph (2). Similarly, they are content with new paragraph (3); however, they are concerned by the wide-ranging nature of paragraph (4)(a) and, in particular (4)(b), The concerns are set out in the Deadline 4 response to the Applicant’s Deadline 3 document Draft Development Consent Order – Schedule of Changes [REP3-005] (see rows 91 and 92).</p> <p>The remaining points made by the Applicant are relevant to the framework for environmentally managed growth, which will be shared with the Applicant and ExA as soon as possible.</p>

		<p>How would it be ensured that Commitment 14 of the Surface Access Commitments is adequate to deal with such a scenario?</p> <ul style="list-style-type: none"> • How realistic are anticipated rates of aircraft fleet transition contained within the ES when dealing with projected demand levels for 2047, some 20 years in the future? 	
		<p>Routinely</p> <p>The Applicant has updated Requirement 19(2) in version 6.0 of the dDCO submitted at Deadline 3 (Doc Ref. 2.1 v6) to remove the word "routinely" given that this is not considered to alter the meaning of the provision.</p> <p>However, it is important that the Applicant is able to continue to use the northern runway when the main runway is unavailable for any reason, as is currently the case. For example, if there was an incident on the main runway or damage to that runway, the Applicant would propose to use the northern runway (as it would currently) using the same flight paths. This would not result in any increase of movements and associated noise within those hours by comparison to use of the main runway.</p> <p>The central purpose of Requirement 19(2) is to ensure that only one runway will ever operate between 23:00 – 06:00,</p>	

		<p>and the main runway will continue to be the primary runway which is used during those hours, preserving the status quo. The current wording achieves this.</p> <p>Passenger limit</p> <p>Whilst it is theoretically possible that the passenger throughput could grow to exceed 80.2mppa, it is highly unlikely and a restriction to that limit would not meet the relevant policy tests of necessity and reasonableness set out in the ANPS at paragraph 4.9.</p> <p>It is relevant that the evidence of the Joint Local Authorities is that the Applicant’s forecasts that traffic may reach 386,000 ATMs and 80.2mppa overstates the likely growth facilitated by the Project. The JLAs doubt the capacity of the airspace to support the forecast traffic movements and doubt the ability of the airport to sequence aircraft with the departure separations necessary to achieve the forecast throughput. The JLAs also doubt the ability of Gatwick to grow its year round, off-peak operations to meet the forecasts. For the JLAs, York Aviation have recognised that the forecasts may be used for the purposes of a worst case environmental assessment but they question their achievability. In its Needs Case Review for Local Impact Reports (Joint Sussex Authorities’ LIR Appendix F [REP1-069]), York Aviation state:</p>	
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	<p><i>“46. Overall, the consequence of this, given the capacity constraints at peak periods, is most likely to be that the total number of passengers and commercial air traffic movements has been further overstated.”</i></p> <p>Gatwick is more confident but no party has suggested that the forecasts understate the airport’s likely throughput. The Environmental Assessment has assessed the impact of the NRP at the full forecast level and this should create confidence that its assessment of effects and its recommendations for mitigation are already robust.</p> <p>With an ATM cap in place, further passenger growth could only come from increased aircraft sizes or increased passenger loading ratios. The Applicant’s case already forecasts average load factors of 92% for every plane and a near 20% increase in average aircraft sizes by 2047 (Forecast Data Book paragraph 8.3.4 [APP-075], under the Northern Runway, average aircraft size of 227 seats in 2047 compares with 193 in 2019).</p> <p>Any limit on passenger numbers would run contrary to the objectives of policy, which provides strong support for proposals which respond to aviation demand because of the benefits that it brings. Policy also seeks best use, rather than better use, of airport infrastructure - not least because the most sustainable way of meeting aviation demand is by encouraging the efficiency of meeting that</p>	
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	<p>demand through less infrastructure and fewer aircraft.</p> <p>There should, therefore, be a presumption against the imposition of planning restrictions (or operating restrictions) on passenger numbers. In GAL’s view, any passenger limit would need to be robustly justified in that context.</p> <p>In its Written Summary of Oral Submissions at ISH2 [REP1-057] at paragraph 3.1.15, the Applicant set out details of controls at other airports. There is no settled precedent approach – some airports have ATM restrictions, some have passenger restrictions, some have both and some have neither. Gatwick has operated without restrictions but nevertheless been notably effective at reducing its noise footprint and developing a strong sustainable transport strategy with industry leading mode share achievements.</p> <p>Draft Requirement 19 proposals a limitation on ATMs. Of the two potential capacity constraints, an ATM constraint is the most effective in limiting the environmental effects of airport expansion. It will also act to encourage more efficient use of aircraft capacity. Whilst it is not a cap on passenger numbers it clearly is a substantial constraint on their ability to grow significantly above forecast levels. Whereas more planes would have additional environmental effects, more passengers would bring greater economic and social benefits and it is not obvious that any greater</p>	
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		<p>environmental effects would arise. The potential for larger aircraft has already been factored into the ES. Even if that turned out to be an underestimate, noise controls within the DCO would limit and mitigate any unexpected noise effects.</p> <p>The only real potential for greater effects, therefore, might be said to be related to more traffic. In that respect, however, it should be recognised that:</p> <ol style="list-style-type: none"> 1. The Government’s commitments under the Climate Act 2008, which are given effect through its Transport Decarbonisation Plan, mean that the carbon effects of any increase in traffic will be managed within a trajectory to Net Zero. 2. The Applicant’s Transport Assessment demonstrates that the basket of mode share and highway improvements committed to within the NRP application create capacity on the road network such that traffic conditions forecast out to 2047 are acceptable and not close to the point where further investment or restraint would be necessary (see, for example, Figures 1 and 2 of the Post Covid VISSIM Sensitivity Tests for 2032 and 2047 (Doc Ref. 10.19). 3. The same is true of Air Quality impacts where the evidence demonstrates that the NRP does not 	
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		<p>threaten air quality objective limits (see for example the Applicant’s answer to ExQ AQ.1.22 (Doc Ref. 10.16). Marginal additional growth in the long term would not affect that conclusion.</p> <p>The Surface Access Commitments (Doc Ref. 5.3 v2) collectively limit and mitigate against any adverse effects arising from greater passenger traffic growth. The mode share Commitments 1-4 dilute and limit any impact, whilst the parking Commitments 8-12 limit and mitigate any risk that harm could arise from greater parking demand. The public transport Commitments 5-7 also limit any risk of harm and Commitment 13 (Sustainable Transport Fund) is particularly significant in providing a stream of continuous investment in sustainable transport to be directed by the TSFG to respond to evolving transport demands and progressively building to an increasingly robust framework of sustainable transport options. Any risk of greater passenger numbers is, by definition, a long term risk and, by the time that risk may crystallise Gatwick passengers will have benefited from years of further continued investment in public transport capacity.</p> <p>In case it is necessary, Commitment 14 (Transport Mitigation Fund) acts as a backstop. It provides a reserve fund to mitigate against the adverse effects of any unforeseen impacts. The text above explains why a risk of adverse effects arising from greater than forecast</p>	
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		<p>passenger numbers is a very remote risk but Commitment 14 provides the means of mitigating any effects should that risk come to fruition. As a solution it is far more satisfactory and consistent with policy than imposing a limit on the success of Gatwick.</p> <p>Both the Sustainable Transport Fund and Transport Mitigation Fund (together with other funding support for the Project) are secured in the draft Section 106 Agreement [REP2-004].</p> <p>Fleet transition</p> <p>This question is largely addressed above. The Applicant considers the transition rates between fleet types during the 2020s and 2030s to be a realistic base case. This transition captures the more efficient/quieter fleet types as well as the ongoing increase in average aircraft size already discussed in this question. By 2047 the average aircraft size is forecast to increase to 227 seats (2047, NRP) compared to 193 in FY2019, this already provides for significant growth compared to current performance levels and includes the impact of an increasing share of long haul wide-body aircraft with higher seat counts.</p>	
DCO.1.42	The Applicant	<p>Approach to Tracking Mitigation</p> <p>The Mitigation Route Map [APP-078] has been prepared to</p>	<p>As stated in response to DCO.1.6, the Authorities maintain the position set out in the Legal Partnership Authorities' Responses to ExQ1 [REP3-135]: while acknowledging the submission of the Mitigation Route Map [APP078], they disagree with the level of detail</p>

	<p>IPs</p>	<p>demonstrate that all necessary controls, mitigation and commitments of enhancement have been identified and secured.</p> <p>Why is the Mitigation Route Map submitted for information only?</p> <p>Would it be more effective for IPs for the Mitigation Route Map to be developed as a Register of Environmental Actions and Commitments to track progress of the commitments and record outcomes and evidence of the actions taken, as well as recording and addressing any additional environmental issues that arise during construction?</p>	<p>provided, especially with regards the securing mechanism column. The Authorities would like to see the development of the Route Map from its current form, into a Register of Environmental Actions and Commitments (REAC) document. This would be an effective way to track progress against commitments made, which could then be secured through the DCO, rather than just for information, as currently proposed by the Applicant.</p>
		<p>An explanation as to why the Mitigation Route Map [REP2-011] is submitted for information only is provided against DCO.1.6.</p> <p>Mitigation Route Maps (MRM) are commonly prepared by applicants to accompany DCO Applications in the format proposed by the Applicant for this Project and which is considered best practice, including by PINS. By way of example, the ExA for the Lower Thames Crossing DCO Application requested that the Applicant submit a MRM in the first round of Examination Questions (ExQ1 Q16.1.4) stating that <i>“it would be useful for the ExA and Stakeholders if the Applicant could provide a single document containing</i></p>	

		<p><i>a mitigation route map”.</i></p> <p>Procedures to monitor and record progress of any commitments are contained in a number of key environmental control documents and their respective securing mechanism. For instance, the Surface Access Commitments [APP-090], Carbon Action Plan [APP-091] and The Noise Envelope [APP-177].</p> <p>Procedures to address any environmental issues during construction of the Project are contained within the Code of Construction Practice (CoCP) [REP1-021] and relevant Management Plans. By way of example:</p> <p style="padding-left: 40px;">The Construction Workforce Travel Plans will contain a monitoring strategy and reporting to the relevant planning authority, as described in Section 10 of the Outline Construction Workforce Travel Plan [APP-084];</p> <p style="padding-left: 40px;">Monitoring procedures for construction dust will be confirmed through the Construction Dust Management Plans to be approved by the relevant planning authority, including a procedure to change monitoring locations if deemed necessary, as described in paragraph 5.8.2 of the CoCP [REP1-021]; and</p>	
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		<p>Monitoring and reporting of all noise and vibration commitments will be carried out, with monitoring data to be made available to the relevant planning authority, as described in paragraph 5.9.6 of the CoCP [REP1-021].</p> <p>A Register of Environmental Actions and Commitments (REAC) is therefore not considered necessary, as it would in effect duplicate outputs to be monitored and reported through the future Management Plans. REACs are also only prepared to capture mitigation identified within Environmental Statements and therefore would not capture the wider suite of mitigation measures secured through non-ES documents, such as the Design Principles and Section 106 Agreement, and which are captured in the MRM.</p>	
<p>DCO.1.45</p>	<p>The Applicant RPAs</p>	<p>Approach to Securing Mitigation</p> <p>The Applicant proposed to use a CoCP [REP1-021] to mitigate construction phase impacts.</p> <p>Why has a CoCP approach been adopted rather than a Construction Environmental Management Plan that is subject to local authority approval to mitigate construction impacts? RPAs are invited to comment on the alternative approaches.</p>	<p>The Authorities maintain the position set out in the response to ExQ1 [RE3-135]: the CoCP should be considered an overarching construction management plan that sets out the principles for the construction of the Project. The CoCP should be an outline document that sets out specific management plans the Applicant should prepare (see DCO 1.46). The CEMP approach could then be adopted for each individual stage/works number, to provide the relevant suite of construction information to inform the mitigation required during construction for distinct geographical areas.</p>

	<p>The Code of Construction Practice (CoCP) [REP1-021] outlines the management systems and measures that will be in place through the construction of the Project, as secured under Requirement 7 of the dDCO (Doc Ref. 2.1 v6). A Construction Environmental Management Plan is limited to environmental management measures whereas the CoCP includes but is not limited to procedures and measures on environmental matters. For instance, it describes the role of the Community Liaison Officer and is accompanied by the Construction Communications and Engagement Plan in Annex 7 [REP2-015].</p> <p>The CoCP as submitted can be (and is being) tested through examination and the Applicant is taking account of any relevant feedback from the local authorities. The submitted CoCP is sufficiently detailed in setting out the comprehensive suite of procedures and measures that will be in place throughout the construction of the Project to manage and minimise disturbance from construction activities. As such, a further update and approval of the CoCP is not required, unless a change or update is required which would be subject to Crawley Borough Council's approval under Requirement 7 of the dDCO (Doc Ref. 2.1) An example of where a change or update may be necessary is provided in response to GEN.1.9.</p> <p>The CoCP (para 2.2.7) describes where further management plans are to be prepared on specific</p>	
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		<p>construction or environmental measures and to be submitted to approval by the relevant planning authority or relevant highway authority (as applicable) prior to commencement of the relevant construction works. This includes the following plans to be subject to further approval by the relevant authority and will be reflected in the dDCO to be submitted at Deadline 4 (see response to DCO.1.48):</p> <ul style="list-style-type: none"> • The Construction Workforce Travel Plan, to be substantially in accordance with the Outline Construction Workforce Travel Plan; • The Construction Traffic Management Plan, to be substantially in accordance with the Outline Construction Traffic Management Plan; • Detailed Arboricultural and Vegetation Method Statement(s), to be substantially in accordance with the Outline Arboricultural and Vegetation Method Statement. • Construction Dust Management Plans, to be substantially in accordance with the Draft Construction Dust Management Plan; • Soil Management Plans, to be substantially in accordance with the Soil Management Strategy; 	
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		<ul style="list-style-type: none"> Site Waste Management Plan, to be substantially in accordance with the Construction Resources and Waste Management Plan. The CoCP (paras 3.1.1 to 3.1.3) also confirms that GAL does and will continue to operate an Environmental Management System (EMS), certified to British Standard EN ISO 14001. Each Principal Contractor to be appointed by GAL will be required to have an EMS in place accredited to ISO 14001 and be required to plan their works in advance to ensure that the principles established in the CoCP are complied with. 	
DCO.1.46	The Applicant RPAs	<p>Status of CoCP</p> <p>Table 9.8.1 of ES Chapter 9 refers to the CoCP [REP1-021] as an ‘outline CoCP’.</p> <p>Is the CoCP an outline document? And if it is, should it be subject to local authority approval when more detail is available?</p> <p>If the CoCP is not an outline document, do the RPAs consider that the CoCP is sufficiently detailed to mitigate construction phase impacts?</p> <hr/> <p>The singular reference to an ‘outline CoCP’ in ES Chapter 9: Ecology and Nature Conservation (Table 9.8.1) [APP-</p>	<p>The Authorities maintain the position set out in the response to ExQ1 [RE3-135]: they have considerable concerns about the level of detail provided in the CoCP, irrespective of its status. Even if the document is an outline document, the Authorities consider that there are a number of topic areas for which sufficient detail is not provided, as set out in the Authorities’ submissions to the examination (e.g. the West Sussex and SCC LIRs [REP1-068 and REP1-097]. This includes requiring further detail around the mitigation of construction phase impacts, including, but not limited to:</p> <ul style="list-style-type: none"> visual impact of construction compounds – tree loss, design and layout, lighting, stockpiles; visual impact and management of the works on site and in relation to nearby footpaths and ancient woodland within the CoCP in relation to Pentagon Field; measures within CoCP to ensure no construction activity is undertaken within ancient woodland and their minimum buffer zone; tree protection measures/ arboricultural impact assessment;

		<p>034 is in error.</p> <p>As made clear in the remainder of the ES Chapter 9 and the application as a whole, the Code of Construction Practice [REP1-021] is not an outline document. Under Requirement 7 of the dDCO (Doc Ref. 2.1 v6), construction of the development must be carried out in accordance with the CoCP unless otherwise agreed with CBC.</p> <p>The CoCP as submitted is sufficiently detailed to direct the procedures and measures that will be in place throughout the construction of the Project, with future management plans to be prepared on specific construction or environmental measures for approval by the relevant authority. Further commentary on the CoCP is provided in response to DCO.1.45.</p>	<ul style="list-style-type: none"> • measures within CoCP to protect the biodiversity areas, including vegetation retention plans and protective fencing; • impact on safeguarded minerals, and potential to avoid needless sterilisation; • Dust Management Plan; • Odour Management Plan; • Noise management and monitoring proposals; • construction traffic and non-road mobile machinery emissions; • construction noise and vibration, including from changes in road traffic noise levels due to construction traffic; • Online noise and dust reporting including for local communities; • Self-service portal for complaint recording and monitoring; and • construction engagement. <p>The Authorities' view is that it would be prudent for the CoCP to be an outline document, given that detailed design has not been undertaken and that a principal contractor is yet to be appointed by the Applicant. The CoCP should be updated accordingly as construction elements evolve, with approval required by the relevant authorities.</p>
DCO.1.47	The Applicant	<p>Approval of Site Waste Management Plans</p> <p>According to the CoCP (paragraph 2.2.9 [REP1-021]) the proposed Site Waste Management Plans (SWMP) would not be subject to approval by local planning authorities.</p> <p>Explain why SWMPs are not subject to local authority approval, particularly where they relate to off-airport works. Would they be subject to consultation?</p>	<p>The Authorities note that the Deadline 4 version of the dDCO will include a requirement concerning the SWMPs. The Authorities will comment on the proposed requirement at Deadline 5.</p>

		<p>In developing the detail of the content of these plans, the Applicant considers that it would be appropriate for these plans to be approved by Crawley Borough Council. As explained in response to DCO.1.48, the Applicant will submit an updated version of the dDCO at Deadline 4 which includes specific DCO Requirements for each of the control documents required for construction. There will be a specific DCO Requirement requiring the SWMPs (to be substantially in accordance with the Construction Resources and Waste Management Plan [APP-087]) to be submitted to and approved by CBC.</p> <p>The SWMPs are iterative documents, to be updated during construction to take account of how waste is being managed in line with targets to divert waste from landfill and to record periodic review of waste management facilities (explained in para 1.4.4 of the CRWMP). The principles for managing construction waste from the Project are set out in the CRWMP.</p> <p>A template of the SWMPs is contained in Annex A of the CRWMP making clear what information will be provided. Feedback from Local Authorities on the content of the template is welcomed, noting that the only comment received so far is on how the dDCO ensures that the</p>	
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		SWMPs follow the CRWMP template.	
DCO.1.48	The Applicant	<p>Requirements Related to Control Documents</p> <p>R12 and R13 of the dDCO provide that no part of the authorised development is to commence until a construction traffic management plan (CTMP) and construction workforce management plan (CWMP) respectively have been submitted to and approved in writing by the relevant highway authority.</p> <p>Why are CTMP and CWMP covered by specific requirements when other control documents are not?</p>	The Authorities note that the Deadline 4 version of the dDCO will include requirements for the “Level 2” control documents. The Authorities will comment on the proposed requirement at Deadline 5.
		In response to this question, the Applicant will update the DCO Requirements in Schedule 2 of the dDCO (Doc Ref. 2.1 v6) for Deadline 4 to include specific requirements for the Level 2 Control Documents that are required for construction as explained in response to DCO.1.47. The relevant DCO Requirements will set out the specific construction Level 2 Control Documents that are required for approval, when they must be in place by and where relevant, the Level 1 Control Document that the Level 2 Control Document must be substantially in accordance with..	
DCO.1.49	The Applicant	Approval of Construction Phasing	The Authorities maintain the position set out in their answer to ExQ1 1.49: while

	<p>RPA's</p>	<p>The Indicative Construction Sequencing [APP-088] is not included in the CoCP.</p> <p>Should the phasing of the construction programme be subject to RPA approval and secured by a Requirement in the DCO?</p>	<p>acknowledging the indicative construction sequencing submitted by the Applicant, owing to the complex nature and duration of the proposed construction period, the phasing of the construction period should be subject to approval and secured by a requirement in the DCO.</p>
		<p>As explained in Section 5.3 of ES Chapter 5: Project Description [REP1-016], the Indicative Construction Sequencing [REP2-016] has been developed to support the DCO application and enable a representative assessment of the likely significant effects, but are not fixed dates within a prescribed programme or sequence.</p> <p>The DCO Application's suite of control documents and the dDCO (Doc Ref. 2.1 v6) itself contain a series of controls to manage the timing and sequencing of works where required, for instance to ensure that mitigation or protection measures are in place before relevant works commence.</p> <p>By way of example:</p> <ul style="list-style-type: none"> • Requirement 6(2) of the dDCO (Doc Ref. 2.1) secures the timing of the national highway works relative to the commencement of dual runway operations; • Requirement 23 of the dDCO (Doc Ref. 2.1) secures the submission and approval of a Flood 	

		<p>Compensation Delivery Plan prior to commencement of relevant works and which must include a timetable for delivery of flood compensation areas.</p> <ul style="list-style-type: none"> • Article 40 of the dDCO (Doc Ref. 2.1) secures the submission and approval of an Open Space Delivery Plan which must include a timetable for the delivery of the replacement open space areas. • The Code of Construction Practice (CoCP) [REP1-021] explains that where further design information is required to identify detailed mitigation measures, management plans will be submitted for approval by the relevant planning authority (or highway authority where relevant) following the grant of consent when more detailed information is available. These detailed plans will be developed and informed by construction phasing and sequencing, as relevant to the topic/part of the development, for instance: • The Construction Traffic Management Plan(s), to be prepared substantially in accordance with the Outline Construction Traffic Management Plan [APP-085], will be informed by the phasing of the construction works associated that particular part of the development, in order to inform and explain how 	
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		<p>the construction traffic would be managed and controlled throughout the duration of the relevant construction works.</p> <ul style="list-style-type: none"> • Similarly, the Construction Workforce Travel Plan(s), to be prepared substantially in accordance with the Outline Construction Workforce Travel Plan [APP-084], will be informed by the phased of construction works to establish the construction workforce-related trips to the particular part of the development that is under construction, to then inform the Travel Plan measures, communication strategy and monitoring framework; • The production of the Construction Dust Management Plan will be site-specific informed by the magnitude of construction work and any cumulative effects where works across the site could be occurring in parallel. <p>The production and submission of these detailed plans to the RPA will also be dictated by the construction programme. As such, the RPA(s) will have sight of the construction phasing and sequencing through the receipt of the detailed plans as specified under the CoCP's existing drafting.</p>	
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<p>DCO.1.55</p>	<p>CBC HDC MSDC WSCC</p>	<p>Outline Operational Waste Management Plan</p> <p>Paragraph 22.4 of the Joint West Sussex LIR [REP1-068] states that the dDCO should include a requirement for an outline operational waste management plan.</p> <p>Specifically, what would the West Sussex Authorities wish to see in such a requirement? Does this relate to the request for an Odour Management and Monitoring Plan referenced in Appendix M [REP1-069]?</p> <hr/> <p>An Operational Waste Management Strategy (Doc Ref. 10.12) is submitted at Deadline 3. The document explains how operational waste from Gatwick Airport is currently managed, how waste volumes are predicted to change as a result of the Project and how operational waste would be managed once the Project is constructed. The document has been prepared taking account of information requested through the Statement of Common Ground between GAL and West Sussex County Council [REP1-033] and Section 22 of the Joint West Sussex Local Impact Report [REP1-068].</p> <p>In the dDCO submitted at Deadline 3 (Doc Ref. 2.1 v6), new Requirement 25 (operational waste management plan) has been added which requires the undertaker to submit an operational waste management plan to CBC within six months after the commencement of dual runway operations</p>	<p>At Deadline 4, WSCC are submitting their response to the Applicant's operational waste management strategy [REP3-070] and the contents of that response is not repeated here.</p> <p>Similarly, at Deadline 4 the Authorities are submitting their suggested amendments to Requirement 25. (This is included at row 95 of the Authorities' Response to the Applicant's Schedule of Changes [REP3-005].</p>
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		for approval. This plan must be substantially in accordance with the Operational Waste Management Strategy (Doc Ref. 10.12).	
DCO.1.56	CBC HDC MSDC WSCC	<p>Detailed Design Controls</p> <p>Table 24.1 of the Joint West Sussex LIR [REP1-068] outlines the need for a suitably detailed design control document setting clear design principles for the Project as a whole but also addressing design controls for specific Works areas including clear parameter and works plans (Appendix 1 of the DAS).</p> <p>Specifically, what would the West Sussex Authorities wish to see in such a document and a requirement to secure this? How would this relate to R4?</p>	The Authorities await the Applicants comments on the proposed approach they set out at Deadline 3 [REP3-0135].
		N/A – this question is not directed to the Applicant.	
DCO.1.57	The Applicant	<p>Detailed Design Controls</p> <p>At ISH2 the ExA raised concern that the description of Work Nos. in Schedule 1 of the dDCO were not detailed enough. In addition, concern was raised that the design principles in Appendix 1 of the DAS [APP- 257] are too broad. In paragraph 24.79 of its LIR [REP1-068] the Joint West Sussex authorities stated its position that the design</p>	<p>The Authorities consider that the Applicant has not adequately addressed the question.</p> <ul style="list-style-type: none"> a) The Authorities consider the description of works in Schedule 1 should be expanded upon, this point is already explained in response to question DCO 1.39 [REP3-0135]. b) Comments on the Detailed Design Principles – Appendix 1 of the Design and Access Statement – please see the detailed comments provided within a separate Joint West Sussex Authorities Deadline 4 submission document (need to add X ref). c) It is noted that there has been no response by the Applicant to this question.

		<p>principles in Appendix 1 of the DAS need to be expanded to provide site specific design principles for the Works based not just on building type but on the contextual analysis of the site.</p> <p>The Applicant is asked:</p> <p>a) To provide an expanded description of the works in Schedule 1 of the dDCO that reflects more closely the description of works as described in volumes 2-4 of the DAS [APP-254, APP-255 and APP-256].</p> <p>b) To expand the design principles in Appendix 1 of the DAS to provide site specific design principles for each separate Work No. based not just on building type but on the contextual of the individual site of each Work No. Consideration should also be given to how Work No. specific design principles work within the overarching design principles for the project as a whole.</p> <p>c) If the Applicant disagrees with the above alterations to Schedule 1 of the dDCO and Appendix 1 of the DAS, it is asked to set out clearly what alterations it would be willing to make in order to satisfy the ExA that there is sufficient information contained in the DCO and</p>	
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		<p>control documents on the layout, siting, scale and external appearance of buildings to ensure that good design will be achieved in detailed design and the approval process under R4.</p>	
		<p>As explained in The Applicant’s Response to ISH2 Actions [REP1-063], the Applicant does not consider the DCO to be the appropriate vehicle for detailed design information, which the Applicant considers is best outlined through the indicative designs and design principles in the Design and Access Statement Appendix 1 (Doc Ref. 7.3 v3).</p> <p>As such and in response to the ExA’s request, the Applicant has undertaken a comprehensive review of the Design Principles (Doc Ref. 7.3 v3) and an updated version is submitted at Deadline 3. As per Requirements 4, 5 and 6 of the dDCO (Doc Ref. 2.1 v6), all design details and excepted development must be in accordance with these Design Principles. In making the updates, the Applicant has either: specified the relevant Work No. against any existing site-specific design principles; or drafted new site-specific principle(s) for each Work No. unless not considered appropriate for the reasons set out below.</p> <ul style="list-style-type: none"> • No specific design principles are included for Work Nos. 1 to 7, unless required for Project specific mitigation measures (e.g. DBF13 and DBF14). As 	

		<p>explained in The Applicant’s Response to ISH2 Actions [REP1-063], the Applicant is the operator of a Civil Aviation Authority (CAA) certified aerodrome and is therefore required to seek prior approval from the CAA of impending changes affecting its infrastructure or management systems. In accordance with CAP 791 (Procedures for changes to aerodrome infrastructure)⁵, the design of Works Nos. 1 to 7 is required to follow a three-part process before works can commence and a licence to operate the revised aerodrome is granted. CAP 791 sets out the design information, safety assurances and analysis that must be provided as part of the design approval process. These works are therefore considered to be sufficiently detailed in the dDCO (Doc Ref. 2.1 v6) as drafted and to not impede upon the CAA approval process that must be carried out, as required by UK Regulation (EU) 139/2014.</p> <ul style="list-style-type: none"> • No specific design principles are included for Work No. 8 as this relates to the removal of existing airside support facilities and not the construction of new/replacement structures or facilities that would entail a new design. • No specific design principles are included for Work No. 17 as this relates to the relocation of the Hangar 	
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		<p>7 support structures, in that the existing structures are to be removed and relocated in the specified area for Work No. 17.</p> <ul style="list-style-type: none"> • No specific design principles are included for Work No. 19 as this relates to the construction of a pumping station, which will be dictated by its functional design. • No specific design principles are included for Work No. 34(a) and (b) as it relates to the removal of Car Park B which will be re-developed as the replacement open space, which is subject to its own site-specific design principles. <p>The Applicant considers that the level of prescription in the Design Principles (Doc Ref. 7.3 v3) is more appropriate than layering additional description to the DCO Schedule itself.</p>	
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