



**Horsham
District
Council**



GATWICK AIRPORT NORTHERN RUNWAY PROJECT

Planning Inspectorate's Reference: TR020005

Legal Partnership Authorities

**Response to Applicant's SCHEDULE OF CHANGES TO
THE dDCO at Deadline 5 [[REP5-004](#)]**

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 SCHEDULE OF CHANGES TO THE dDCO at Deadline 5 [REP5-004]

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 purpose of this document is for the Legal Partnership Authorities to respond to the Applicant’s Schedule of Changes to the Draft Development Consent Order [REP5-004] submitted at deadline 5. 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.

Changes made at Deadline 5

Row	Provision	Change made at Deadline 5	Applicant's Reasoning	Legal Partnership Authorities Response
107.	Table of Contents	Amendments to several titles.	To reflect changes that were made in the Schedules themselves in the previous version of the draft DCO that had not been reflected in the Table of Contents.	The Authorities have no comments on this change.
108.	Article 6 (limits of works)	(3) In constructing Work Nos. 6, 9, 10, 11, 12, 13, 15, 16, 22, 23, 26, 27, 28, 30, 31, 32 and 43 the undertaker may not deviate vertically from the levels must not exceed the maximum height shown er and noted on the parameter plans (these heights being listed for information in Schedule 13 (informative maximum parameter heights)).	The former wording has been minorly amended to reflect updates to the Parameter Plans (Doc Ref. 4.7) at Deadline 5. The reference to new Schedule 13 (informative maximum parameter heights) has been added to address the JLAs' comment on the Applicant's response to DCO.1.2 in their Comments on responses to ExQ1 - Response to Development Consent Order and Control Documents [REP4-062] . While the complexity of the vertical limits for some works means that the Parameter Plans must be the primary source of the said limits, these limits have been summarised in Schedule 13 by way of information to assist readers of the DCO, as requested.	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 to widely.

109	Article 6 (limits of works)	<p>4) In constructing Work Nos. 35, 36 and 37 (surface access works), the undertaker may deviate—</p> <p>(a) vertically from the levels shown or noted on the surface access engineering section drawings to a maximum of 1.5 metres upwards and to a maximum of 2 metres downwards; and:</p> <p>(i) in respect of Work No. 35(a) between points A1 and B1 on the parameter plans, 1.5 metres upwards and 2 metres downwards;</p> <p>(ii) in respect of Work Nos. 35(b), 35(c), 35(e), 35(f), 36(e) and 36(f), 1.5 metres upwards and 2 metres downwards; and</p> <p>(iii) in respect of all other parts of Work Nos. 35, 36 and 37, 1 metre upwards and 1 metre downwards; and</p>	<p>The vertical limits for national highway works have been amended following discussions between the Applicant and National Highways. The limits now included in the amended article 6 were confirmed acceptable by National Highways in its comment on the Applicant's response to DCO.1.19 in their Comments on responses to ExQ1 [REP4-079].</p>	<p>The Authorities have no comments on this amendment.</p>
110.	Article 8 (consent to transfer benefit of Order)	<p>(6) The undertaker must notify a local highway authority in the event that it exercises the power in paragraph (1) to transfer or grant to a person other than that local</p>	<p>This addresses a request by the JLAs in their Comments on any further information / submissions received by Deadline 3 [REP4-042].</p>	<p>The Authorities have no comments on this amendment.</p>

		highway authority the benefit of the Order in respect of local highway works in an area for which that local highway authority is the relevant highway authority.		
111.	Article 15 (public rights of way – creation, diversion and stopping up)	(4) Any permanent diversion route provided under paragraph (2) or any temporary diversion route agreed by the relevant highway authority under paragraph (3) must be maintained by the undertaker for the duration of the diversion with appropriate clear signage of the permanently diverted or temporarily diverted route.	This corrects a previous drafting error and ensures that the undertaker is only liable to maintain temporary public rights of way diversions. Where a public right of way is permanently diverted, the original right of way is stopped up and therefore no longer needs to be maintained by the local highway authority. Instead, the local highway authority will maintain the new permanent route	The Authorities have no comments on this amendment.
112.	Article 18 (traffic regulations)	(4) The undertaker must not exercise the powers conferred by paragraphs (1), (2) or (3) of this article unless it has— (a) given to the chief officer of police and to the traffic authority in whose area the road is situated not less than— (i) 12 weeks' (or, for airport roads, 28 days') notice in writing of its intention so to do in the case of a prohibition, restriction or other	This addresses a request from National Highways in its Comments on any further information / submissions received by Deadline 3 [REP4-078] . National Highways considers time periods of 12 weeks and 4 weeks to be necessary as regards highways that are not airport roads and the Applicant has adopted these periods. The 2-week period in (b) is necessarily shorter than the time period in (a)(i) to allow for the traffic authority to specify a	The Authorities have no comments on this amendment.

		<p>provision intended to have effect permanently; or</p> <p>(ii) except in the case of an emergency, 4 weeks' (or, for airport roads, 7 days') notice in writing of its intention so to do in the case of a prohibition, restriction or other provision intended to have effect temporarily; and</p> <p>(b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days 2 weeks of its receipt of notice of the undertaker's intention as provided for in sub-paragraph (a).</p>	<p>manner of advertising before the temporary regulations come into effect.</p>	
113.	Article 27 (compulsory acquisition of land)	<p>(1) The undertaker may—</p> <p>(a) acquire compulsorily (including for a statutory undertaker or any other person) so much of the Order land as is required for the construction, operation or maintenance of the authorised development, or to facilitate it, or is incidental to it, or is required as replacement land; and</p>		<p>The Authorities have no comments on this amendment.</p>
114.	Article 28 (compulsory acquisition of rights and imposition of restrictive covenants)	<p>28.—(1) Subject to paragraphs (2) to (4), the undertaker may acquire compulsorily such rights over the</p>	<p>As explained in response to DCO.1.32 in the Applicant's Response to ExQ1 – DCO and Control Documents</p>	<p>The Authorities have no comments on this amendment.</p>

		<p>Order land or impose restrictive covenants affecting that land, including rights and restrictive covenants for the benefit of a statutory undertaker or any other person, as may be required for any purpose for which that land may be acquired under article 27 (compulsory acquisition of land) by creating them as well as acquiring rights already in existence</p>	<p>[REP3-089], the Applicant has provided in the DCO for the direct vesting of compulsorily acquired land and rights in third parties to streamline the administrative process of land ownership or rights holding and registration at HM Land Registry in a case where land or rights are required to be acquired for works being carried out by a third party (e.g. works carried out by a statutory undertaker such as National Highways).</p>	
<p>115.</p>	<p>Article 34 (application of the 1981 Act and</p>	<p>(5) In section 4 (execution of declaration), for subsection (1) substitute— “(1) The acquiring authority may execute in respect of any of the land which they are authorised to acquire by the compulsory purchase order a declaration in the prescribed form vesting the land in themselves, or in the case of land or a right that they are expressly authorised to acquire for the benefit of a third party in the third party in question, from the end of such period as may be specified in the declaration (not being less than 3 months from the date on which the service of notices</p>	<p>As indicated in that response, the Applicant has reviewed the compulsory acquisition provisions and made a few minor changes to ensure its intention is clear and to ensure that the other articles in Part 5 of the draft DCO are consistent with article 34 (application of the 1981 Act and modification of the 2017 Regulations). The changes make clear that both land and rights can be compulsorily acquired and directly vested in statutory undertakers and third parties, expressly stating this power in articles 27 and 28. This ensures that the wording inserted into the 1981 Act by virtue of article 34 (<i>“in the case of land or a right that they are expressly authorised to acquire for</i></p>	<p>The Authorities have no comments on this amendment.</p>

		<p>required by section 6 below is completed).” [...] (16) Schedule 1 to the 2017 Regulations is modified as follows and, without limitation to the other provisions of this article, Form 1 and Form 2 in the 2017 Regulations will include such other consequential modifications as are necessary to enable the compulsory acquisition of land and rights for identified third parties in accordance with articles 27 (compulsory acquisition of land) and 28 (compulsory acquisition of rights and imposition of restrictive covenants).</p>	<p><i>the benefit of a third party...</i>) (emphasis added) is satisfied. This wording does not broaden the purposes for which land or rights can be compulsorily acquired, which remains limited by the wording in article 27(1)(a). These changes have drawn on emerging drafting in the draft London Luton Airport Expansion and Lower Thames Crossing DCOs.</p>	
<p>116.</p>	<p>Schedule 1 (authorised development)</p>	<p>Work No. 41 Works to create an ecological area at Pentagon Field including works to— (a) deliver approximately 1ha of planting; (b) plant a tree belt approximately 15 metres in length; (c) create spoil bunds.</p>	<p>This additional information has been added to address the JLAs' comment on the Applicant's response to DCO.1.39 as regards Work No. 41 in their Comments on responses to ExQ1 - Response to Development Consent Order and Control Documents [REP4-062].</p>	<p>These works will involve the placing of around 100,000m³ of soil at Pentagon Field and the raising of the site by up to 4m. The Authorities consider the exercise here is closer to land raising than the creation of spoil bunds and consider more of a breakdown of the proposed work is required because the detail provided does not convey the level of work.</p>

117.	Schedule 1 (authorised development)	Work No. 42 Works to— (a) establish a habitat enhancement area along Perimeter Road East and Perimeter Road South including replacement hedgerows and habitat suitable for bats along Crawter’s Brook; and (b) construct a weir and a fish pass.	This work has been subdivided to allow for specific cross-referencing to Work No. 42(b) in new requirement 31 (construction sequencing).	The Authorities have no comments on this amendment.
118	Schedule 2 (requirements) paragraph 1 (interpretation)	New definitions: “construction dust management strategy”; “construction resources and waste management plan”; “outline arboricultural and vegetation method statement”; means the document of that description certified by the Secretary of State under article 52 (certification of documents, etc.)	These new definitions support new requirements 27 – 30.	The Authorities have no comments on this amendment.
119.	Schedule 2 (requirements), paragraph 1 (interpretation)	New definition: "host authorities" means CBC, RBBC, MVDC, TDC, Surrey County Council and West Sussex County Council;	This new definition supports new requirement 2A (phasing scheme) and the amendments to requirement 3(1) (time limit and notifications).	Host authorities A small point: the host authorities listed in the definition of “host authorities” should be listed in alphabetical order.

		<p>New definition: “listed works” means the works listed in Schedule 12 (non-highway works for which detailed design approval is required)</p>		<p>Listed works The Authorities have no comments on this amendment; however, the Authorities are providing, in response to the ExA’s Action Point 6 on ISH8, a list of further works which they would wish to see added to Schedule 12.</p>
120	<p>Schedule 2 (requirements), paragraph 1 (interpretation)</p>	<p>Removal of definition: “excepted development” means any part of the authorised development which falls within Schedule 2, Part 8, Class F of the 2015 Regulations and does not fall within the description of development in F1 of those Regulations;</p>	<p>These changes support the amendments to requirements 4 (detailed design) and 10 (surface and foul water drainage), which are explained below.</p>	<p>The Authorities welcome the removal of this definition.</p>
121.	<p>Schedule 2 (requirements), paragraph 1 (interpretation)</p>	<p>Amended provision: (2) References in this Schedule to part of the authorised development are to be construed as references to stages, phases or elements of the authorised development in respect of which an application is made by the undertaker under this Schedule, and references to commencement of part of the authorised development in this Schedule are to be construed accordingly. New provision:</p>	<p>These are ancillary changes to ensure that there is no ambiguity following the introduction of requirement 2A (phasing scheme).</p>	<p>The Authorities have no comments on this amendment.</p>

		(3) References in this Schedule to phases of the authorised development are to be construed as references to phases identified in a phasing scheme submitted under requirement 2A.		
122	Schedule 2 (requirements), paragraph 1 (interpretation)	(4) Where submitted details or actions can be "otherwise agreed" by a discharging authority pursuant to requirements 4(2)(a), 4(3), 5(2)(a), 5(3), 7, 8(4), 10(3), 11(3), 12(3), 13(3), 14(1), 14(2), 20, 21, 22(3), 23(2), 24, and 25(3), 27(3), 28(3), 29(3), 30(3) and 32(2) such agreement is not to be given by the discharging authority save where it has been demonstrated to the satisfaction of the discharging authority that the departure from the previously certified or approved document or details does not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement.	References amended to reflect amendments to requirements and new requirements.	The Authorities have no comments on this amendment.
123	Requirement 2A (phasing scheme)	New requirement: Phasing scheme	This requirement has been added to address the JLAs' comments on the Applicant's responses to DCO.1.40	The Authorities detailed points are - <ul style="list-style-type: none"> • 2A(1) - a notice period for submission of the phasing scheme is required. The

		<p>2A.—(1) The authorised development must not commence until a phasing scheme setting out the anticipated phases for construction of the authorised development has been submitted to the host authorities and National Highways.</p> <p>(2) The undertaker must review and make any necessary updates to the phasing scheme and submit that updated phasing scheme to the host authorities and National Highways:</p> <p>(a) no later than five years from the date of commencement of the authorised development;</p> <p>(b) at any time if the undertaker proposes a significant change to the contents or timing of the phases of construction in a previously submitted phasing scheme; and</p> <p>(c) no later than every five years after the date of the most recent submission of a phasing scheme under this sub-paragraph (2), provided that the undertaker is not required to submit any further phasing scheme after the fifteenth</p>	<p>(R3) and DCO.1.49 in their Comments on responses to ExQ1 - Response to Development Consent Order and Control Documents [REP4-062]. Requirement 2A requires the undertaker to submit a phasing scheme to the host authorities and National Highways prior to commencement of the authorised development. This phasing scheme will ensure that the host authorities are aware of the anticipated temporal phasing and indicative timings for construction of the authorised development. This will provide useful additional context for discharging authorities when they review applications made to them pursuant to other requirements and will allow them to adjust their resourcing according to anticipated periods of concentrated applications. Sub-paragraph (2) provides for the undertaker to review and update the phasing scheme throughout the construction timetable and when there are significant changes, with no further updates required after the fifteenth anniversary of commencement of the authorised development (this being the anticipated duration of construction of the Project).</p>	<p>Authorities suggest 6 months ahead of commencement.</p> <ul style="list-style-type: none"> • 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, and that this should be done at least 3 months before their submission.
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		<p>anniversary of the commencement of the authorised development.</p> <p>(3) Where any requirement in this Schedule requires the submission to any of the host authorities or National Highways of details or a document relating to a part of the authorised development, the undertaker must:</p> <p>(a) state which phase that part falls within by reference to the most recent phasing scheme submitted under sub-paragraph (1) or (2); and</p> <p>(b) where the part does not constitute the whole phase:</p> <p>(i) identify which works in Schedule 1 (authorised development) constitute the part, including by reference to the works plans (where applicable); and</p> <p>(ii) provide indicative timings for the submission of the relevant details or document for the remainder of works in that phase.</p> <p>(4) In this requirement "phasing scheme" means a written document which—</p> <p>(a) identifies, by reference to Schedule 1 (authorised development), the works that are</p>	<p>Sub-paragraph (3) provides that, when the undertaker is applying to one of the host authorities or National Highways as a discharging authority, it should contextualise the details subject to the application by reference to the previously submitted phasing scheme. This requirement has been numbered as '2A' in order to be the first requirement numerically without disturbing the existing numbering of other requirements during the examination. The requirements will be reordered to their final order in the final submission version of the DCO.</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.
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		<p>anticipated to be constructed within successive temporal phases of construction; (b) includes a layout plan showing the location of the works anticipated to be constructed in each phase; and (c) includes an indicative construction programme for any phases to be delivered in the five years following the date of submission of the phasing scheme and indicative timings for the delivery of later phases;</p>		
<p>124.</p>	<p>Requirement 3 (time limit and notifications)</p>	<p>(2) The undertaker must notify CBC the host authorities: (a) within 10 7 working days after the date on which the authorised development begins; (b) at least 30 28 working days prior to the anticipated date of commencement of the authorised development, provided that commencement may still lawfully occur if notice is not served in accordance with this subparagraph; (c) within 10 7 working days after the actual date of commencement of the authorised development;</p>	<p>The Applicant has amended the requirement such that all host authorities will be notified of the specified milestones instead of just CBC. This addresses the JLAs' request in their Comments on any further information/submissions received by Deadline 2 [REP3-150]. For greater clarity and to accommodate the JLAs' comment in the above document, the Applicant has standardised references throughout the DCO to calendar days as opposed to working days.</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> <ul style="list-style-type: none"> (a) Should be 14 days (b) Should be 42 days (c) Should be 14 days; and

		<p>(d) at least 30 28 working days prior to the anticipated date of commencement of dual runway operations; and (e) within 7 working days after the actual commencement of dual runway operations.</p>		<p>(d) Should be 42 days; and (e) Should be 9 days</p>
<p>125.</p>	<p>Requirement 4 (detailed design)</p>	<p>4.—(1) No part of the authorised development (except for the highway works and excepted development listed works) is to commence until CBC has been consulted on the design of that part, with this consultation to take place in the same manner as if taking place pursuant to paragraph F.2. of Part 8 of Schedule 2 to the 2015 Regulations (subject to sub-paragraph (6)). (2) Any part of the authorised development to which sub-paragraph (1) applies must be carried out in accordance with the design principles in appendix 1 of the design and access statement unless otherwise agreed in writing with CBC. (3) No part of any listed works is to commence until details of the layout, siting, scale and</p>	<p>These changes have been made following the explanation provided by the Applicant in its Note on Excepted Development and the Airport Development Principle [REP4-030]. By default, CBC must be consulted on the design for works before they are commenced (except for highway works, to which requirements 5 and 6 apply instead, and listed works, to which sub-paragraph (3) applies). All works to which sub-paragraph (1) applies must be carried out in accordance with the Design Principles (Doc Ref. 7.3). The specified design details for any listed works (a new defined term by reference to Schedule 12) must be submitted to and approved by CBC (in consultation with other authorities where relevant) prior to their commencement under sub-paragraph (3). These details</p>	<p>The Authorities’ position on the changes to this Requirement is inexorably linked to their position on Schedule 12 and the “listed works”.</p> <p>In Appendix A to the Legal Partnership Authorities Response to Actions Arising at ISH8, submitted at deadline 6, the Authorities have provided a list of works which they consider should be added to Schedule 12.</p> <p>If that list were to be altered as proposed then the Authorities would be content in principle with the amendments to Requirement 4.</p> <p>One point of detail is that the Authorities cannot see anything in the 2015 Regulations about the manner in which consultation should take place under paragraph F.2. of Part 8 of Schedule 2 to those regulations. The Authorities will discuss this with the Applicant.</p>

		<p>external appearance of the buildings, structures and works within that part have been submitted to and approved in writing by CBC (in consultation with MVDC and RBBC to the extent that they are the relevant planning authority for any land to which the details relate).</p> <p>(4) The details referred to in sub-paragraph (43) must:</p> <p>(a) be in accordance with the design principles in appendix 1 of the design and access statement unless otherwise agreed in writing with CBC (in consultation with MVDC and RBBC to the extent that they are the relevant planning authority for any land to which the details relate); and</p> <p>(b) demonstrate that in carrying out the part of the authorised development to which the submitted details relate the undertaker would comply with article 6 (limits of works), including detailing any reliance by the undertaker on article 6(6).</p> <p>(5) The relevant part of the authorised—development listed works must be carried out in</p>	<p>must satisfy the existing wording in sub-paragraph (4).</p> <p>New sub-paragraph (6) introduces certainty by specifying a period within which comments should be provided by CBC on a consultation under sub-paragraph (1). The process in the 2015 Regulations is vague and does not include any such period and it is justified to include a period here (which mirrors the 'decision period' from Schedule 11) so that there is certainty as to when input may be expected from CBC as part of the consultation, to ensure that the construction of the authorised development proceeds in a timely and efficient manner, as is required for the delivery of nationally significant infrastructure.</p>	
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		<p>accordance with the details approved by CBC under sub-paragraph (43) unless otherwise agreed in writing with CBC (in consultation with MVDC and RBBC to the extent that they are the relevant planning authority for any land to which the details relate).</p> <p>(6) Where consulted under sub-paragraph (1), CBC must provide its comments (if any) within 8 weeks beginning with the day after the information was submitted to CBC pursuant to sub-paragraph (1) (unless a longer time period is agreed between CBC and the undertaker).</p>		
<p>126.</p>	<p>Requirement 5 (local highway works – detailed design)</p>	<p>5.—(1) No part of the local highway works is to commence until details of the layout, siting, scale and external appearance of the buildings, structures and works within that part have been submitted to and approved in writing by the relevant highway authority (in consultation with the relevant planning authority). [...]</p> <p>(3) The relevant part of the local highway works must be carried out</p>	<p>The former addition responds to a request from the JLAs in row 30 of their Comments on any further information/submissions received by Deadline 2 [REP3-150].</p> <p>The latter addition is a minor tweak to ensure there is clarity that details for parts of the local highway works can be submitted for approval and that those parts must be carried out in accordance with the approved details.</p>	<p>The Authorities have no comments on this amendment.</p>

		in accordance with the details approved by the relevant highway authority under sub-paragraph (1) unless otherwise agreed in writing with the relevant highway authority.		
127.	Requirement 6 (national highway works)	(2) Design details submitted to National Highways pursuant to paragraph 5(1)(c) of Part 3 of Schedule 9 to this Order must: [...] (c) to the extent that they constitute drainage details, be substantially in accordance with the surface access drainage strategy.	This addition clarifies that design details for the national highway works submitted to National Highways under the protective provisions in Schedule 9 must, to the extent relevant, be substantially in accordance with the Surface Access Drainage Strategy (Annex 2 to ES Appendix 11.9.6: Flood Risk Assessment (Doc Ref. 5.3)). This mirrors the equivalent provision for local highways in requirement 11 (local highway surface water drainage).	The Authorities have no comments on this amendment.
128.	Requirement 6 (national highway works)	(3) The undertaker must have completed construction of the national highway works and made an application to use reasonable endeavours to obtain a provisional certificate from National Highways for a provisional certificate pursuant to paragraph 8 of Part 3 of Schedule 9 in respect of the national highway works by the third	This wording has been amended following discussions with National Highways as to a mutually acceptable position for this requirement. Whilst the amendments proposed to the wording of this requirement have been agreed, discussions remain ongoing regarding the residual drafting, but the Applicant remains optimistic that this will be agreed shortly.	The Authorities have no comments on this amendment.

		anniversary of the commencement of dual runway operations, unless otherwise agreed in writing with National Highways, said agreement not to be unreasonably withheld or delayed.		
129.	Requirement 10 (surface and foul water drainage)	Amendments equivalent to those for requirement 4 (detailed design) excerpted above	Changes made for the same reason as explained in relation to requirement 4 (detailed design) above.	The Authorities refer to their response on Requirement 4 above.
130.	Requirement 11 (local highway surface water drainage)	11.—(1) No part of the local highway works is to commence until written details of the surface water drainage for that part, including means of pollution control and monitoring, have been submitted to and approved in writing by the relevant highway authority (in consultation with the Environment Agency, the relevant lead local flood authority and the relevant planning authority). (2) The drainage details approved pursuant to sub-paragraph (1) must be substantially in accordance with the surface access drainage strategy. (3) The relevant part of the local highway works must be constructed in accordance with the	The former addition is to address the JLAs' request at row 34 of their Comments on any further information/submissions received by Deadline 2 [REP3-150]. The latter addition is a minor tweak to ensure there is clarity that drainage details for parts of the local highway works can be submitted for approval and that those parts must be carried out in accordance with the approved details.	The Authorities have no comments on this amendment.

		details approved under sub-paragraph (1) unless otherwise agreed in writing by the relevant highway authority (in consultation with the Environment Agency and the relevant lead local flood authority).		
131	Requirements 12 (construction traffic management plan) and 13 (construction workforce travel plan)	References to "part" of the authorised development added.	Added to clarify that a plan can be submitted for approval in respect of a part of the authorised development and that the said part must be carried out in accordance with the approved plan.	The Authorities have no comments on this amendment.
132.	Requirement 15 (air noise envelope)	Change of defined term from "noise action plan" to "noise compliance plan" throughout. Change of time period from 45 days to 14 days in sub-paragraph (4). 15.—(1) From the commencement of dual runway operations the authorised-development airport must be operated in accordance with the relevant noise envelope limits. [...] (5) The undertaker shall not be permitted to declare any further capacity for commercial air	The change to sub-paragraph (1) is to clarify that it is the airport that must be operated in accordance with the noise envelope limits, rather than the authorised development (which represents only a subset of the airport). The remaining changes have been made to further clarify the operation of requirement 15 following discussions with the CAA, which will take on the role of the independent air noise reviewer.	Whilst, for the reasons set out in [REP5-093] , the Authorities do not have any detailed comments on the changes made to this Requirement, the JLAs do not consider that the requirement provides effective control and will be submitting further information, including a draft requirement about Environmentally Managed Growth at Deadline 6. They also maintain their view that there should be local authority involvement in monitoring.

		<p>transport movements from the airport where—</p> <p>(a) two consecutive annual monitoring and forecasting reports either when submitted to the independent air noise reviewer by the undertaker in accordance with sub-paragraph (2) of this requirement or when approved by the independent air noise reviewer or by the Secretary of State (as is relevant in the circumstances) identify that the same noise envelope limit has been exceeded during the previous 24 months of the operation of the airport;</p> <p>(b) an annual monitoring and forecasting report either when submitted to the independent air noise reviewer by the undertaker in accordance with sub-paragraph (2) of this requirement or when approved by the independent air noise reviewer or by the Secretary of State (as is relevant in the circumstances) identifies that a noise envelope limit is forecast to be exceeded; or</p> <p>(c) the independent air noise reviewer and/or the Secretary of State identifies that the same</p>		
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		<p>relevant noise envelope limit has been exceeded during the previous 24 months of the operation of the airport or a noise envelope limit is forecast to be exceeded and notifies the undertaker that an annual monitoring and forecasting report is not approved,</p> <p>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 been exceeded during the previous 24 months of the operation of the airport or forecast to not be complied with exceeded (as is relevant in the circumstances), including where relevant when taking account of the measures proposed within a noise compliance plan to address any such exceedance.</p>		
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<p>133</p>	<p>Requirement 19 (airport operations)</p>	<p>19.—(1) From the date of the commencement of dual runway operations, the airport may not be used for more than 386,000 commercial air transport movements per annum. (2) The repositioned northern runway must not be used between the hours of 23:00 – 06:00 but may be used between these hours where the main runway is temporarily non-operational by reason of an accident, incident or structural defect or when maintenance to the main runway is being undertaken not available for use for any reason. (3) Subject to sub-paragraph (4), the repositioned northern runway must not be used: (a) for aircraft landings; or (b) for departures of aircraft larger than Code C aircraft. (4) Sub-paragraph (3) does not apply and the repositioned northern runway may be used in one or both of the ways stated in that sub-paragraph: (a) where the main runway is temporarily non-operational by reason of an accident, incident or</p>	<p>Sub-paragraph (2) and (4)(a) have been amended to address the JLAs' comment in row 92 of their Comments on any further information / submissions received by Deadline 3 [REP4-042]. The incorporated wording reflects current airport practice. Sub-paragraph (5) has been amended for certainty, to prevent any future changes to what constitutes a "Code C aircraft" affecting the restrictions on the repositioned northern runway (to make them either more or less restrictive).</p>	<p>The Authorities have no comments on these amendments.</p>
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		<p>structural defect or when maintenance to the main runway is being undertaken not available for use for any reason; or</p> <p>(b) as agreed in writing between the undertaker and the Secretary of State (following consultation with the CAA and CBC).</p> <p>(5) In this requirement "Code C aircraft" means aircraft with dimensions meeting the maximum specifications of code letter C in the Aerodrome Reference Code table in Annex 14, Volume I to the Convention on International Civil Aviation, as amended from time to time at the date of this Order.</p>		
<p>134</p>	<p>Requirement 20 (surface access)</p>	<p>20. From the date on which the authorised development begins or the commencement of dual runway operations the operation of the authorised development airport must be carried out in accordance with the surface access commitments unless otherwise agreed in writing with CBC and (in consultation with National Highways).</p>	<p>Amended to clarify that it is the airport that must be operated in accordance with the surface access commitments rather than the authorised development (which represents only a subset of the airport), and to bring forward their trigger to the earlier milestone (albeit noting that the majority of the commitments secured within the document remain set by reference to the commencement of dual runway operations).</p>	<p>The Authorities have no comments about the inclusion of National Highways, but remain of the view that the local highway authorities (WSCC and SCC) should also be named either as authorities whose agreement is required, or as consultees.</p> <p>The Authorities may have comments on how this (and other) requirements may need to be adjusted should the ExA find favour with the Environmentally Managed growth approach.</p>

			<p>Amended such that departures from the SACs need to be approved by both CBC and National Highways. This addresses a request from National Highways in its Comments on any further information / submissions received by Deadline 3 [REP4-078].</p>	
<p>135</p>	<p>Requirement 21 (carbon action plan)</p>	<p>21. From the date on which the authorised development begins, the authorised development and the operation of the airport must be carried out in accordance with the carbon action plan unless otherwise agreed in writing with CBC the Secretary of State.</p>	<p>The new wording at the start and the addition of "and the operation of the airport" clarify that the Carbon Action Plan contains measures that govern both (i) the construction period and (ii) the subsequent operation of the airport. From the time the authorised development begins, the authorised development (i.e. the building out of the Project, including on-airport and the surface access works) and the operation of the airport as a whole must be carried out in accordance with the Carbon Action Plan.</p> <p>The change of the body to approve departures from the Carbon Action Plan reflects that the Carbon Action Plan itself provides for reporting to the Secretary of State rather than any local authority, and relates to the management by Government of emissions from the aviation sector as a whole. It is therefore appropriate for the</p>	<p>Drafting point: change "From" to "On and after"</p> <p>The Authorities may have comments on how this (and other) requirements may need to be adjusted should the ExA find favour with the Environmentally Managed growth approach.</p>

			Secretary of State to be the referenced body rather than CBC.	
136	Requirement 23 (flood compensation delivery plan)	Change of discharging authority from CBC to West Sussex County Council.	This addresses the JLAs' request in their Comments on any further information/submissions received by Deadline 2 [REP3-150].	Having considered the matter further with input from West Sussex County Council, CBC would like this change to be reversed so that they are the discharging authority.
137	Requirement 24 (flood resilience statement)	24. From the date on which the authorised development begins, the authorised development and the operation of the airport must be carried out in accordance with the flood resilience statement unless otherwise agreed in writing with CBC.	As for requirement 21 above, the Flood Resilience Statement contains measures relating to the construction and operation periods – these changes reflect that.	Drafting point, change “From” to “On and after”
138	Requirement 25 (operational waste management plan)	25.—(1) The replacement CARE facility (Work No. 9) must not be brought into routine operation until Within six months after the commencement of dual runway operations the undertaker must has submitted an operational waste management plan to West Sussex County Council CBC for approval. (2) The operational waste management plan submitted under	These changes address the JLAs' comments at row 95 of their Comments on any further information / submissions received by Deadline 3 [REP4-042].	Whilst these changes generally accord with the Authorities' proposals, the significance of the word “routine” is unclear and should be explained, preferably by further definition in order to provide clarity.

		<p>sub-paragraph (1) must be substantially in accordance with the operational waste management strategy.</p> <p>(3) The airport must be operated in accordance with the operational waste management plan approved by CBG West Sussex County Council unless otherwise agreed in writing with CBG West Sussex County Council.</p>		
139	Requirement 26 (water treatment works footpath)	<p>2) Once provided, the public access by foot described in sub-paragraph (1) must not be removed until construction of Work No. 43 (water treatment works) is complete</p>	<p>Minor tweak to clarify the operation of this sub-paragraph.</p>	<p>The Authorities have no comments on this amendment.</p>
140	New requirements 27 – 30	<p>New requirements: Requirement 27 (construction dust management plan) Requirement 28 (arboricultural and vegetation method statement) Requirement 29 (soil management plan) Requirement 30 (site waste management plan)</p>	<p>As explained in response to DCO.1.47 and DCO.1.48 in the Applicant's Response to ExQ1 – DCO and Control Documents [REP3-089], new separate requirements have been added where Level 2 control documents need to be submitted for approval</p>	<p>The drafting of these requirements is acceptable in principle. The Authorities are considering the associated control documents separately.</p>

<p>141.</p>	<p>New requirement 31 (construction sequencing)</p>	<p>Construction sequencing 31.—(1) The commencement of dual runway operations must not take place until Work No. 43 (water treatment works) has been completed. (2) Work No. 39(b) (River Mole culverts and syphons) must not be commenced until Work No. 42(b) (weir and fish pass) has been completed.</p>	<p>This requirement has been added to secure the delivery of certain specified works in advance of the other specified works where this is necessary to ensure impacts are mitigated before they arise.</p>	<p>The Authorities have no comments on this amendment.</p> <p>If the Authorities identify any other cases where sequencing could be subject to a requirement, they will notify the Applicant. Requirement 32 is one instance where a sequencing provision might address the issue identified by the Authorities.</p>
<p>142.</p>	<p>New requirement 32 (western noise mitigation bund)</p>	<p>Western noise mitigation bund 32.—(1) The commencement of dual runway operations must not take place until Work No. 18(b) (replacement noise bund and wall) has been completed. (2) Once completed, Work No. 18(b) must not be removed unless otherwise agreed in writing by CBC.</p>	<p>This requirement has been added to secure that the western noise mitigation bund is constructed prior to the commencement of dual runway operations and that, once in place, it cannot be removed unless agreed in writing by CBC. This addresses the JLAs' comment at NV.1.5 in [REP4-068].</p>	<p>Work No.18 is:</p> <p>“Works to remove and replace the western noise mitigation bund including works to—</p> <ul style="list-style-type: none"> (a) remove the existing western noise bund; (b) construct the replacement noise bund and wall”. <p>More protection and/or information is required here. It is not clear how GAL will mitigate continuing noise from the airport which would have an impact on nearby properties, in the period between the existing western noise bund being removed, and the new bund being in place.</p>

				<p>The Authorities need to understand the sequencing of Work No.18 so that an acoustic barrier is retained throughout.</p> <p>While new Requirement 32 is welcomed, it does not address the concern described above.</p>
143	. Requirements 6, 8, 20, 21, 22	Addition of "in writing" to agreed with the relevant cited body.	Added for consistency with other requirements and provisions in the draft DCO	The Authorities have no comments on this amendment.
144.	Schedule 11 (procedures for approvals, consents and appeals)	Amendments to the periods specified in working days to be calendar days in Part 1 and Part 2. Amendments to change references to "noise action plans" to "noise compliance plans"	For consistency throughout the DCO.	The Authorities have no comments on this amendment.
145	Schedule 11 (procedures for approvals, consents and appeals)	<p>Various minor amendments to Part 2 of Schedule 11, alongside the following substantive changes:</p> <p>Applications</p> <p>1. [...]</p> <p>(3) In the event the independent air noise reviewer does not determine an application within the decision period the independent air noise reviewer is taken to have approved the relevant noise plan</p>	The changes are to improve the processes for the approval and non-approval of Air Monitoring and Forecasting Reports following discussion with the CAA, so that there is additional clarity on what occurs in a scenario of non-approval of such a report.	<p>The Authorities have previously expressed their disagreement to the framework in Part 2 as proposed.</p> <p>The Authorities consider that Paragraph 1(3) should be reinstated but amended so that if an application is not determined within the decision period, the independent air noise reviewer is deemed to have rejected the relevant noise plan.</p> <p>The Authorities request that Para 2(2) is amended to reinstate a backstop time limit and</p>

		<p>at the end of that period unless otherwise agreed in writing.</p> <p>Further information</p> <p>2.—(1) In relation to any application to which this Part of this Schedule applies, the independent air noise reviewer has the right to may request such further information from the undertaker which it identifies as is necessary to enable it to consider the application.</p> <p>(2) If the independent air noise reviewer considers further information is necessary for the relevant noise plan to comply with the information requirements relevant to it, it must as soon as is reasonably practicable and within 10 working days of receipt of the relevant noise plan, notify the undertaker in writing specifying the further information required and providing the undertaker with a reasonable time period to provide that further information (which for the avoidance of doubt may be provided in the form of a revised noise plan).</p> <p>(3) If the independent air noise reviewer does not give such</p>		<p>not rely on “as soon as is reasonably practicable” alone. For example “... as soon as reasonably practicable and in any event within 28 days of receipt of the relevant noise plan...”</p> <p>The JLAs agree with the proposal for the deletion of paragraph 2(3).</p>
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		<p>notification as specified in sub-paragraph (2) or otherwise fails to request any further information within the timescales provided for in this paragraph, it will be deemed to have sufficient information to consider the application and will not thereafter be entitled to request further information without the prior agreement of the undertaker.</p> <p>[...]</p> <p>Charges</p> <p>6. The independent air noise reviewer may charge the undertaker in respect of the performance of its functions under this Part of this Schedule in accordance with its scheme of charges made in accordance with section 11 of the 1982 Act (or such other successor legislation providing for such statutory charges to be levied).</p>		
<p>146</p>	<p>Schedule 12 (non-highway works for which detailed design approval is required)</p>	<p>New schedule.</p>	<p>Added to support the new definition of 'listed works' in Schedule 2 (requirements).</p>	<p>Please see the Authorities' separate detailed comments on the contents of Schedule 12 in response to the ExA's Action Points arising from ISH8 (Action Point 6)</p>

147	Schedule 13 (informative maximum parameter heights)	New schedule.	Added to support the amendments to article 6 (limits of works).	Please see the reply to row 108.
148.	Schedule 14 (documents to be certified)	Amendments to table.	Consequential amendments arising from additions and amendments to Schedule 2 (requirements).	The Authorities have no comments on this amendment.