



**Horsham
District
Council**



GATWICK AIRPORT NORTHERN RUNWAY PROJECT

Planning Inspectorate's Reference: TR020005

Legal Partnership Authorities

**Response to Applicant's "Table 6: Response to ExQ1 -
Development Consent Order and Control Documents
from the Legal Partnership Authorities" in [[REP5-072](#)]**

DEADLINE 6: Wednesday 26 JUNE 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)

Response to Applicant’s “Table 6: Response to ExQ1 - Development Consent Order and Control Documents from the Legal Partnership Authorities” in [\[REP5-072\]](#)

Note: 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).

Purpose of this Submission

The Applicant’s submission at Deadline 5 “The Applicant’s response to Deadline 4 Submissions’ [\[REP5-072\]](#) included in section 2.7 “**Table 6: Response to ExQ1 - Development Consent Order and Control Documents from the Legal Partnership Authorities**” the Applicant’s response to the Legal Partnership Authorities responses to the ExQ1 questions on the DCO.

The purpose of this submission is to provide a response to this table. The ExA should note that the Legal Partnership Authorities may submit a consolidated document of the changes they are seeking to the dDCO at a subsequent deadline.

Response to Applicant’s “Table 6: Response to ExQ1 - Development Consent Order and Control Documents from the Legal Partnership Authorities”

ExQ1	Legal Partnership Authority Response	Applicant’s Response	Legal Partnership Authorities Comments Deadline 6
<p>DCO.1.2</p> <p>Extent of Proposed Works</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>Development have been excerpted and listed in Schedule 13 so that they are visible on the face of the DCO, though the Parameter Plans (Doc Ref. 4.7) will remain the determinative control on the extent of vertical development because there are several works the limits for which cannot be easily distilled into tabular form and for which the Parameter Plans offer greater specificity and therefore clarity.</p>	<p>The Authorities are providing comments separately in response to the ExA’s Action Points arising from ISH8 (in particular Action Point 25 about the inclusion of Schedule 13). These include comments on Schedule 13 itself and the details included on the Parameter Plans and Works Plans, which in general terms the Authorities consider are drawn too widely in a number of cases and/or require more detail.</p> <p>Please refer to the Legal Partnership Authorities Response to Actions Arising at ISH8 [EV17-018].</p>

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<p>DCO 1.3 Securing the Operational Lighting Framework</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 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>	<p>The Applicant has updated the Design Principles (Doc Ref. 7.3) at Deadline 5 to explain that the lighting principles contained therein are derived from the ES Appendix 5.2.2: Operational Lighting Framework [APP-077].</p>	<p>The Authorities have no further comments on this point at this time.</p>
<p>DCO 1.5 Heads of Terms for s106 Agreement</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</p>	<p>The Surface Access Commitments are, and have been since the submission version of the draft DCO (Doc Ref. 2.1), secured by requirement 20 (surface access commitments).</p>	<p>Discussions are on-going between the Applicant and the Authorities regarding the further work considered necessary in relation to the ESBS and ESBS Implementation Plan. In this context, the Authorities maintain that the ESBS and Implementation Plans need to be clear how skills shortages in local area will be addressed, including details of funding allocated for this purpose.</p>

	<p>Partnership Authorities confidence that the Surface Access Commitments would be properly funded; these obligations 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>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>The Applicant and JLAs are discussing the appropriate securing mechanism for a number of obligations originally included in the draft s106 Agreement. A revised s106 Agreement reflecting the progress of these discussions will be submitted at Deadline 6.</p> <p>d) The Applicant has shared a draft ESBS Implementation Plan with the JLAs and is not proposing to carry out any further work before the examination has finished</p>	
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<p>DCO 1.7 Role of Discharging Authorities</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.</p>	<p>As set out in paragraph 9.75 of the Explanatory Memorandum to the DCO (Doc Ref. 2.2), the Applicant's approach to fees for discharging authorities is well precedented in made DCOs. The JLAs refer to their "<i>suggested approach</i>" in Responses to ExQ1 [REP3-135], which was for the parties to agree a planning performance agreement. So far as the Applicant is aware, the JLAs have not suggested alternative drafting on fees for inclusion in Schedule 11 of the draft DCO (Doc Ref. 2.1) or communicated what they would consider an acceptable quantum of fee. Contrary to the JLAs' rhetorical assessment of paragraph 3(2) of Schedule 11, such provision features in each of the precedents cited in paragraph 9.76 of the Explanatory Memorandum [REP3-008]. The discharging authority will be able to determine quickly whether an application has been "<i>invalidly made</i>", which does not require the full substantive assessment and consultation process that may be needed to determine whether to grant or</p>	<p>The JLAs were disappointed with the Applicant's response to this question. This answer covers (i) the justification for paying the JLAs costs and (ii) the updated position.</p> <p><u>(i) The justification for covering the JLAs' costs</u></p> <p>The proposed fee for the discharge of requirements is – based on Regulation 16 of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 – £145 per request.</p> <p>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 ExQ1 DCO1.7 [REP3-0135]. Based on the fees being offered there is no prospect that the Authorities can secure adequate resources to undertake these obligations.</p> <p>Furthermore, 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</p>
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	<p>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)) and the cost associated with administering this work should also be covered by the Applicant</p>	<p>refuse an application (and through which the fees would be expected to be incurred). In such circumstance, it is right that the fee is returned (or credited for a future application).</p> <p>It is similarly right that the fee is returned if the discharging authority does not determine the application within the decision period specified in the draft DCO (Doc Ref 2.1). Such period is included to ensure that discharging requirements does not delay the progress of construction. If a discharging authority does not comply with this, it should not retain the fee. This accords with wider Government policy in the form of the 'Planning Guarantee' detailed in the December 2023 update to the Planning Practice Guidance, whereby planning application fees must be refunded to applicants where no decision has been made within a specified time.</p> <p>The Applicant is not aware of other made DCOs which provide for undertakers to pay for authority bodies to exercise their functions</p>	<p>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)) and the cost associated with administering this work should also be covered by the Applicant.</p> <p><u>(ii) The updated position</u></p> <p>The Applicant and JLA are at the early stages of discussing the content of a planning performance agreement ("PPA") that the Applicant and JLA would enter into to ensure the JLAs' costs in discharging DCO requirements would be covered by the Applicant. Costs arising from the discharge of consents under certain highways articles would be covered in a highways agreement made under article 21(2)(c) (agreements with highways authorities) of the draft DCO [REP5-006].</p>
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		<p>under the articles of the DCO. Many such functions flow from or replicate those authorities' existing statutory functions and the Applicant does not, therefore, consider it justified that the DCO should oblige it to pay a fee in such circumstances.</p>	
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<p>DCO 1.17 Art. 3 (Development consent granted by Order)</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>'Adjacent to' is included in this provision in its ordinary meaning (i.e. very near, next to or touching). The Applicant explained the need for this wording and the fact that it is well-precedented in made DCOs in response to ExQ1 DCO.1.17. Any local enactments subject to article 3(2) are not disapplied but are merely subjugated to the extent that they conflict with the provisions of the DCO, thus ensuring the deliverability of the authorised development once the DCO has been granted.</p>	<p>This point is under discussion between the Applicant and the Authorities and the Authorities believe it is capable of resolution.</p>
<p>DCO 1.21 Art 9. (Planning permission)</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]). Article 9(4): regarding paragraph (4), the Applicant has confirmed in its answer to ExQ1 GEN1.2 [REP3-091]- "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</p>	<p>Article 9(4) of the draft DCO (Doc Ref 2.1) provides that any conditions to planning permissions granted prior to the date of the Order that are incompatible with the requirements of the Order or the authorised development shall cease to have effect from the date the authorised development is commenced. Contrary to the JLAs' comment, this has the same effect as article 56(3) of the Lower Thames Crossing draft DCO, which provides that to the extent that compliance with any conditions of a</p>	<p>Discussions between the Authorities and the Applicant regarding Article 9(4) are on-going and the Authorities hope a compromise may be reached which would address their concerns. Further commentary on the Authorities concerns on this issue can be found in the Legal Partnership Authorities Post-Hearing Submissions from ISH8.</p>

	<p>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. The Authorities consider there is no justification for this power, which extraordinary for a private company, to be cast any wider.</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>	<p>planning permission is inconsistent with the exercise of any power, right or obligation under the Order, no enforcement action may be taken under the 1990 Act in relation to compliance with those conditions.</p> <p>The justification for article 9(4) as drafted, which intentionally applies more widely than to just the 1979 planning permission, is set out in paragraphs 4.31 onwards of the Explanatory Memorandum to the DCO (Doc Ref. 2.2).</p> <p>Article 9(5) of the draft DCO (Doc Ref 2.1) provides that the Order does not prevent persons from seeking or implementing separate planning permission (including pursuant to permitted development rights) for development within the Order limits. The nature of the JLAs' concern with this provision is not understood – it merely expressly states the existing position at law (in order to make this clear in light of <i>Hillside</i>), that the grant of a DCO for an area does not sterilise that area from any future grant of planning permission or use of permitted development rights. As per the Applicant's response to ExQ1:</p>	
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<p>DCO.1.22 Art. 11 (Street works)</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-</p>	<p>The Applicant notes that while the JLAs maintain their general concern with the drafting of article 11, they have not advanced any particular concern regarding the exercise of article 11 over specific streets or otherwise engaged with the explanation provided by the Applicant (including the Applicant's</p>	<p>Discussions are on-going between the Authorities and the Applicant on the Authorities' concerns regarding the departure from precedent represented by Article 11. The Authorities will confirm their position in further submissions to the ExA.</p>

	069], the SCC PADSS (column 87), and the Legal Partnership Authorities' response to ExQ1 DCO1.22 [REP3-135].	cited precedents) in the Applicant's response to ExQ1: Development Consent Order and Control Documents , [REP3-089] DCO.1.22. In such circumstances, the Applicant maintains the position set out in that response.	
DCO.1.23 Art. 15 (Public Rights of Way-creation, diversion and stopping up)	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 side road entry which offers priority to pedestrians and cyclists.	The approach to the replacement provision for the part of Footpath 346_2sy proposed to be stopped up is under discussion between the Applicant and West Sussex County Council's PRow officer. A meeting is scheduled for 11 June 2024.	Following the recent meeting between West Sussex County Council and the Applicant to discuss various matters relating to active travel, the Authorities welcome the Applicant's proposal to provide Footpath 346_2sy within the Gatwick estate, and to afford the same level of access rights as is currently the case. This is welcomed by the Authorities. The Authorities note that issues pertaining to non-motorised access priority remain under discussion.
DCO.1.29 Art. 31 (Time limit for exercise of authority to acquire land compulsorily)	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".	The Applicant notes that while the JLAs maintain their general concern with the time period and the use of "start date", they have not engaged with the detailed reasoning provided by the Applicant in the Applicant's response to ExQ1: Development Consent Order and Control Documents	The Authorities remain concerned about the excessive period and its effect on, for example, the development of the Horley Business Park. The Authorities hope that a position can be agreed with the Applicant on this issue.

		<p>[REP3-089], DCO.1.29. In such circumstances, the Applicant maintains the position set out in that response</p>	
<p>DCO 1.32 Art. 34 (Application of the 1981 Act and modification of the 2017 Regulations)</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>On the JLAs' "<i>point of clarification</i>", the Applicant reiterates that paragraph (6) is extremely well-precedented, including in the majority of recently made DCOs. Of DCOs recently made by the Secretary of State for Transport see article 26(4) of the A66 Northern Trans-Pennine Development Consent Order 2024, article 37(4) of the A12 Chelmsford to A120 Widening Development Consent Order 2024 and article 30(4) of the A38 Derby Junctions Development Consent Order 2023.</p> <p>In version 7 of the draft DCO (Doc Ref 2.1) submitted at Deadline 5 (Doc Ref. 2.1) the Applicant has minorly amended articles 27, 28 and 34 to ensure that they effect the intention it explained in the Applicant's response to ExQ1: Development Consent Order and Control Documents</p> <p>[REP3-089], DCO.1.32</p>	<p>The Authorities are content with this explanation.</p>

<p>DCO 1.37 Art. 49 (Defence to proceedings in respect of statutory nuisance)</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>The Applicant notes that while the JLAs maintain their general concern with article 49, they have not engaged with the detailed reasoning provided by the Applicant in the Applicant's response to ExQ1: Development Consent Order and Control Documents, [REP3-089], DCO.1.37 nor the statutory context provided by section 158 of the Planning Act 2008 and section 79 of the Environmental Protection Act 1990. In such circumstances, the Applicant maintains the position set out in its previous response.</p>	<p>This issue remains under discussion between the Authorities and the Applicant.</p>
<p>DCO 1.39 Schedule 1 (authorised development)</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: Specification of number of Car Parking spaces. - 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</p>	<p>The Applicant has reviewed the Legal Partnership Authorities response to ExQ1 [REP3-135] DCO.1.39 alongside the Joint West Sussex Authorities' Deadline 4 comments on any further submissions received by Deadline 3 [REP4-042] on the Design Principles and provided a response in Table 48 of this document, alongside updates to the Design Principles (Doc Ref. 7.3). Car Parking spaces</p>	<p>Discussions are on-going between the parties as to the description of works in Schedule 1. Please refer to the Legal Partnership Authorities' Post-Hearing Submissions from ISH8 in respect of agenda items 5 and 8, also submitted at deadline 6, for further information on the concerns.</p>

	<p>Action Point 6 [REP2-081]) which seeks the removal of permitted development rights.</p> <p>Works No 41 Pentagon Field – 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>Works No. 42 - No response has been provided.</p> <p>Ancillary or Related Development - 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>How would (p) work in conjunction with Art. 25 to ensure that felling as only undertaken where necessary?</p> <p>The Applicant has answered this question as follows -</p>	<p>Please refer to the Applicant's position in Section 3.7 of the Car Parking Strategy [REP1-051] on why a control or cap on the amount of car parking spaces is neither warranted nor appropriate.</p> <p>In relation to the comment on the removal of permitted development rights, see the Applicant's response to the JLAs' response on ExQ1 DCO.1.21 above.</p> <p>Work No 41 Pentagon Field</p> <p>In response to the JLAs' comment, the Applicant has provided further detail on the Pentagon Field works through the following updates made at Deadline 5:</p> <ul style="list-style-type: none"> ▪ The description of Work No. 41 in the draft DCO (Doc Ref. 2.1) has been expanded to refer to the spoil bunds to be created. ▪ The site-specific design principle (DLP19) in the Design Principles (Doc Ref. 7.3) has been expanded to provide further design information on Pentagon Field, including the maximum height and slope gradient of the spoil bunds. <p>Please also refer to the Applicant's response on Pentagon Field contained at Appendix F (Doc Ref.</p>	
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	<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>	<p>10.38) which provides further information on the proposed works at Pentagon Field.</p> <p>Work No. 42</p> <p>The Applicant considers that the description of Work No. 42 is sufficiently detailed, with further site-specific Design Principles on the habitat enhancement, replacement planting and the weir and fish pass contained in the Design Principles (Doc Ref. 7.3), secured under requirements 4 and 5 of the Draft DCO (Doc Ref. 2.1).</p> <p>Temporary construction compounds</p> <p>The Applicant does not agree that temporary construction compounds should be listed as specified Work Nos.</p> <p>Section 4.5 of the ES Appendix 5.3.2: Code of Construction Practice (CoCP) [REP4-007] provides the necessary controls, including on the maximum height of each compound, which would be the main factor in visual impact. Additional information on the construction compounds, including a description of the compound elements, is described in Section</p>	
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		<p>4.5 of the ES Appendix 5.3.2: [REP4-007]. As noted by the JLAs, the Design and Access Statement – Volume 5 [REP2 036] contains detailed information on the anticipated layout and contents of the compounds. Further information on the compounds is also contained in the Buildability Reports Part A [REP2-013] and Part B [APP-080 and APP-081].</p> <p>Sections 4 and 5 of the ES Appendix 5.3.2: [REP4-007] sets out the measures to be followed to minimise impacts on landscape and visual resources. This includes the appropriate positioning of infrastructure within the compound, appropriate types, locations and operation of lighting and the type/height of boundary treatments including security fences and screens.</p> <p>The establishment and operation of site construction compounds would be carried out in accordance with the CoCP pursuant to requirement 7 of the draft DCO (Doc Ref. 2.1). Article 25 and ancillary development</p>	
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		<p>Schedule 1 lists the development authorised by the Order, including ancillary or related development which is not specifically identified by a Work No. The articles and requirements of the DCO, including article 25, specify powers and obligations of the undertaker and govern how the authorised development is to be carried out. These facets of the DCO are necessarily inter-dependent and it is therefore not duplicative for a type of development specified in Schedule 1 to be subject to provisions of an article or requirement elsewhere in the DCO. No deletion is therefore appropriate.</p>	
<p>1.40 (R3) R3 – Time limit and notifications</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 	<p>In version 7.0 of the draft DCO (Doc Ref 2.1) submitted at Deadline 5 (Doc Ref. 2.1), the Applicant has provided for the notification of the other host authorities in requirement 3.</p> <p>In respect of notice periods, the present periods are considered sufficient. If the JLAs continue to disagree, they are invited to specify what they consider a suitably generous notice period to be and</p>	<p><u>Notice Periods</u></p> <p>The Authorities have previously welcomed the requirement to give notice but have said the notice period is too short. The Authorities have not, however, offered alternative time periods. I think we now need to try to do so, notwithstanding the difficulties in doing so.</p> <p>Turning to the periods mentioned, per the Authorities comments at D3, the Authorities should not be disadvantaged by the standardisation of terms to “days”. So in Requirement 3(2):</p> <p>(a) Should be 14 days</p>

	<p>administrative burden of doing so will be negligible),</p> <ul style="list-style-type: none"> 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>why such a period is required beyond the current period.</p> <p>As regards the JLAs' proposal for a masterplan requirement, the Applicant has considered how best to address this and has drafted a new requirement 2A which provides for the submission of a phasing scheme document to the host authorities and National Highways prior to commencement of the authorised development. This phasing scheme must set out the anticipated phases of construction by reference to the work numbers in Schedule 1 and a layout plan and must specify the indicative construction programme for the subsequent five years, with indicative timings for phases thereafter. The requirement obliges the undertaker to review and update this scheme throughout the project timeline. By the submission of such a document, the host authorities will have forewarning of upcoming phases of construction and any likely applications for discharge of requirements and can resource accordingly.</p>	<ul style="list-style-type: none"> (b) Should be 42 days (c) Should be 14 days; (d) Should be 42 days; and (e) Should be 9 days <p><u>New Requirement 2A</u></p> <p>As set out in other submissions, the Authorities detailed points are -</p> <ul style="list-style-type: none"> 2A(1) - a notice period for submission of the phasing scheme is required. The Authorities suggest 6 months ahead of commencement. 2A(2)(a) - the scheme should be reviewed annually, not every 5 years. 2A(2) – it is not clear why the undertaker should stop submitting schemes after the 15th anniversary of commencement of the authorised development. There needs to be provision to cater, for example, for delays to the construction programme. 2A(3)(b)(ii) – this says that where a requirement requires relevant details or documents (eg a request for detailed approval) to be submitted to a host authority for approval relating to part of the authorised development, and the part does not constitute the whole phase, then indicative timings for the submission of relevant details or documents for the remainder of works in the phase must be submitted. The Authorities welcome this in principle but consider that R2A should be amended so as to include, either in R2A(1) or a separate new paragraph, a requirement on the undertaker to provide indicative timings for the submission of <u>all</u> details or documents,
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		<p>Requirement 2A also requires that when the undertaker submits details or documents in respect of part of the authorised development, it identifies the phase in the submitted phasing scheme to which that part relates and, if the part does not comprise the whole of a phase, when details will be submitted for the remaining part(s) of the phase. This will contextualise submissions to the discharging authorities and ensure that they can track progress through the phases specified in the phasing scheme.</p>	<p>and that this should be done at least 3 months before their submission.</p> <ul style="list-style-type: none"> Allied to that point, the Authorities also suggest that R2A(2)(b) should include a notice provision of at least 3 months to be given to the host authorities of any significant change to the contents or timing of the phases of construction.
<p>DCO 1.40 R4 – Detailed design</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 any LEMP which concerns Work No. 40 (Longbridge Roundabout). b) No comments. 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]), d) No comments.</p>	<p>a) The Applicant awaits the JLAs' common position on discharging arrangements, which the Applicant notes has been under internal discussion by the JLAs for several deadlines. c) The Applicant refers to its new requirement 2A, detailed immediately above, which will provide sufficient information to the JLAs regarding when parts of the authorised development are anticipated to come forward.</p>	<p>In relation to requirement 4, the Authorities are content for CBC to be the discharging Authority, except in cases where the work is wholly within a different local planning authority's area . For example, work no.40 in MVDC's area. In such instances, the Authorities consider that this local planning authority should be the discharging authority.</p> <p>Where works straddle two areas, the appropriate position would be for CBC to act as the discharging authority in relation to requirement 4, with the other local planning authority as consultee.</p>

<p>DCO 1.40 R19 – Airport operations</p>	<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). 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>The Applicant has responded to the JLAs' comments on requirement 19 in the section of this document below headed 'Legal Partnership Authorities Response to the Applicant's Schedule of Changes – Version 2'.</p>	<p>The Authorities have no further points to make on requirement 19 at this time.</p>
<p>DCO 1.46 Status of CoCP</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; 	<p>The Applicant responded to JLAs' Deadline 3 Responses to ExQ1 [REP3-135], DCO.1.46 at Deadline 4, namely in Table 2.5 of The Applicant's Response to Deadline 3 Submissions [REP4-031]. In short, the Applicant disagrees with the JLAs' response given that the Code of Construction Practice [REP4-007] and its Annexes covers the items listed in their response to DCO.1.46.</p>	<p>The Authorities remain concerned regarding the sufficiency of the content and the level of detail provided in the CoCP.</p>

	<ul style="list-style-type: none"> • 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; • 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. 		
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	<ul style="list-style-type: none"> 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 Approval of Site Waste Management Plans</p>	<p>The Authorities note that the Deadline 4 version of the dDCO will include a requirement concerning the SWMPs.</p> <p>The Authorities will comment on the proposed requirement at Deadline 5.</p>	<p>New requirement 30 (site waste management plan) has been introduced in version 7 of the draft DCO (Doc Ref 2.1) submitted at Deadline 5.</p>	<p>The Authorities are generally content with the wording of the requirement and are considering the details of the Construction Resources and Waste Management Plan with which the SWMPs must be in substantial accordance.</p> <p>The Authorities hope that discussions will take place on the drafting and any further concerns will be submitted at a later deadline.</p>

<p>DCO 1.48 Requirements Related to Control Documents</p>	<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.</p>	<p>New requirements 27 – 30 have been introduced in version 7 of the draft DCO submitted at Deadline 5 (Doc Ref. 2.1).</p>	<p>The Authorities are generally content with the wording of the requirement and are considering the details of the relevant control documents. The Authorities hope that discussions will take place on the drafting and any further concerns will be submitted at a later deadline.</p>
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<p>DCO.1.56 Detailed Controls</p> <p>Design</p>	<p>The Authorities await the Applicants comments on the proposed approach they set out at Deadline 3 [REP3-0135]</p>	<p>Schedule 1 to the DCO Please refer to the Applicant’s response to ExQ1 [REP3-089], DCO.1.56 and The Applicant’s Response to ISH2 Actions: Control Documents/DCO [REP1-063] regarding the level of design information in DCO Schedule 1 v. the Design Principles. Works Plans and Parameter Plans The Legal Partnership Authorities response regarding Works Plans under ExQ1 DCO.1.56 pointed to GEN.1.39, however the document did not contain a response to GEN.1.39. Clarification from the authorities is therefore requested. As explained in the Applicant’s response to ExQ1 [REP3-091] GEN.1.39, the Project has been assessed against the maximum extent and area of each Work No. as shown on the Works Plans (Doc Ref. 4.5) and Parameter Plans (Doc Ref. 4.7) on a reasonable worst-case basis. This is a common approach in large-scale infrastructure projects, where a lengthy design process means it is necessary to maintain a level of</p>	<p>Discussions are on-going following ISH8 on the Authorities’ concerns regarding the level of detail in descriptions of works and works plans. Please refer to the Legal Partnership Authorities’ Post-Hearing Submissions from ISH8 in respect of agenda item 8, also submitted at deadline 6, for further information on these concerns.</p>
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		<p>flexibility for the detailed design stage post-DCO consent and which is facilitated through the use of the Rochdale Envelope for assessment purposes.</p> <p>Additional Plans</p> <p>Additional plans showing tree belts, root protection areas, landscaping and drainage features are included in the DCO Application, namely within the ES Appendix 8.10.1: Tree Survey Report and Arboricultural Impact Assessment [REP3-037 to REP3-042], ES Appendix 5.3.2: Code of Construction Practice Annex 6: Outline Arboricultural and Vegetation Method Statement [REP3-022 to REP3-027] and ES Appendix 8.8.1: Outline Landscape and Ecology Management Plan [REP4-012 to REP4-016].</p> <p>Further design detail in the DAS control document</p> <p>Please refer to the Applicant's response to the Joint West Sussex Authorities' comments [REP4-045] on the Design Principles and the Legal Partnership Authorities</p>	
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		<p>response to ExQ1 [REP3-135], DCO.1.39 in Table 13 of this document, in regards to parts (a) and (b).</p> <p>Design Review Panel / Stakeholder Engagement</p> <p>Further to the Applicant’s response to ExQ1 [REP3-091] , GEN.1.21 and The Applicant’s Response to Deadline 3 Submissions [REP4-031], the Applicant has engaged directly with the Local Authorities on the role and process of an independent Design Advisor. An Annex to the Design Principles (Doc Ref. 7.3) is submitted at Deadline 5 which sets out GAL’s proposed approach to design review at the post-DCO consent, detailed design stage of the Project.</p>	
<p>DCO 1.57</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 	<p>Please refer to the Applicant’s response to the Joint West Sussex Authorities’ comments [REP4-045] on the Design Principles and the Legal Partnership Authorities response to ExQ1 [REP3-135], DCO.1.39 in Table 13 of this document, in regard to parts (a) and (b).</p>	<p>Discussions are on-going following ISH8 on the Authorities’ concerns regarding the level of detail in descriptions of works and works plans.</p> <p>Please refer to the Legal Partnership Authorities’ Post-Hearing Submissions from ISH8 in respect of agenda items 5 and 8, also submitted at deadline 6, for further information on the Authorities concerns.</p>

	<p>Access Statement – please see the detailed comments provided within a separate Joint West Sussex Authorities Deadline 4 submission document (need to add X ref).</p> <p>c) c) It is noted that there has been no response by the Applicant to this question.</p>	<p>The Applicant did not respond to part (c) of ExQ1 DCO.1.57 given it had provided amendments to the Design Principles instead.</p>	
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